January 21, 2020/Calendar No. 4 N 200065 ZRM

IN THE MATTER OF an application submitted by GO Broome LLC and Chinatown Planning Council Development Fund, Inc., pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, modifying the Quality Housing provisions of Article II, Chapters 3 and 8, and related provisions, and APPENDIX F for the purpose of establishing a Mandatory Inclusionary Housing area.

The applicants, GO Broome LLC and The Chinatown Planning Council Housing Development Fund Company, Inc., filed an application (N 200065 ZRM) for a zoning text amendment on August 19, 2019. The text amendment, along with the related actions, would facilitate the development of two new mixed-use developments containing mostly residential uses, and community facility and commercial uses (the proposed development) in Manhattan Community District 3.

RELATED ACTIONS

In addition to the zoning text amendment that is the subject of this report (N 200065 ZRM), the following actions are also being sought concurrently with this application:

C 200061(A) ZSM	Zoning special permit pursuant to Zoning Resolution (ZR) Section 78-312 to waive height, setback, and distance between buildings regulations of ZR Section 23-60;
C 200064 ZMM	Zoning map amendment to change an R8 district to an R9-1 district with a C2-5 overlay;
N 200067 ZAM	Zoning authorization pursuant to ZR Section 13-443 to eliminate 33 parking spaces;
N 200066 ZAM	Zoning Authorization pursuant to ZR Section 78-311 to waive height and setback regulations of ZR Section 23-60;
M 790721(B) ZSM	A modification of the Seward Park Extension West LSRD to update LSRD Site Plan and Zoning Calculations to reflect the enlargement of the

LSRD to include Lot 37, the splitting of existing zoning lot 2A into two zoning lots, and the newly proposed development.

BACKGROUND

A full background discussion and description of this application appear in the report for the related zoning special permit (C 200061(A) ZSM).

ENVIRONMENTAL REVIEW

This application (N 200065 ZRM), in conjunction with the applications for the related actions (C 200061(A) ZSM, N 200065 ZRM, N 200066 ZAM, N 200067 ZAM, M 790721(B) ZSM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 19DCP119M. The lead is the City Planning Commission.

A summary of the environmental review appears in the report for the related special permit action (C 200061(A) ZSM).

PUBLIC REVIEW

This application (N 200065 ZRM) was duly referred to Manhattan Community Board 3 and the Manhattan Borough President on September 4, 2019 in accordance with procedures for non-ULURP matters, along with the application for related actions (C 200061 ZSM, C 200064 ZMM, N 200066 ZAM, N 200067 ZAM, M 790721(B) ZSM), which were certified as complete by the Department of City Planning and duly referred in accordance with Title 62 of the Rules of the City of New York, Section 2-02(b).

Community Board Public Hearing

Community Board 3 held a public hearing on this application (N 200065 ZRM) on September

17, 2019 and, on September 24, 2019, by a vote of 30 in favor, none against and nine abstaining, adopted a resolution recommending approval of the application with conditions.

A summary of the community board's recommendation appears in the report for the related action (C 200061(A) ZSM).

Borough President Recommendation

The Manhattan Borough President considered this application (N 200065 ZRM), and on November 18, 2019, issued a recommendation approving the application with conditions.

A summary of the Borough President's recommendation appears in the report for the related action (C 200061(A) ZSM).

City Planning Commission Public Hearing

On November 13, 2019 (Calendar No. 5), the City Planning Commission scheduled December 4, 2019 for a public hearing on this application (N 200065 ZRM). The hearing was duly held on December 4, 2019 (Calendar No. 13), in conjunction with the public hearing on the related actions.

There were numerous speakers, as described in the report for the related zoning special permit action (C 200061(A) ZSM), and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning text amendment (N 200065 ZRM), in conjunction with the related actions, is appropriate.

A full consideration and analysis of the issues and reasons for approving this application appears in the report for the related special permit action (C 200061(A) ZSM).

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on January 10, 2020, with respect to this application (CEQR No. 19DCP119M), the City Planning Commission finds that the requirements of the New York State Environmental Quality Review Act and Regulations have been met and that:

1. Consistent with social, economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
2. The adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, pursuant to two Restrictive Declarations marked as Exhibit A and Exhibit B, those project components related to the environment and mitigation measures that were identified as practicable and the placement of (E) designation (E-548) for hazardous materials, air quality, and noise; and
3. No development pursuant to this resolution shall be permitted until the Restrictive Declarations attached as Exhibit A and Exhibit B, as same may be modified with any necessary administrative or technical changes, all as acceptable to Counsel to the Department of City Planning and Counsel to the Landmarks Preservation Commission, as executed by GO Broome LLC and The Chinatown Planning Council Housing Development Fund Company or its successor, and such Restrictive Declaration shall have been recorded and filed in the Office of the Register of the City of New York, County of New York.

The report of the City Planning Commission, together with the FEIS, constitutes the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to Section 617.11(d) of the SEQRA regulations; and be it further

RESOLVED, by the City Planning Commission, pursuant to Sections 197-c and 200 of the New York City Charter that based on the environmental determination and the consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter underlined is new, to be added;
Matter ~~struck out~~ is old, to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution.

Matter underlined is new, to be added.
Matter ~~struckout~~ is to be deleted.
Matter with # # is defined in Section 12-10.
* * * indicates where unchanged text appears in the Zoning Resolution.

Article II – Residence District Regulations

* * *

Chapter 3
Residential Bulk Regulations in Residence Districts

* * *

23-011
Quality Housing Program

R5D R6A R6B R7A R7B R7D R7X R8A R8B R8X R9A R9D R9X R10A R10X

(a) In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, any #building or other structure# shall comply with the #bulk# regulations for #Quality Housing buildings# set forth in this Chapter and any #building# containing #residences# shall also comply with the requirements of Article II, Chapter 8 (Quality Housing Program). However, the provisions of Article II, Chapter 8, shall not apply to #buildings converted# pursuant to Article I, Chapter 5.

In R5D Districts, only certain requirements of Article II, Chapter 8, shall apply as set forth in Section 28-01 (Applicability of This Chapter).

R6 R7 R8 R9 R10

(b) In the districts indicated without a letter suffix, the #bulk# regulations applicable to #Quality Housing buildings# may, as an alternative, be applied to #zoning lots# where

#buildings# are #developed# or #enlarged# pursuant to all of the requirements of the Quality Housing Program. Such #buildings# may be subsequently #enlarged# only pursuant to the Quality Housing Program. In these districts, the Quality Housing #bulk# regulations may apply to #developments# or #enlargements# on #zoning lots# with existing #buildings# to remain, if:

(1) the existing #buildings# contain no #residences# and the entire #zoning lot# will comply with the #floor area ratio# and density standards applicable to #Quality Housing buildings#; or

(2) the existing #buildings# contain #residences#, and:

(i) such #buildings# comply with the maximum base heights and maximum #building# heights listed in the tables in Section 23-662 for the applicable district, and the entire #zoning lot# will comply with the #floor area ratio# and #lot coverage# standards applicable to #Quality Housing buildings#; or

(ii) for #developments# or #enlargements# on #zoning lots# meeting the criteria set forth in paragraph (a) of Section 23-664 (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors):

(a) the entire #zoning lot# will comply with the #floor area ratio# set forth in Sections 23-154 (Inclusionary Housing) or 23-155 (Affordable independent residences for seniors), as applicable;

(b) the entire #zoning lot# will comply with the #lot coverage# regulations for the applicable zoning district set forth in Section 23-153 (For Quality Housing buildings); and the #development# or #enlargement#:

(1) will comply with the maximum base height and maximum #building# height of the applicable zoning district set forth in Table 1 of paragraph (b) of Section 23-664;

(2) in R6, R7, R8 and R9-1 Districts, where the #zoning lot# meets the criteria set forth in paragraph (a)(3) of Section 23-664 will comply with the maximum base height and

maximum #building# height of the applicable zoning district set forth in Table 2 of paragraph (c) of Section 23-664; or

(3) in R6, R7, R8 and R9-1 Districts, where the #zoning lot# meets the criteria set forth in paragraph (a)(4) of Section 23-664 and is located within 150 feet of the types of transportation infrastructure listed in paragraphs (c)(2)(i) through (c)(2)(iv) of Section 23-664, will comply with the maximum base height and maximum #building# height of the applicable zoning district set forth in Table 2 of paragraph (c) of Section 23-664. Such 150-foot measurement shall be measured perpendicular to the edge of such infrastructure.

All #Quality Housing buildings# shall also comply with additional provisions set forth in Article II, Chapter 8.

R6 R7 R8 R9 R10

(c) In the districts indicated without a letter suffix, the optional Quality Housing #bulk# regulations permitted as an alternative pursuant to paragraph (b) of this Section, shall not apply to:

(1) Article VII, Chapter 8 (Special Regulations applying to Large Scale Residential Developments)~~;~~, except that they may be permitted as an alternative to apply within #Large Scale Residential Developments# located:

(i) in C2-5 Districts mapped within R9-1 Districts in Community District 3 in the Borough of Manhattan.

(2) Special Purpose Districts

However, such optional Quality Housing #bulk# regulations are permitted as an alternative to apply in the following Special Purpose Districts:

#Special 125th Street District#;

#Special Downtown Brooklyn District#;

#Special Downtown Far Rockaway District#;

#Special Downtown Jamaica District#;

#Special East Harlem Corridors District#;

#Special Grand Concourse Preservation District#;

#Special Harlem River Waterfront District#;

#Special Limited Commercial District#;

#Special Long Island City Mixed Use District#;

#Special Lower Manhattan District#, as modified in Section 91-05;

#Special Ocean Parkway District#;

#Special Transit Land Use District#; or

#Special Tribeca Mixed Use District#.

R6 R7 R8 R9 R10

(d) In the districts indicated, for #Quality Housing buildings# in which at least 50 percent of the #dwelling units# are #income-restricted housing units#, or at least 50 percent of the total #floor area# is a #long-term care facility# or philanthropic or non-profit institution with sleeping accommodation, the applicable #bulk# regulations of this Chapter may be modified for #zoning lots# with irregular site conditions or site planning constraints by special permit of the Board of Standards and Appeals, pursuant to Section 73-623 (Bulk modifications for certain Quality Housing buildings on irregular sites).

R6 R7 R8 R9 R10

(e) In the districts indicated, where a Special Purpose District modifies the #bulk# regulations for #Quality Housing buildings# set forth in this Chapter, the additional provisions for #Quality Housing buildings# set forth in Article II, Chapter 8 shall continue to apply. In addition, where any Special Purpose District that requires elements of Article II, Chapter

8 to apply to non-#Quality Housing buildings#, all associated #floor area# exemptions shall apply.

* * *

Chapter 8
The Quality Housing Program

28-00
GENERAL PURPOSES

The Quality Housing Program is established to foster the provision of multifamily housing and certain #community facilities# that:

(a) are compatible with existing neighborhood scale and character;

(b) provide on-site amenity spaces to meet the needs of its residents; and

(c) are designed to promote the security and safety of its residents.

28-01
Applicability of this Chapter

The Quality Housing Program is a specific set of standards and requirements that, in conjunction with the #bulk# provisions for #Quality Housing buildings# set forth in Article II, Chapter 3, and Article III, Chapter 5, as applicable, apply to #buildings# containing #residences#, #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, or some combination thereof as follows:

(a) In R6A, R6B, R7A, R7B, R7D, R7X, R8A, R8B, R8X, R9A, R9D, R9X, R10A or R10X Districts, and in the equivalent #Commercial Districts# listed in Sections 34-111 and 34-112, all such #buildings# shall comply with the Quality Housing Program standards and requirements as set forth in this Chapter.

(b) In other R6, R7, R8, R9 or R10 Districts, and in the equivalent #Commercial Districts# listed in Sections 34-111 and 34-112, all #developments# and #enlargements# of such #buildings# utilizing the Quality Housing #bulk# regulations in Article II, Chapter 3, shall comply with the Quality Housing Program standards and requirements set forth in this Chapter.

(c) In R5D Districts, only the requirements set forth in Sections 28-12 (Refuse Storage and Disposal), 28-23 (Planting Areas) and 28-43 (Location of Accessory Parking) shall apply.

(d) In R6 through R10 Districts, and in the equivalent #Commercial Districts# listed in Sections 34-111 and 34-112, for #developments# and #enlargements# of #community facility buildings# containing #long-term care facilities# or philanthropic or non-profit institutions with sleeping accommodations, or portions of #buildings# containing such #uses#, where such #buildings# utilize the #bulk# regulations for #Quality Housing buildings# in Article II, Chapter 3, in R6 through R10 Districts with a letter suffix, or the height and setback regulations for #Quality Housing buildings# in Article II, Chapter 3, in R6 through R10 Districts without a letter suffix, the Quality Housing Program standards and requirements of this Chapter shall apply, except that the provisions of Section 28-12 shall be optional.

~~(e) The provisions of Article VII, Chapter 8 (Special Regulations Applying to Large-Scale Residential Developments), are not applicable to #Quality Housing buildings#.~~

(~~f~~e) The provisions of this Chapter shall not apply to #dwelling units converted# pursuant to Article I, Chapter 5, unless such #conversions# meet the requirements for #residential developments# of Article II (Residence District Regulations).

* * *

Article VII - Administration

Chapter 8
Special Regulations Applying to Large-Scale Residential Developments

78-00
GENERAL PURPOSES, DEFINITIONS AND GENERAL PROVISIONS

78-01
General Purposes

The regulations set forth in this Chapter are designed to deal with certain types of problems which arise only in connection with large-scale residential developments and to promote and facilitate better site planning and community planning through modified application of the district regulations in such developments.

For large-scale residential developments involving several zoning lots but planned as a unit, the district regulations may impose unnecessary rigidities and thereby prevent achievement of the best possible site plan within the overall density and bulk controls. For such developments, the regulations of this Chapter are designed to allow greater flexibility for the purpose of securing better site planning for development of vacant land and to provide incentives toward that end while safeguarding the present or future use and development of surrounding areas and, specifically, to achieve more efficient use of increasingly scarce land within the framework of the overall bulk controls, to enable open space in large-scale residential developments to be arranged in such a way as best to serve active and passive recreation needs of the residents, to protect and preserve scenic assets and natural features such as trees, streams and topographic features, to foster a more stable community by providing for a population of balanced family sizes, to encourage harmonious designs incorporating a variety of building types and variations in the siting of buildings, and thus to promote and protect public health, safety and general welfare.

* * *

78-03
Applicability of This Chapter

#Large-scale residential developments# are governed by all the #use#, #bulk#, off-street parking and loading, and other applicable regulations of this Resolution, except for such special provisions as are specifically set forth in this Chapter and apply only to such #large-scale residential developments#. ~~However, the Quality Housing Program is inapplicable in #large-scale residential development#.~~

Any #large-scale residential development# having a total of at least 500 #dwelling units# shall be subject to the provisions of Section 78-11 (General Provisions), relating to Provision of Public Facilities in Connection with Large-Scale Residential Developments.

#Large-scale residential developments# within the #waterfront area# shall be subject to the provisions of Section 62-132 (Applicability of Article VII, Chapters 4, 8 and 9).

* * *

APPENDIX F
Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas

* * *

MANHATTAN

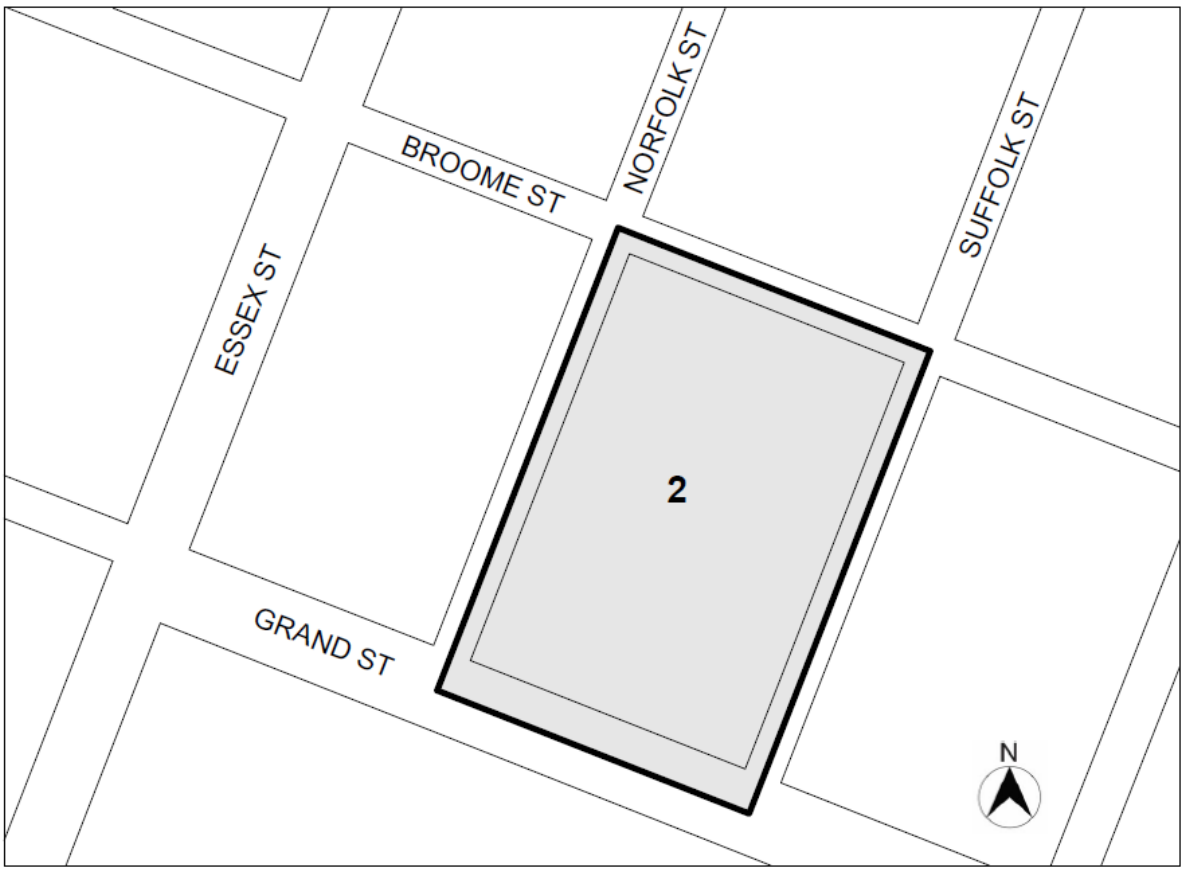
* * *

Manhattan Community District 3

* * *

Map 3 – [date of adoption]

[PROPOSED MAP]



Mandatory Inclusionary Housing Program Area *see Section 23-154(d)(3)*

Area **2** [date of adoption] MIH Program Option 1

Portion of Community District 3, Manhattan

* * *

END

The above resolution (C 200065 ZRM), in conjunction with the related actions (C 200061(A) ZSM, N 200064 ZMM, N 200067 ZAM, N 200066 ZAM, M 790721(B) ZSM), duly adopted by the City Planning Commission on January 21, 2020 (Calendar No. 4), is filed with the Office of the Speaker, City Council, and the Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

MARISA LAGO, *Chair*
KENNETH J. KNUCKLES, *Esq., Vice-Chairman*
DAVID J. BURNEY, ALLEN P. CAPPELLI, Esq., MICHELLE DE LA UZ, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, RAJ RAMPERSHAD, *Commissioners*

NYC PLANNING
DEPARTMENT OF CITY PLANNING CITY OF NEW YORK

Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: **C 200061 ZSM**	Project Name: **Go Broome Street Development**
CEQR Number: 19DCP119M	Borough(s): Manhattan Community District Number(s): 03

Please use the above application number on all correspondence concerning this application

SUBMISSION INSTRUCTIONS

1. Complete this form and return to the Department of City Planning by one of the following options:
   - **EMAIL (recommended):** Send email to CalendarOffice@planning.nyc.gov and include the following subject line: (CB or BP) Recommendation + (6-digit application number), e.g., "CB Recommendation #C100000ZSQ"
   - **MAIL:** Calendar Information Office, City Planning Commission, 120 Broadway, 31st Floor, New York, NY 10271
   - **FAX:** to (212) 720-3488 and note "Attention of the Calendar Office"
2. Send one copy of the completed form with any attachments to the applicant's representative at the address listed below, one copy to the Borough President, and one copy to the Borough Board, when applicable.

Docket Description:

IN THE MATTER OF an application submitted by GO Broome LLC and The Chinatown Planning Council Housing Development Fund Company, Inc. pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 78-312 of the Zoning Resolution to modify the height and setback requirements of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) and the distance between buildings requirements of Section 23-711 (Standard Minimum Distance Between Buildings), in connection with a proposed mixed use development on property located on the southerly side of Broome Street between Norfolk Street and Suffolk Street (Block 346, Lots 1, 37 & 75), within an existing large-scale residential development bounded by Broome Street, Suffolk Street, Grand Street and Essex Street (Block 346, Lots 1, 37, 75 & 95; and Block 351, Lot 1), in R8 and R9-1/C2-5* Districts, Borough of Manhattan, Community District 3.

*Note: The site is proposed to be rezoned by changing an existing R8 District to an R9-1/C2-5 District under a concurrent related application for a change in the Zoning Map (C 200064 ZMM).

Plans for this proposal are on file with the City Planning Commission and may be seen at 120 Broadway, 31st Floor, New York, N.Y. 10271-0001.

