



IN THE MATTER OF an application submitted by NYC Economic Development Corporation, Department of Citywide Administrative Services, and The Peninsula JV, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the rear yard requirements of Section 23-47 (Minimum Required Rear Yards), the distance between buildings requirements of Section 23-711 (Standard Minimum Distance Between Buildings) and the height and setback requirements of Section 123-66 (Height and Setback Regulations), in connection with a proposed mixed used development, within a large-scale general development, on property located at 1201-1231 Spofford Avenue (Block 2738, Lot 35, and Block 2763, Lots 29 and p/o Lots 1 and 2), in an M1-2/R7-2 District, within a Special Mixed Use District (MX-17), Borough of the Bronx, Community District 2.

This application (C 180123 ZSX) for a special permit pursuant to Section 74-743 of the Zoning Resolution was filed by the New York City Economic Development Corporation (NYCEDC) and The Peninsula JV, LLC (the applicant) on October 23, 2017, in conjunction with several related actions.

This application, in conjunction with the applications for the related actions (C 180126 PPX, C 180121 ZMX, N 180122 ZRX, C 180124 ZSX, and N 180125 ZAX), would facilitate the development of five buildings containing approximately 740 affordable dwelling units in the Hunts Point neighborhood of Community District 2 in the Bronx.

RELATED ACTIONS

In addition to the zoning special permit (C 180123 ZSX) that is the subject of this report, implementation of the proposed development also requires action by the City Planning Commission on the following applications, which are being considered concurrently with this application:

C 180126 PPX Disposition of City-owned property

C 180121 ZMX Zoning map amendment to change a portion of the development site from

an R6 zoning district to an R7-2/M1-2 Special Mixed Use District, MX-17

N 180122 ZRX Zoning text amendment to establish a Special Mixed Use District; designate a Mandatory Inclusionary Housing (MIH) area; and create a special permit to waive loading berth requirements in large-scale general developments (LSGDs)

C 180124 ZSX Special permit to modify loading berth requirements within an LSGD

N 180125 ZAX Zoning authorization to modify curb cut requirements

BACKGROUND

A full background discussion and description of this application appears in the report for the related disposition action (C 180126 PPX).

ENVIRONMENTAL REVIEW

This application (C 180123 ZSX), in conjunction with the applications for the related actions (C 180126 PPX, C 180121 ZMX, N 180122 ZRX, C 180124 ZSX, and N 180125 ZAX), 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 (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The lead is the Office of the Deputy Mayor for Housing and Economic Development (DME). The designated CEQR number is 17DME001X.

A summary of the environmental review appears in the report for the related disposition action (C 180126 PPX).

UNIFORM LAND USE REVIEW

This application (C 180123 ZSX), along with the applications for the related actions (C 180126 PPX, C 180121 ZMX, and C 180124 ZSX), was certified as complete by the Department of City

Planning October 30, 2017 and was duly referred to Bronx Community Board 2 and the Bronx Borough President in accordance with Title 62 of the rules of the City of New York, Section 2-02(b), along with the related applications for a zoning map amendment (N 180122 ZRX) and authorization and (N 180125 ZAX), which were duly referred in accordance with the procedures for non-ULURP matters.

Community Board Public Hearing

Bronx Community Board 2 held a public hearing on this application (C 180123 ZSX) on November 13, 2017. On November 15, 2017, by a vote of 23 in favor, three opposed, and three abstaining, the Community Board adopted a recommendation to approve the application with conditions. A summary of the Community Board's vote and recommendation appears in the report for the related disposition action (C 180126 PPX).

Borough President Recommendation

The Bronx Borough President held a public hearing on this application (C 180123 ZSX) on December 12, 2017, and on December 19, 2017 issued a recommendation approving the application.

City Planning Commission Public Hearing

On December 13, 2017 (Calendar No. 9), the CPC scheduled January 3, 2018 for a public hearing on this application (C 180123 ZSX), in conjunction with the related applications (C 180126 PPX, C 180121 ZMX, N 180122 ZRX, C 180124 ZSX, and N 180125 ZAX). The hearing was duly held on January 3, 2018 (Calendar No. 22). Eleven speakers testified in support of the application, as described in the report for the related disposition action (C 180126 PPX), and the hearing was closed.

CONSIDERATION

The Commission believes that this application for a zoning special permit (C 180123 ZSX), in conjunction with the related applications (C 180126 PPX, C 180121 ZMX, N 180122 ZRX, C 180124 ZSX, and N 180125 ZAX) is appropriate.

A full consideration and analysis of issues and the reasons for approving this application appear in the related report for the disposition of City-owned property (C 180126 PPX).

FINDINGS

The Commission hereby makes the following findings pursuant to ZR Section 74-743 of the Zoning Resolution (Special provisions for bulk modification):

(1) not applicable

(2) the distribution of #floor area# and location of #buildings# will not unduly increase the #bulk# of #buildings# in any one #block# or unduly obstruct access of light and air to the detriment of the occupants or users of #buildings# in the #block# or nearby #blocks# or of people using the public #streets#;

(3) not applicable

(4) considering the size of the proposed #large-scale general development#, the #streets# providing access to such #large-scale general development# will be adequate to handle traffic resulting therefrom;

(5) not applicable

(6) not applicable

(7) not applicable

(8) not applicable

(9) not applicable

(10) a declaration with regard to ownership requirements in paragraph (b) of the #large-scale general development# definition in Section 12-10 (DEFINITIONS) has been filed with the Commission; and

(11) not applicable

RESOLUTION

RESOLVED, that having considered the Final Environmental Impact Statement (FEIS), for which a Notice of Completion was issued on February 2, 2018, with respect to this application (CEQR No. 17DME001X) and the Technical Memorandum, 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 which 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, those project components related to the environment and mitigation measures that were identified as practicable.

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 and findings described in this report, the application submitted by NYC Economic Development Corporation, Department of Citywide Administrative Services, and The Peninsula JV, LLC

pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the rear yard requirements of Section 23-47 (Minimum Required Rear Yards), the distance between buildings requirements of Section 23-711 (Standard Minimum Distance Between Buildings) and the height and setback requirements of Section 123-66 (Height and Setback Regulations), in connection with a proposed mixed used development, within a large-scale general development, on property located at 1201-1231 Spofford Avenue (Block 2738, Lot 35, and Block 2763, Lots 29 and p/o Lots 1 and 2), in an M1-2/R7-2 District, within a Special Mixed Use District (MX-17), Borough of the Bronx, Community District 2, is approved, pursuant to Section 74-743(a)(2) of the Zoning Resolution, subject to the following terms and conditions:

1. The property that is the subject of this application (C 180123 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by BLA+WCY , filed with this application and incorporated in this resolution:

Drawing No.	Title	Date
Z-002	Zoning Analysis, List of Actions	10.19.2017
Z-010	Zoning Lot Site Plan	10.19.2017
Z-030	Waiver Plan	10.19.2017
Z-031	Waiver Diagrams Building 1A, 1B, 2A	10.19.2017
Z-032	Waiver Diagrams Building 2A, 2B	10.19.2017
Z-033	Waiver Diagrams Building 1A, 2B, 3	10.19.2017
Z-034	Waiver Diagrams Building 1B, 2A and 3	10.19.2017

2. Such development shall conform to all applicable provisions of the Zoning Resolution, except for the modifications specifically granted in this resolution and shown on the plans listed above which have been filed with this application. All zoning computations are subject to verification and approval by the New York City Department of Buildings.

3. Such development shall conform to all applicable laws and regulations relating to its construction, operation and maintenance.

4. In the event the property that is the subject of the application is developed, sold as, or converted to condominium units, a homeowners' association, or cooperative ownership, a copy of this resolution and restrictive declaration described below and any subsequent modifications to either document shall be provided to the Attorney General of the State of New York at the time of application for any such condominium, homeowners' or cooperative offering plan and, if the Attorney General so directs, shall be incorporated in full in any offering documents relating to the property.

5. All leases, subleases, or other agreements for use or occupancy of space at the subject property shall give actual notice of this special permit to the lessee, sublessee or occupant.

6. Upon the failure of any party having any right, title or interest in the property that is the subject of this application, or the failure of any heir, successor, assign, or legal representative of such party, to observe any of the covenants, restrictions, agreements, terms or conditions of this resolution whose provisions shall constitute conditions of the special permit hereby granted, the City Planning Commission may, without the consent of any other party, revoke any portion of or all of said special permit. Such power of revocation shall be in addition to and not limited to any other powers of the City Planning Commission, or of any other agency of government, or any private person or entity. Any

such failure as stated above, or any alteration in the development that is the subject of this application that departs from any of the conditions listed above, is grounds for the City Planning Commission or the City Council, as applicable, to disapprove any application for modification, cancellation or amendment of the special permit hereby granted.

7. Neither the City of New York nor its employees or agents shall have any liability for money damages by reason of the city's or such employee's or agent's failure to act in accordance with the provisions of this special permit.

The above resolution (C 180123 ZSX), duly adopted by the City Planning Commission on February 14, 2018 (Calendar No. 7), 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*

**RAYANN BESSER, ALFRED C. CERULLO, III, MICHELLE R. DE LA UZ,
JOSEPH I. DOUEK, CHERYL COHEN EFFRON, RICHARD EADDY, HOPE KNIGHT,
ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ** *Commissioners*



Community/Borough Board Recommendation

Pursuant to the Uniform Land Use Review Procedure

Application #: C 180123 ZSX	Project Name: Spofford Campus Redevelopment
CEQR Number: 17DME001X	Borough(s): Bronx Community District Number(s): 2

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

SUBMISSION INSTRUCTIONS

- 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"
- 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 NYC Economic Development Corporation, Department of Citywide Administrative Services, and The Peninsula JV, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the rear yard requirements of Section 23-47 (Minimum Required Rear Yards), the distance between buildings requirements of Section 23-711 (Standard Minimum Distance Between Buildings) and the height and setback requirements of Section 123-66 (Height and Setback Regulations), in connection with a proposed mixed used development, within a large-scale general development, on property located at 1201-1231 Spofford Avenue (Block 2738, Lot 35, and Block 2763, Lots 29 and p/o Lots 1 and 2), in an M1-2/R7-2* District, within a Special Mixed Use District (MX-17)*, Borough of the Bronx, Community District 2.

*Note: The site is proposed to be rezoned by changing an existing R6 District to an M1-2/R7-2 District and by establishing a Special Mixed Use District (MX-17) under a concurrent related application for a Zoning Map change (C 180121 ZMX).

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): NYC Economic Development Corporation 110 William Street, New York, NY, 10038 Department of Citywide Administrative Services 1 Centre Street, 20th Floor, New York, NY 10007 The Peninsula JV, LLC c/o The Hudson Companies, 826 Broadway, New York, NY 10003	Applicant's Representative: Robert Holbrook NYC Economic Development Corporation 110 William Street New York, NY, 10038
Recommendation submitted by: Bronx Community Board 2	
Date of public hearing: November 13, 2017 Location: 765 Manida Street Bronx NY 10474	
Was a quorum present? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> <i>A public hearing requires a quorum of 20% of the appointed members of the board, but in no event fewer than seven such members.</i>	
Date of Vote: November 15, 2017 Location: 1054 Simpson Street Bronx NY 10459	
RECOMMENDATION <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Approve With Modifications/Conditions <input type="checkbox"/> Disapprove <input type="checkbox"/> Disapprove With Modifications/Conditions <u>Please attach any further explanation of the recommendation on additional sheets, as necessary.</u> Voting # In Favor: 23 # Against: 3 # Abstaining: 3 Total members appointed to the board: 37	
Name of CB/BB officer completing this form Rafael Acevedo	Title District Manager Date 11/20/2017

Bronx Community Board #2

Borough President Ruben Diaz, Jr.

1029 East 163rd St.

Bronx, NY 10459

718-328-9125 • 718-991-4974 Fax

E-mail: brxcb2@optonline.net



Roberto Crespo
Chairperson



Ralph Acevedo
District Manager

November 16th 2017

Marisa Lago, Chairwoman
City Planning Commission
22 Reade Street
New York NY 10007

RE: ULURP Applications C 180121ZMX, C180123ZSX, C180124ZSX, C180126PPX
The Peninsula Rezoning - CERQ#17DME001M

Dear Chair Lago:

On November 15th 2017, Bronx Community Board 2 (CB2) reviewed the Uniform Land Use Review Procedure (ULURP) applications C180121ZMX, C180123ZSX, C180124ZSX and C180126PPX for the rezoning of The Peninsula JV LLC on Spofford Avenue between Tiffany and Manida Streets, Bronx NY. The application relates to a proposal by The New York City Economic Development Corporation and The Peninsula JV, LLC (applicant) to construct a Housing Development with manufacture and commercial retail space (the proposed project). On November 13th 2017, CB2 held a public hearing on the application.

At its regularly scheduled Full Board Meeting on November 15th 2017, CB2, on the recommendation of its Board Members, and following a duly noticed public hearing, voted by roll call **23** for, **3** against, **1** abstaining, **2** recused and **8** not present eligible to approve with Modifications/Conditions. CB2 recommends the following stipulations and conditions enumerated below:

- The applicant will commit to the breakdown of apartments and the Area Medium Income (AMI), remain as proposed. We would also like to see the Set Aside units selection go to former residents of the Community Board District 2:

Total Units per Building

	Studio	1 BR	2 BR	3 BR	4 BR	Total
1A	0	0	0	0	0	0
1B	36	63	60	24	0	183
2A	53	84	43	43	0	223
2B	34	36	42	22	6	140
3	40	53	70	31	0	194
Site Total	163	236	215	120	6	740

Total Units per AMI

	Formerly Homeless	30% AMI	40% AMI	50% AMI	60% AMI	80% AMI	90% AMI	Total
Studio	18	18	18	18	55	18	18	163
1 BR	22	21	22	21	108	21	21	236
2 BR	22	22	21	22	81	21	22	211
3 BR	12	12	12	12	48	12	12	120
4 BR	0	1	1	1	2	1	0	6
Total	74	74	74	74	294	73	73	736

Set Aside for Formerly Homeless

	Studio	1BR	2 BR	3 BR	Total
1A	0	0	0	0	0
1B	4	6	6	3	19
2A	6	8	5	4	23
2B	4	3	4	2	13
3	4	5	7	3	19
Total	18	22	22	12	74

- The applicant will commit to New York City Housing and Preservation Development (HPD) and Housing Development Corporation (HDC) lottery process transparency and will guarantee a minimum of 50% of the units reserved for CB2. A recommendation is to have the applicant report to CB2 once the lottery selection is completed.
- The applicant will notified CB2 once the lottery process begins and will provide a redacted report of residents of addresses in zip codes 10474, 10459 and 10455 being consider for the selection process. The Applicant will work with a Community Sponsor for the purpose of transparency in the Housing Connect process and to ensure a timely manner of the selection process through time of move in. The applicant will also create a housing forum and workshops to assist resident in navigating the Housing Connect website. Any community unit that becomes vacant will be filled back with a community resident.
- The applicant will conduct a traffic study along Spofford Avenue and Tiffany Street to minimize the amount of traffic congestion during construction phases. The study should include minimizing construction-related vehicle delay through the proposed project and enforcement of delay threshold on Spofford Avenue and Tiffany Street and developing and implementing traffic management plans for the overall of Spofford Avenue and Tiffany Street. It's extremely important for this study since the construction timeline will coincide with the redesign of the Sheridan Expressway, which is in the vicinity to the proposed project and will have a direct impact on the surrounding community.
- The applicant will have a 30 day recording history of its video surveillance system, which will include surveillance of its parking garage. The surveillance system will also be accessible to the local New York Police Department 41st Precinct. The Applicant will also install a Stop sign upon exiting the parking garage. The applicant will ensure lighting throughout their property.
- The applicant will create space along its exterior wall for a new mural created by the existing mural artists. The new mural(s) will capture the essence of the existing neighborhood while incorporating the proposed project.
- The applicant will explore hiring Unionize workers and/or will employ under the Fair Wages for New Yorkers Act. Also, the applicant will explore hiring local. This will ensure that tax dollars are invested back to the community, reduces the environmental impact of commuting, foster

more community involvement and preserves local employment opportunities in demolishing and construction. The applicant will utilize the District's local Workforce1 for recruitment.

- The applicant will address gentrification with the surrounding community, both business and residents. The proposed project will create benefits for the city in the form of additional tax revenue and the creation of temporary and permanent jobs, and for the applicant in the form of rent and an increase in property value. For the surrounding community, however, the proposed project will increase foot and vehicle congestion and a demand on public space; it will accelerate gentrification with its accompany effects on socioeconomic conditions, community character and indirect displacement of current businesses.
- The applicant will have quality on-site property management to ensure the buildings are maintained to preserve assets and protect the building tenants. This will assist in keeping tenants long-term and will invest in timely building maintenance and repairs. Periodic inspections and maintenance of the roof, walls, gutters, drains, and foundation is an investment in controlling interior conditions as well as in preserving the building itself. A regular schedule for maintenance of the exterior and interior of the buildings should be created and maintained with an ongoing log of issues and resolutions.
- The applicant will engage in a public Community Benefit Agreement (CBA) which came as a result of community participation and feedback. CB2 strongly encourages the applicant communicates with the Hunts Point Recreational Center and the Organization for the Preservation of the Hunts Point Slave Burial Ground, which is in close proximity to the proposed project and offer revitalization, workshops, resources and services for the community. This will be requested to our local elected officials to ensure that the community benefit commitments are in fact implemented. The ability to enforce legal commitments is especially important in this context since community support at time of approval is needed.
- The applicant will explore creating a shared-use and commercial kitchens food incubator for the proposed project. This accelerator will assist to nurture homegrown food ventures and fuel their growth.
- The applicant will honor the community by keeping the current Head Start program as part of the proposed project. The Peninsula Head Start has long been an institution in the community and understanding that the their current contract expiring has many residents in fear of losing this valuable service. The applicant will explore with both Administration of Children Services (ACS) and the Department of education (DOE) in creating a new long term contract for the Peninsula head start. Also, the applicant will explore expanding the head start program capacity. In creating new housing, this will certainly increase the number of families who can benefit from head start services and this influx of residents can possibly mean a burden on the current proposed project. The applicant will explore creating more seating in local schools to accommodate the increase of residents by the proposed project.
- The applicant will monitor the leases for the light manufacturing businesses. The community feels it's very important to include these businesses, but remains skeptical that they will be priced out once leases renewal take place. This will have an impact on the jobs created.
- The applicant will explore incorporating Senior housing and Senior services into the proposed project. The community can benefit from this as we are identifying an increase in the number of Seniors in the district.
- The applicant will explore hiring Veterans labor along with setting aside housing for Veterans.

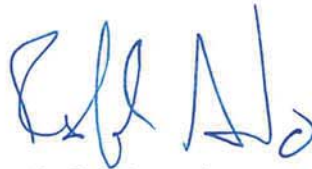
NOW, THEREFORE, BE IT RESOLVED that:

Bronx Community Board 2 recommends approval of ULURP applications C180121ZMX, C180123ZSX, C180124ZSX and C180126PPX if the proposed project adheres to the conditions set forth above.