Applicant(s):	Applicant's Representative:
GO Broome LLC 432 Park Avenue South, 2nd Floor, New York, NY 10016 The Chinatown Planning Council Housing Development Fund Company, Inc. 150 Elizabeth Street, New York, NY 10012	Elise Wagner, Esq. Kramer Levin Naftalis & Frankel LLP 1177 Avenue of the Americas New York, NY 10036

Recommendation submitted by:
Manhattan Community Board 3

Date of public hearing: 09/17/2019 **Location:** 59 East 4th Street

Was a quorum present? YES [X] NO [ ] *A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.*

Date of Vote: 09/24/2019 **Location:** PS 20 - 166 Essex Street, New York, NY

RECOMMENDATION

- [ ] Approve
- [ ] Disapprove
- [X] Approve With Modifications/Conditions
- [ ] Disapprove With Modifications/Conditions

Please attach any further explanation of the recommendation on additional sheets, as necessary.

Voting

 # In Favor: 30 **# Against:** 0 **# Abstaining:** 9 **Total members appointed to the board:** 48

Name of CB/BB officer completing this form	*Title*	*Date*
Jim Shelton	Assistant District Manager	10/23/2019

THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 3
59 East 4th Street - New York, NY 10003
Phone (212) 533-5300
www.cb3manhattan.org – mn03@cb.nyc.gov

Alysha Lewis-Coleman, Board Chair Susan Stetzer, District Manager

At its September 2019 monthly meeting, Community Board 3 passed the following resolution:

TITLE: ULURP No. 200064 ZMM - GO Broome Street Development

WHEREAS, GO Broome LLC and the Chinatown Planning Council Housing Development Fund Company, Inc. are seeking approvals for a project in the area bounded by Broome Street to the north and Grand Street to the south, between Essex Street and Suffolk Street, including the site of the landmarked but fire-damaged Beth Hamedrash Hagodol synagogue (BHH); and

WHEREAS, the Chinese-American Planning Council (CPC) would be the owner of the site and will lease the land to Gotham Organization, who is also purchasing land and development rights from BHH to complete the development site assemblage; and

WHEREAS, as ground lessees, Gotham Organization would develop the site as well as operate two new buildings in partnership with CPC and BHH; and

WHEREAS, the two new buildings—the Norfolk Building and the Suffolk Building—would include general mixed-income housing, 100% affordable senior housing, program and office space for CPC, space for the BHH congregation to establish a cultural heritage center, and ground floor retail space; and

WHEREAS, in total, the project would include 488 mixed-income rental units, with 208 permanently affordable units (43% of the total units); and

WHEREAS, with respect to the Norfolk Building:

- It would be a 16-story, approximately 165-foot tall residential building
- Its residential component would consist exclusively of 115 Affordable Independent Residences for Seniors ("AIRS" rental units)
- It would include 80 studio units and 35 1-bedroom units
- The AIRS units would be targeted at household income bands ranging between 30-80% AMI ($22,410 to $68,320 annual household income maximum); and
- It would include approximately 3,800 square feet of community facility gross square feet to be owned by BHH Synagogue as a worship and cultural heritage space; and

WHEREAS, this includes 27 additional affordable senior housing units from the version of the project the development team first presented to the Community Board 3 Land Use Committee in January 2018; and

WHEREAS, with respect to the Suffolk Building:

- It would be a 30-story, approximately 310-foot tall, mixed-use building;
- It would consist of 280 market-rate rental units and 93 affordable Mandatory Inclusionary Housing (MIH) rental units;
- 37 MIH units would be targeted at households earning 40% of AMI ($29,880-$46,120 annual household income maximum);
- 37 units would be targeted at households earning 50% AMI ($37,350 to $57,650 annual household income maximum);
- 19 units would be targeted at households earning 100% AMI ($74,700 to $115,300 annual household income maximum);
- The unit mix would have roughly 25% of the total building units set-aside for 2-bedroom and 3-bedroom apartment layouts;
- It would include approximately 40,000 gross square feet of community facility space to house the new CPC consolidated headquarters;
- It would include approximately 18,750 gross square feet of ground floor retail space on Broome Street; and

WHEREAS, to facilitate this development several land use actions are necessary, including:

- A zoning map amendment to change an R8 district to an R9-1 district with a C2-5 overlay;
- A zoning text amendment to designate a Mandatory Inclusionary Housing area; and allow the use of the Quality Housing Program;
- A City Planning Commission authorization to eliminate 33 required accessory off-street parking spaces;
- A modification of the Seward Park Extension West Large-Scale Residential Development (LSRD) to update site plan and changes to the zoning lots, an authorization to modify the regulations governing height and setback regarding the existing Hong Ning building, and Special Permits to modify height, setback and streetwall requirements in the LSRD; and

WHEREAS, the CPC community facility space would allow the organization to consolidate various offices, services, and programming under one roof; and

WHEREAS, the new BHH space would incorporate some salvaged elements of the historic landmarked synagogue and will be reserved for BHH use as a cultural heritage center; and

WHEREAS, the proposed development would include a shared, landscaped interior courtyard to be used by the CPC and the BHH Heritage and Cultural Center, and would be accessible to residents of both buildings; and

WHEREAS, the proposed project would include some unmitigated environmental impacts, including traffic impacts at the Delancey Street and Essex Street intersection during the weekday PM peak hour, and Grand Street and Clinton Street intersection during all peak hours; and

WHEREAS, construction activities would generate additional traffic impacts, including unmitigated impacts at the Grand and Clinton Streets intersection during the PM construction peak hours, particularly due to the cumulative trips generated by concurrent construction projects at Essex

Crossing (180 Broome Street and 202 Broome Street) and Grand Street Guild; and

WHEREAS, Gotham organization has committed to equitably contribute to an independent traffic planning consultant to study the cumulative traffic impacts generated by recently completed and projected development in the immediate area, and propose an alternative traffic master plan to mitigate these growing safety and congestion problems; and

WHEREAS, construction, traffic congestion created by it, and the resulting energy consumption by residents and businesses all contribute to the urban heat island effect and general use of non-renewable energy sources, all of which are known contributors to climate change;

THEREFORE BE IT RESOLVED, there must be regular coordinating meetings between the New York City Department of Transportation, the NYPD 7th Precinct, the GO Broome development and property management teams, the development and property management teams at Essex Crossing and Grand Street Guild, adjoining private development, the Community Board, and other relevant stakeholders to address traffic management, staging, and parking concerns during both the construction and operation period of the project; and

THEREFORE BE IT FURTHER RESOLVED, the design of the Community at Broome buildings should integrate modern sustainable measures that reduce the carbon foot print these buildings create; in addition to sustainability standards required by Law, the developers should strive for net zero carbon emissions through intentionally designing for and utilizing any renewable energy and sustainable construction incentives and methods; and

THEREFORE BE IT FURTHER RESOLVED, Community Board 3 recommends to approve the GO Broome Street Development (ULURP # C 200064 ZMM) with additional conditions as follow:

- Ensure to build at least overall 50% affordable units and designate additional units for families with moderate and middle incomes.
- Attract former site tenants from all SPURA sites
- Ensure any costs for amenities to affordable units be consistent with percentage of reduced rent for those affordable tenants
- Commit to enhance trees and open space within the project site and on surrounding sidewalks
- Study scenarios to lower the overall building height and bulk. At minimum locate all mechanical and other services elsewhere on the site.

Please contact the Community Board office with any questions.

Sincerely,





Alysha Lewis-Coleman, Chair
Manhattan Community Board 3

Jacky Wong, Chair
Land Use Zoning, Public & Private Housing

THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 3
59 East 4th Street - New York, NY 10003
Phone (212) 533-5300
www.cb3manhattan.org – mn03@cb.nyc.gov

Alysha Lewis-Coleman, Board Chair Susan Stetzer, District Manager

November 27th, 2019

Marisa Lago, Director
Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271

Dear Director Lago:

At its November 2019 monthly meeting, Community Board 3 passed the following resolution:

TITLE: ULURP #200061AZSM: Amendment to GO Broome Street Development application seeking waiver of required minimum distance of 80' between buildings above heights of 125'

WHEREAS, in September 2019, Community Board 3 voted to approve the GO Broome Street Development application with conditions; and

WHEREAS, those conditions included:

- Building at least 50% affordable units and designating additional units for families with moderate and middle incomes
- Attracting former site tenants from all SPURA sites
- Ensuring any costs for amenities for tenants of affordable units be consistent with the percentage of reduced rent for those tenants
- Committing to enhance trees and open space within the project site and on surrounding sidewalks
- Studying scenarios to lower the overall building height and bulk. At minimum locating all mechanical and other services elsewhere on the site; and

WHEREAS, an amended application has since been filed with the Department of City Planning requesting an additional waiver in order to address a technical zoning compliance issue; and

WHEREAS, the additional waiver would address a requirement that buildings located above 125 feet in height and that together exceed a lot coverage of 40 percent must be spaced at least 80 feet apart; and

WHEREAS, the waiver is needed because the existing Hong Ning senior housing building at 50 Norfolk Street, which shares a lot with the proposed development, is 126.13 feet tall, and the proposed buildings plus the Hong Ning building exceed 40 percent lot coverage between 125 feet and 126.13 feet, but would not be at least 80 feet apart; and

WHEREAS, this creates 1.13 feet of non-compliant building height and minimum distance between building that requires a special permit for the modification of minimum distance between buildings pursuant to Zoning Resolution Section 78-312(f); and

THEREFORE BE IT RESOLVED, given the additional information that we currently have with regard to there being yet another variance in this application, we reiterate to the developer that they redouble their efforts to comply with the recommendations made in September 2019 with regard to height, bulk and affordability.

Please contact the community board office with any questions.

Sincerely,





Alysha Lewis-Coleman, Chair
Community Board 3

Jacky Wong, Chair
Land Use Zoning, Public & Private Housing Committee

cc: Alice Wong, Chinese-American Planning Council
Elise Wagner, Kramer Levin
Matthew Pietrus, Department of City Planning
Office of Councilmember Margaret Chin
Office of Manhattan Borough President Gale Brewer
Office of NYS Assemblymember Yuh-Line Niou
Office of NYS Senator Brian Kavanagh

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Gale A. Brewer, Borough President

November 18, 2019

Recommendation on
ULURP Applications: N200064ZMM, N200065ZRM, N200067ZAM, M790721(B)ZSM
GO Broome Street Project by Applicants:
Go Broome LLC and the Chinatown Planning Council Housing Development Fund Company. Inc. (CPC-HDFC)

I. PROPOSED ACTIONS

GO Broome LLC and the Chinatown Planning Council Housing Development Fund Company, Inc. ("CPC-HDFC") (collectively the "Applicants") are seeking Uniform Land Use Review Procedure (ULURP) approvals by the City Planning Commission ("the Commission") for the following Proposed Actions:

(1) A zoning map amendment to change an R8 to an R9-1 district with a C2-5 overlay (Application 200064ZMM);

(2) A zoning text amendment to Appendix F of the Zoning Resolution (ZR) to designate a Mandatory Inclusionary Housing (MIH) Area and to ZR Sections 23-011, 28-01, and 78-03 to allow use of the Quality Housing Program (Application N 200065ZRM);

(3) Authorization pursuant to ZR Section 13-443 to eliminate the 33 spaces of required accessory off-street parking on Block 346, Lot 75 via special permit (Application N200067ZAM); and

(4) A modification (Application M790721(B)ZSM) of the Seward Park Extension West Large-Scale Residential Development (the "LSRD") to update the site plan and changes to the zoning lots, including:
- An authorization to modify the regulations governing height and setback regarding the existing Hong Ning building;
- A special permit to allow for the distribution of floor area without regard to zoning lot lines;
- A special permit to modify regulations governing height and setback along streets, with respect to the Proposed Development and the Hong Ning building; and
- A special permit to modify the minimum distance between buildings on a zoning lot.

The Project Area is located in Manhattan's Lower East Side neighborhood in Community District 3 (CD3) and is bounded by Broome Street to its north, Grand Street to its south, Suffolk Street to its east, and Essex Street to its west. The Proposed Development will include mixed-income housing, affordable senior housing, program and office space for the Chinese-American Planning Council, congregation space for the landmarked Beth Hamedrash Hagodol ("BHH") Synagogue, and commercial retail uses. The Project Site consists of Block 346, Lots 1, 37, 75, and 95, and Block 351, Lot 1.

Table 1: Project Site Tax Block, Tax Lot, Address, Owner and Project Parcel

Tax Block	Tax Lot	Address or Bounding Streets/Cross Streets	Owner	Project Parcel
346	1	50 Norfolk Street	384 Grand Street Housing Development Fund Company, Inc.	2A-1
346	37	60 Norfolk Street	Beth Hamedrash Hagodol of New York Restoration, Inc.	2A-1
346	75	N/A Norfolk Street (Broome Street between Norfolk and Suffolk Streets)	CPC-HDFC	2A-1
346	95	384 Grand Street	384 Grand Street Housing Development Fund Company, Inc.	2A-2
351	1	62 Essex Street	New York City Housing Authority	1

Through this application, the modified LSRD of the Project Area would be comprised of areas:

- Seward Park Extension West Large Scale Residential Development (which is the LSRD that is the subject of the Proposed Actions in this application), consisting of Block 351, Lot 1 and Block 346, Lots 1, 75, and 95; and

- Seward Park Extension East Large-Scale Residential Development, consisting of Block 341, Lots 1, 58, and 70; Block 347, Lot 80; Block 336, Lots 1, 5, 35, and a portion of 28.

The proposed Actions would facilitate the development of two new buildings (the "Proposed Development") on the portion of Parcel 2A-1 (the "Development Site"). One of the buildings would consist of Affordable Independent Residences for Seniors ("AIRS") at Norfolk and Broome Streets (the "Norfolk Building"), and the other would consist of a mixed-use, mixed-income contextual high-rise building on Suffolk and Broome Streets (the "Suffolk Building").

II. PROJECT BACKGROUND

Seward Park Extension Urban Renewal Area

The Seward Park Extension Urban Renewal Area ("SPEURA") was approved by the City Planning Commission on June 2, 1965, and by the Board of Estimate on July 22, 1965 (CP-18915). The SPEURA planned to develop 1,800 residential units along with community facilities and commercial uses within the 14 blocks bounded by Delancey, Essex, Willet, and Grand Streets. This area originally had low-rise tenement buildings with ground floor commercial uses. Originally, the SPEURA plan intended to convert a handful of blocks into superblocks, one of which included the Project Site through the elimination of Suffolk Street between Broome and Grand Streets. Block 346, Lots 1, 75, and 95 were meant to become one superblock; however this merge never took place.

The City Planning Commission approved the first amendment to the SPEURA plan on February 25, 1980 (C790719HUM), which, among other approvals, split Parcel 2 in the SPEURA plan into "Parcel 2A" and "Parcel 2B." Parcel 2A now consists of Block 346, Lots 1, 75, and 95 and Parcel 2B consists of Block 346, Lots 39 and 1001-1005 (outside of the Project Area).

The SPEURA plan expired on July 22, 2005 and on October 11, 2012, the New York City Council approved the Seward Park Mixed-Use Development Project, commonly known as Essex Crossing. At the time of completion, Essex Crossing will be about 1.65 million square feet including over 1,000 new residences, 450,000 square feet of retail space, and 400,000 square feet of office space.

HPD is seeking approval of a corrective action that would remove an overlapping portion on Block 346 by splitting the Seward Park Extension LSRD into two non-contiguous developments. Seward Park Extension West LSRD, where the overlap is, will consist of Block 351, Lot 1 and Block 346, Lots 1, 75, and 95. Seward Park Extension East LSRD will consist of Block 341, Lots 1,58, and 70; Block 347, Lot 80; Block 336, Lots 1, 5, 35, and 28.

Hong Ning Senior Housing Building (Block 346, Lot 1)
New York City Housing Preservation and Development ("HPD") applied to develop the 14-story Hong Ning senior housing building on Block 346, Lot 1, which included the (1) disposition of Parcel 2A to the CPC-HDC and (2) an authorization under ZR Section 78-311(e)(Authorization by Commission) for the location of the building without regard to the height and setback regulations and special permit under ZR Section 78-312(d)(Special permits by the City Planning Commission) for minor variations in the front, height, and setback regulations. This application was approved by the City Planning Commission on March 12, 1980 (C790720HDM and N790721ZSM) and the Board of Estimate on April 24, 1980. The building was completed in 1982.

Lot 1 has an area of approximately 19,483 square feet and is operated by the CPC-HDFC, an affiliate of the Chinese-American Planning Council (CPC). The Hong Ning building contains 156 units and is a height of approximately 126 feet.

Beth Hamedrash Hagadol (BHH) Synagogue (Block 346, Lot 37: Parcel 2A-1)
The former Beth Hamedrash Hagadol (BHH) Synagogue, on Block 346, Lot 37 was one parcel that was not acquired as part of the SPEURA plan. The BHH Synagogue was completed in 1850 and was individually landmarked by the Landmarks Preservation Commission on February 28, 1967 (LP-0637) and reviewed by the City Planning Commission on March 2, 1967 (CP-19758). In May 2017 a fire severely damaged the building, rendering the building inhabitable but leaving a portion of the façade wall to be preserved through the Proposed Development. In October 2019 a portion of the wall collapsed, killing Stanislaw Supinski, a construction worker, and injuring his colleague and will no longer be preserved in the Proposed Development. Lot 37 is part of the Projected Development Site 1 and has an area of approximately 7,443 square feet.

Accessory Parking (Block 346, Lot 75: Parcel 2A-1)
Lot 75 is owned by CPC-HDFC and currently operates as a 33-space accessory parking lot for the Hong Ning senior housing building (located on Block 346, Lot 1). Lot 75 is part of the Proposed Development Site 1 with an area of approximately 24,958 square feet.

Five-Story Mixed-Use Commercial Building (Block 346, Lot 95)
Lot 95 has an area of approximately 8,637 square feet and has a 5-story mixed use building constructed in the early 1920s. The building includes ground-floor commercial use with 26 residential units on its upper floors and a height of approximately 55 feet. The lot continues to remain a part of the LSRD.

NYCHA Building (Block 351, Lot 1)
The New York City Housing Authority ("NYCHA") applied to create the Seward Park Extension Large Scale

Residential Development (the "Original LSRD") within the SPEURA. The application was approved by the City Planning Commission on May 11, 1966 and by the Board of Estimate on May 20, 1966.

The Original LSRD facilitated the development of the 23-story NYCHA building on Block 351, Lot 1 which was completed in 1972. The site is a full-block site owned and operated by NYCHA with an area of approximately 47,056 square feet. In addition to the 23-story residential building at the north end of the block, this area also includes a low-rise community facility building at the south end of the block with a substantial amount of open space. No changes are proposed to this parcel as part of the Proposed Actions.

III. AREA CONTEXT

The Project Area is situated in Manhattan's Community District 3 on the Lower East Side and covers two blocks that are bounded by Broome Street to the north, Grand Street to the south, Suffolk Street to the east, and Essex Street to the west. The Project Area is zoned R8.

The surrounding area has three distinct built characteristics: (1) the "tower-in-the-park" style; (2) the mixed-use lower-scale area which predominately consists of four- to six-story tenement style residential buildings with ground-floor retail developed in the late 19th and early 20th centuries; and (3) Essex Crossing, which includes separate parcels with contextual mix-rise and high-rise new construction directly to the east, north and northwest of the Project Area.

The Project Area is well served by public transportation, which includes access to the M9, M14A, M14D, M15, M21, M22, and B39 bus routes. The F, M, J and Z subway lines stop at the Delancey Street/Essex Street subway station, with a number of entrances along Delancey and Essex Streets. In addition, Delancey Street serves as the primary east-west route through the area and provides direct access to and from the Williamsburg Bridge.

IV. PROPOSED DEVELOPMENT

<u>Parcel 2A-1 Residential Uses: The Norfolk and Suffolk Buildings</u>
Parcel 2A-1 consists of Block 346, Lots 37 and 75, and is approximately 32,401 square feet. The Suffolk Building and the Norfolk Building are both to be constructed on this block and are to consist of mixed-income housing, affordable senior housing, CPC programmatic and office space, a BHH Synagogue community facility and cultural center, and retail uses. The two buildings would be linked by a landscaped interior courtyard.

The Suffolk Building would be a 30-story, 310-foot tall mixed-use, high-rise building totaling approximately 375,431 square feet. There will be about 316,421 square feet of residential space, about 40,222 square feet of community facility space that will be owned by CPC, and about 18,788 square feet of neighborhood retail space facing Broome Street. While the numbers have not yet been finalized, there are presently a total of 373 units planned for the Suffolk Building. Of this total, there are 280 market-rate units and 93 Mandatory Inclusionary Housing (MIH) units under MIH Option 1 proposed for the site. The 93 MIH units of the Suffolk Building (25% of the proposed 373 units) will have proposed Area Median Income (AMI) levels between 50% and 80% AMI. The final housing unit calculations for each income band have yet to be decided.

The Norfolk Building will be a 16-story, approximately 165-foot tall high-rise Affordable Independent Residence for Seniors (AIRS) building totaling about 86,711 square feet, including about 82,923 square feet of residential space and 3,788 square feet to be owned as an independent condominium unit by BHH. The Norfolk Building will include 115 senior housing units. The 115 AIRS units in the Norfolk Building are broken down to the following affordability levels:

Table 1: AMI Breakdown of 115 AIRS Units of the Norfolk Building

AMI Level	Percentage (of 115 AIRS Units)	Total Units at AMI Level
30% AMI	7%	8 units
40% AMI	24%	28 units
50% AMI	24%	28 units
60% AMI	24%	28 units (including super's unit)
70% AMI	20%	23 units

There would be approximately 208 units that will be affordable (consisting of 93 MIH units in the Suffolk Building and the 115 AIRS units in the Norfolk Building). The 208 units make up approximately 40% of the total developed 488 units for the Project Area.