Sincerely,



Roberto Crespo
Chairman



Rafael Acevedo
District Manager

cc: DCP Carol Samol
Bronx Borough President Ruben Diaz Jr.
NYC Councilmember Rafael Salamanca
Congressman Jose E. Serrano
NYS Senator Rev. Ruben Diaz Sr.
NYS Assembly Member Carmen E. Arroyo
Robert Holbrook – Applicant Representative

**BOROUGH PRESIDENT
RECOMMENDATION**

CITY PLANNING COMMISSION
22 Reade Street, New York, NY 10007
Fax # (212)720-3356

INSTRUCTIONS

1. Return this completed form with any attachments to the Calendar Information Office, City Planning Commission, Room 2E at the above address.
2. Send one copy with any attachments to the applicant’s representative as indicated on the Notice of Certification.

APPLICATIONS NOS: C 180121 ZMX, C 180123 ZMX, C 180124 ZSX, C 180126 PPX
Spofford Campus Redevelopment

DOCKET DESRCRIPTION-PLEASE SEE ATTACHMENT FOR DOCKET DESCRIPTION

COMMUNITY BOARD NO. #2

BOROUGH: BRONX

RECOMMENDATION

- ☒ **APPROVE**
- ☐ **APPROVE WITH MODIFICATIONS/CONDITIONS (List below)**
- ☐ **DISAPPROVE**

EXPLANATION OF RECOMMENDATION-MODIFICATION/CONDITIONS (Attach additional sheets if necessary): PLEASE SEE ATTACHMENT FOR THE BOROUGH PRESIDENT’S RECOMMENDATION


BOROUGH PRESIDENT

12/19/2017
DATE

**BRONX BOROUGH PRESIDENT'S RECOMMENDATION
ULURP APPLICATION NOS:
C 180123 ZSX, C 180124 ZSX, C 180126 PPX
Spofford Campus Redevelopment**

DOCKET DESCRIPTION

C 180121 ZMX

IN THE MATTER OF AN APPLICATION submitted by New York City Economic Development Corporation (EDC) and The Peninsula JV, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section No. 6c:

1. Changing from an R6 District to an M1-2/R7-2 District property bounded by a line 340 feet northerly of Spofford Avenue, a line 475 feet easterly of Tiffany Street, a line 155 feet northerly of Spofford Avenue, Manida Street, Spofford Avenue, and Tiffany Street; and
2. Establishing a Special Mixed Use District (MX-17) bounded a line 340 feet northerly of Spofford Avenue, a line 475 feet northerly of Tiffany Street, a line 155 feet northerly of Spofford Avenue, Manida Street, Spofford Avenue, and Tiffany Street;

Borough of The Bronx, Community District #2, as shown on a diagram (for illustrative purposes only) dated October 30, 2017.

C 180123 ZSX

IN THE MATTER OF AN APPLICATION submitted by New York City Economic Development Corporation (EDC), Department of Citywide Administrative Services (DCAS) and The Peninsula JV, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-743(a)(2) of the Zoning Resolution to modify the rear yard requirements of Section 23-47 (Minimum Required Rear Yards), the distance between buildings requirements of Section 23-711 (Standard Minimum Distance Between Buildings) and the height and setback requirements of Section 123-66 (Height and Set back Regulations), in connection with a proposed mixed use development, within a large-scale general development, on property located at 1201-1241 Spofford Avenue (Block 2738, Lot 35, and Block 2763, Lots 29 and p/o Lots 1 and 2), in an M1-2/R7-2* District, within a Special Mixed Use District, MX-17)*, Borough of The Bronx, Community District #2.

*Note: The site is proposed to be rezoned by changing an existing R6 District to an M1-2/R7-2 District and by establishing a Special Mixed Use District (MX-17) under a concurrent related application for Zoning Map change (C180121 ZMX).

C 180124 ZSX

IN THE MATTER OF AN APPLICATION submitted by New York City Economic Development Corporation, Department of Citywide Administrative Services (DCAS) and The Peninsula JV, LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-745 (b)* of the Zoning Resolution to allow a reduction of loading berth requirements of Section 44-52 (Required Accessory Off-street Loading Berths), in connection with a proposed mixed use development, on property located at 1201-1231 Spofford Avenue (Block 2738, Lot 35 and Block 2763 and p/o Lots 1 and 2), in an M1-2/R7-2** District, within a Special Mixed Use District (MX-17) **, Borough of The Bronx, Community District #2.

*Note: A zoning text amendment is proposed to Section 74-745 (Modifications of Parking and Loading Regulations), under a concurrent related application N 180122 ZRX.

**Note: The site is proposed to be rezoned by changing an existing R6 District to an M1-2/R7-2 District and by establishing a Special Mixed Use District (MX17) under a concurrent related application for a Zoning Map change (C 180121 ZMX).

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.

C 180126 PPX

IN THE MATTER OF AN APPLICATION submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of the New York City Charter, for the disposition, by means of ground leases of four city-owned properties located at the former Spofford Juvenile Detention Center at 1201-1231 Spofford Avenue (Block 2738, Lot 35, Block 2763, Lots 29 and p/o Lots 1 and 2), pursuant to zoning.

BACKGROUND

Approving these applications will facilitate a “large scale development” on a site composed of 206,000 square feet of property, or approximately 4.73 acres. The development site is located at 1201-1231 Spofford Avenue, (Block 2738, Lot 35 and on Block 2763, p/o Lots 1 and 2). This site is bounded by Spofford Avenue on the south, Manida Street on the east and Tiffany Street on the west. The northern boundary of this site is defined by a retaining wall, beyond which is a multi-acre Corpus Christi Monastery, which fronts on Lafayette Avenue. The topography of this property rises approximately forty feet from Tiffany Street-Spofford Avenue intersection to the Manida Street, Spofford Avenue intersection. The site is currently zoned R6 and is located in Bronx Community District #2.

Existing development on this site includes a vacant juvenile detention center known as “Spofford.” This multi-building facility has not been in active use for over a decade and is in a deteriorated condition. Complete demolition of this facility will occur prior to completion of any new construction.

The Peninsula JV, LLC. (the applicant) is proposing a comprehensive, large scale development, on property offering frontage on the east side of Spofford Avenue approximating 720 feet. The scope of development includes:

- Construction of five buildings
 - Buildings 1A &1B
 - Buildings 2A &2B
 - Building 3
- A grand total of 740 residential units of affordable housing
- A below-grade, off-street parking facility offering 260 spaces
- A “light industrial” building composed of 50,000 square feet
- Publically accessible open space approximating 52,000 square feet (1.5 acres)
- Commercial/retail space approximating 15,000 square feet
- Community facility space offering 53,500 square feet
- A total development cost approximating \$300 million
- A target goal of 35% for MWBE

The full build-out of this project is composed of three phases, with demolition of the existing buildings on the site scheduled to commence in 2018. It is expected that the final phase will be completed in 2024, (6 years). The applicant also anticipates that when complete, this comprehensive project will prompt creation of approximately 200 full-time jobs.

This project’s complete buildout will offer 100 percent affordability, ranging from formally homeless, and from 30% of Area Median Income (AMI), to 90% AMI. This unit/AMI ratio includes:

163-Studios:	236-1 Bedroom
18 units: formally homeless,	22 units: formally homeless
18 units: 30% AMI	21 units: 30% AMI
18 units:.40% AMI	22 units: 40% AMI
18 units: 50% AMI	21 units: 50% AMI
55 units: 60% AMI	108 units 60%AMI
18 units: 80% AMI	21 units: 80% AMI
18 units: 90% AMI	21 units: 90% AMI
211-2 Bedrooms	120-3 Bedrooms
22 units: formally homeless	12 units: formally homeless
22 units: 30% AMI	12 units: 30% AMI
21 units: 40% AMI	12 units: 40% AMI
22 units: 50% AMI	12 units: 50% AMI
81 units: 60% AMI	48 units: 60% AMI
21 units: 80% AMI	12 units: 80% AMI
21 units: 90%AMI	12 units: 90%AMI
6-4 Bedrooms	
0 units: formally homeless	2 units: 60% AMI
1 unit: 30% AMI	1 unit: 80% AMI
1 unit: 40% AMI	0 units: 90% AMI
1 unit: 50% AMI	

Features to be included in all residential buildings include:

- Air conditioning/heating services controllable in each unit
- Wi-fi services in all common areas of each building
- Full service laundry facilities
- Access to an exterior terrace for passive recreation available in each building
- Solar panels to offset energy consumption in every building
- Bicycle storage in every building
- Refuse rooms
- A full service gym in each building

Phase 1: 183 Residential Units

Building 1A: A light industrial building composed of 50,000 square feet. This new facility will be located on southeast corner of the Spofford Avenue-Tiffany Street intersection. A loading dock area composed of two accessory docks will be provided via Tiffany Street. Rising approximately 53.6 feet, this building will accommodate:

- Food production/retail
 - LL Forno Bakery: 9,500 square feet
 - Bascom Catering: 5,700 square feet
 - To be determined: 4,100 square feet
- Beverage production/retail
 - Hunts Point Brewing: 8,600 square feet
- Media Production
 - Lightbox NY film studio; 17,000 square feet

Letters of intent have been signed by the above noted businesses. It is also anticipated that deliveries to this facility will occur throughout the day.