Parcel 2A-1 Community Facility and Commercial Uses: CPC Headquarters and BHH Synagogue

The Proposed Development at Parcel 2A-1 would provide CPC with about 40,222 square feet of space to consolidate its programming from more than a half-dozen disparate locations throughout Lower Manhattan. CPC would be provided with a separate entrance to its facilities on Suffolk Street. Additionally, approximately 3,788 square feet of ground-floor space will be owned by BHH in the same location as its former home on Block 346, Lot 37. The BHH Synagogue will also have a separate entrance to its facilities on Norfolk Street.

The BHH space is intended to be used as a community facility for use as a worship space and a Jewish cultural heritage space but BHH may elect to convert this space on an as-of-right basis to a commercial use (e.g., office use) in the future. Because of the small size of this space, the impact of community facility and commercial use in this space are likely to be similar, and for purposes of the conservative environmental review, the BHH space was assessed as a community facility.

The total uses, square footage, and programming for the Proposed Development are listed below.

Table 2: Proposed Development Locations, Residential Units, and Uses

Manhattan Location	Property Owner	Existing Use	Proposed Development	Residential Units (Existing and Proposed)	Lot Area, Existing and Proposed Uses
Block 346 Lot 37 **(Proposed Development Site 1)**	Beth Medrash Hagodol	None	• 30-story (310 ft) mixed-use building (the Suffolk Building). • 16-story (165 ft) AIRS building (the Norfolk Building). • A landscaped interior courtyard.	<u>Suffolk Building</u> (Total Proposed 373 Residential Units): • 280 Market-rate • 93 MIH units <u>Norfolk Building</u> (Total Proposed 115 Residential Units): • 115 AIRS	<u>Suffolk Building Proposed Uses:</u> • 316,421 square feet Residential • 18,788 square feet Commercial • 40,222 square feet Community Facility <u>Norfolk Building Proposed Uses:</u> • 82,923 square feet Residential • 3,788 square feet Community Facility
Block 346 Lot 75 **(Proposed Development Site 1)**	GO Broome LLC	Accessory parking lot to the Hong Ning senior housing building (Block 346, Lot 1).			
Block 351 Lot 1	NYCHA	• 23-story residential building; • Low rise community facility; • Open space.	• **Remain as is.**	• 181 residential units (existing)	47,056 square feet (existing residential, community facility, and open space uses).
Block 346 Lot 1	CPC-HDFC	• 14-story senior housing building (Hong Ning).	• **Remain as is.**	• 156 units (existing)	19,483 square feet (existing residential use).
Block 346 Lot 95 **(Proposed Development Site 2)**	384 Grand HDFC	• 5-story mixed use building with residential and ground floor retail.	• **Remains as is.**	• 26 units (existing)	8,637 square feet (existing residential and commercial retail uses). In the future, the owner will develop approximately 4,759 square feet of additional commercial space.

Special Permits and Waivers (Applications M790721(B)ZSM)

In addition to the requests for a (1) zoning map amendment change, (2) a zoning text amendment to designate an MIH area, and (3) a special permit to eliminate the accessory off-street parking on Block 346, the Applicants request special permits and waivers for the following:

- Waiver of the height and setback regulations to allow the Suffolk Building, located on the periphery of the LSRD, to exceed the maximum building height set forth in ZR Section 23-664(c)(1) (Modified height and setback regulations for certain Inclusionary Housing buildings or affordable independent residences for seniors);

- Distribution of 15,000 square feet of excess floor area from a zoning lot consisting of Block 346, Lot 95 to a zoning lot consisting of Block 346, Lots 1, 37 and 75 for the purpose of maximizing the amount of affordable housing in the Norfolk Building;

- Waiver of the height and setback regulations to allow a portion of the Suffolk Building along Suffolk Street, located on the periphery of the LSRD, to penetrate the required setback set forth in ZR Section 23-
  Waiver of the height and setback regulations to allow a portion of the Hong Ning building along Grand Street, located on the periphery of the LSRD, to modify (i) the street wall location requirements of ZR 23-661(c), and (ii) the setback requirements of ZR Section 23-662(a) and (c) (Maximum height of buildings and setback regulations); and

- Modification of ZR Section 23-711 (Standard minimum distance between buildings) with respect to the minimum distances required between (i) the Suffolk Building and the Hong Ning building, (ii) the Norfolk Building and the Hong Ning building, and (iii) the Norfolk Building and the Suffolk Building.

  The required distance between buildings varies between 20 and 60 feet below a building height of 125 feet. Above 125 feet, if buildings on the same zoning lot have a lot coverage that exceeds 405, the required minimum distance increases to 80 feet.

  The Hong Ning building is 126.13 inches, and the lot coverage at a height of 125 to 126.13 feet exceeds the 40% stipulated. Thus, the additional 1.13 feet above the maximum 125 feet requires distance between the Hong Ning, Suffolk, and Norfolk Buildings to be 80 feet. The Applicants are seeking to waive this distance of 1.13 feet (the waiver distance varies between each building). Above 126.13 feet, the lot coverage falls below 40% so the required distance between buildings returns to between 40 and 60 feet.

V. ENVIRONMENTAL IMPACTS

The Environmental Assessment Statement (EAS) that was prepared for the Proposed Development (CEQR Number 19DCP199M) states that the project will not exceed CEQR thresholds for analysis of the following areas and that no significant negative impacts would stem from the proposed actions and resulting development: community facilities; natural resources; water and sewer infrastructure; energy, and solid waste and sanitation.

The Environmental Assessment and Review Division has determined, pursuant to 6 NYCRR Part 617.7, that the Proposed Development could have a significant environmental impact related to the following areas: land use, zoning, and public policy; socioeconomic conditions; open space; shadows; historical and cultural resources; urban design and visual resources; hazardous materials; transportation; air quality; greenhouse gas emissions; noise; public health; neighborhood character; construction; and any other issues identified by the Draft Environmental Impact Statement (DEIS).

On February 26, 2019, Manhattan Community Board 3 (CB3) submitted testimony to comment on the Draft Scope of Work for the Proposed Development. The concerns outlined in the testimony are:

1. The Draft Scope of Work does not include an impact analysis of Community Facilities and Services, specifically, impacts on publicly funded child care facilities and public schools. While this is likely absent due to the proposed set-aside of 115 affordable senior units, a more conservative analysis framework that treats all units as non-senior would ensure that impacts are understood even in a situation where the senior units are not ultimately delivered.

2. The Draft Scope of Work must also consider an appropriate study area for construction impacts given the scale of cumulative construction happening in the area during the proposed construction period. Publicly known projects in the nearby area with construction periods that will coincide with the GO Broome Street Development construction period include Essex Crossing, Grand Street Guild, 247 Cherry Street, 260 South Street, 259 Clinton Street, and potentially NextGeneration NYCHA infill at LaGuardia Houses. The construction impact analysis must look cumulatively at all these sites, particularly to analyze traffic impacts and identify mitigations in a holistic way, considering the combined impacts from truck routes and detours from traffic diversions across a study area that encompasses all of the aforementioned developments.

On March 8, 2019, the Office of the Manhattan Borough President submitted testimony to comment on Draft Scope of Work for the Proposed Development. The concerns outlined in the testimony are:

1. Supporting CB3 in asking for an impact analysis of Community Facilities and Services.

2. Considering cumulative construction impacts happening in the area during the proposed construction period.

3. Analyzing further bus traffic and demand. Seniors primarily use buses as opposed to subways due to accessibility concerns. This should be studied extensively to ensure the bus service, both existing and planned, will accommodate an increase in population in the area.

VI. COMMUNITY BOARD 3 RECOMMENDATION

On September 24, 2019, Manhattan Community Board 3 voted 30 Yes, 0 No, 9 Abstaining, to approve the Go Broome Street Project with the additional conditions listed below:

- Coordinate meetings between the New York City DOT, the NYPD 7th Precinct, the GO Broome development and property management teams, the development and property management teams at Essex Crossing and Grand Street Guild, adjoining private development, the Community Board, and other relevant stakeholders to address traffic management, staging, and parking concerns during both the construction and operation period of the project;
- Integrate modern sustainable measures that reduce the carbon footprint these buildings create, follow legally mandated sustainability standards, strive for net zero carbon emissions through intentionally designing for and utilizing any renewable energy and sustainable construction incentives and methods;
- Ensure to build at least overall 50% affordable units and designate additional units for families with moderate and middle incomes;
- Attract former site tenants from all SPEURA sites;

- Ensure any costs for amenities to affordable units be consistent with percentage of reduced rent for these affordable tenants;
- Commit to enhancing trees and open space within the project sites and on surrounding sidewalks; and
- Study scenarios to lower the overall building height and bulk. At minimum, locate all mechanical and other services elsewhere on the site.

VII. MANHATTAN BOROUGH PRESIDENT'S COMMENTS

The GO Broome Street Project presented today is a rare opportunity to redevelop a site for a non-profit, mission-driven use that furthermore recognizes and preserves the history and legacy of the former Beth Hamedrash Hagadol Synagogue (BHH Synagogue). The Chinese-American Planning Council (CPC), the nation's largest Asian American social services organization, approached my office nearly a year ago seeking support for the preservation of the remnants of the landmarked BHH Synagogue and alternatives in developing a new CPC headquarters and multi-use space for their social service programs. The preservation aspect of the Proposed Development has shifted considerably after the unforeseen tragic collapse in October 2019 of the remaining wall of the BHH Synagogue. This Proposed Development still offers a valuable opportunity to respond to the dearth of affordable senior housing units in Lower Manhattan through a unique, cultural collaboration between the Asian American and Jewish communities. That collaboration parallels the history of the area's urban fabric and the several generations of immigrant communities of the Lower East Side that continue to live in the neighborhood.

I welcome the opportunity for more affordable housing units in lower Manhattan. Furthermore, I endorse the mission of the Proposed Development to support the social service needs of the Asian American community and other immigrant communities while accommodating the worshipers of the BHH congregation. However, I am also aware of the community concerns that surround this ULURP request for rezoning and multiple special permits.

Affordable Housing

In particular, I point to the request for the special permits that would allow the maximum building height to increase from 120 feet in the R8 district to 285 feet as permitted for a Quality Housing building in an R9-1 district. Subsequent changes in permitted FAR would also include a residential increase from 6.02 to 9.00 FAR, AIRS from 7.20 to 9.00 FAR, and community facility from 6.50 to 10.00 FAR.

The Suffolk Building is proposed as a 30-story, approximately 310-foot tall mixed-use, high-rise building while the Norfolk Building would be a 16-story, approximately 165-foot tall AIRS building. The Applicants claims that the requested variances are to maximize the Proposed Development's FAR in order to facilitate "the density necessary to provide the amount of affordable housing, senior housing, and community facility uses to be included in the Proposed Development" (14). The Proposed Development's 208 affordable units are significant and much needed in the neighborhood. However, the applicants should provide more affordable units across a wider range of income levels.

There is a senior housing crisis in New York City, with over 100,000 seniors on waiting lists for senior housing. The average wait for a unit is seven years.[1] According to a May 2018 report from the New York City Department for the Aging (DFTA), the population of New York City residents aged 60 and over will grow from 1.25 million in the year 2000 to 1.86 million by 2040.[2] Additionally, according to the November 14, 2019 Department of Homeless Services (DHS) daily report, 60,479 adults and children were in shelters throughout our city. This is

[1] https://www.politico.com/states/new-york/city-hall/story/2016/02/the-senior-housing-crisis-031725
[2] https://www1.nyc.gov/assets/dfta/downloads/pdf/reports/Plan2025-092018.pdf

unacceptable. As our senior population increases, we must allocate more resources - both land and subsidy – to the development of quality affordable housing that accommodates the needs of an aging population.

The Norfolk Building will create 115 AIRS units. However, only 8 of these units (7% of the total AIRS units) are affordable at 30% AMI ($22,000 annual income). At least 30% of the total 115 AIRS units of the Norfolk Building must be made affordable to formerly homeless New Yorkers making 30% AMI or less. These numbers correspond to a similar senior housing project, Haven Green, which obtained approval in 2019 (Application No. C 190184 HAM).

The 93 MIH units of the Suffolk Building (25% of the proposed 373 units) are to be marketed at between 50% and 80% AMI. The number of units at each income level has not been specified. The Applicants should provide these numbers in their ULURP application so that this office as well as the community could provide meaningful feedback on whether these units could truly address affordable housing needs in the area. Additionally, other developments that have sought public approval, such as the neighboring Essex Crossing project, have 50% of their units designated affordable. I urge that the amount of MIH units be increased to 50% of the proposed units in the Suffolk Building and that unit distributions at each income level be released immediately to the public and to the City Planning Commission prior to their vote. I also urge the Applicants to shift the majority of units in this building to be affordable to households at the lower 30% to 50% AMI levels, with some MIH units set aside for formerly homeless families earning 30% AMI or less.

The Applicants must guarantee that the requested variances to maximize height and scale will be maximizing FAR for the purpose of affordable housing, senior housing, and community facility use. The approximate unit mix of the Norfolk and Suffolk Buildings is as follows:

Table 3: Unit Mix of Norfolk Building (115 AIRS Units)

Unit Type	**# of Units**	**% of Total**
Studio	80	70%
1 BR	35	30%
Total	**115**	**100%**

Table 4: Unit Mix of Suffolk Building (To be determined: 93 MIH units)

Unit Type	**# of Units**	**% of Total**
Studio	125	34%
1 BR	154	41%
2 BR	87	23%
3 BR	7	2%
Total	**373**	**100%**

The affordable studio units in the Norfolk Building and also in the Suffolk Building are unlikely to accommodate the senior population who live in intergenerational housing, and who do not or cannot live alone because of medical or financial issues. As such, I find that the number of studios does not match the extremely low income seniors (30% AMI) who may be living in inter-generational housing. I ask that the Applicants divulge more information on the number of units of each type in each AMI level and provide for more 2 or 3 bedroom units at lower AMI levels.

There is presently a lawsuit filed against one of the Applicants alleging non-compliance with local, state, and federal fair housing laws as they relate to housing opportunities for persons with disabilities[3]. It is imperative the marketing of these affordable units in both the Norfolk and Suffolk Buildings must adhere to affirmative fair housing and equal housing opportunity standards. Additionally, these units must be compliant with the Americans with Disabilities Act (ADA), especially AIRS units within the Norfolk Building and all communal spaces, including the landscaped courtyard.

Project Design and Public Access

While the requested waivers for height, setback, street wall and minimum spacing requirements are to maximize FAR for community or affordable housing uses, the bulk and height of the building with its minimal setbacks, is quite large when considering the narrow widths of Suffolk, Broome, and Norfolk Streets and the buildings that are adjacent to the Proposed Development that are currently under construction. With the narrow width of sidewalks and the height and bulk of the new buildings in the area, it is important to design for pedestrian safety and comfort.

While it is true that the area is well served by public transportation, there would be an expected increase in pedestrian foot traffic due to the development of the AIRS building as well as the surrounding Essex Street Crossing developments and the proximity to Essex Street Market. I urge the Applicants to include in their Project design any landscaping features for curb-side safety measures to protect pedestrians, such as the new employees of the CPC headquarters and the buildings' residents.

While the interior landscaped space will benefit the buildings' residents, it will largely be unavailable for the public to access. I recommend that the Applicants review the possibility of re-designing the strip of garden space that is mid-block on Grand Street between the existing 5-story commercial building and the Hong Ning building as a privately-owned public green space. A fence could be placed in the interior section between the Hong Ning building and at the end of the 384 Grand HDFC-owned, commercial building to block public access into the Project's courtyard. The area is an appropriate size for the creation of publicly accessible green space that would benefit the residents of Lower East Side.

Local Uses

CPC plans to offer a number of their Manhattan Programs to be relocated and based at their new headquarters of approximately 40,000 square feet. These include: adult literacy program, college counseling center, child care resource and referral program, career center, community center, employment network, youth opportunity hub, training programs, policy and advocacy, summer youth employment programs, volunteer and internship programs, and legal, family, multi-social, special needs, and community health services. I support the mission of CPC to provide for New York City's Chinese American, immigrant, and low income communities.

The BHH Congregation in turn will occupy approximately 4,000 square feet at the ground floor, which will include space for community, public, and outdoor use as a congregation and cultural heritage center with separate entrances. However, it is noted in the application that, "BHH may elect to convert the space to a commercial use

[3] https://www.documentcloud.org/documents/6550854-Forge-Lawsuit.html

in the future" (24). The strength of this Project and application is truly the collaboration of CPC and BHH Synagogue in furthering community uses and social services. While many religious organizations across the New York City metropolitan area, in particular non-landmarked sites, face financial concerns and dwindling congregations that prompt their closure or redevelopment, I urge CPC to continue to support a community partnership with BHH Synagogue to remain within the 50 Norfolk space as intended. I request that a deed restriction be explored to be placed upon the ground-floor space that only allows religious or community facility uses. Future usage decisions to convert to a commercial space must be confirmed and approved by Community Board 3 and the District Council Member before any tenant(s) other than the approved BHH Congregation are to occupy the ground level.

Lastly, the future retail addition on Block 346, Lot 95 aims to increase its commercial space on the property by approximately 4,759 square feet of zoning floor area. However, a total of approximately18,750 square feet of small format retail space will extend along the Broome Street corridor. It is imperative the Applicants maintain their promise of leasing to small format retailers as opposed to big box users. I caution the Applicants in avoiding the ongoing practice of large retail establishments being characterized as "variety stores" under Use Group 6 ("UG6") in commercial districts.

Under UG6, variety stores are limited to 10,000 square feet of zoning floor area per establishment. However, because cellar spaces do not count toward the zoning floor area, big box corporations have been able to build up to 10,000 zoning square feet of retail above-grade, and fill out below-grade cellars with the majority of the retail store. In doing so, they exceed the 10,000 square foot limit and claim that their commercial space still constitutes as "small format". Such was the scenario with Target Corporation which opened a 22,600 square foot store at 201 East 69th Street and a 23,000 square foot store at 40-31 82nd Street in Elmhurst, two districts that are zoned for UG6 local retail. I ask the Applicants to not conform to this zoning loophole, and instead consider the true needs of the residents and provide commercial spaces for affordable local retail.

Construction Timeline and Environmental Impacts

The GO Broome Project would add to one of the many construction sites that already occupy the landscape of the Lower East Side, one of the largest of which is situated adjacent from Proposed Development site. The nine-building Essex Street Crossing Development that has been under construction since 2015 and is expected to be completed in 2024, has already brought years of noise and dust emissions to the community.

GO Broome's application says little about its construction timeline and milestones, aside from the DEIS that states a "2023 build year… [upon] receipt of project approvals in 2019 and a 2.5 year construction period." Considering the years of substantive amount of construction in the area, I ask that the Applicants release as soon as possible, a timeline for construction that is presented to Community Board 3 and which must coincide with or end sooner than the end of construction slated for the Essex Street Crossing Development. In addition, at the release of the Final Environmental Impact Statement (FEIS) the Applicants must include a report of mitigation efforts to curb the construction emissions of noise, dust, and hazardous materials from this Proposed Development.

VII. MANHATTAN BOROUGH PRESIDENT'S RECOMMENDATION

Therefore the Manhattan Borough President recommends approval of ULURP Applications N200064ZMM, N200065ZRM, N200067ZAM, M790721(B)ZSM with the following modifications:

- Set aside at least 30% of the units in the AIRS building (Norfolk Building), for formerly homeless seniors earning 30% AMI or less.
- Increase the number of MIH units to 50% of all units in the Suffolk Building;

- Deepen affordability of the AIRS and MIH units by making a majority of units affordable to households in the 30%-50% AMI range;
- Release of the income band break downs of MIH units in the Suffolk Building prior to approval;
- Reevaluate the number of studio units and conduct a study on the percentages of seniors at the 30 to 50% AMI levels who live alone;
- Adhere to affirmative fair housing and equal housing opportunities when marketing the AIRS and MIH units and ensure that all required units are ADA compliant;
- Advance sidewalk design for pedestrian accessibility, safety and protection against traffic;
- Convert the strip of area between the Hong Ning building and the 5-story commercial building into a publicly accessible green space;
- Ensure any future decisions to convert the usage of the BHH Synagogue ground-floor space to a commercial space are confirmed and approved by Community Board 3;
- Ensure that the ground-floor commercial properties of the Proposed Development remain for the sole use by small format retailers;
- Release a construction timeline that shows completion of the Proposed Development that coincides with or ends sooner than the end of construction slated for the nearby Essex Street Crossing developments; and
- Include in the release of the FEIS, a report of mitigation efforts to curb the construction emissions of noise, dust, and hazardous materials from the Proposed Development.



Gale A. Brewer
Manhattan Borough President

cc: Wayne Ho, Chinese American Planning Council
Alice Wong, Chinese American Planning Council
Simeon Maleh, Gotham Organization

Bryan Kelly, Gotham Organization
David Picket, Gotham Organization
Council Member Margaret Chin, Council District 1

Susan Stetzer, Community Board 3
Jim Shelton, Community Board 3

GO BROOME STREET DEVELOPMENT RESTRICTIVE DECLARATION

THIS DECLARATION (this "**Declaration**"), made as of this ___ day of ____, 2020, by **CPC ONE LLC** ("**CPC-ONE**"), a New York limited liability company having an address c/o Chinese American Planning Council, Inc., 150 Elizabeth Street, New York, New York 10012, **GO BROOME LLC** ("**Go-Broome**"), a New York limited liability company having an address c/o The Gotham Organization, 432 Park Avenue South, Second Floor, New York, New York 10016 and **GO NORFOLK LLC** ("**Go-Norfolk**") (collectively, with Go-Broome, "**Gotham**" and the "**Declarant**"), a New York limited liability company having an address c/o The Gotham Organization, 432 Park Avenue South, Second Floor, New York, New York 10016.