Building 1B: Rising 14-stories, (168.3 feet) this building will front onto Tiffany Street, at the northwest corner of the site. Building 1B will offer approximately 141,605 square feet of residential floor area and approximately 16,800 square feet of commercial floor area. It will include 183 residential units, including:

Studios:	36 units, approximating 396 square feet
1-Bedroom:	63 units, approximating 507 square feet
2-Bedrooms:	60 units, approximating 725 square feet
3-Bedrooms:	24 units, approximating 928 square feet

This building will also offer:

- Community/Artist workspace
 - Space Works: 7,000 square feet
 - Bronx Academy of Arts & Dance: 5,900 square feet
- Commercial
 - Spring Bank: 4,500 square feet

Construction of Phase 1 will be complete in 2020. Upon completion of Phase 1, Phase 2 construction will commence.

Phase 2: 363 Residential Units

Building 2A: Rising 13-stories (153.8 feet) this building will be situated on the northeast corner of the construction site, fronting on a 60-foot wide interior courtyard. Pedestrian/vehicular access are found on the north side of Spofford Avenue, directly across from the Spofford Avenue-Barretto Street intersection. Building 2A will include 201,160 square feet of residential floor area, plus 15,000 square feet allocated for a daycare facility (ACS-Headstart). This facility will also have access to an exterior garden/recreation area composed of 5,000 square feet. A total of 223 residential units are to be offered, including:

- Studios: 53 units, approximating 396 square feet
- 1-Bedroom: 84 units, approximating 507 square feet
- 2-Bedrooms: 43 units, approximating 725 square feet
- 3-Bedrooms: 43 units, approximating 928 square feet

Building 2B: Rising 16-stories (191.9 feet), this building will be situated on the north side of Spofford Avenue, offering pedestrian access from Spofford Avenue. Building 2B will include approximately 122,850 square feet of residential floor area. An underground parking facility will be situated in Building 2B offering 203 spaces. Access to this garage will be via a private driveway extending northward from Spofford Avenue, opposite the Barretto Street-Spofford Avenue intersection. Non-residential space includes 5,000 square feet for non-profit (The Point) institutional use, 5,000 square feet of flexible office space on the first and second floors of this building. A total of 140 residential units are to be offered, including:

- Studios: 34 units, approximating 396 square feet
- 1-Bedroom: 36 units, approximating 507 square feet
- 2-Bedrooms: 42 units, approximating 725 square feet
- 3-Bedrooms: 22 units, approximating 928 square feet

Construction of Phase 2 will be complete in 2021.

Phase 3: 194 Residential Units (+6 units offering 4 bedroom accommodation)*

Building 3: Rising 13-stories (157.9 feet on Spofford Avenue & 103.2 feet on Manida Street) this building will be situated on the northwest corner of the Spofford Avenue-Manida Street intersection. Building 3 will include approximately 172,285 square feet of residential floor area. It will also offer approximately 16,000 gross square feet of commercial floor area and 18,000 square feet of community facility space floor area. An underground parking facility offering 57 spaces is to be included in Building 3. Access to this garage will be via the private driveway extending northward from Spofford Avenue, opposite the Barretto Street-Spofford Avenue intersection. This is the same “drive” that provides vehicular access to Building 2B. Unique to this building will also be inclusion of 6-units offering 4-bedroom accommodations. Residential accommodations include:

Studios:	40 units, approximating 396 square feet
1-Bedroom:	53 units, approximating 507 square feet
2-Bedrooms:	70 units, approximating 725 square feet
3-Bedrooms:	31 units, approximating 928 square feet
4-Bedrooms:	6 units, approximating 1,400 square feet

*Note: The inclusion of 4-bedroom units is not finalized.

It is anticipated that Building 3 will include:

Super-Fi Grocery
Urban Health Plan

Construction of Phase 3 will commence in 2022 and conclude in 2024.

A major component of this project includes a shared landscaped garden and outdoor recreational space for both passive and active use. This area, composed of a minimum of 52,000 square feet (1.5 acres) will be open to the public, but will be fully maintained by the applicant. Features include garden areas that separate the various buildings, a running track and a water feature for summer time “cool-downs.” While this open space will accommodate “a game of catch,” no softball or basketball facilities are designed or designated.

Development of the surrounding community includes mid-rise and high-rise residential buildings. The Corpus Christi Monastery is located beyond the site’s northern property line. The Julio Carballo Fields offers softball venues and is situated on Manida Street, sharing the same northern boundary as does the monastery. Commercial activity is located on Longwood Avenue approximately two blocks from the site. Much of the non-residential development in this area is also defined by low-rise industrial buildings that cater to auto-related functions. The Southern Boulevard shopping district is approximately ½ mile from this proposed development. Here too is access via the Hunts Point Avenue station to the #6 Lexington Avenue subway. Access to the #6 train is also available at Longwood Avenue on Southern Boulevard. Bus

transportation via the BX 6, SBS6 and the BX 46 are available within a four block radius of this site.

ENVIRONMENTAL REVIEW AND ULURP CERTIFICATION

These applications were reviewed pursuant to SEQR and CEQR and received a Negative Declaration. The City Planning Commission certified these applications as complete on October 3, 2017.

BRONX COMMUNITY BOARD PUBLIC HEARING

Bronx Community Board #2 held public hearing on these applications on November 15, 2017. A vote recommending approval of these applications with modifications was 23 in favor, three against, one abstaining and two recused.

BOROUGH PRESIDENT'S PUBLIC HEARING

The Borough President convened a public hearing on these applications on December 12, 2017. Representatives of the applicant were present and spoke in favor of this application. Two members of the public spoke in favor of these applications. No other attendees offered testimony and the hearing was closed.

BRONX BOROUGH PRESIDENT'S RECOMMENDATION

Since the 1950's the name "Spofford" has been associated with youth who find themselves "on the wrong side of the law." The Spofford Juvenile detention Center, or simply "Spofford," symbolized all that is failing our young men; our schools, our neighborhoods, our religious institutions, perhaps even our families. Now, however, a profound change for this location is envisioned, one that will celebrate all that is good, hopeful and productive. Indeed, I believe the major development approving these applications will facilitate is emblematic of a new approach to affordable housing. I am therefore most enthusiastic as to what the potential for this development means, not only for the Hunts Point Community, but for the future of affordable housing development.

I am especially enthusiastic about the on-site "light manufacturing" building that is a key component of this entire project. I look forward to this becoming a destination for those seeking employment, but also for the products to be sold to all who wish to buy. I am pleased to understand that both a bakery and catering service are likely tenants. So too, as the applicant has indicated, this "new Spofford" will offer employment opportunities in the fields of film, arts and dance, beverage production, and banking.

Highlighting other features of this project is the promise made to the community that the existing daycare facility and Head Start program will not be interrupted during construction and will ultimately relocate to a state-of-the-art facility within this development. Also, The Point CDC, which has been a leader in the Hunts Point community for decades, will have a new venue for the many functions this group offers, while maintaining their presence on Garrison Avenue.

As for the 740 units of affordable housing that this project envisions, my support for such housing is clear, but once again, tempered by the fact that the unit-sizes presented at my public hearing fail to satisfy my square-foot minimums. As I have noted in previous recommendations, an average size of 950 square feet for a 3-bedroom apartment offers virtually no opportunity for either privacy or space for family gatherings. More specifically, for an apartment to be a home, young people require space for socializing. Absent this space, they will opt for locations elsewhere. I look forward to working with the applicant as the feasibility of larger units can be considered and included in the final design.

Of comparable importance to me is the impact a project of this magnitude will have on the public schools serving the Hunts Point community. The finding that a capacity-review pursuant to the Environmental Impact Statement (EIS) shows no shortage of seats district-wide is not sufficient. The more relevant unanswered question is the impact this new development will have on the specific schools that will serve the Spofford Avenue Campus. I call upon the School Construction Authority (SCA) and the Department of Education (DOE) to join me and Bronx Community Board #2, as potential sites can be identified.

At my public hearing the applicant noted that deliveries via truck, both to and from this site, may have to occur 24/7. If this is necessary, I recommend that every effort by the applicant be made to encourage this activity when it will have minimal impact on the broader neighborhood. I would propose that within the new light industrial building, recharging accommodations for electric powered vehicles be provided. By so including this option, it is conceivable that electric trucks could become the “standard” for those leasing industrial space at this new complex.

I conclude by thanking all those associated with this proposal and for their vision that will make the Spofford Campus Redevelopment a reality in Hunts Point. I am confident that the observations I offer and the numerous recommendations made by Bronx Community Board #2 will serve to make this project even better.

I recommend approval of these applications.

DECLARATION OF LARGE-SCALE GENERAL DEVELOPMENT

THIS DECLARATION (“Declaration”) is made as of the ____ day of _____, 2018, by the CITY OF NEW YORK (the “City”), a municipal corporation of the State of New York, having an address at City Hall, New York, New York 10007 (the “Landlord Declarant”) and [THE PENINSULA JV, LLC] (“TPJVLLC”), a New York limited liability company, having an address at c/o Gilbane Development Company, 7 Jackson Walkway, Providence, RI 02903 (the “Tenant Declarant” and together with the Landlord Declarant the “Declarants”).