WITNESSETH:

WHEREAS, CPC-ONE is the fee owner of certain real property located in the Borough of Manhattan, County of New York, City and State of New York, designated for real property tax purposes as Block 346, Lot 75 and as more particularly described in **Exhibit "A"** (the "**Lot 75 Property**");

WHEREAS, Go-Broome is the ground tenant of the Lot 75 Property pursuant to a ground lease between CPC-ONE and Go-Broome dated _____ (as the same may be amended, the "**Ground Lease**"), as memorialized by a Memorandum of Lease recorded on _____ at CRFN _____, and pursuant to Section 6.06 of this Declaration, for so long as the Ground Lease shall remain in effect, Go-Broome shall exclusively exercise and enjoy all rights, interests, benefits, powers, privileges and remedies bestowed to Declarant under this Declaration with respect to the Lot 75 Property, and shall perform all of the obligations placed upon Declarant under this Declaration with respect to the ownership, development, use and operation of the Lot 75 Property;

WHEREAS, Go-Norfolk is the fee owner of certain real property located in the Borough of Manhattan, County of New York, City and State of New York, designated for real property tax purposes as Block 346, Lot 37 and as more particularly described in **Exhibit "A-1"** (the "**Lot 37 Property**") (the Lot 75 Property and the Lot 37 Property, collectively, the "**Subject Property**");

WHEREAS, Declarant desires to redevelop the Subject Property with two buildings: (1) a 30-story, approximately 310-foot-tall mixed-use high-rise building totaling approximately 375,431 gross square feet ("**gsf**") with frontage on Suffolk and Broome Streets called the Suffolk Building and (2) a 16-story, approximately 165-foot-tall mid-rise building totaling approximately 86,711 gsf with frontage on Norfolk and Broome Streets called the "Norfolk Building" as described in the Land Use Application (as defined herein) (the "**Proposed Development**");

WHEREAS, independent of the Proposed Development, the owner of Block 346, Lot 95 intends to increase the commercial space on Block 346, Lot 95 by approximately 4,759 gsf (the "**Lot 95 Commercial Addition**");

WHEREAS, in connection with the Proposed Development, Go-Broome and the Chinatown Planning Council Housing Development Fund Company, Inc. have filed with the City Planning Commission of the City of New York (the "**Commission**") an application (Application Nos. C200064ZMM, 200061(A)ZSM, M790721(B)ZSM, N200065ZRM, N200066ZAM, N200067ZAM) proposing: (a) a zoning map amendment to rezone Block 346, Lots 1, 37, 75 and 95 from R8 to R9-1 with a C2-5 commercial overlay; (b) a zoning text amendment to Appendix F to designate Block 346, Lots 1, 37, 75 and 95 as a Mandatory Inclusionary Housing Area, and to ZR Sections 23-011, 28-01, and 78-03 to allow the use of the Quality Housing Program; (c) an authorization pursuant to ZR §13-443 to eliminate 33 spaces of required accessory off-street parking on the Lot 75 Property; and (d) a modification of the Seward Park Extension West Large-

Scale Residential Development (the "**LSRD**") to reflect changes to the zoning lots and to update the site plan and zoning calculations of the LSRD, which includes the addition of the Lot 37 Property, an authorization pursuant to ZR Section 78-311 and special permits pursuant to ZR Section 78-312 (collectively, the "**Land Use Application**");

WHEREAS, the Commission acting as lead agency for the City Environmental Quality Review Application No. 19DCP119M, conducted environmental review of the Application pursuant to Executive Order No. 91 of 1977, as amended, and the regulations promulgated thereunder at 62 RCNY§5-01 et seq. ("**CEQR**") and the State Environmental Quality Review Act, New York State Environmental Conservation Law §8-0101 et seq. and the regulations promulgated thereunder at 6 NYCRR Part 617 ("**SEQRA**"), and issued a Notice of Completion for the Final Environmental Impact Statement (the "**FEIS**") dated _____;

WHEREAS, at the time of the Commission's Approval of the Applications the Commission found, as required pursuant to SEQRA, that the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that the adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions of the decision Project Components Related to the Environment ("PCREs") and those Mitigation Measures that were identified in the FEIS as practicable;

WHEREAS, First American Title Insurance Company National Commercial Services (the "**Title Company**") has certified in the certification (the "**Certification**") attached hereto as **Exhibit "B"** and made a part hereof, that as of ___, 2020, ____ (each, a "**Party-in-Interest**") is the only parties-in-interest in the Lot 37 Property as such term is defined in the definition of "zoning lot" in Section 12-10 of the Zoning Resolution;

WHEREAS, First American Title Insurance Company National Commercial Services (the "**Title Company**") has certified in the certification (the "**Certification**") attached hereto as **Exhibit "B"** and made a part hereof, that as of ___, 2020, _____, (each, a "**Party-in-Interest**") are the only parties-in-interest in the Block 674, Lot 75 as such term is defined in the definition of "zoning lot" in Section 12-10 of the Zoning Resolution;

WHEREAS, all parties-in-interest to the Subject Property have either executed this Declaration or waived their right to execute and subordinated their interest in the Subject Property by written instrument annexed hereto as **Exhibit "C"** (the "**Waiver and Subordination**") and made a part hereof, which instrument is intended to be recorded simultaneously with this Declaration; and

WHEREAS, Declarant desires to restrict the manner in which the Subject Property is developed, redeveloped, maintained and operated in the future.

NOW THEREFORE: Declarant does hereby declare, covenant and agree that the Subject Property shall be held, sold, transferred, conveyed and occupied subject to the restrictions, covenants, obligations, easements, and agreements of this Declaration, which shall run with the Subject Property and which shall be binding on Declarant, respectively and its successors and assigns as follows:

ARTICLE I

CERTAIN DEFINITIONS

1.01 For purposes of this Declaration, the following terms shall have the following meanings:

1.02 "Approvals" shall mean all the approvals of the Land Use Application by the Commission and City Council with respect to the Subject Property.

1.03 "Buildings Department" shall mean the New York City Department of Buildings, or any successor to the jurisdiction thereof under the New York City Charter.

1.04 "Building Permit" shall mean the issuance of any permit by the Buildings Department whether in the form of (i) an excavation permit, authorizing excavations, including those made for the purposes of removing earth, sand, gravel, or other material from the Subject Property; (ii) a foundation permit, authorizing foundation work at the Subject Property; (iii) a demolition permit, authorizing the dismantling, razing or removal of a building or structure, including the removal of structural members, floors, interior bearing walls and/or exterior walls or portions thereof; (iv) a New Building Permit (as herein defined) or (v) any other permit normally associated with the development of a building.

1.05 "CEQR" shall have the meaning given in the Recitals to this Declaration.

1.06 "Chair" shall mean the Chair of the City Planning Commission of the City of New York from time to time, or any successor to its jurisdiction.

1.07 "City" shall mean the City of New York.

1.08 "City Council" shall mean the City Council of the City of New York, or any successor to its jurisdiction.

1.09 "Commission" shall mean the City Planning Commission of the City of New York, or any successor to its jurisdiction.

1.10 "Construction Commencement" shall mean the issuance of the first permit from the Buildings Department permitting the demolition, excavation, or construction of foundations for the Proposed Development.

1.11 "Construction Monitoring Measures" or "CMMs" shall have the meaning given in Section 3.08 of this Declaration.

1.12 "CPC-ONE" shall have the meaning set forth in the Recitals to this Declaration.

1.13 "DCP" shall mean the Department of City Planning.

1.14 "Declarant" shall have the meaning given in the Recitals of this Declaration and shall include any Successor Declarant and any entity that becomes a Declarant pursuant to this Declaration.

1.15 "Declaration" shall mean this Declaration, as same may be amended or modified from time to time in accordance with its provisions.

1.16 "Delay Notice" shall have the meaning set forth in Section 5.04 of this Declaration.

1.17 "FEIS" shall have the meaning set forth in the Recitals to this Declaration.

1.18 "Final Approval" shall mean approval or approval with modifications of the Land Use Application by the Commission pursuant to New York City Charter Section 197-c, unless (a) pursuant to New York City Charter Section 197-d(b), the City Council reviews the decision of the Commission approving or approving with modifications the Land Use Application and takes final action pursuant to New York City Charter Section 197-d approving or approving with modifications the Land Use Application, in which event "Final Approval" shall mean such

approval or approval with modifications of the Land Use Application by the City Council, or (b) the City Council disapproves the decision of the Commission and the Mayor of the City of New York (the "Mayor") files a written disapproval of the City Council's action pursuant to New York City Charter Section 197-d(e), and the City Council does not override the Mayor's disapproval, in which event "Final Approval" shall mean the Mayor's written disapproval pursuant to such New York City Charter Section 197-d(e). Notwithstanding anything to the contrary contained in this Declaration, "Final Approval" shall not be deemed to have occurred for any purpose of this Declaration if the final action taken pursuant to New York City Charter Section 197-d is disapproval of the Land Use Application.

1.19 "Force Majeure" shall mean that a Force Majeure Event has occurred and Declarant has provided the Delay Notice.

1.20 "Force Majeure Event" shall mean an occurrence, or occurrences, beyond the reasonable control of Declarant, which causes delay in the performance of Declarant's obligations hereunder, provided that Declarant has taken all reasonable steps reasonably necessary to control or to minimize such delay, and which occurrences shall include, but not be limited to: (i) a strike, lockout or labor dispute; (ii) shortages or the inability to obtain labor or materials (including, but not limited to fuel, steam, water, electricity, equipment, or supplies) or reasonable substitutes therefor (including but not limited to embargoes and/or tariffs); (iii) acts of God; (iv) restrictions, regulations, orders, controls or judgments of any Governmental Authority; (v) undue material delay in the issuance of approvals or actions by any Governmental Authority, provided that such delay is not caused by any act or omission of Declarant; (vi) enemy or hostile government action, civil commotion, insurrection, terrorism, revolution or sabotage; (vii) fire or other casualty; (viii) a taking of the whole or any portion of the Subject Property by condemnation or eminent domain;

(ix) unusual or reasonably unforeseeable inclement weather substantially delaying construction of any relevant portion of the Subject Property; (x) unforeseen building, demolition, underground, or soil conditions, provided that Declarant did not and could not reasonably have anticipated the existence thereof as of the date hereof; (xi) the denial of access to adjoining real property, notwithstanding the existence of a right of access to such real property in favor of Declarant arising by contract, this Declaration or Legal Requirements, (xii) failure or inability of a public utility to provide adequate power, heat or light or any other utility service; (xiii) orders of any court of competent jurisdiction (including, without limitation, any litigation which results in an injunction or a restraining order prohibiting or otherwise delaying the construction of any portion of the Subject Property), (xiv) unusual delays in transportation, or (xv) the pendency of any litigation which results in an injunction or restraining order prohibiting or otherwise delaying the construction of any portion of the Subject Property (xvi) inability to obtain labor, materials or permits due to unscheduled extraordinary government restrictions, and (xvii) national or global financial crisis, (xviii) government delay or inaction. No event shall constitute a Force Majeure Event unless Declarant, the Association, or the holder of a Mortgage on the Subject Property in control of the Subject Property, as applicable, complies with the procedures set forth in Section 7.04.

1.21 "Foundation Permit" shall mean a permit issued by the Buildings Department a permitting the construction of the foundation of the Proposed Development.

1.22 "Fugitive Dust Control Plan" shall have the meaning given in Section 3.01(b) of this Declaration.

1.23 "Go-Broome" shall have the meaning set forth in the Recitals to this Declaration.

1.24 "Go-Norfolk" shall have the meaning set forth in the Recitals to this Declaration.

1.25 "Gotham" shall have the meaning set forth in the Recitals to this Declaration.

1.26 "Governmental Authority" shall mean any governmental authority (including any Federal, State, City or County governmental authority or quasi-governmental authority, or any political subdivision hereof, or any agency, department, commission, board or instrumentality of any thereof) having jurisdiction over the matter in question.

1.27 "Ground Lease" shall have the meaning given in the Recitals to this Declaration.

1.28 "Land Use Application" shall have the meaning given in the Recitals to this Declaration, as such Land Use Application may be hereafter modified.

1.29 "Legal Requirements" shall mean all applicable laws, statutes and ordinances, and all orders, rules, regulations, interpretations, directives and requirements, of any Governmental Authority having jurisdiction over the Subject Property.

1.30 "Lot 37 Property" shall have the meaning set forth in the Recitals to this Declaration.

1.31 "Lot 75 Property" shall have the meaning set forth in the Recitals to this Declaration.

1.32 "Lot 95 Commercial Addition" shall have the meaning set forth in the Recitals to this Declaration.

1.33 "LPC" shall mean the New York City Landmarks Preservation Commission, or any successor to the jurisdiction thereof under the New York City Charter.

1.34 "LSRD" shall have the meaning given in the Recitals of this Declaration.

1.35 "Maintenance of Protection of Traffic Plan" or "MPT" shall have the meaning set forth in Section 3.01(e)(i) of this Declaration.

1.36 "Monitor" shall have the meaning given in Section 3.08 of this Declaration.

1.37 "Monitor Agreement" shall have the meaning given in Section 3.08(b) of this Declaration.

1.38 "Mortgage" shall mean a fee or leasehold mortgage given as security for a loan in respect of all or any portion of the Subject Property.

1.39 "Mortgagee" shall mean the holder of a Mortgage.

1.40 "New Building Permit" shall mean a work permit issued by the Buildings Department under a new building application authorizing the construction of the Subject Property.

1.41 "New Cure Period" shall have the meaning given in Section 3.08(f) of this Declaration.

1.42 "New York City Air Pollution Control Code" shall have the meaning set forth in Section 3.01(b)(i)(6) of this Declaration.

1.43 "New York City Charter" shall mean the Charter of the City of New York, effective as of January 1, 1990, as amended from time to time.

1.44 "New York City Noise Control Code" shall have the meaning set forth in Section 3.01(c)(i)(1) of this Declaration.

1.45 "Noise Reduction Plan" shall have the meaning set forth in Section 3.01(c)(2) of this Declaration.

1.46 "Notice" shall have the meaning given in 6.04 of this Declaration.

1.47 "Party-in-Interest" shall have the meaning given in the Recitals to this Declaration.

1.48 "PCO" shall have the meaning set forth in Section 3.03 (a)(iv) of this Declaration.

1.49 "PCRE" shall mean the Project Components Related to the Environment, as described in Article III hereof.

1.50 "Possessory Interest" shall mean either (1) a fee interest in the Subject Property or any portion thereof or (2) the lessee's estate in a ground lease of all or substantially all the Subject Property or portion thereof.

1.51 "Proposed Cure Period" shall have the meaning given in Section 3.08(f) of this Declaration.

1.52 "Proposed Development" shall have the meaning given in the Recitals to this Declaration.

1.53 "Register" shall have the meaning given in Section 4.01(a) of this Declaration.

1.54 "Register's Office" shall have the meaning given in Section 4.01(a) of this Declaration.

1.55 "Section 3.07 Request" shall have the meaning set forth in Section 3.07(c) of this Declaration.

1.56 "State" shall mean the State of New York, its agencies and instrumentalities.

1.57 "Successor Declarant" shall mean any successor entity to the balance and entirety of Declarant's Possessory Interest in the Subject Property so that Declarant no longer holds any Possessory Interest in the Subject Property.

1.58 "TCO" shall have the meaning set forth in Section 3.03 (a)(iv) of this Declaration.

1.59 "Title Company" shall have the meaning set forth in the Recitals to this Declaration.

1.60 "Unit Interested Party" shall mean any and all of the following: all owners, lessees, and occupants of any individual residential or commercial condominium unit, and all holders of a mortgage or other lien encumbering any such residential or commercial condominium unit.

1.61 "United States Environmental Protection Agency" shall have the meaning given in Section 3.01(d)(i) of this Declaration.

1.62 "Waiver and Subordination" shall have the meaning set forth in the Recitals to this Declaration.

1.63 "Zoning Resolution" or "ZR" shall have the meaning set forth in the Recitals to this Declaration.

Certain additional terms are defined in the Sections in which they first appear or to which they most closely pertain.

ARTICLE II

DEVELOPMENT AND USE OF THE SUBJECT PROPERTY

2.01 **Development of the Subject Property**. If the Subject Property is developed, in whole or in part, with the Proposed Development, or portion thereof, Declarant covenants and agrees that the PCREs and mitigation measures set forth in Article III shall be implemented in accordance with the provisions of this Declaration.

ARTICLE III

PROJECT COMPONENTS RELATED TO THE ENVIRONMENT; MITIGATION MEASURES

3.01 **Project Components Related to the Environment for Construction**. Declarant shall implement and incorporate as part of its construction of the Proposed Development as appropriate the following PCRE's related to construction prior to any Construction Commencement on the Subject Property, as the context may require:

(a) Construction Air Emissions Reduction Measures.

(i) Prior to Construction Commencement Declarant shall (x) develop a plan for implementation of, and (y) thereafter implement, the following measures for all construction activities (including, but not limited to, demolition and excavation) during the development of the Proposed Development:

1. All non-road, diesel-powered construction equipment with engine power output rating of 50 horsepower or greater and controlled truck fleets (i.e. truck fleets under long term contract with Declarant, such as concrete mixing and pumping trucks) shall utilize the best available tailpipe technology for reducing diesel particulate emissions. Given the timeframe of the developments to be constructed under the proposed actions (2020-2022), equipment meeting the more restrictive Tier 4 standards for diesel engines would be expected to be in wide use and comprise the majority of contractors' fleets. The combination of Tier 4 and Tier 3 engines with diesel particulate filter (DPF) would achieve diesel particulate matter (DPM) reductions of approximately 90 percent when compared to older uncontrolled engines. If the contractor will use equipment older than the Tier 4 model years, the equipment it will have to be retrofitted with DPF.

2. Large emissions sources and activities such as concrete trucks, generators, and large compressors shall be located away from the sensitive receptors, to the extent practicable.

3. All on-site diesel-powered engines shall be operated exclusively with ultra-low sulfur diesel fuel, which is a federal requirement since 2010.

4. Idling of all vehicles, including non-road engines, for periods longer than three minutes shall be prohibited on the Subject Property for all equipment and vehicles that are not using their engines to operate a loading, unloading, or processing device (e.g., concrete mixing trucks) or unless otherwise required for the proper operation of the engine.

(ii) To the extent practicable, and contingent upon Con Edison or subject utility provider supplying sufficient temporary electric, Declarant shall use electrically powered equipment in lieu of diesel-powered and gasoline-powered versions of such equipment, including, but not limited to, hoists employed during construction and small equipment such as lifts, compressors and welders.

(iii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Section 3.01(a), with respect to applicable work at the Subject Property.

(b) Fugitive Dust Control Plan.

(i) Prior to Construction Commencement Declarant shall (x) develop a plan for implementation of, and (y) thereafter implement, a plan for the minimization of the emission of dust from construction-related activities during development of the Proposed Development (the "**Fugitive Dust Control Plan**"), which Fugitive Dust Control Plan shall contain the following measures:

1. Fugitive dust from excavation, demolition, transfer of spoils, and loading and unloading of spoils shall be controlled through water spraying.

2. Water sprays shall be used for all demolition, excavation, and transfer of soils to ensure materials will be dampened as necessary to avoid the suspension of dust into the air.

3. All trucks hauling loose material shall be equipped with tight fitting tailgates and their loads securely covered prior to leaving construction areas.

4. Stabilized areas shall be established for washing dust off of the wheels of all trucks that exit construction areas.

5. Streets adjacent to the Subject Property be cleaned of construction dust as frequently as needed.

6. Declarant shall comply with and implement all measures required by Chapter 1 of Title 24 of the New York City Administrative Code (the "**New York City Air Pollution Control Code**") regulating construction-related dust emissions.

(ii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Section 3.01(b) with respect to applicable work at the Subject Property.

(c) Construction Noise Reduction Measures.

(i) Prior to Construction Commencement, Declarant shall (x) develop a plan for implementation of, and (y) thereafter implement, the following measures for all construction activities (including demolition and excavation) related to the development of the Proposed Development:

1. All construction activities shall comply with Chapter 2 of Title 24 of the New York City Administrative Code (the "**New York City Noise Control Code**"),

and with the rules on Citywide Construction Noise Mitigation, as set forth in Chapter 28 of Title 15 of the Rules of the City of New York.

2. Declarant shall develop and implement a plan for minimization of construction noise (the "**Noise Reduction Plan**"). The Noise Reduction Plan shall contain both path control and source control measures, including the following:

(A) Path Control Measures

(aa) The DOB regulations require a perimeter barrier or "construction noise barrier" when a construction site is within 200 feet of a receptor, which barrier shall be constructed in a specific manner (as described in the New York City Noise Code) to provide sufficient sound attenuation. Section 3307.7 of the New York City Building Code requires a solid perimeter noise barrier made out of wood or other suitable material be constructed where a new building is being constructed or a building is being demolished to grade. For the proposed project, a perimeter noise barrier of at least 12 feet in height would be used.

(bb) Should noise complaints occur during construction, the contractor shall use path noise control measures such as temporary noise barriers, localized jersey barriers and/or portable noise enclosures for small equipment (jackets around equipment) to the extent practicable.

(cc) The quietest equipment and methods shall be used for excavators, dump trucks, cranes, auger drills and concrete saws to the extent feasible and practical.

(B) Source Control Measures

(aa) The construction contractor shall self-certify that all construction tools and equipment have been maintained to not generate excessive or unnecessary noise and that the noise emissions would not exceed the levels specified in the Federal Highway Administration's Roadway Construction Noise Model User's Guide, January 2006.

(bb) All construction equipment shall be equipped with necessary noise reduction equipment including mufflers to the extent practicable. All equipment with internal combustion engines would be operated with the doors closed including noise-insulating materials and at the lowest engine speed allowable and to the extent practicable.

(cc) To the extent practicable, the construction site shall be arranged to minimize the need for the use of backup alarms on construction equipment.

(dd) Where feasible, practical and safe, the use of back-up alarms would be minimized and/or quieter back-up alarms would be installed in accordance with OSHA standards.

(ee) Construction vehicles shall not idle more than three minutes in accordance with New York City Administrative Code §24-163, except for equipment and vehicles using their engines to operate a loading, unloading, or processing device (e.g., concrete mixing trucks) or otherwise required for the proper operation of the engine.

(ff) The contractor shall utilize a training program to inform workers on methods that can minimize construction noise.

(gg) For impact equipment such as pile drivers and jackhammers, the quietest equipment shall be selected to the extent practicable, taking into consideration the structural and geotechnical conditions.

(hh) The noise emission levels of the construction equipment shall meet the standards specified in Subchapter 5 of the New York City Noise Control Code and Table 22-1 of the *2014 CEQR Technical Manual*. Contractors shall be required to maintain properly construction equipment, including equipment noise mufflers. Additionally, the Tower crane shall not exceed an L_{max} noise level limit at 50 feet of 80 dBA, as set forth in Table 15-9 of the FEIS:

Table 15-9 Estimated Sound Levels During Excavation and Foundation

Equipment	Maximum Sound Level at 50 feet (dBA, Lmax)	Project-Specific Maximum Sound Level at 50 feet (dBA, Lmax)	Utilization Factor (%)	Number of Construction Pieces of Equipment	
				Excavation and Foundation Phase	Superstructure Phase
Pickup Truck[1]	55	N/A	40	3	4
Pile Driver/Caisson Rig	95	N/A	20	3	0
Excavator/Backhoe	85	N/A	40	3	0
Tie-Back Drill Rig	84	N/A	20	2	0
Compressor	80	N/A	40	2	2
Dump Truck[1]	84	N/A	40	4	0
Generator	82	N/A	50	2	3
Concrete Mixer Truck	85	N/A	40	0	4
Concrete Pump	82	N/A	20	0	1
Tower Crane	85	80[2]	16	0	1
Hydraulic Crane	85	N/A	16	0	1

Source: VHB, 2019.
1: Since dump trucks and pickup trucks are not allowed to idle more than three minutes in accordance with New York City Administrative Code §24-163, they have been excluded from the construction noise predictions.
2: Noise levels achieved by using quieter equipment will be incorporated into a Restrictive Declaration.

(ii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Section 3.01(c) with respect to applicable work at the Subject Property.

(d) Construction Pest Management Plan.

(i) Prior to Construction Commencement Declarant shall (x) develop a plan for implementation of, and (y) thereafter implement, an integrated plan to control pests (i.e., unwanted vermin), in accordance with requirements of the Buildings Department, throughout the

development of the Proposed Development. Prior to Construction Commencement, Declarant shall cause its contractor to bait appropriate areas of the Subject Property, using only United States Environmental Protection Agency ("**USEPA**") and New York State Department of Environmental Conservation ("**DEC**")-registered rodenticide.

(ii) Declarant shall include enforceable contractual requirements in the contracts of all relevant contractors and subcontractors to implement the provisions of this Section 3.01(d) with respect to applicable work at the Subject Property.

(e) Maintenance and Protection of Traffic Plan.

(i) Prior to Construction Commencement, Declarant shall prepare a plan which provides diagrams of proposed temporary lane and sidewalk alterations, the duration such alterations will be implemented, the width and length of affected segments, and sidewalk protection measures for pedestrians, which shall be necessary during construction (the "**Maintenance and Protection of Traffic Plan**" or "**MPT**"). Declarant shall submit the MPT to DOT for review and approval, provided, however, that completion and submission of the MPT shall not be necessary for preliminary site work, unless DOT advises Declarant that a MPT is required.

(ii) Declarant shall include provisions in the contracts of all relevant contractors and subcontractors requiring adherence to the provisions of the MPT plan.

3.02 **Environmental Mitigation**. Declarants shall, in accordance with the FEIS, undertake the mitigation measures set forth in Sections 3.03 through 3.05 below in connection with the Proposed Development.

3.03 **Transportation**.

(a) Chapter 9 of the FEIS identifies significant adverse traffic and pedestrian impacts in connection with the Proposed Development and mitigation measures (Chapter 17) in the form of signal timing modifications for the traffic impacts and signal timing modifications and crosswalk restriping for the pedestrian impact. The FEIS predicts that the proposed mitigation measures would be required at the completion of the Proposed Development. In order to mitigate the significant adverse transportation impacts, the Declarant has agreed that the mitigation measures will be implemented as described below.

(b) The Buildings Department shall not issue, and Declarant shall not accept, a TCO or a PCO for the Proposed Development until 30 days after Declarant has sent written notice to DOT, requesting that DOT implement the traffic mitigation measures set forth in Tables 17-3 to 17-6 of the FEIS, which are annexed hereto at Exhibit "D" and the pedestrian mitigation measures set forth in Table 17-7 of the FEIS, which are annexed hereto at Exhibit "D" hereto.

3.04 **Construction Transportation**.

(a) Chapter 15 of the FEIS identifies significant adverse construction traffic impacts in connection with the Proposed Development and mitigation measures in the form of signal timing modifications. In order to mitigate the significant adverse construction traffic impacts, the Declarant has agreed that the mitigation measures will be implemented as described below.

(b) Declarant shall not apply for or accept a permit allowing for Construction Commencement for the Proposed Development until 30 days after Declarant has sent written notice to DOT, requesting that DOT implement the construction traffic mitigation measures set forth in Table 15-6 of the FEIS, which are annexed hereto at Exhibit "E."

3.05 **Construction Noise**

(a) To the extent feasible and practical, Declarant shall include acoustic enclosures around compressors and generators and acoustic shrouds around pile drivers.

(b) In the event that the additional path control mitigation measures set forth in section 3.05(a) to mitigate project-related construction noise cannot be implemented, the applicant shall offer tenants with units located at the north and east facades of the Hong Ning building (Block 364, Lot 1) or the north façade of the 384 Grand Street building that do not have through-window air conditioning units or an alternate means of ventilation, where significant adverse noise impacts are predicted to occur, one through-window air-conditioning unit per dwelling unit to mitigate project-related construction noise impacts.

3.06 **Inconsistencies with the FEIS**. If this Declaration inadvertently fails to include a PCRE or Mitigation Measure set forth in the FEIS as a PCRE or Mitigation Measure to be implemented by Declarant, such PCRE or Mitigation Measure shall be deemed incorporated in this Declaration by reference. If there is any inconsistency between a PCRE or Mitigation Measure as set forth in the FEIS and as incorporated in this Declaration, the more restrictive provision shall apply. Notwithstanding the foregoing, Declarant shall be entitled to the certificates as provided in 6.05.

3.07 **Innovation and Alternatives: Modifications Based on Further Assessments.**

(a) Innovation and Alternatives. In complying with Sections 3.01 through 3.05 of this Declaration, Declarant may, at its election, implement innovations, technologies or alternatives that are or become available, which Declarant demonstrates to the satisfaction of DCP

would result in equal or better methods of achieving the relevant PCRE or Mitigation Measure, than those set forth in this Declaration.

(b) Process for Innovations, Alternatives and Modifications Pursuant to Section 3.07. Following the delivery of a Notice to DCP requesting an Innovation, Alternative or Modification pursuant to Section 3.07 hereof (the "**Section 3.07 Request**"), Declarant shall meet with DCP to respond to any questions or comments on such request and accompanying materials, and shall provide additional information as may reasonably be requested by DCP in writing in order to allow DCP to determine, acting in consultation with City agency personnel as necessary in relation to the subject matter of the Section 3.07 Request.

(c) Modifications Based on Further Assessments. In the event that Declarant believes, based on changed conditions, that a PCRE or Mitigation Measure required under Sections 3.01 through 3.05 should not apply or could be modified without diminishment of the environmental standards which would be achieved by implementation of the PCRE or Mitigation Measure, it shall set forth the basis for such belief in an analysis submitted to DCP. In the event that, based upon review of such analysis, DCP determines that the relevant PCRE or Mitigation Measure should not apply or could be modified, Declarant may eliminate or modify the PCRE or Mitigation Measure consistent with the DCP determination, provided that Declarant records a notice of such change, as approved by DCP Counsel's Office, against the Subject Property in the office of the City Register.

3.08 **Appointment and Role of Independent Monitor**.

(a) Declarant shall, with the consent of DCP, retain an independent third party (the "**Monitor**") reasonably acceptable to DCP to oversee, on behalf of DCP, the implementation and performance by Declarant of the construction period PCREs required under Section 3.01 of

this Declaration (the "**Construction Monitoring Measures**" or "**CMMs**"). The Monitor shall be a licensed engineer, architect, general contractor or environmental consultant with significant experience in environmental management and construction management (or multiple persons or a firm employing such persons), including familiarity with the means and methods for implementation of the CMMs. DCP shall advise Declarant of its approval or rejection of the Monitor, as proposed, within fifteen (15) business days after Declarant provides DCP with satisfactory (as reasonably determined by DCP) documentation concerning the name and relevant experience of the Monitor.

(b) The "Scope of Services" described in any agreement between Declarant and the Monitor pursuant to which the Monitor is retained (the "**Monitor Agreement**") shall be subject to prior review by and approval of DCP, such approval not to be unreasonably withheld, conditioned or delayed. Such Monitor Agreement shall include provisions in a form acceptable to DCP that, among others, shall: (i) ensure that the Monitor is independent of Declarant in all respects relating to the Monitor's responsibilities under this Declaration (provided that the Monitor shall be responsible to Declarant with regard to practices generally applicable to or expected of consultants and independent contractors of Declarant) and has a duty of loyalty to DCP; (ii) provide for appropriate DCP management and control of the performance of services by the Monitor; (iii) authorize DCP to direct the termination of services by the Monitor for unsatisfactory performance of its responsibilities under the Monitor Agreement, following a fifteen (15)-day notice period by DCP to Declarant and the failure of Monitor to correct or remedy the unsatisfactory activity; (iv) allow for the retention by the Monitor of sub-consultants with expertise appropriate to assisting the Monitor in its performance of its obligations to the extent reasonably necessary to perform its obligations under this Declaration and the Monitor Agreement; and (v)

allow for termination by Declarant for cause, but only with the express written concurrence of DCP, which concurrence shall not be unreasonably withheld or delayed. If DCP shall fail to act upon a proposed Monitor Agreement within twenty (20) days after submission of a draft form of Monitor Agreement, the form of Monitor Agreement so submitted shall be deemed acceptable by DCP and may be executed by Declarant and the Monitor. The Monitor Agreement shall provide for the commencement of services by the Monitor at a point prior to Construction Commencement (the timing of such earlier point to be at the sole discretion of Declarant) and shall continue in effect at all times that construction activities are occurring on the Subject Property until issuance of the first TCO for any portion of the Proposed Development, unless the Declarant, with the prior consent of DCP or at the direction of DCP, shall have terminated the Monitor Agreement and substituted therefor another Monitor under a new Monitor Agreement, in accordance with all requirements of this Section 3.08. If the stage of development of the Subject Property identified in the Scope of Services under the Monitor Agreement is completed, Declarant shall not have any obligation to retain the Monitor for subsequent stage(s) of development of the Subject Property, provided that Declarant shall not recommence any construction until it shall have retained a new Monitor in compliance with the provisions of this Section.

(c) The Monitor shall: (i) assist and advise DCP with regard to review of plans and measures proposed by Declarant for purposes of satisfying CMMs in connection with determinations required under this Declaration as a prerequisite to Construction Commencement; (ii) provide reports of Declarant's compliance with the CMMs during any period of construction on a schedule reasonably acceptable to DCP, but not more frequently than once per month; and (iii) review records or perform field inspections of the portion of the Subject Property then being developed as reasonably necessary to confirm that Declarant is complying with the CMMs. The

Monitor may at any time also provide Declarant and DCP with notice of a determination that a CMM has not been implemented, accompanied by supporting documentation establishing the basis for such determination, provided that any such notice shall be delivered to both parties. If the Monitor has provided DCP with such notice of a determination and supporting documentation that a CMM has not been implemented, the Monitor shall: (x) have full access to the portion of the Subject Property then being developed (as referenced in the Monitor Agreement), subject to compliance with all generally applicable site safety requirements imposed by law or the construction manager's safety requirements pursuant to construction contracts or imposed as part of the site safety protocol in effect for the Subject Property; (y) on reasonable notice and during normal business hours, be provided with access to all books and records of Declarant pertaining to both the CMM alleged not to have been implemented and the applicable portion of the Subject Property which it reasonably deems necessary to carry out its duties, including the preparation of periodic reports; and (z) be entitled to conduct any tests on the Subject Property that the Monitor reasonably deems necessary to verify Declarant's implementation and performance of the CMMs, subject to compliance with all generally applicable site safety requirements imposed by law, site operations, or pursuant to construction contracts in effect for the Subject Property and provided further that any such additional testing shall be (q) coordinated with Declarant's construction activities and use of the Subject Property by the occupants of and visitors; and (r) conducted in a manner that will minimize any interference with the Proposed Development. The Monitor Agreement shall provide that Declarant shall have the right to require the Monitor to secure insurance customary for such activity and may hold the Monitor liable for any damage or harm resulting from such testing activities. Nothing in this Declaration, including without limitation the

provisions of this Section 3.08, shall be construed to make the Monitor a third-party beneficiary of this Declaration.

(d) Subject to compliance with all generally applicable site safety requirements or the construction manager's safety requirements pursuant to construction contracts or imposed as part of the site safety protocol in effect for the Subject Property, DCP, or any other applicable City agency, may, upon prior written or telephonic notice to Declarant, enter upon the Subject Property during business hours on business days for the purpose of conducting inspections to verify Declarant's implementation and performance of the CMMs; provided, however, that any such inspections shall be (i) coordinated with Declarant's construction activities and use of the Subject Property by the occupants of and visitors to the Subject Property, and (ii) conducted in a manner that will minimize any interference with, delay construction of, or create any safety hazard at, the Proposed Development. Declarant shall cooperate with DCP (or such other applicable City agency) and its representatives, and shall not delay or withhold any information or access to the Subject Property reasonably requested by DCP (or such other applicable City agency). Notwithstanding the foregoing, Declarant shall not be obligated to provide DCP or any other City agency with access to tenant occupied spaces or those portions of the Subject Property not owned and controlled by Declarant (such as individual condominium units).

(e) Declarant shall be responsible for payment of all fees and expenses due to the Monitor (including fees and expenses paid to sub-consultants engaged pursuant to Section 3.08(b)) in accordance with the terms of the Monitoring Agreement.

(f) If DCP determines, based on information provided by the Monitor and others, or through its own inspection of the Subject Property during construction, as applicable, that there is a basis for concluding that Declarant has failed to implement or to cause its contractors

to implement a CMM, DCP may thereupon give Declarant written notice of such alleged violation (each, a "**CMM Default Notice**"), transmitted by hand or via overnight courier service to the address for Notices for Declarant set forth in Section 6.04. Notwithstanding any provisions to the contrary contained in Section 5.01 of this Declaration, following receipt of a CMM Default Notice, Declarant shall: (i) effect a cure of the alleged violation within fifteen (15) business days; (ii) seek to demonstrate to DCP in writing within five (5) business days of receipt of the CMM Default Notice why the alleged violation did not occur and does not then exist; or (iii) seek to demonstrate to DCP in writing within five (5) business days of receipt of the CMM Default Notice that a cure period greater than fifteen (15) business days would not be harmful to the environment or that the required cure cannot be accomplished within fifteen (15) business days (such longer cure period, a "**Proposed Cure Period**"). If DCP accepts within two (2) business days of receipt of a writing from Declarant that the alleged violation did not occur and does not then exist, DCP shall withdraw the CMM Default Notice and Declarant shall have no obligation to cure. If DCP accepts a Proposed Cure Period in writing within two (2) business day of receipt of a writing from Declarant, then this shall become the applicable cure period for the alleged violation (the "**New Cure Period**"), provided that if DCP does not act with respect to a Proposed Cure Period within two (2) business days or after receipt of a writing from Declarant with respect thereto, the running of the fifteen (15) day cure period for the alleged violation shall be tolled until such time as DCP so acts. If Declarant fails to: (i) effect a cure of the alleged violation; (ii) cure the alleged violation within a New Cure Period, if one has been established; or (iii) demonstrate to DCP's satisfaction that a violation has not occurred, then representatives of Declarant shall, promptly at DCP's request, and upon a time and date, and a location acceptable to DCP, convene a meeting (and, at the election of the parties, additional meetings) with the Monitor and DCP representatives. If, subsequent to such

meetings, Declarant is unable reasonably to satisfy the DCP representatives that no violation exists or is continuing or the Declarant, the Monitor and DCP are unable to agree upon a method for curing the violation within a time period acceptable to DCP, DCP shall have the right to exercise any remedy available at law or in equity or by way of administrative enforcement, to obtain or compel Declarant's performance under this Declaration, including seeking an injunction to stop work on the Subject Property, as necessary, to ensure that the violation does not continue, until the Declarant demonstrates either that the violation does not exist or that it has cured the violation, subject to the cure provisions of Section 5.02 hereof (as modified for the cure periods set forth in this Section 3.08(f)) and the limitations of Sections 5.03, 5.04, 6.01, and 6.02 hereof. Nothing herein shall be construed as a waiver of any legal or equitable defense that Declarant may have in any enforcement action or proceeding initiated by DCP in accordance with this provision.

3.09 **Force Majeure Event Involving a PCRE or Mitigation Measure**. Notwithstanding any provision of Section 5.04 to the contrary, where the Obligation as to which a Force Majeure Event applies is a PCRE or Mitigation Measure set forth in this Article III of the Declaration, Declarant may not be excused from performing such PCRE or Mitigation Measure that is affected by the Force Majeure Event (x) unless such PCRE or Mitigation Measure cannot be reasonably implemented during the Force Majeure or (y) unless and until the Chair has made a determination in his or her reasonable discretion that not implementing the PCRE or Mitigation Measure during the period of the Force Majeure Event, or implementing an alternative proposed by Declarant, would not result in any new or different significant adverse environmental impact not addressed in the FEIS.

ARTICLE IV

EFFECTIVE DATE; AMENDMENTS AND MODIFICATIONS TO AND CANCELLATION OF THIS DECLARATION

4.01 **Effective Date; Recordation**.

(a) Prior to issuance of any Building Permit relating to the Subject Property, the Declarant shall record this Declaration and any related waivers executed by Mortgagees or other Parties-in-Interest or other documents executed and delivered in connection with the Land Use Application and required by this Declaration to be recorded in public records, in the Office of the City Register, New York County (the "**Register's Office**"), indexing them against the entire Subject Property, and deliver to the Commission within ten (10) days from any such submission for recording, a copy of such documents as submitted for recording, together with an affidavit of submission for recordation. This Declaration and the provisions and covenants hereof, shall become effective upon recordation of this Declaration in accordance with this paragraph. Declarant shall deliver to the Commission a copy of all such documents, as recorded, certified by the City Register (the "**Register**"), promptly upon receipt of such documents from the Register. If the Declarant fails to so record such documents, then the City may record duplicate originals of such documents. However, all fees paid or payable for the purpose of recording such documents, whether undertaken by the Declarant or by the City, shall be borne by Declarant.

(b) Notwithstanding anything to the contrary contained in this Declaration, if the Approvals given in connection with the Land Use Application are declared invalid or otherwise voided by a final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such appeal, then this Declaration shall be cancelled and shall be of no further force or effect and an instrument discharging or terminating it may be recorded. Prior to the recordation of such instrument discharging or terminating this Declaration, the Declarant shall notify the Chair of

Declarant's intent to discharge or terminate this Declaration and request the Chair's approval, which approval shall be limited to insuring that such discharge and termination is in proper form and provides that the proper provisions which are not discharged or terminated survive such termination. Upon recordation of such instrument, Declarant or Successor Declarants (as hereinafter defined) shall provide a copy thereof to the Commission so certified by the Register.

4.02 **Amendment**. This Declaration may be amended, modified or cancelled only upon application by the Declarant and (if not then Successor Declarant) and with the express written approval of the Commission or an agency succeeding to the Commission's jurisdiction (except with respect to a cancellation pursuant to Section 4.01 hereof, for which no such approval shall be required). No other approval or consent shall be required from any public body, private person or legal entity of any kind, including, without limitation, any other present Party-in-Interest or future Party-in-Interest who is not a successor of Declarant.

4.03 **Minor Modifications**. Notwithstanding the provisions of Section 4.02 above, any change to this Declaration proposed by the Declarant (if not then Successor Declarant), which the Chair deems to be a minor modification of this Declaration, may by express written consent be approved administratively by the Chair and no other approval or consent shall be required from any public body, private person or legal entity of any kind, including, without limitation, any present or future Party-in-Interest. Such minor modifications shall not be deemed amendments requiring the approval of the Commission. In the event that a minor modification results in a modification of the Plans, a notice indicating such modification shall be recorded in the City Register's Office, in lieu of a modification of this Declaration.