WITNESSETH:

WHEREAS, the Landlord Declarant is the fee owner of certain real properties located in the Borough of the Bronx, County of the Bronx, City and State of New York, designated for real property tax purposes as: (1) Block [], Lot [], which real property is more particularly described in **Exhibit A-1** annexed hereto and made a part hereof (the “Manida Street Property”); and (2) Block [], Lot [], which real property is more particularly described in **Exhibit A-2** annexed hereto and made a part hereof (the “Lease Property,”); (the Manida Street Property and the Lease Property, collectively, the “Subject Property”);

WHEREAS, Landlord Declarant and the New York City Land Development Corporation, a local development corporation organized pursuant to Section 1411 of the New York State Not-for-Profit Corporation Law (the “LDC”), have entered into that certain ground lease, dated [date], with respect to the leasing of the Lease Property to LDC (the “Lease”);

WHEREAS, LDC has assigned the Lease and its leasehold interest in the Lease Property to Tenant Declarant pursuant to that certain assignment of lease dated [date] (the “Assignment”), pursuant to which Tenant Declarant has assumed the rights and obligations of tenant under the Lease;

WHEREAS, pursuant to the Lease, Tenant Declarant desires and intends to develop the Subject Property by constructing five (5) new mixed use buildings on the Lease Property and certain open space improvements on and off the Subject Property (collectively, the “Projected Development”), as reflected in the FEIS (hereinafter defined);

WHEREAS, Declarants desire and intend to develop the Projected Development as a “large-scale general development” as defined in Section 12-10 of the Zoning Resolution of the City of New York (“Zoning Resolution” or “ZR”) (such proposed development of the Projected Development as a large-scale general development, the “Large-Scale Development”);

WHEREAS, to facilitate the Projected Development, and the development of the Projected Development as the Large-Scale Development, Declarants filed the following applications (collectively, the “Applications”) with the City Planning Commission of the City of New York (“CPC”) for: (i) a zoning map amendment to rezone portions of Blocks 2763 and 2738 from R6 to M1-2/R7-2 (MX-17) Special Mixed Use District (ULURP No. 180121ZMX); (ii) a large scale general development special permit to permit location of buildings without regard for the applicable yard, distance between buildings, and height and setback regulations, pursuant to

ZR §74-743(a)(2), (ULURP No. 180123ZSX); (iii) a large scale general development special permit to permit reduction of loading berth requirements pursuant to ZR §74-745(b) (ULURP No. 180124ZSX) (items ii and iii collectively, the “Large Scale Special Permits”); (iv) a zoning authorization to permit modification of required width of curb cuts pursuant to ZR §25-631(f)(2) (ULURP No. 180125ZAX); (v) a zoning text amendment: (x) to create new Map 2 for Bronx Community District 2 in Appendix F of the Zoning Resolution to designate portions of Blocks 2763 and 2738 as a Mandatory Inclusionary Housing Area, (y) to amend the text of ZR §123-90 to establish a Special Mixed Use District (MX-17) on portions of Blocks 2763 and 2738, and (z) to amend the text of ZR §74-745(b) to enable CPC to issue a special permit to waive loading berth requirements for zoning lots in large-scale general developments in Special Mixed Use Districts located in Bronx Community District 2 (ULURP No. N180122ZRX); (vi) disposition of the City-owned Subject Property by ground leases (ULURP No. N180126PPX); (the approval by CPC of i-vi hereof, collectively the “Approvals,” and each individually an “Approval”);

WHEREAS, to ensure that the development of the Subject Property is consistent with the analysis in the Final Environmental Impact Statement issued for City Environmental Quality Review Application No. 17DME001X (the “FEIS”) 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 incorporates certain (i) requirements for mitigation of significant adverse environmental impacts (“Mitigation Measures”) and (ii) certain project components related to the environment which were material to the analysis of environmental impacts in the FEIS (“PCREs”), Declarants have agreed to restrict the development, operation, use and maintenance of the Subject Property in certain respects, which restrictions are set forth in this Declaration;

WHEREAS, Section 74-743(b)(10) of the Zoning Resolution requires that a declaration with regard to ownership requirements in paragraph (b) of the large scale general development definition in Section 12-10 be filed with CPC;

WHEREAS, [title insurance company] has certified in the certification (the “Certification”) attached hereto as **Exhibit B** and made a part hereof, that as of [month, day, 2018], the parties listed on such Certification are the only parties-in-interest to the Subject Property (each, a “Party-in-Interest”, collectively, the “Parties-in-Interest”), as such term is defined in subsection (c) of the definition of “zoning lot” in ZR Section 12-10;

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 to this Declaration by written instrument substantially in the same form as that annexed hereto as **Exhibit C** and made a part hereof, which instrument is intended to be recorded simultaneously with this Declaration; and

WHEREAS, the Declarants desire, on the terms and conditions herein, to restrict the manner in which the Subject Property may be developed, redeveloped, maintained and operated now and in the future, and intends these restrictions to benefit the Subject Property.

NOW, THEREFORE, Declarants do hereby declare that the Subject Property shall be held, sold, conveyed, developed, used, occupied, operated and maintained, subject to the following restrictions, covenants, obligations and agreements, which shall run with such real property binding Declarants, as the case may be, and their respective successors and assigns as herein set forth.

1. CERTAIN DEFINITIONS.

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

(a) “**Building Permit**” shall mean the issuance of any permit by DOB 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” or (v) any other permit normally associated with the development of a building.

(b) “**Building**” shall mean, individually and as applicable, either (i) Building 1A; (ii) Building 1B; (iii) Building 2A; (iv) Building 2B; or (v) Building 3. “**Buildings**” shall mean each of the same, collectively.

(c) “**Building 1A**,” “**Building 1B**,” “**Building 2A**,” “**Building 2B**,” and “**Building 3**,” shall refer to the new buildings to be constructed as part of the Projected Development, each of which are identified illustratively on the Overview Plan.

(d) “**Building 1A Publicly Accessible Open Space**” shall mean that publicly accessible open space located within the Subject Property adjacent to, and associated with the development of, Building 1A. The Building 1A Publicly Accessible Open Space is illustratively demonstrated on the Overview Plan and shall contain, at the time of completion pursuant to Section 3(a)(iv)(D) hereof, no less than 1,200 square feet of lot area.

(e) “**Building 1B Publicly Accessible Open Space**” shall mean that publicly accessible open space located within the Subject Property adjacent to, and associated with the development of, Building 1B. The Building 1B Publicly Accessible Open Space is illustratively demonstrated on the Overview Plan and shall contain, at the time of completion pursuant to Section 3(a)(iv)(D) hereof, no less than 7,000 square feet of lot area.

(f) “**Building 2A Publicly Accessible Open Space**” shall mean that publicly accessible open space located within the Subject Property adjacent to, and associated with the development of, Building 2A. The Building 2A Publicly Accessible Open Space is illustratively demonstrated on the Overview Plan and shall contain, at the time of completion pursuant to Section 3(a)(iv)(D) hereof, no less than 18,000 square feet of lot area.

(g) “**Building 2B Publicly Accessible Open Space**” shall mean that publicly accessible open space located within the Subject Property adjacent to, and associated with the development of, Building 2B. The Building 2B Publicly Accessible Open Space is illustratively demonstrated on the Overview Plan and shall contain, at the time of completion pursuant to Section 3(a)(iv)(D) hereof, no less than 13,000 square feet of lot area.

(h) “**Building 3 Publicly Accessible Open Space**” shall mean that publicly accessible open space located within the Subject Property adjacent to, and associated with the development of, Building 3. The Building 3 Publicly Accessible Open Space is illustratively demonstrated on the Overview Plan and shall contain, at the time of completion pursuant to Section 3(a)(iv)(D) hereof, no less than 6,000 square feet of lot area.

(i) “**Chair**” shall mean the Chairperson of CPC from time to time or any successor to the jurisdiction thereof.

(j) “**DCP**” shall mean the New York City Department of City Planning.

(k) “**DOB**” shall mean the Department of Buildings of the City of New York, or any successor to its jurisdiction.

(l) “**DPR**” shall mean the New York City Department of Parks and Recreation.

(m) “**DPR Improvements**” shall mean those certain proposed physical improvements to: (i) the Manida Street Property; and, (ii) land that, as of the date of the Declaration, is located off of, and adjacent to, the Subject Property under the control of DPR. These proposed improvements, required of the Tenant Declarant pursuant to Section 3(a)(vi) hereof, include: (x) grading and finishing a parcel of land identified on the DPR Improvement Plan as presently under DPR jurisdiction with grass lawn, secured by fencing; (y) grading and finishing the Manida Street Property with grass lawn, secured by fencing; and (z) the development of a new retaining wall on land currently under the jurisdiction of DPR and adjacent to the Subject Property, as demonstrated on the DPR Improvement Plan. At the time of completion pursuant to Section 3(a)(vi)(C) hereof, the DPR Improvements shall include improvement of no less than 14,388 square feet of lot area, inclusive of the Manida Street Property, either then under the jurisdiction of DPR or intended to be transferred to DPR jurisdiction following completion of such DPR Improvements.

(n) “**DPR Improvement Plan**” shall mean that plan attached hereto as **Exhibit D**, illustratively demonstrating the locations of the DPR Improvements.

(o) “**DPR Rules and Regulations**” shall mean the Rules and Regulations of the New York City Department of Parks and Recreation, as the same may be amended from time to time.

(p) “**Final Completion**” or “**Finally Complete**” shall mean, as applicable: (i) the completion of a Publicly Accessible Open Space Portion in accordance with the PDC-approved design for such Publicly Accessible Open Space Portion; or (ii) the completion of the Publicly Accessible Open Space in accordance with the PDC-approved design for the Publicly Accessible Open Space. The standard of review of Final Completion shall be determined in accordance with DOB procedure.

(q) “**Legal Requirements**” shall mean all applicable laws, statutes and ordinances, and all orders, rules, regulations, interpretations, directives and requirements, of any governmental authority (including any Federal, State, City or County governmental authority or quasi-governmental authority, or any political subdivision of any thereof, or any agency, department, commission, board or instrumentality of any thereof) having jurisdiction over the matter in question.

(r) “**Overview Plan**” shall mean that plan attached hereto as **Exhibit E**, illustratively demonstrating the locations of the Publicly Accessible Open Space Portions and Buildings on the Subject Property.

(s) “**PDC**” shall mean the New York City Public Design Commission.

(t) “**Publicly Accessible Open Space**” shall mean the publicly accessible open space containing no less than 54,380 square feet and required to be developed on the Subject Property in accordance with Section 3(a) hereof. The Publicly Accessible Open Space includes, collectively: (i) the Building 1A Publicly Accessible Open Space; (ii) the Building 1B Publicly Accessible Open Space; (iii) the Building 2A Publicly Accessible Open Space; (iv) the Building 2B Publicly Accessible Open Space; and (v) the Building 3 Publicly Accessible Open Space.

(u) “**Publicly Accessible Open Space Portion**” or “**Publicly Accessible Open Space Portions**” shall mean, individually or collectively, as applicable: (i) the Building 1A Publicly Accessible Open Space; (ii) the Building 1B Publicly Accessible Open Space; (iii) the Building 2A Publicly Accessible Open Space; (iv) the Building 2B Publicly Accessible Open Space; and/or (v) the Building 3 Publicly Accessible Open Space; the location of each publicly accessible area demonstrated illustratively on the Overview Plan.

(v) “**Publicly Accessible Open Space Work**” shall mean the work necessary to construct each of the Publicly Accessible Open Space Portions in accordance with this Declaration.

(w) “**Substantial Completion**” or “**Substantially Complete**”, shall have the meaning ascribed to it in Section 3(a)(iv)(D)(1) hereof.

(x) **“ZR”** or **“Zoning Resolution”** shall mean the Zoning Resolution of the City of New York, as amended from time to time.

2. LARGE-SCALE GENERAL DEVELOPMENT.

(a) Designation of Large-Scale General Development. The Declarants hereby declare and agree that, following the Effective Date (as defined in Section 7 hereof), the Subject Property, if developed pursuant to the Large Scale Special Permits, shall be treated as a large-scale general development site and shall be developed or enlarged as a single unit.

(b) Development of Subject Property Pursuant to Large Scale Special Permits. If the Subject Property is developed in whole or in part in accordance with the Large Scale Special Permits, the Tenant Declarant covenants that the Subject Property shall be developed in substantial conformity with the following plans prepared by BLA+WXY, approved as part of the Large Scale Special Permits and annexed hereto in Exhibit F and made a part hereof (collectively, the “Large Scale Special Permit Plans”):

Drawing No.	Title	Date
Z-002	Zoning Analysis, List of Actions	undated
Z-010	Zoning Lot Site Plan	10.19.2017
Z-030	Waiver Plan	10.19.2017
Z-031	Waiver Diagrams Building 1A, 1B, 2A	10.19.2017
Z-032	Waiver Diagrams Building 2A, 2B	10.19.2017
Z-033	Waiver Diagrams Building 1A, 2B, 3	10.19.2017
Z-034	Waiver Diagrams Building 1B, 2A and 3	10.19.2017

(c) If the Declarants seek to develop the Subject Property other than pursuant to the Large Scale Special Permits, the Large Scale Special Permits shall be deemed surrendered and Declarants may not develop the Subject Property except as permitted by the zoning district regulations and any other applicable restrictions.

3. ENVIRONMENTAL PROTECTION MEASURES. Tenant Declarant shall implement the following PCREs and Mitigation Measures in accordance with the FEIS and as further set forth in this Section 3 for any development of the Subject Property pursuant to this Declaration.

(a) Project Component Related to the Environment – Publicly Accessible Open Space.

- i. Obligation to Construct Publicly Accessible Open Space. Tenant Declarant agrees to develop, provide, and maintain the Publicly Accessible Open Space as further set forth herein for any development of the Subject Property. The general purpose of the Publicly Accessible Open Space will be to serve as a neighborhood open space,

provide amenities for residents, workers, and the general public, and provide passive and active recreational space, including a variety of seating types and areas, including social seating.

- ii. Required Elements of Publicly Accessible Open Space. The Publicly Accessible Open Space shall include in all substantial respects the following required elements (individually, a “Required Element,” together, the “Required Elements”):
 - A. Size. The Publicly Accessible Open Space shall be no less than 54,380 square feet of the Lease Property’s lot area.
 - B. Components of Publicly Accessible Open Space. The Publicly Accessible Open Space shall include the following components, as identified illustratively on the Overview Plan:
 - (1) East-West Connection. A continuous pedestrian connection shall be provided through the Lease Property from Manida Street to Tiffany Street (the “East-West Connection”). The East-West Connection shall have a minimum width of 20 feet throughout its required length. The East-West Connection shall traverse the Central Open Area and Spofford Driveway (each described below).
 - (2) Central Open Area. An open area shall front upon Spofford Avenue and connect to Tiffany Street and Manida Street by the East-West Connection (the “Central Open Area”). The Central Open Area shall be no less than 22,300 square feet. The area of the East-West Connection traversing the Central Open Area shall be included in the square foot minimum area of the Central Open Area. The Central Open Area shall have no less than 85 feet of linear frontage along Spofford Avenue, and a minimum depth, measured from Spofford Avenue, of no less than 200 linear feet.
 - (3) Spofford Driveway. A driveway and accompanying pedestrian sidewalks shall be provided through the Lease Property allowing for vehicular and pedestrian access from Spofford Avenue to Building 2A (the “Spofford Driveway”).
 - C. Access for Persons with Disabilities: The Publicly Accessible Open Space, and each of the Publicly Accessible Open Space Portions, shall conform with applicable laws pertaining to access for persons with disabilities.
 - D. Signage: The Publicly Accessible Open Space, and each of the Publicly Accessible Open Space Portions, shall comply with all the provisions of ZR Section 37-751 (Public Space Signage Systems) as in effect on the date of this Declaration, as modified herein. All references therein to #public plaza# shall be replaced with the words “Publicly Accessible Open Space.” There shall also be four operating rules signs, one at each street entrance to the Publicly Accessible

Open Space. Such signs shall not exceed one foot square dimension and shall contain no lettering greater than ¾ inch in height.

- E. Permitted Obstructions: The provisions of ZR Sections 37-726 (Permitted Obstructions) and 23-12 (Permitted Obstructions in Open Space), as in effect on the date of this Declaration, shall apply to the Publicly Accessible Open Space and each of the Publicly Accessible Open Space Portions.

iii. Approval of Publicly Accessible Open Space Design; Implementation.

- A. Tenant Declarant agrees and acknowledges that (1) the design of the Publicly Accessible Open Space Portions will be subject to approval by PDC; and (2) the drawings and plans submitted by Tenant Declarant to PDC for its approval of the Publicly Accessible Open Space Portions shall be consistent with the Large Scale Special Permit Plans.
- B. DOB shall not issue a Building Permit for the development of a Building on the Subject Property until PDC has first reviewed and approved a design for the Publicly Accessible Open Space Portion associated with such Building.

iv. Construction of the Publicly Accessible Open Space Portions.

- A. Tenant Declarant shall construct each of the individual Publicly Accessible Open Space Portions substantially in accordance with the provisions of this Section 3(a)(iv), the Overview Plan, and the Required Elements after issuance of a Building Permit for Building 1A, Building 1B, Building 2A, Building 2B, and Building 3, as applicable. In particular:
 - (1) After issuance of a Building Permit for Building 1A, Tenant Declarant shall commence construction of the Building 1A Publicly Accessible Open Space;
 - (2) After issuance of a Building Permit for Building 1B, Tenant Declarant shall commence construction of the Building 1B Publicly Accessible Open Space;
 - (3) After issuance of a Building Permit for Building 2A, Tenant Declarant shall commence construction of the Building 2A Publicly Accessible Open Space;
 - (4) After issuance of a Building Permit for Building 2B, Tenant Declarant shall commence construction of the Building 2B Publicly Accessible Open Space; and
 - (5) After issuance of a Building Permit for Building 3, Tenant Declarant shall commence construction of the Building 3 Publicly Accessible Open Space.

B. Performance of Publicly Accessible Open Space Work. Tenant Declarant agrees that the Publicly Accessible Open Space Work shall be performed in accordance with all Legal Requirements and the provisions of this Declaration, it being expressly acknowledged by the City that the Tenant Declarant intends to construct the Publicly Accessible Open Space Portions substantially in accordance with the Overview Plan and the Required Elements.

C. Manner of Performance of the Construction Work. Tenant Declarant shall, at its sole cost and expense, undertake and complete the performance of the Publicly Accessible Open Space Work so as to construct the Publicly Accessible Open Spaces as required pursuant to the provisions of this Declaration. Tenant Declarant shall perform the Publicly Accessible Open Space Work in a good and workmanlike manner and in accordance with Legal Requirements.

D. Completion of Construction.

(1) Substantial Completion. Tenant Declarant shall not accept and DOB shall not issue a temporary certificate of occupancy (a “TCO”) with respect to any Building on the Subject Property until DOB has confirmed that the Publicly Accessible Open Space Portion associated with such Building is Substantially Complete. A Publicly Accessible Open Space Portion shall be deemed Substantially Complete upon confirmation by DOB that such Publicly Accessible Open Space Portion:

- a. Meets the minimum size limitations provided in Section 1(d) through Section 1(h), as applicable;
- b. Is consistent with the Overview Plan and the Required Elements, as applicable to such Building’s Publicly Accessible Open Space Portion; and
- c. Is safe for occupancy by the residents of the given Building and the general public.