4.04 **Future Recording**. Any modification, amendment or cancellation of this Declaration shall be executed and recorded in the same manner as this Declaration.

4.05 **Certain Provisions Regarding Modification**. For so long as any Declarant or any Successor Declarant shall hold a Possessory Interest in the Subject Property or any portion thereof, all other Unit Interested Parties, their heirs, successors, assigns and legal representatives, hereby irrevocably (i) consent to any amendment, modification, cancellation, revision or other change in this Declaration, (ii) waive and subordinate any rights they may have to enter into an amended Declaration or other instrument amending, modifying, canceling, revising or otherwise changing this Declaration, and (iii) nominate, constitute and appoint Declarant, or any Successor Declarant, their true and lawful attorney-in-fact, coupled with an interest, to execute any documents or instruments of any kind that may be required in order to amend, modify, cancel, revise or otherwise change this Declaration or to evidence such Unit Interested Parties' consent or waiver as set forth in this Section 4.05.

ARTICLE V

COMPLIANCE; DEFAULTS; REMEDIES

5.01 **Default**.

(a) Declarant acknowledges that the restrictions, covenants, and Obligations of this Declaration will protect the value and desirability of the Subject Property, as well as benefit the City. Declarant acknowledges that the City is an interested party to this Declaration, and consent to enforcement by the City, administratively or at law or equity, of the restrictions, covenants, easements, obligations and agreements contained herein. If the Declarant fails to perform any of its obligations under this Declaration with respect to its Obligations, the City shall seek to enforce this Declaration and exercise any administrative legal or equitable remedy available to the City, and Declarant hereby consents to same; provided that this Declaration shall not be deemed to diminish Declarant's or any other Party in Interest's right to exercise any and all

administrative, legal, or equitable remedies otherwise available to it, and provided further, that the City's rights of enforcement shall be subject to the cure provisions and periods set forth in Section 5.01(c) hereof and the limitations of Sections 5.02, 6.01 and 6.02 hereof. Declarant also acknowledges that the remedies set forth in this Declaration are not exclusive and that the City and any agency thereof may pursue other remedies not specifically set forth herein, subject to the further provisions of this Section 5.01 and Sections 6.01 and 6.02 hereof, including, but not limited to, a mandatory injunction compelling Declarant to comply with the terms of this Declaration and a revocation by the City of any certificate of occupancy, temporary or permanent, for any building located within the Proposed Development that does not comply with the provisions of this Declaration; provided, however, that such right of revocation shall not permit or be construed to permit the revocation of any certificate of occupancy for any use or improvement that exists on the Subject Property as of the date of this Declaration;

(b) Notwithstanding any provision of this Declaration, only Declarant, Mortgagees, and Declarant's successors and assigns and the City, shall be entitled to enforce or assert any claim arising out of or in connection with this Declaration. Nothing contained herein should be construed or deemed to allow any other person or entity to have any interest in or right of enforcement of any provision of this Declaration or any document or instrument executed or delivered in connection with the Land Use Application or Approvals.

(c) Prior to City instituting any proceeding to enforce the terms or conditions of this Declaration due to any alleged violation hereof, City shall give the Declarant (and CPC-ONE, while the Ground Lease is in effect), every Mortgagee of all or any portion of the Subject Property, and every Party in Interest, ninety (90) days written notice of such alleged violation, during which period the Declarant, any Party in Interest, and Mortgagee shall have the opportunity

to effect a cure of such alleged violation or to demonstrate to City why the alleged violation has not occurred. If a Mortgagee or Party in Interest performs any obligation or effects any cure the Declarant is required to perform or cure pursuant to this Declaration, such performance or cure shall be deemed performance on behalf of the Declarant and shall be accepted by any person or entity benefited hereunder, including the Commission and the City, as if performed by the Declarant. If the Declarant, any Party in Interest, or Mortgagee commence to effect such cure within such ninety (90) day period (or if cure is not capable of being commenced within such ninety (90) day period, the Declarant, any Party in Interest or Mortgagee commences to effect such cure when such commencement is reasonably possible), and thereafter proceeds diligently toward the effectuation of such cure, the aforesaid ninety (90) day period (as such may be extended in accordance with the preceding clause) shall be extended for so long as the Declarant, any Party in Interest, or Mortgagee continues to proceed diligently with the effectuation of such cure. In the event that more than one Declarant exists at any time on the Subject Property, notice shall be provided to all Declarants from whom City has received notice in accordance with Section 6.04 hereof, and the right to cure shall apply equally to all Declarants.

(d) If, after due notice and opportunity to cure as set forth in this Declaration, the Declarant, Mortgagee, or a Party in Interest shall fail to cure the alleged violation with respect to the Subject Property, the City may exercise any and all of its rights, including without limitation those delineated in this Section 5.01 and may disapprove any amendment, modification or cancellation of this Declaration on the sole ground that such Declarant is in default of a material Obligation under this Declaration.

(e) The time period for curing any violation of this Declaration by the Declarant shall be subject to extension due to the occurrence of a Force Majeure Event subject to the provisions of Section 5.04 hereof.

5.02 **Rights of Mortgagees and CPC-ONE During Ground Lease**. Except as otherwise provided in Section 5.03 of this Declaration, and notwithstanding Section 5.01, if the Declarant shall fail to observe or perform any of the covenants or provisions contained in this Declaration and such failure continues beyond the cure period set forth in Section 5.01 hereof, the City shall, before taking any action to enforce this Declaration, give notice to any Named Mortgagee (and CPC-ONE, while the Ground Lease is in effect) setting forth the nature of the alleged default. A Named Mortgagee (and CPC-ONE, while the Ground Lease is in effect) shall have available to it an additional cure period of the same number of days as the Declarant had in which to cure such alleged default, as extended by Force Majeure Events. If such Named Mortgagee or CPC-ONE has commenced to effect a cure during such period and is proceeding with reasonable diligence towards effecting such cure, then such cure period shall be extended for so long as such Named Mortgagee or CPC-ONE is continuing to proceed with reasonable diligence with the effectuation of such cure. With respect to the effectuation of any cure by any Named Mortgagee or CPC-ONE, such Named Mortgagee or CPC-ONE shall have all the rights and powers of the Declarant pursuant to this Declaration necessary to cure such default. If a Named Mortgagee or CPC-ONE performs any obligation or effects any cure the Declarant is required to perform or cure pursuant to this Declaration, such performance or cure shall be deemed performance on behalf of the Declarant and shall be accepted by any person or entity benefited hereunder, including the Commission and the City, as if performed by Declarant. Notwithstanding anything to the contrary contained herein, the execution of a Waiver and Subordination or the

failure by a Named Mortgagee to cure an alleged default shall not defeat, invalidate, or impair the validity of the lien of the Mortgage in favor of a Named Mortgagee.

5.03 **Enforcement of Declaration**. No person or entity other than Declarant, Mortgagees, the City, or a successor, assign or legal representative of any such party, shall be entitled to enforce, or assert any claim arising out of or in connection with, this Declaration. This Declaration shall not create any enforceable interest or right in any person or entity other than the parties named above in this Section, who shall be deemed to be the proper entities to enforce the provisions of this Declaration, and nothing contained herein shall be deemed to allow any other person or entity, public or private, any interest or right of enforcement of any provision of this Declaration or any document or instrument executed or delivered in connection with the Land Use Application. Declarant consents to the enforcement by the City, administratively or at law or equity, or by any legal means necessary, of the covenants, conditions, easements, agreements and restrictions contained in this Declaration.

5.04 **Delay By Reason of Force Majeure Event**. In the event that Declarant is unable to comply with any Obligations of this Declaration (including, without limitation, any violation of this Declaration under Section 5.01 hereof) as a result of a Force Majeure Event, then Declarant may, upon written notice to the Chair (the "**Delay Notice**"), request that the Chair, certify the existence of such Force Majeure Event. Such Delay Notice shall include a description of the Force Majeure Event, and, if known to such Declarant, its cause and probable duration and the impact it is reasonably anticipated to have on the completion of the item of work, to the extent known and reasonably determined by the Declarant. In the exercise of its reasonable judgment the Chair shall, within thirty (30) days of its receipt of the Delay Notice certify in writing whether a Force Majeure Event has occurred. If the Chair certifies that a Force Majeure Event does not exist, the Chair shall

set forth with reasonable specificity, in the certification, the reasons therefor. If the Chair certifies a Force Majeure Event exists, upon such notification, the Chair shall grant Declarant appropriate relief including notifying DOB that a Building Permit, TCO, or a PCO, as applicable, may be issued for the Proposed Development. Failure to respond within such thirty (30) day period shall be deemed to be a certification by the City that Force Majeure Events have occurred. Any delay caused as the result of a Force Majeure Event shall be deemed to continue only as long as the Force Majeure Event continues. Upon a certification or deemed certification that Force Majeure Events have occurred, the City may grant such Declarant appropriate relief. Any delay caused as the result of Force Majeure Event shall be deemed to continue only as long as the Force Majeure Event continues. Declarant shall re-commence the Obligation at the end of the probable duration of the Force Majeure Event specified in the Delay Notice, or such lesser period of time as the Chair reasonably determined the Force Majeure Event shall continue; provided, however, that if the Force Majeure Event has a longer duration than as set forth in the Delay Notice, or as reasonably determined by the Chair, the Chair shall grant additional time to re-commence the Obligation.

ARTICLE VI

MISCELLANEOUS

6.01 **Binding Effect**. Except as specifically set forth in this Declaration and, subject to applicable law, Declarant shall have no obligation to act or refrain from acting with respect to the Subject Property. The restrictions, covenants, rights and agreements set forth in this Declaration shall be binding on Declarant, and any Successor Declarant who acquires a Possessory Interest in the Subject Property, provided that the Declaration shall only be binding upon Declarant, or a Successor Declarant for the period during which such Declarant, or such Successor Declarant is the holder of a Possessory Interest in the Subject Property and only to the extent of such Possessory

Interest in the Subject Property. At such time as Declarant, or any Successor Declarant no longer holds a Possessory Interest in the Subject Property, such Declarant's, or Successor Declarant's obligation and liability under this Declaration shall wholly cease and terminate except with respect to any liability during the period when such Declarant held a Possessory Interest in the Subject Property, and the party succeeding such Declarant shall be deemed to have assumed the obligations and liability Declarant pursuant to this Declaration with respect to actions or matters occurring subsequent to the date such party succeeds to a Possessory Interest in the Subject Property to the extent of such party's Possessory Interest in the Subject Property. For purposes of this Declaration, any successor to Declarant shall be deemed a Declarant for such time as such successor holds all or any portion of a Possessory Interest in the Subject Property. The provisions of this Declaration shall run with the land and shall inure to the benefit of and be binding upon Declarant.

6.02 **Limitation of Liability**. Notwithstanding anything to the contrary contained in this Declaration, the City will look solely to the estate and interest Declarant, and any or all of their respective successors and assigns or the subsequent holders of any interest in the Subject Property, on an in rem basis only, for the collection of any judgment or the enforcement of any remedy based upon any breach by any such party of any of the terms, covenants or conditions of this Declaration. No other property of any such party or its principals, disclosed or undisclosed, or its partners, shareholders, directors, officers or employees, or said successors, assigns and holders, shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City or of any other party or person under or with respect to this Declaration, and no such party shall have any personal liability under this Declaration. In the event that the Proposed Development is subject to a declaration of condominium, every condominium unit shall be subject to levy or execution for the satisfaction of any monetary remedies of the City solely to the extent

of each Unit Interested Party's Individual Assessment Interest. The "**Individual Assessment Interest**" shall mean the Unit Interested Party's percentage interest in the common elements of the condominium in which such condominium unit is located applied to the assessment imposed on the condominium in which such condominium unit is located. In the event of a default in the obligations of the condominium as set forth herein, the City shall have a lien upon the property owned by each Unit Interested Party solely to the extent of each such Unit Interested Party's unpaid Individual Assessment Interest, which lien shall include such Unit Interested Party's obligation for the costs of collection of such Unit Interested Party's unpaid Individual Assessment Interest. Such lien shall be subordinate to the lien of any prior recorded Mortgage in respect of such property given to a bank, insurance company, real estate investment trust, private equity or debt fund, or other institutional lender (including but not limited to a governmental agency), the lien of any real property taxes, and the lien of the board of managers of any such condominium for unpaid common charges of the condominium, and the lien of the condominium pursuant to the provisions of Article V hereof. The City agrees that, prior to enforcing its rights against a Unit Interested Party, the City shall first attempt to enforce its rights under this Declaration against the applicable Declarant, and the boards of managers of any condominium association. In the event that the condominium shall default in its obligations under this Declaration, the City shall have the right to obtain from the boards of managers of any condominium association, the names of the Unit Interested Parties who have not paid their Individual Assessment Interests.

6.03 **Condominium and Cooperative Ownership**.

(a) In the event that the Subject Property or any portion thereof is developed as, sold, or converted to condominium or cooperative ownership requiring the approval of an offering plan by the Attorney General of the State of New York (the "**Attorney General**"),

Declarant so doing shall provide a copy of this Declaration and any subsequent modification hereof to the Attorney General with the offering documents at the time of application for approval of any offering plan for such condominium or cooperative. Declarant shall include in the offering plan, if any, for such condominium or cooperative this Declaration or any portions hereof which the Attorney General determines shall be included and, if so included in the offering plan, shall make copies of this Declaration available to condominium purchasers and cooperative shareholders purchasing from such Declarant pursuant to such offering plan. Such condominium or cooperative (or the board of managers of a condominium or board directors of a cooperative having a Possessory Interest therein) shall be deemed to be a Declarant for purposes of this Declaration, and shall succeed to a prior Declarant's obligations under this Declaration in accordance with Section 8.01 hereof.

(b) With respect to any portion of the Subject Property which shall be subject to a condominium, cooperative or similar form of ownership, for the purposes of this Declaration, except as otherwise set forth below, the board of directors or managers of the condominium, cooperative or similar association (such entity, a "**Board**") or a master association (an "**Association**") selected by the Board and authorized by underlying organizational documents to act on behalf of the individual condominium unit owners, cooperative shareholders or similar owners, shall have the sole right as Declarant of such portion of the Subject Property to assess a lien for any costs incurred under this Declaration or to otherwise act as a Declarant with respect to this Declaration, to the extent such action is required for any purpose under this Declaration, and the consent of any individual condominium unit owner, cooperative shareholder or other similar owner who may be considered a party in interest under the Zoning Resolution shall not be required. For purposes of this Declaration, the Board or the Association, as the case may be, shall be deemed

the sole Party in Interest with respect to the property interest subjected to the condominium, cooperative or similar ownership arrangement, and any such condominium unit owner, cooperative shareholder or other similar owner, or holder of any lien encumbering any such individual unit, shall not be deemed a Party in Interest. For purposes of Section 8.04 hereof, notice to the Board or the Association, as the case may be, shall be deemed notice to the Declarant of the applicable portion of the Subject Property.

6.04 **Notices**.

All notices, demands, requests. Consents, approvals, and other communications (each, a "**Notice**") which may be or are permitted, desirable, or required to be given under this Declaration shall be in writing and shall be sent or delivered as follows:

To Declarants:	GO NORFOLK LLC and GO BROOME LLC c/o Gotham 432 Park Ave South, 2nd floor New York, NY 10016 Attention: Bryan Kelly Telephone: 212-716-2502 E-mail: BKelly@GothamOrg.com Attention: Charles S. Scarlatos, CFO Telephone: E-mail:
With a copy to:	Kramer, Levin, Naftalis & Frankel LLP 1177 Avenue of the Americas New York, New York 10036 Attention: Elise Wagner Telephone: (212) 715-9189 E-mail: ewagner@kramerlevin.com
If to CPC-ONE:	CPC One LLC c/o The Chinese-American Planning Council, Inc. 150 Elizabeth Street New York, New York 10012 Attention: Wayne Ho

With a copy to:	Slater & Beckerman P.C. 40 Exchange Place, Suite 1502 New York, NY 10005 Attention: Stuart Beckerman, Esq.
If to CPC:	New York City Planning Commission 120 Broadway, 31st Floor New York, New York 10271
With a copy to:	The general counsel of the CPC at the same address

Declarant, CPC-ONE, the Commission, any Party in Interest, and any Mortgagee may, by notice provided in accordance with this Section 6.04, change any name or address(es) for purposes of this Declaration. In order to be deemed effective any Notice shall be sent or delivered in at least one of the following manners: (A) sent by registered or certified mail, postage pre-paid, return receipt requested, in which case the Notice shall he deemed delivered for all purposes hereunder five days after being actually mailed; (B) sent by overnight courier service, in which case the Notice shall be deemed delivered for all purposes hereunder on the date the Notice was actually received or was refused; or (C) delivered by hand, in which case the Notice will be deemed delivered for all purposes hereunder on the date the Notice was actually received. All Notices from the Commission to Declarant shall also be sent to CPC-ONE (while the Ground Lease is in effect) and every Mortgagee of whom the Commission has notice ("**Named Mortgagee**"), and no Notice shall be deemed properly given to Declarant without such notice to such Named Mortgagee(s) (and CPC-ONE while the Ground Lease is in effect). In the event that there is more than one Declarant at any time, any Notice from the City or the Commission shall be provided to all Declarants of whom the Commission has notice.

6.05 **Certificates**. The City will, at any time and from time to time upon not less than ten days (10) days' prior notice by Declarant, or a Named Mortgagee, execute, acknowledge, and deliver to Declarant, or such Named Mortgagee, as the case may be, a statement in writing certifying (a) that this Declaration is unmodified and in full force and effect (or if there have been modifications or supplements that the same is in full force and effect, as modified or supplemented, and stating the modifications and supplements), (b) whether or not to the best knowledge of the signer of such certificate the Declarant is in default in the performance of any Obligation contained in this Declaration, and, if so, specifying each such default of which the signer may have knowledge, and (c) as to such further matters as Declarant, or such Named Mortgagee may reasonably request. If the City fails to respond within such ten (10) day period, Declarant, or such Named Mortgagee may send a second written notice to the City requesting such statement (which notice shall state in bold upper case type both at the top of the first page thereof and on the front of the envelope thereof the following: "SECOND NOTICE PURSUANT TO SECTION 8.04 OF THE DECLARATION OF PROPOSED DEVELOPMENT"). If the City fails to respond within ten (10) days after receipt of such second notice, it shall be deemed to have certified (i) that this Declaration is unmodified and in full force and effect (or if there have been modifications or supplements that the same is in full force and effect, as modified or supplemented), (ii) that to the best knowledge of the signer of such certificate Declarant is not in default in the performance of any Obligation contained in this Declaration, and (iii) as to such further matters as Declarant, or such Named Mortgagee had requested, and such deemed certification may be relied on by Declarant, or such Named Mortgagee and their respective successors and assigns.

6.06 **Successors of Declarant**.

(a) References in this Declaration to "Declarant(s)" shall be deemed to include Successor Declarant(s), if any, which are holders of a Possessory Interest in the Subject Property. Notwithstanding anything to the contrary contained in this Declaration, no holder of a mortgage or other lien in the Subject Property shall be deemed to be a successor of Declarant for any purpose, unless and until such holder obtains a Possessory Interest and provided further that, following succession to such Possessory Interest, the holder of any such mortgage or lien shall not be liable for any obligations of Declarant as the "Declarant" hereunder unless such holder commences to develop the Subject Property in accordance with the terms of Section 2.01 hereof or has acquired its interest from a Party who has done so.

(b) For so long as the Ground Lease shall remain in effect: (A) Gotham shall exclusively exercise and enjoy all rights, interests, benefits, powers, privileges and remedies bestowed to Declarant under this Declaration with respect to the Lot 75 Property, and shall perform all of the obligations placed upon Declarant under this Declaration with respect to the ownership, development, use and operation of the Lot 75 Property (provided that, notwithstanding anything in this Declaration to the contrary, CPC-ONE may enforce any rights and remedies set forth in Article V of this Declaration on behalf of Gotham in the event of a default by Gotham of its obligations with respect to the Lot 75 Property under this Declaration while the Ground Lease is in effect); (B) the City shall look solely to Gotham, and not CPC-ONE, for performance of any and all obligations under this Declaration with respect to the Lot 75 Property during the term of the Ground Lease; and (C) without limiting the generality of the foregoing, upon the end of the term of the Ground Lease (whether upon its stated expiration date or any sooner termination thereof, the City hereby agreeing to accept any written notice of such event from CPC-ONE as sufficient evidence thereof), any and all rights, interests, benefits, powers, privileges,

responsibilities, obligations, and remedies of Gotham under this Declaration with respect to the Lot 75 Property shall automatically revert to and vest in CPC-ONE or, at CPC-ONE's election, shall be deemed vested in the lessee under a new ground lease for the Lot 75 Premises (which new ground lessee shall take over the rights and obligations of Gotham hereunder as a Successor Declarant in accordance with this provisions of this Declaration); provided, however, that unless and until CPC-ONE shall notify the City that the Ground Lease has terminated, the City shall have the right to rely on the continued existence of the Ground Lease and any action taken or approved by the City in reliance thereon shall be at no risk or liability to the City.