Further, Tenant Declarant shall not accept and DOB shall not issue a TCO for Building 3 until DOB has confirmed that the Publicly Accessible Open Space is Substantially Complete. The Publicly Accessible Open Space shall be deemed Substantially Complete upon confirmation by DOB that the Publicly Accessible Open Space is consistent with the Required Elements and is safe for occupancy by the residents of the Projected Development and the general public.

(2) Final Completion. Tenant Declarant shall not accept and DOB shall not issue a permanent certificate of occupancy (a “PCO”) with respect to any Building on

the Subject Property until DOB has confirmed that the Publicly Accessible Open Space Portion associated with such Building is Finally Complete. Further, Tenant Declarant shall not accept and DOB shall not issue a PCO for Building 3 until DOB has confirmed that the Publicly Accessible Open Space is Finally Complete.

- E. Maintenance and Operation. The maintenance and operation provisions of this Section 3(a)(iv)(E) shall apply to the individual “Publicly Accessible Open Space Portions” notwithstanding the references herein to the “Publicly Accessible Open Space.” Tenant Declarant shall provide or, in Tenant Declarant’s sole discretion, cause to be provided, all services required for the maintenance and repair of the Publicly Accessible Open Space, and any paving, landscaping, equipment or furniture provided therein, as and when reasonably needed to preserve the Publicly Accessible Open Space and the amenities contained therein neat, clean and in good working order and condition as set forth in the following manner:

(1) Cleaning.

- a. Trash shall be collected regularly. Litter and other obstructions shall be removed as needed.
- b. Walkways and paths shall be cleaned and cleared as needed and maintained in good condition.
- c. Appropriate measures shall be taken to control rodents and pigeons.
- d. Graffiti shall be promptly removed or painted over.
- e. Drains, sewers and catch basins shall be cleaned regularly to prevent clogging.
- f. Snow shall be promptly removed to create a clear path for pedestrian walkways, and fallen branches and trees shall be removed promptly.

(2) Landscape and Feature Maintenance.

- a. Appropriate maintenance for planted areas shall be undertaken, including: pruning, trimming, and weeding; removal and replacement of plants, branches and trees that are dead or blighted; wrapping of trees, shrubs, and other plants as necessary to ensure adequate winter protection, and subsequent removal come springtime; replanting, reseeding and fertilizing as needed; moving of grass and watering of plantings as needed.

- b. Adequate lighting levels shall be maintained, and lighting equipment shall be repaired or replaced as necessary.
 - c. Water features within the Publicly Accessible Open Space, if any, shall be maintained in good condition and shall be required to be operational when the temperature outside is no less than 80 degrees, provided it shall be open at least between Memorial Day and Labor Day.
- (3) Repairs and Replacements. Repairs and replacements of features in the Publicly Accessible Open Space shall occur as needed to maintain the Publicly Accessible Open Space in a state of good repair. All repairs and replacements shall occur promptly, and shall include, but are not limited to, the following items:
 - a. Seating: All seating shall be repaired and repainted as necessary, including replacement of any moveable seating that has been removed.
 - b. Walls or Other Barriers: Any broken or cracked walls, fences or other barriers shall be repaired or replaced.
 - c. Paving: All paved surfaces shall be maintained in a safe and attractive condition.
 - d. Painting: All painted items shall be repainted and rust or other extraneous matter removed as needed.
 - e. Signage: All signs shall be maintained in good condition and cleaned or replaced if vandalized.
 - f. Construction Defects and Hazardous Conditions: The Publicly Accessible Open Space shall be periodically inspected for construction defects and hazardous conditions, and any portion or feature that exhibits defects or hazardous conditions shall be promptly repaired or replaced.
- v. Public Accessibility. Upon issuance of a TCO for a given Building pursuant to Section 3(a)(iv)(D) hereof, the Publicly Accessible Open Space Portion associated with such Building shall be publicly accessible. The public accessibility provisions of this Section 3(a)(v) shall apply to the individual “Publicly Accessible Open Space Portions” notwithstanding the references herein to the “Publicly Accessible Open Space.”

- A. The Publicly Accessible Open Space shall be open to the public during the hours of operation as set forth in Section 3(a)(v)(B) herein. No portion of the Publicly Accessible Open Space may be completely enclosed by a gate or fence during such hours of operation.
- B. Hours of Operation. The Publicly Accessible Open Space shall be open and accessible to the public from dawn until dusk, 365 days per year, except when required to be closed for no more than one (1) day per calendar year in order to preserve the private ownership of the area and/or for private events. Notwithstanding the foregoing, Tenant Declarant may, at its discretion, open the Publicly Accessible Open Space during nighttime hours for public access or private events.
- C. Rules and Regulations. Tenant Declarant shall have the right, but not the obligation, to establish rules and regulations governing public use of, and behavior in, the Publicly Accessible Open Space, which rules and regulations shall not conflict with DPR Rules and Regulations (56 RCNY §1-01 et seq.). Tenant Declarant shall operate the Publicly Accessible Open Space in conformity with DPR Rules and Regulations unless and until it promulgates rules and regulations of its own for use of the Publicly Accessible Open Space, to ensure that no member of the public shall use the Publicly Accessible Open Space for an activity or in a manner which injures, endangers or unreasonably disturbs the comfort, peace, health or safety of any person, or disturbs or causes injury to plant or animal life, or causes damage to the property or any person.
- D. Public Access. Except as provided in this Section 3(a)(v)(D), the Publicly Accessible Open Space shall be open and accessible to the public in accordance with this Declaration. Tenant Declarant may close the Publicly Accessible Open Space or portions thereof for periods as may be necessary in order to: (1) accomplish maintenance repairs or replacements; (2) make emergency repairs to mitigate hazardous conditions; and (3) address other emergency conditions. Emergency conditions for which the Publicly Accessible Open Space may be closed pursuant to (3) above shall be limited to actual or imminent emergency situations, including but not limited to, security alerts, riots, casualties, disasters, or other events engendering public health, safety or property, provided that no such closure shall continue for more than twenty-four (24) consecutive hours without Tenant Declarant having consulted with the New York City Police Department (the “NYPD”) or DOB, as appropriate, and having followed the NYPD’s or DOB’s direction, if any, with regard to the emergency situation. Tenant Declarant will close or permit to be closed only those portions of the Publicly Accessible Open Space which must or should reasonably be closed to effect the repairs, replacements or mitigation of hazardous site conditions to be undertaken pursuant to (1) through (3) above, and will exercise due diligence in the performance of such repairs, replacements or mitigation such that they are

completed expeditiously and the temporarily closed areas (or any portions thereof) are re-opened to the public promptly. Tenant Declarant shall provide notice to the Chair of any closure of the Publicly Accessible Open Space associated with scheduled repairs or replacements under (1) above, and anticipated closure time frame, and shall post information regarding the same at appropriate locations at entrances to and within the Publicly Accessible Open Space, not less than seven (7) days prior to such closure.

vi. Additional Open Space Commitments.

- A. Design of Additional Open Space Commitments. After the Effective Date hereof, Tenant Declarant shall prepare plans and specifications for the development of the DPR Improvements as demonstrated illustratively on DPR Improvement Plan, and shall proceed with obtaining all necessary approvals and consents from DPR in order to construct the same.
- B. Additional Open Space Commitments of Tenant Declarant. The Tenant Declarant acknowledges and agrees that it shall construct the DPR Improvements in accordance with the plans and specifications approved by DPR in accordance with Section 3(a)(vi)(A) hereof and all Legal Requirements. Upon commencement of construction of the DPR Improvements, Tenant Declarant shall proceed diligently to complete the DPR Improvements.
- C. Completion of the DPR Improvements. Notwithstanding anything to the contrary contained in this Declaration, including Section 3(iv)(D)(1), Tenant Declarant shall have the right to obtain a TCO with respect to Building 3 prior to completion of the DPR Improvements. Tenant Declarant shall not accept and DOB shall not issue a PCO with respect to Building 3 until DPR has confirmed by letter to DOB that the DPR Improvements have been constructed by Tenant Declarant in accordance with the plans and specifications approved by DPR in accordance with Section 3(a)(vi)(A) hereof. Tenant Declarant shall notify DPR at such time as it believes that the DPR Improvements have been constructed in accordance with the plans and specifications approved by DPR in accordance Section 3(a)(vi)(A) hereof, and shall request that DPR issue a letter to DOB certifying completion of construction of such DPR Improvements, which letter shall reference this Declaration and this Section 3(a)(vi)(C). No later than fifteen (15) days after receipt of such request, the DPR shall either issue the letter confirming completion of construction, or deliver to Tenant Declarant a notice specifying in detail the reasons why the DPR Improvements have not been constructed in accordance with the approved plans and specifications (a “Punch List”). If DPR has delivered such a Punch List notice to Tenant Declarant, then Tenant Declarant shall promptly perform the work specified in the Punch List to complete construction of the DPR Improvements, and after which shall notify DPR of such

completion (a “Follow-Up Notice”). No later than ten (10) calendar days after receipt of such Follow-Up Notice, DPR shall either issue a letter to DOB certifying completion of construction of the DPR Improvements as stipulated herein or notify Tenant Declarant that they have not completed the Punch List. This process shall continue until DPR has issued a letter to DOB certifying completion of construction of the DPR Improvements as stipulated herein. If DPR fails to provide a letter to DOB within the time periods set forth in this Section 3(a)(vi)(C), then DPR shall be deemed to have confirmed completion of the DPR Improvements in accordance with the plans and specifications approved by DPR in accordance with Section 3(a)(vi)(A) hereof. Nothing contained herein shall be construed to restrict Tenant Declarant’s right to accept, or DOB’s right to issue, a TCO with respect to Building 3 prior to DPR confirming completion of construction of the DPR Improvements pursuant to this Section 3(a)(vi)(C).