6.07 **Parties-in-Interest**. Declarant shall provide the City with an updated Certification of Parties-in-Interest as of the recording date of this Declaration and will cause any individual, business organization or other entity which, between the date hereof and the effective and recording date and time of this Declaration, becomes a Party-in-Interest in the Subject Property or portion thereof to subordinate its interest in the Subject Property to this Declaration. Any and all mortgages or other liens encumbering the Subject Property after the recording date of this Declaration shall be subject and subordinate hereto as provided herein. Notwithstanding anything to the contrary contained in this Declaration, if a portion of the Subject Property is held in condominium ownership, the board of managers of the condominium association shall be deemed to be the sole Party-in-Interest with respect to the premises held in condominium ownership, and the owner of any unit in such condominium, the holder of a lien encumbering any such condominium unit, and the holder of any other occupancy or other interest in such condominium unit shall not be deemed to be a Party-in-Interest.

6.08 **Governing Law**. This Declaration shall be governed and construed by the laws of the State of New York, without regard to principles of conflicts of law.

6.09 **Severability**. In the event that any provision of this Declaration shall be deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent jurisdiction, such provision shall be severed and the remainder of this Declaration shall continue to be of full force and effect.

6.10 **Applications**. Declarant shall include a copy of this Declaration as part of any application pertaining to the Subject Property (as to which the provisions of this Declaration are applicable) submitted to the DOB.

6.11 **Incorporation by Reference**. Any and all exhibits, appendices and attachments referred to herein are hereby incorporated fully and made an integral part of this Declaration by reference.

6.12 **Counterparts**. This Declaration may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, but all of which taken together shall be construed as and shall constitute but one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, Declarant has executed and delivered this Declaration as of the day and year first above written.

DECLARANT:

GO NORFOLK LLC

BY: _____
NAME: _____
TITLE: _____

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

On the _____ day of _____ in the year 2020 before me, the undersigned, personally appeared _____, 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 or entity upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

IN WITNESS WHEREOF, Declarant has executed and delivered this Declaration as of the day and year first above written.

DECLARANT:

GO BROOME LLC

BY: _____
NAME: _____
TITLE: _____

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

On the _____ day of _____ in the year 2020 before me, the undersigned, personally appeared _____, 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 or entity upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

IN WITNESS WHEREOF, CPC-ONE has executed and delivered this Declaration as of the day and year first above written.

CPC-ONE:

CPC ONE LLC

BY: _____
NAME: _____
TITLE: _____

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

On the _____ day of _____ in the year 2020 before me, the undersigned, personally appeared _____, 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 or entity upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

SCHEDULE OF EXHIBITS

EXHIBIT A Metes and Bounds of the Lot 75 Property
EXHIBIT A-1 Metes and Bounds of the Lot 37 Property
EXHIBIT B Parties in Interest Certification
EXHIBIT C Waivers
EXHIBIT D Transportation Mitigation Measures
EXHIBIT E Construction Traffic Mitigation Measures

Exhibit "A"

Metes and Bounds of the Lot 75 Property

Exhibit "A-1"

Metes and Bounds of the Lot 37 Property

Exhibit "B"

Parties-in-Interest Certification

Exhibit "C"

Waiver

Exhibit "D"

Transportation Mitigation Measures

Table 17-3
GO Broome Street Development EIS
NO ACTION VS WITH ACTION VS WITH ACTION W/ IMPROVEMENTS TRAFFIC LEVELS OF SERVICE COMPARISON - WEEKDAY AM PEAK HOUR

		2023 No Action Control				2023 With Action Control				2023 With Action w/ Improvements Control				Mitigation Measures
INTERSECTION & APPROACH		**Mvt.**	**V/C**	**Delay**	**LOS**	**Mvt.**	**V/C**	**Delay**	**LOS**	**Mvt.**	**V/C**	**Delay**	**LOS**	
SIGNALIZED INTERSECTIONS														
Delancey St and Essex St														
Delancey St	EB	TR	0.69	20.4	C	TR	0.70	20.5	C	TR	0.68	19.5	B	- Modify signal timing. Shift 1 sec of green time from NB/SB phase to EB/WB phase. [NB/SB green time shifts from 30 sec to 29 sec; EB/WB green time shifts from 43 sec to 44 sec.]
	WB	T	0.89	23.3	C	T	0.89	23.3	C	T	0.87	22.0	C	
		R	1.21	128.5	F	R	1.22	133.5	F	R	1.19	117.0	F	
Essex St	NB	LT	0.75	39.0	D	LT	0.76	39.8	D	LT	0.79	42.8	D	
		R	0.33	25.3	C	R	0.33	25.4	C	R	0.34	26.5	C	
	SB	TR	0.57	27.9	C	TR	0.58	28.1	C	TR	0.60	29.4	C	
	Overall Intersection	-	**1.02**	**29.8**	**C**	-	**1.02**	**32.2**	**C**	-	**1.02**	**30.6**	**C**	
Delancey St and Norfolk St														
Delancey Street	EB	T	0.73	20.7	C	T	0.74	20.8	C					- Mitigation not required.
	WB	TR	0.97	30.8	C	TR	0.97	31.0	C					
Norfolk Street	NB	LTR	0.35	19.9	B	LTR	0.37	20.2	C					
		R	0.19	17.7	B	R	0.21	17.9	B					
	Overall Intersection	-	**0.68**	**26.0**	**C**	-	**0.69**	**26.3**	**C**					
Delancey St and Suffolk St														
Delancey St	EB	TR	0.67	19.0	B	TR	0.68	19.2	B					- Mitigation not required.
	WB	T	0.83	20.7	C	T	0.83	20.7	C					
Suffolk St	SB	R	0.06	16.4	B	R	0.06	16.4	B					
	Overall Intersection	-	**0.48**	**19.9**	**B**	-	**0.48**	**20.0**	**B**					
Delancey St and Clinton St														
Delancey St	EB	T	0.73	24.5	C	T	0.73	24.6	C					- Mitigation not required.
		R	0.47	24.2	C	R	0.47	24.2	C					
	WB	T	1.08	95.5	F	T	1.09	96.3	F					
		R	1.04	98.9	F	R	1.04	98.9	F					
Clinton St	NB	R	0.96	46.0	D	R	0.96	47.1	D					
Delancey St Service Road	WB	R	0.54	54.4	D	R	0.54	54.4	D					
	Overall Intersection	-	**1.11**	**65.8**	**E**	-	**1.11**	**66.3**	**E**					
Broome St and Norfolk St														
Broome St	EB	L	0.51	18.0	B	L	0.55	19.6	B					- Mitigation not required.
	WB	R	0.06	10.1	B	R	0.07	10.2	B					
Norfolk St	NB	T	0.21	21.6	C	T	0.24	22.0	C					
	Overall Intersection	-	**0.40**	**18.8**	**B**	-	**0.43**	**19.9**	**B**					
Grand St and Clinton St														
Grand St	EB	TR	0.52	18.4	B	TR	0.54	19.0	B					- Unmitigatable impact
	WB	LT	0.35	15.0	B	LT	0.35	15.1	B					
		R	1.12	108.6	F	R	1.16	124.1	F					
Clinton St	NB	LTR	0.85	47.7	D	LTR	0.92	57.5	E					
	Overall Intersection	-	**1.01**	**44.1**	**D**	-	**1.07**	**60.1**	**E**					

(1) Control delay is measured in seconds per vehicle.
(2) Overall intersection V/C ratio is the critical lane groups' V/C ratio.
(3) Movement delay and overall delay cannot be calculated; exceeds the HCS software threshold.
Highlighting denotes a significantly impacted movement.

Table 17-4
GO Broome Street Development EIS
NO ACTION VS WITH ACTION VS WITH ACTION W/ IMPROVEMENTS TRAFFIC LEVELS OF SERVICE COMPARISON - WEEKDAY MIDDAY PEAK HOUR

		2023 No Action				2023 With Action				2023 With Action w/ Improvements				Mitigation Measures
				Control				Control				Control		
INTERSECTION & APPROACH		Mvt.	V/C	Delay	LOS	Mvt.	V/C	Delay	LOS	Mvt.	V/C	Delay	LOS	
SIGNALIZED INTERSECTIONS														
Delancey St and Essex St														
Delancey St	EB	TR	0.80	23.6	C	TR	0.81	23.7	C					- Mitigation not required.
	WB	T	0.72	20.1	C	T	0.72	20.1	C					
		R	1.04	79.5	E	R	1.05	82.2	F					
Essex St	NB	LT	0.42	26.1	C	LT	0.42	26.2	C					
		R	0.43	27.7	C	R	0.44	28.1	C					
	SB	TR	0.73	32.8	C	TR	0.74	33.2	C					
	Overall Intersection	-	**0.90**	**27.0**	**C**	-	**0.92**	**27.3**	**C**					
Delancey St and Norfolk St														
Delancey Street	EB	T	0.86	24.2	C	T	0.86	24.3	C					- Mitigation not required.
	WB	TR	0.79	21.7	C	TR	0.79	21.8	C					
Norfolk Street	NB	LTR	0.41	20.8	C	LTR	0.42	21.2	C					
		R	0.32	19.6	B	R	0.34	19.8	B					
	Overall Intersection	-	**0.65**	**22.6**	**C**	-	**0.66**	**22.7**	**C**					
Delancey St and Suffolk St														
Delancey St	EB	TR	0.77	20.5	C	TR	0.78	20.7	C					- Mitigation not required.
	WB	T	0.69	18.4	B	T	0.69	18.4	B					
Suffolk St	SB	R	0.27	19.8	B	R	0.27	19.9	B					
	Overall Intersection	-	**0.54**	**19.5**	**B**	-	**0.54**	**19.6**	**B**					
Delancey St and Clinton St														
Delancey St	EB	T	0.87	28.2	C	T	0.87	28.2	C					- Mitigation not required.
		R	0.25	19.2	B	R	0.25	19.2	B					
	WB	T	1.07	91.5	F	T	1.07	92.6	F					
		R	1.02	94.1	F	R	1.02	94.1	F					
Clinton St	NB	R	0.87	34.1	C	R	0.88	34.2	C					
Delancey St Service Road	WB	R	0.52	52.0	D	R	0.52	52.0	D					
	Overall Intersection	-	**0.99**	**59.7**	**E**	-	**0.99**	**60.2**	**E**					
Broome St and Norfolk St														
Broome St	EB	L	0.67	24.5	C	L	0.71	27.2	C					- Mitigation not required.
	WB	R	0.04	9.7	A	R	0.05	9.9	A					
Norfolk St	NB	T	0.29	22.8	C	T	0.31	23.1	C					
	Overall Intersection	-	**0.52**	**23.4**	**C**	-	**0.55**	**24.8**	**C**					
Grand St and Clinton St														
Grand St	EB	TR	0.39	16.0	B	TR	0.43	16.7	B					- Unmitigatable impact
	WB	LT	0.31	14.5	B	LT	0.31	14.5	B					
		R	1.26	163.5	F	R	1.37	212.1	F					
Clinton St	NB	LTR	0.90	55.2	E	LTR	0.94	61.4	E					
	Overall Intersection	-	**1.12**	**75.3**	**E**	-	**1.21**	**91.6**	**F**					

(1) Control delay is measured in seconds per vehicle.
(2) Overall intersection V/C ratio is the critical lane groups' V/C ratio.
(3) Movement delay and overall delay cannot be calculated; exceeds the HCS software threshold.
Highlighting denotes a significantly impacted movement.

Table 17-5
GO Broome Street Development EIS
NO ACTION VS WITH ACTION VS WITH ACTION W/ IMPROVEMENTS TRAFFIC LEVELS OF SERVICE COMPARISON - WEEKDAY PM PEAK HOUR

INTERSECTION & APPROACH		2027 No Action				2027 With Action				2027 With Action w/ Improvements				Mitigation Measures
		Mvt.	V/C	Control Delay	LOS	Mvt.	V/C	Control Delay	LOS	Mvt.	V/C	Control Delay	LOS	
SIGNALIZED INTERSECTIONS														
Delancey St and Essex St														
Delancey St	EB	TR	0.85	25.6	C	TR	0.86	25.8	C					- Unmitigatable impact
	WB	T	0.73	20.1	C	T	0.73	20.1	C					
		R	0.98	59.2	E	R	1.00	64.3	E					
Essex St	NB	LT	0.37	25.1	C	LT	0.38	25.3	C					
		R	0.94	69.2	E	R	0.95	72.4	E					
	SB	TR	0.85	38.5	D	TR	0.86	39.9	D					
	Overall Intersection	-	**0.96**	**30.0**	**C**	-	**0.99**	**30.9**	**C**					
Delancey St and Norfolk St														
Delancey Street	EB	T	1.00	38.4	D	T	1.01	39.6	D					- Mitigation not required.
	WB	TR	0.80	21.8	C	TR	0.80	22.0	C					
Norfolk Street	NB	LTR	0.67	26.8	C	LTR	0.70	27.8	C					
		R	0.56	23.8	C	R	0.58	24.3	C					
	Overall Intersection	-	**0.85**	**29.4**	**C**	-	**0.86**	**30.1**	**C**					
Delancey St and Suffolk St														
Delancey St	EB	TR	0.95	24.3	C	TR	0.97	25.5	C					- Mitigation not required.
	WB	T	0.69	18.5	B	T	0.70	18.5	B					
Suffolk St	SB	R	0.17	17.9	B	R	0.18	17.9	B					
	Overall Intersection	-	**0.59**	**21.7**	**C**	-	**0.60**	**22.4**	**C**					
Delancey St and Clinton St														
Delancey St	EB	T	1.07	62.8	E	T	1.07	63.6	E					- Mitigation not required.
		R	0.33	22.0	C	R	0.33	22.0	C					
	WB	T	1.07	88.3	F	T	1.08	90.5	F					
		R	1.03	92.8	F	R	1.03	92.8	F					
Clinton St	NB	R	0.90	33.8	C	R	0.90	34.1	C					
Delancey St Service Road	WB	R	0.73	71.7	E	R	0.73	71.7	E					
	Overall Intersection	-	**1.02**	**70.6**	**E**	-	**1.02**	**71.7**	**E**					
Broome St and Norfolk St														
Broome St	EB	L	1.41	222.6	F	L	1.58	294.8	F	L	1.41	218.4	F	- Modify signal timing. Shift 4 sec of green time from NB/SB
	WB	R	0.06	10.1	B	R	0.09	10.6	B	R	0.08	8.6	A	phase to EB/WB phase. [NB/SB green time shifts from 31 sec
Norfolk St	NB	T	0.42	25.0	C	T	0.45	25.6	C	T	0.52	30.1	C	to 27 sec; EB/WB green time shifts from 49 sec to 53 sec.]
	Overall Intersection	-	**1.03**	**155.4**	**F**	-	**1.14**	**198.3**	**F**	-	**1.11**	**150.6**	**F**	
Grand St and Clinton St														
Grand St	EB	TR	0.45	17.1	B	TR	0.53	19.2	B					- Unmitigatable impact
	WB	LT	0.41	16.0	B	LT	0.41	16.0	B					
		R	1.19	138.2	F	R	1.24	156.7	F					
Clinton St	NB	LTR	0.97	68.1	E	LTR	1.03	81.1	F					
	Overall Intersection	-	**1.11**	**65.4**	**E**	-	**1.16**	**73.9**	**E**					

(1) Control delay is measured in seconds per vehicle.
(2) Overall intersection V/C ratio is the critical lane groups' V/C ratio.
(3) Movement delay and overall delay cannot be calculated; exceeds the HCS software threshold.
Highlighting denotes a significantly impacted movement.

Table 17-6
GO Broome Street Development EIS
NO ACTION VS WITH ACTION VS WITH ACTION W/ IMPROVEMENTS TRAFFIC LEVELS OF SERVICE COMPARISON - SATURDAY PEAK HOUR

INTERSECTION & APPROACH		2023 No Action Control				2023 With Action Control				2023 With Action w/ Improvements Control				Mitigation Measures
		Mvt.	V/C	Delay	LOS	Mvt.	V/C	Delay	LOS	Mvt.	V/C	Delay	LOS	
SIGNALIZED INTERSECTIONS														
Delancey St and Essex St														
Delancey St	EB	TR	0.94	32.9	C	TR	0.95	33.5	C					- Mitigation not required.
	WB	T	0.73	19.8	B	T	0.73	19.8	B					
		R	1.06	76.3	E	R	1.07	79.8	E					
Essex St	NB	LT	0.43	26.0	C	LT	0.44	26.2	C					
		R	0.72	40.2	D	R	0.73	41.0	D					
	SB	TR	0.82	36.5	D	TR	0.83	37.3	D					
	Overall Intersection	-	**0.96**	**32.0**	**C**	-	**0.97**	**32.6**	**C**					
Delancey St and Norfolk St														
Delancey Street	EB	T	0.99	33.0	C	T	1.00	33.6	C					- Mitigation not required.
	WB	TR	0.86	23.9	C	TR	0.87	24.0	C					
Norfolk Street	NB	LTR	0.46	21.6	C	LTR	0.48	22.0	C					
		R	0.41	20.8	C	R	0.43	21.0	C					
	Overall Intersection	-	**0.75**	**27.7**	**C**	-	**0.76**	**28.0**	**C**					
Delancey St and Suffolk St														
Delancey St	EB	TR	0.96	25.7	C	TR	0.97	26.7	C					- Mitigation not required.
	WB	T	0.71	18.7	B	T	0.71	18.8	B					
Suffolk St	SB	R	0.19	18.0	B	R	0.19	18.1	B					
	Overall Intersection	-	**0.60**	**22.6**	**C**	-	**0.61**	**23.2**	**C**					
Delancey St and Clinton St														
Delancey St	EB	T	1.04	49.3	D	T	1.04	50.0	D					- Mitigation not required.
		R	0.22	18.2	B	R	0.22	18.2	B					
	WB	T	1.05	87.0	F	T	1.05	88.3	F					
		R	1.03	91.3	F	R	1.03	91.3	F					
Clinton St	NB	R	1.01	56.9	E	R	1.01	57.6	E					
Delancey St Service Road	WB	R	0.68	64.4	E	R	0.68	64.4	E					
	Overall Intersection	-	**1.06**	**66.9**	**E**	-	**1.07**	**67.8**	**E**					
Broome St and Norfolk St														
Broome St	EB	L	0.83	35.5	D	L	0.92	51.5	D	L	0.88	41.2	D	- Modify signal timing. Shift 2 sec of green time from NB/SB phase to EB/WB phase. [NB/SB green time shifts from 31 sec to 29 sec; EB/WB green time shifts from 49 sec to 51 sec.]
	WB	R	0.06	10.0	A	R	0.10	10.5	B	R	0.09	9.5	A	
Norfolk St	NB	T	0.42	24.8	C	T	0.44	25.2	C	T	0.47	27.3	C	
	Overall Intersection	-	**0.67**	**30.0**	**C**	-	**0.74**	**38.2**	**D**	-	**0.73**	**33.7**	**C**	
Grand St and Clinton St														
Grand St	EB	TR	0.48	17.6	B	TR	0.54	18.9	B					- Unmitigatable impact
	WB	LT	0.39	15.6	B	LT	0.39	15.6	B					
		R	1.17	123.9	F	R	1.20	136.9	F					
Clinton St	NB	LTR	1.01	77.5	E	LTR	1.07	92.9	F					
	Overall Intersection	-	**1.16**	**64.9**	**E**	-	**1.20**	**73.1**	**E**					

(1) Control delay is measured in seconds per vehicle.
(2) Overall intersection V/C ratio is the critical lane groups' V/C ratio.
(3) Movement delay and overall delay cannot be calculated; exceeds the HCS software threshold.
Highlighting denotes a significantly impacted movement.

Table 17-7 Crosswalk Impact Mitigation Summary

Location		No Action		With Action		Mitigated With Action		Mitigation measures
		sf/p	LOS	sf/p	LOS	sf/p	LOS	
Weekday PM Peak Hour								
Broome Street and Norfolk Street	North Crosswalk	23.2	D	16.7	D	20.8	D	Widen crosswalk by 1 foot to 15 feet Shift four seconds of green time from the northbound phase to the eastbound/ westbound phase

Exhibit "E"

Construction Traffic Mitigation Measures

Table 15-6 Construction No-Action vs With-Action vs With-Action w/ Improvements Traffic Levels of Service Comparison – Weekday AM Peak Hour

		2023 No-Action				2023 With-Action				2023 With-Action w/ Improvements				
Intersection & Approach		MVT	V/C	Control Delay[1]	LOS	MVT	V/C	Control Delay[1]	LOS	MVT	V/C	Control Delay	LOS	
SIGNALIZED INTERSECTIONS														
Delancey St and Essex St														
Delancey St	EB	TR	0.69	20.3	C	TR	0.69	20.4	C					- Mitigation not required
	WB	T	0.88	23.1	C	T	0.89	23.2	C					
		R	1.20	125.2	F	R	1.20	125.2	F					
Essex St	NB	LT	0.75	38.9	D	LT	0.75	39.4	D					
		T	0.33	25.3	C	R	0.34	25.6	C					
	SB	TR	0.57	27.8	C	TR	0.59	28.3	C					
Overall Intersection[2]		-	**1.01**	**31.3**	**F**	-	**1.01**	**31.5**	**C**					
Delancey St and Clinton St														
Delancey St	EB	T	0.73	24.5	C	T	0.73	24.5	C	T	0.73	24.5	C	- Modify signal timing. Shift 1 sec of green time from NB phase to WB/NB phase. [NB green time shifts from 37 sec to 36 sec; WB/NB green time shifts from 5 sec to 6 sec.]
		R	0.46	24.1	C	R	0.46	24.1	C	R	0.46	24.1	C	
	WB	T	1.08	93.4	F	**T**	**1.09**	**98.6**	**F**	T	1.06	86.5	F	
		R	1.03	97.4	F	R	1.03	97.4	F	R	1.01	88.6	F	
Clinton St	NB	R	0.95	44.6	D	R	0.95	44.6	D	R	0.95	44.6	D	
Delancey St Service Road	WB	R	0.52	52.8	D	R	0.52	52.8	D	R	0.52	52.8	D	
Overall Intersection[2]		-	**1.10**	**64.6**	**E**	-	**1.10**	**66.0**	**E**	-	**1.10**	**60.7**	**E**	
Grand St and Clinton St														
Grand St	EB	TR	0.51	18.4	B	TR	0.58	20.3	C					- Mitigation not required
	WB	LT	0.35	15.0	B	LT	0.35	15.0	B					
		R	1.11	104.1	F	R	1.11	104.1	F					
Clinton St	NB	LTR	0.85	47.5	D	LTR	0.85	47.5	D					
Overall Intersection[2]		-	**1.01**	**51.5**	**F**	-	**1.01**	**51.2**	**D**					

[1] Control delay is measured in seconds-per-vehicle

[2] Overall intersection V/C is the critical lane groups' V/C status

Notes: Movement delay and overall delay cannot be calculated; exceeds the HCS software threshold

Bold denotes a significantly impacted movement

Table 15-7 Construction No-Action vs With-Action vs With-Action w/ Improvements Traffic Levels of Service Comparison – Weekday PM Peak Hour

Intersection & Approach		2023 No-Action				2023 With-Action				2023 With-Action w/ Improvements				Mitigation Measures
		MVT	V/C	Control Delay[1]	LOS	MVT	V/C	Control Delay[1]	LOS	MVT	V/C	Control Delay	LOS	
SIGNALIZED INTERSECTIONS														
Delancey St and Essex St														
Delancey St	EB	TR	0.85	25.4	C	TR	0.85	25.4	C					- Mitigation not required
	WB	T	0.73	20.0	C	T	0.73	20.1	C					
		R	0.96	56.3	E	R	0.96	56.3	E					
Essex St	NB	LT	0.37	25.1	C	LT	0.37	25.1	C					
		T	0.94	68.4	E	R	0.94	69.9	E					
	SB	TR	0.84	38.1	D	TR	0.84	38.1	D					
Overall Intersection[2]		-	**0.95**	**29.7**	**C**	-	**0.95**	**29.8**	**C**					
Delancey St and Clinton St														
Delancey St	EB	T	1.06	60.5	E	T	1.06	61.0	E					- Mitigation not required
		R	0.33	22.0	C	R	0.33	22.0	C					
	WB	T	1.07	86.4	F	T	1.07	86.8	F					
		R	1.03	91.2	F	R	1.03	91.2	F					
Clinton St	NB	R	0.90	33.3	C	R	0.91	35.4	D					
Delancey St Service Road	WB	R	0.72	70.5	E	R	0.72	70.5	E					
Overall Intersection[2]		-	**1.02**	**68.7**	**E**	-	**1.04**	**69.3**	**E**					
Grand St and Clinton St														
Grand St	EB	TR	0.45	17.0	B	TR	0.45	17.0	B					- Unmitigatable impact
	WB	LT	0.41	16.0	B	LT	0.41	16.0	B					
		R	1.19	136.9	F	R	1.19	136.9	F					
Clinton St	NB	LTR	0.97	66.5	E	**LTR**	**1.03**	**82.3**	**F**					
Overall Intersection[2]		-	**1.10**	**64.5**	**E**	-	**1.12**	**69.9**	**E**					

[3] Control delay is measured in seconds-per-vehicle
[4] Overall intersection V/C is the critical lane groups' V/C status

Notes: Movement delay and overall delay cannot be calculated; exceeds the HCS software threshold
Bold denotes a significantly impacted movement

DECLARATION

This DECLARATION made as of this ___ day of ____, 2020, by **384 GRAND STREET HOUSING DEVELOPMENT FUND COMPANY, INC.**, a New York not-for-profit corporation having an address at c/o T.U.C. Management Company, Inc., Hong Ning Senior Housing Building, 50 Norfolk Street, New York, New York 10002 (the "**Declarant**").

WITNESSETH:

WHEREAS, Go Broome LLC and Chinatown Planning Council Housing Development Fund Company, Inc. have submitted an Application to the New York City Department of City Planning ("**DCP**") for various approvals that would, among other things, allow Declarant to develop an additional 4,759 gross square feet of commercial space on certain real property located in New York County, City and State of New York, designated for real property tax purposes as Tax Block 346, Lot 95 (the "**Project Site**"), which Application is described in further detail below; and

WHEREAS, Declarant is the fee owner of certain real property located in the Borough of Manhattan, County of New York, City and State of New York, designated for real property tax purposes as Block 346, Lot 95 and as more particularly described in **Exhibit "A" (**the **"Subject Property")**; and

WHEREAS, First American Title Insurance Company National Commercial Services (the "**Title Company**") has certified in the certification (the "**Certification**") attached hereto as **Exhibit "B"** and made a part hereof, that as of November 18, 2019, Declarant (the "**Party-in-Interest**") is the only party-in-interest as such term is defined in the definition of "zoning lot" set forth in Section 12-10 of the New York City Zoning Resolution ("**ZR**") in the Subject Property;

WHEREAS, all parties-in-interest to the Subject Property have either executed this Declaration or waived their right to execute this Declaration by written instrument annexed hereto as **Exhibit "B-1"** and made a part hereof, which instrument is intended to be recorded simultaneously with this Declaration; and

WHEREAS, as of the date hereof, the Title Company has determined that there has been no change in the facts set forth in the Certification, and the Declarant represents and warrants that the Parties-in-Interest listed in the Certification are the only known parties-in-interest in the Project Site as of the date hereof; and

WHEREAS, Go Broome and Chinatown Planning Council Housing Development Fund Company, Inc. filed with the City Planning Commission of the City of New York (the "**Commission**") (Application Nos. 200064ZMM, 200061ZSM, M790721(B)ZSM, N200065ZRM, N200066ZAM, N200067ZAM) an application proposing: (a) a zoning map amendment to rezone Block 346, Lots 1, 37, 75 and 95 from R8 to R9-1 with a C2-5 commercial overlay; (b) a zoning text amendment to Appendix F to designate Block 346, Lots 1, 37, 75 and 95 as a Mandatory Inclusionary Housing Area, and to ZR Sections 23-011, 28-01, and 78-03 to allow the use of the Quality Housing Program; (c) an authorization pursuant to ZR §13-443 to eliminate 33 spaces of required accessory off-street parking on the Lot 75 Property; and (d) a

modification of the Seward Park Extension West Large-Scale Residential Development (the "**LSRD**") to reflect changes to the zoning lots and to update the site plan and zoning calculations of the LSRD, which includes the addition of the Lot 37 Property, an authorization pursuant to ZR Section 78-311, and special permits pursuant to ZR Section 78-312 (collectively, the "**Application**"); and

WHEREAS, the Application would facilitate the development of the Project Site; and

WHEREAS, a Draft Environmental Impact Statement ("**DEIS**") concerning the Project Site prepared pursuant to the City Environmental Quality Review (the "**CEQR**") was reviewed in connection with the Application (CEQR # 19DCP119M) and a Notice of Completion of the Final Environmental Impact Statement ("F**EIS**") was issued on January 10, 2020; and

WHEREAS, in connection with the DEIS, certain archaeological investigations have been conducted at the Project Site, the results of which are presented in the June 2019 "GO Broome Site Development Archeology Documentary Study (Phase IA)" prepared by VHB Engineering, Surveying, Landscape, Architecture, and Geology, P.C. (the "**Archeology Documentary Study/Phase IA**"); and

WHEREAS, pursuant to CEQR, the Landmarks Preservation Commission ("**LPC**"), among others, has reviewed the preliminary DEIS and the Archeology Documentary Study/Phase IA; and

WHEREAS, the results of such review, as documented in LPC's August 1, 2019 letter, attached hereto as **Exhibit C**, and made a part hereof, indicate the potential presence of significant archaeological resources the Project Site; and

WHEREAS, Declarant desires to identify the existence of any potential archaeological resources and, if warranted, mitigate any potential damage to any such archaeological resources found in connection with the development or redevelopment of the Project Site and has agreed to follow and adhere to all requirements for archaeological identification, investigation and mitigation set forth in the CEQR Technical Manual and LPC's Guidelines for Archaeological Work in NYC, including without limitation, the completion of archaeological field testing, excavation, mitigation and curation of archaeological resources as required by the LPC (collectively, the "**Archaeological Work**"); and

WHEREAS, subject to the terms and conditions of this Declaration, Declarant agrees to restrict the manner in which the Project Site may be developed or redeveloped by having implementation of the Archaeological Work, performed to the satisfaction of the LPC, as evidenced by writings described and set forth herein, be a condition precedent to any soil disturbance for any such development or redevelopment (other than soil disturbance necessitated by Declarant's performance of the Archaeological Work or required hazardous materials testing); and

WHEREAS, Declarant intends this Declaration to be binding upon all successors and assigns; and

WHEREAS, the Declarant intends this Declaration to benefit all the City of New York ("**the City**") and consents to the enforcement of this Declaration by the City.

NOW, THEREFORE, Declarant does hereby declare and agree that the Project Site shall be held, sold, transferred, and conveyed, subject to the restrictions and obligations of this Declaration and which shall run with the land, binding the successors and assigns of Declarant so long as they have any right, title or interest in the Project Site or any part thereof:

1. Declarant covenants and agrees that no building permit for grading, excavation, foundation, alteration building or other construction respecting the Project Site which permits soil disturbance shall be issued by or accepted from the Department of Buildings (the "**DOB**") by the Declarant until LPC has issued to DOB, as applicable, either a Notice of No Objection, as set forth in Paragraphs 2(a) and 2(c), a Notice to Proceed, as set forth in Paragraph 2(b), a Notice of Satisfaction, as set forth in Paragraph 2(d), or a Final Notice of Satisfaction, as set forth in Paragraph 2(e). Declarant shall submit a copy of the Notice of No Objection, Notice to Proceed, Notice of Satisfaction or Final Notice of Satisfaction, as the case may be, to the DOB at the time of filing of any application set forth in this Paragraph 1.

2. (a) Notice of No Objection – LPC shall issue a Notice of No Objection after the Declarant has completed the work set forth in the LPC-approved Archaeological Documentary Study/Phase IA and LPC has determined that the results of such assessment demonstrate that the site does not contain potentially significant archaeological resources.

(b) Notice to Proceed with LPC-Approved Field Testing and/or Mitigation – LPC shall issue a Notice to Proceed after it approves a Field Testing Plan and, if necessary, a mitigation plan with respect to any identified significant archaeological resources (the "**Mitigation Plan**"). Issuance of a Notice to Proceed shall enable the Declarant to obtain a building permit solely to perform excavation or other work necessary to implement the Field Testing and/or Mitigation Plan. The LPC shall review and, within 30 days, approve the scope of work in all building or other permits prior to field testing or mitigation work commencing on the Project Site to assure compliance with this Declaration and the Approved Field testing and/or Mitigation Plan.

(c) Notice of No Objection After Field Work – LPC shall issue a Notice of No Objection After Field Work if the Declarant has performed required LPC-approved field testing and, as a result of such testing, the LPC determines that the Project Site does not contain potentially significant archaeological resources. The notices described in subparagraphs (a) and (c) of this paragraph shall each hereafter be referred to as a "Notice of No Objection." Issuance of a Notice of No Objection shall be sufficient to enable the Declarant to obtain a full building permit for the performance of excavation or construction on the Project Site.

(d) Notice of Satisfaction – If, following Phase IB field testing a Mitigation Plan is required, LPC shall issue a Notice of Satisfaction after the Mitigation Plan has been prepared and accepted by LPC (which approval shall be issued reasonably promptly after the Declarant has submitted the Mitigation Plan and addressed all LPC comments) and LPC has determined in writing that all significant identified and archaeological resources have been documented and

removed from the Project Site. Issuance of a Notice of Satisfaction shall enable the Declarant to obtain a building permit for excavation and construction on the Project Site.

(e) Final Notice of Satisfaction – LPC shall issue a Final Notice of Satisfaction after the mitigation, if required, has been completed and the LPC has set forth in writing that the Mitigation Plan, including but not limited to the Final Archaeological Report, has been completed to the satisfaction of LPC.

3. No temporary certificate of occupancy ("TCO") or new permanent certificate of occupancy ("PCO") shall be granted by the Buildings Department or accepted by the Declarant until the Chairperson of the LPC shall have issued a Final Notice of Satisfaction or a Notice of No Objection.

4. The Director of Archaeology of the LPC shall issue all notices required to be issued hereunder reasonably promptly after the Declarant has made written request to the LPC and has provided documentation to support each such request, and the Director of Archaeology of the LPC shall in all events issue such written notice to the DOB, or inform the Declarant in writing of the reason for not issuing said notice, within fifteen (15) calendar days after the Declarant has requested such written notice.

5. Declarant represents and warrants with respect to the Project Site that no restrictions of record, nor any present or presently existing estate or interest in the Project Site nor any lien, encumbrance, obligation, covenant of any kind preclude, presently or potentially, the imposition of the obligations and agreements of this Declaration.

6. Declarant acknowledges that the City is an interested party to this Declaration and consents to the enforcement of this Declaration solely by the City, administratively or at law or at equity, of the obligations, restrictions and agreements pursuant to this Declaration.

7. The provisions of this Declaration shall inure to the benefit of and be binding upon the respective successors and assigns of the Declarant, and references to the Declarant and/or Declarant shall be deemed to include such successors and assigns as well as successors to their interest in the Project Site. References in this Declaration to agencies or instrumentalities of the City shall be deemed to include agencies or instrumentalities succeeding to the jurisdiction thereof.

8. Declarant shall be liable in the performance of any term, provision, or covenant in this Declaration, except that the City and any other party relying on this Declaration will look solely to the fee estate interest of the Declarant in the Project Site for the collection of any money judgment recovered against Declarant, and no other property of the Declarant shall be subject to levy, execution, or other enforcement procedure for the satisfaction of the remedies of the City or any other person or entity with respect to this Declaration. The Declarant shall have no personal liability under this Declaration.

9. The obligations, restrictions and agreements herein shall be binding on the Declarant or other parties in interest only for the period during which the Declarant and any such Party-in-Interest holds and interest in the Project Site; provided; however, that the obligations,

restrictions and agreements contained in this Declaration may not be enforced against the holder of any mortgage unless and until such holder succeeds to the fee interest of the Declarant by way of foreclosure or deed in lieu of foreclosure.

10. Declarant shall indemnify the City, its respective officers, employees and agents from all claims, actions or judgments for loss, damage or injury, including death or property damage of whatsoever kind or nature (but excluding any special, incidental, punitive, exemplary, consequential or other indirect damages), arising from Declarant's performance of its obligations under this Declaration, including without limitation, the negligence of the Declarant, its agents, servants or employees in undertaking such performance; provided, however, that should such a claim be made or action brought, Declarant shall have the right to defend such claim or action with attorneys acceptable to the City, which acceptance or approval shall not be unreasonably withheld, and no such claim or action against the City shall be settled without the written consent of the City, which consent shall not be unreasonably withheld.

11. Declarant shall cause every individual or entity that between the date hereof and the date of recordation of this Declaration, becomes a Party-in-Interest (as defined in subdivision (c) of the definition of "zoning lot" set forth in Section 12-10 of the Zoning Resolution of the City of New York) to all or a portion of the Project Site to waive its right to execute this Declaration and subordinate its interest in the Project Site to this Declaration. Such waivers and subordination shall be attached to this Declaration as Exhibits and recorded in the Office of the County or City Register. Any mortgage or other lien encumbering the Project Site in effect after the recording date of this Declaration shall be subject and subordinate hereto as provided herein.

12. This Declaration and the provisions hereof shall become effective as of the date of this Declaration. Declarant shall record or shall cause this Declaration to be recorded in the Office of the County or City Register, indexing it against the Project Site prior to issuance of any building permit for grading, excavation, foundation, alteration building or other construction respecting the Project Site which permits soil disturbance issued by or accepted from DOB, and shall promptly deliver to the LPC and the CPC proof of recording in the form of an affidavit of recording attaching a copy of the filing receipt and a copy of the Declaration as submitted for recording. Declarant shall also provide a certified copy of this Declaration as recorded to LPC and CPC as soon as a certified copy is available.

13. This Declaration may be amended or modified by Declarant only with the approval of LPC or the agency succeeding to its jurisdiction and no other approval or consent shall be required from any other public body, private person or legal entity of any kind. A statement signed by the Chair of the LPC, or such person as authorized by the Chair, certifying approval of an amendment or modification of this Declaration shall be annexed to any instrument embodying such amendment or modification.

14. Any submittals necessary under this Declaration from Declarant to LPC shall be addressed to the Director of Archaeology of LPC, or such other person as may from time to time be authorized by the Chair of the LPC to receive such submittals. As of the date of this Declaration, LPC's address is:

Landmarks Preservation Commission
1 Centre Street, 9N
New York, New York 10007

Any notices sent to Declarant shall be sent to the addresses hereinabove first set forth and shall be sent by personal delivery, delivery by reputable overnight carrier or by certified mail.

15. Declarant expressly acknowledges that this Declaration is an essential element of the environmental review conducted in connection with the Application and, as such, the filing and recordation of this Declaration may be a precondition to the determination of significance pursuant to CEQR, which implements the State Environmental Quality Review Act ("SEQRA") and the SEQRA Regulations, Title 6 New York Code of Rules and Regulations ("NYCRR") Part 617.7 within the City of New York.

16. Declarant acknowledges that the satisfaction of the obligations set forth in this Declaration does not relieve Declarant of any additional requirements imposed by Federal, State or Locals laws.

17. This Declaration shall be governed by and construed in accordance with the laws of the State of New York.

18. Wherever in this Declaration, the certification, consent, approval, notice or other action of Declarant, LPC or the City is required or permitted, such certification, consent, approval, notice or other action shall not be unreasonably withheld or delayed.

19. In the event that any provision of this Declaration is deemed, decreed, adjudged or determined to be invalid or unlawful by a court of competent jurisdiction, such provision shall be severable and the remainder of this Declaration shall continue to be in full force and effect.

20. This Declaration and its obligations and agreements are in contemplation of the Declarant receiving approvals or modified approvals of the Application. In the event that the Declarant withdraws the Application before a final determination or the Application is not approved, the obligations and agreements pursuant to this Declaration shall have no force and effect and Declarant may request that LPC issue a Notice of Cancellation upon the occurrence of the following events: (i) the Declarant has withdrawn the Application in writing before a final determination on the Application; or (ii) the Application was not approved by the CPC, and/or the City Council, as the case may be in accordance with Charter Section 197-c (ULURP); or (iii) LPC has issued a Notice of No Objection or Final Notice of Satisfaction. Upon such request, LPC shall issue a Notice of Cancellation after it has determined that one of the above has occurred. Upon receipt of a Notice of Cancellation from LPC, Declarant shall cause such Notice to be recorded in the same manner as the Declaration herein, thus rendering this Restrictive Declaration null and void. Declarant shall promptly deliver to LPC and the CPC a certified copy of such Notice of Cancellation as recorded.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

DECLARANT:

384 GRAND STREET HOUSING DEVELOPMENT FUND COMPANY, INC.

BY: _____
NAME: _____
TITLE: _____

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

On the _____ day of _____ in the year 2020 before me, the undersigned, personally appeared _____, 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 or entity upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

Exhibit "A"

The subject tract of land with respect to which the foregoing parties are the parties in interest as aforesaid, is known as Tax Lot Number(s) 95 in Block(s) 346 as shown on the Tax Map of the City of New York, New York County and more particularly described as follows:

ALL THAT CERTAIN PLOT, PIECE OR PARCEL OF LAND, SITUATE, LYING AND BEING IN THE BOROUGH OF
MANHATTAN, CITY, COUNTY AND STATE OF NEW YORK, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE CORNER FORMED BY THE INTERSECTION OF THE WESTERLY SIDE OF FORMER SUFFOLK
STREET AND WITH THE NORTHERLY SIDE OF GRAND STREET;

RUNNING THENCE WESTERLY, ALONG THE NORTHERLY SIDE OF GRAND STREET, 94 FEET 4 3/8 INCHES;

THENCE NORTHERLY, AND ON A COURSE FORMING AN INTERIOR ANGLE OF 90° 19' 20", 84 FEET 7 1/8
INCHES;

THENCE EASTERLY, AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, A DISTANCE OF 44 FEET 5 ¼
INCHES;

THENCE NORTHERLY, AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, A DISTANCE OF 5 FEET 1 ½
INCHES;

THENCE EASTERLY, AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, A DISTANCE 25 FEET;

THENCE NORTHERLY, AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, A DISTANCE OF 14 FEET 10
INCHES;

THENCE EASTERLY, AT RIGHT ANGLES TO THE LAST MENTIONED COURSE, A DISTANCE OF 25 FEET TO THE WESTERLY SIDE OF FORMER SUFFOLK STREET AND DISTANT 105 FEET 1 INCH NORTHERLY FROM THE
CORNER FORMED BY THE INTERSECTION OF THE WESTERLY SIDE OF FORMER SUFFOLK STREET AND THE
NORTHERLY SIDE OF GRAND STREET;

THENCE SOUTHERLY, ALONG THE WESTERLY SIDE OF FORMER SUFFOLK STREET, 105 FEET 1 INCH TO THE POINT OR PLACE OF BEGINNING.

Exhibit "B"

Parties-in-Interest Certification

Exhibit "C"

LPC's August 1, 2019 letter