(b) Project Component Related to the Environment – Construction. Tenant Declarant acknowledges and agrees that the following PCRE measures will be memorialized in all relevant contracts to be entered into by Tenant Declarant for the construction of the Projected Development. Declarant shall retain a third party monitor (a “Monitor”) reasonably acceptable to either the Mayor’s Office of Environmental Coordination (“MOEC”) or the New York City Economic Development Corporation, to oversee, on behalf of MOEC, the implementation and performance by Declarant of the construction period PCREs and mitigation under Sections 3(b) and Section 3(c), respectively. The Monitor shall be a licensed engineer, architect, general contractor or environmental consultant with experience in environmental management and construction management (or multiple persons or firms employing such persons), including familiarity with the means and methods for implementation of the PCREs and mitigation.

- i. Construction Air Emissions Reduction Measures. To minimize pollutant emissions and ensure that the construction of the Projected Development results in the lowest practicable diesel particulate matter (DPM) emissions, Tenant Declarant shall implement the following PCRE measures related to air quality:
 - A. Clean Fuel. Ultra-low sulfur diesel shall be used exclusively for all diesel engines throughout the Subject Property.
 - B. Dust Control. To minimize fugitive dust emissions from construction activities, a fugitive dust control plan, including a robust watering program, shall be required as part of contract specifications. All trucks hauling loose material shall be equipped with tight-fitting tailgates and their loads securely covered prior to leaving the Subject Property; and water sprays shall be used for all demolition, excavation, and transfer of soils to ensure that materials would be dampened as necessary to avoid the suspension of dust into the air. Loose materials shall be watered, stabilized with a chemical suppressing agent, or covered. All measures required by the portion of the *New York City Department of Environmental*

Protection Construction Dust Rules regulating construction-related dust emissions shall be implemented.

- C. Idling Restrictions. In addition to adhering to the local law restricting unnecessary idling on roadways, on-site vehicle idle time shall be restricted to three minutes 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 are otherwise required for the proper operation of the engine.
 - D. Diesel Equipment Reduction. Electrically powered equipment shall be utilized over diesel-powered and gasoline-powered versions of that equipment to the extent practicable. Equipment that uses the grid power in lieu of diesel engines includes, but may not be limited to, hoists, the tower crane that would be employed during construction, and small equipment such as welders.
 - E. Best Available Tailpipe Reduction Technologies. Non-road diesel engines with a power rating of 50 horsepower (hp) or greater and controlled truck fleets (i.e., truck fleets under long-term contract with the project) including but not limited to concrete mixing and pumping trucks shall utilize the best available technology (BAT) for reducing DPM emissions. Diesel particulate filters (DPFs) have been identified as being the tailpipe technology currently proven to have the highest reduction capability. Construction contracts shall specify that all diesel nonroad engines rate at 50 hp or greater will utilize DPFs to the extent practicable, either installed by the original equipment manufacturer (OEM) or retrofitted. Retrofitted DPFs must be verified by EPA or the California Air Resources Board (CARB). Active DPFs or other technologies proven to achieve an equivalent reduction may also be used.
 - F. Utilization of Newer Equipment. EPA's Tier 1 through 4 standards for nonroad diesel engines regulate the emission of criteria pollutants from new engines, including PM, CO, NOx and hydrocarbons. All diesel-powered nonroad construction equipment with a power rating of 50 hp or greater shall meet at least the Tier 3 emissions standard. All diesel-powered engines in the project rated less than 50 hp shall meet at least the Tier 2 emissions standard.
- ii. Historic and Cultural Resources. Tenant Declarant shall commit to implementing DOB's Technical Policy and Procedure Notice (TPPN) #10/88 to prevent any construction related damage to the Corpus Christi Monastery wall, a State and National Register (S/NR) eligible historic resource, located along the northern edge of the Subject Property.
 - iii. Construction Noise Emissions Reduction Measures. To minimize noise emissions, Tenant Declarant shall implement the following PCRE measures to the extent feasible and practicable.

- A. Equipment that meets the sound level standards specified in Subchapter 5 of the *NYC Noise Control Code* and Table 22-1 of the *2014 CEQR Technical Manual* shall be utilized from the start of construction. Table 18-10 of the FEIS shows the noise levels for typical construction equipment and the mandated noise levels for the equipment that will be used for construction of the Projected Development.
- B. As early in the construction period as logistics will allow, diesel- or gas-powered equipment shall be replaced with electrical-powered equipment such as welders, water pumps, bench saws, and table saws (i.e., early electrification) to the extent feasible and practicable.
- C. Where feasible and practicable, the construction site shall be configured to minimize back-up alarm noise. In addition, where practicable trucks shall be limited to no more than three minutes of engine idling at the construction site based upon Title 24, Chapter 1, Subchapter 7, Section 24-163 of the *NYC Administrative Code*.
- D. Contractors and subcontractors shall be required to properly maintain their equipment and mufflers.
- E. Where logistics allow, noisy equipment, such as cranes, concrete pumps, concrete trucks, and delivery trucks, shall be located away from and shielded from sensitive receptor locations.
- F. Noise barriers constructed from plywood or other materials surrounding the construction site at a height of at least 8 feet shall be utilized to provide shielding. Where logistics allow, truck deliveries will take place behind these barriers.
- G. Path noise control measures (i.e., portable noise barriers, panels, enclosures, and acoustical tents, where feasible) shall be utilized for certain dominant noise equipment to the extent feasible and practical (i.e., generators, jack hammers, pile drivers and pumps). These barriers were assumed based on guidance from DEP's *Rules for Citywide Construction Noise Mitigation* to offer a 10 dBA reduction in noise levels for each piece of equipment to which they are applied, as shown in Table 18-10 of the FEIS. The details to construct portable noise barriers, enclosures, tents, etc. are also shown in DEP's *Rules for Citywide Construction Noise Mitigation*.

(c) Mitigation Measure – Construction Noise. Tenant Declarant shall implement the following mitigation measures related to construction noise:

- i. A 12 foot high perimeter noise wall will be constructed around each construction area. The wall will be lined with quilted fiberglass to improve sound absorption and reduce construction noise levels at surrounding properties
- ii. An on-site acoustical enclosure for concrete mixing trucks will be provided. Concrete mixing trucks will be enclosed on three sides (with the open side facing north into the construction work area) during concrete mixing and pouring as well as wash-down. The enclosure will be constructed either from plywood with quilted fiberglass on the inner faces or from an approved alternate material with comparable acoustical properties (i.e., STC 35 and NRC 0.85).

(d) Mitigation Measures Relating to Transportation – Traffic Signal Installation. Tenant Declarant shall implement the following mitigation measure related to traffic. To the extent required by the DOT, Tenant Declarant shall comply with DOT requirements necessary to implement signal installation measures specified in the FEIS or measures having comparable benefits as specified by DOT, and will either implement such measures as directed by DOT, or, if directed by DOT, pay DOT for the ordinary and customary costs of implementing such improvements (including but not limited to the costs of the design and construction of such improvements).

4. BINDING EFFECT.

(a) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon Landlord Declarant only for the period during which it holds a fee interest in the Subject Property. At such time as Landlord Declarant ceases to hold fee title to the Subject Property, Landlord Declarant's obligations and liability with respect to this Declaration shall wholly cease and terminate, and Landlord Declarant's successors in interest in the Subject Property shall be deemed to have assumed such party's obligations and liabilities thereafter arising hereunder.

(b) Any party who succeeds to the interest of Landlord Declarant under this Declaration shall be bound by this Declaration only for as long as the Projected Development exists on the Subject Property, and shall be deemed to have ratified all actions of Landlord Declarant taken in accordance with this Declaration.

(c) The restrictions, covenants and agreements set forth in this Declaration shall be binding upon Tenant Declarant only for the period during which it holds a leasehold interest in the Subject Property. At such time as Tenant Declarant ceases to hold a leasehold interest in the Subject Property, Tenant Declarant's obligations and liability with respect to this Declaration shall wholly cease and terminate, and Tenant Declarant's successors in interest in the Subject Property shall be deemed to have assumed such party's obligations and liabilities thereafter arising hereunder.

(d) Any party who succeeds to the interest of Tenant Declarant under this Declaration shall be bound by this Declaration only for as long as the Projected Development exists on the Subject Property, and shall be deemed to have ratified all actions of Tenant Declarant taken in accordance with this Declaration.

(e) Provided the Lease Property has been subdivided into two or more tax lots in accordance with this Declaration and all Legal Requirements, any party who succeeds to the interest of Tenant Declarant under this Declaration in relation to a portion of the Lease Property shall be bound by Section 3(a) of this Declaration only with respect to the Publicly Accessible Open Space Portion associated with the applicable Building that is to be constructed, or has been constructed, on such successor's leasehold estate.

(f) Notwithstanding anything to the contrary contained in this Declaration, the City and any other party or person relying on this Declaration shall look solely to the leasehold estate and interest of Tenant Declarant on an in rem basis only, for the enforcement of any remedy based upon any breach by Tenant Declarant under this Declaration, and no other property of Tenant Declarant or its principals, disclosed or undisclosed, direct or indirect partners, shareholders, directors, officers, members, managers or employees shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of the City under or with respect to this Declaration, and no such party shall have any personal liability under this Declaration. Notwithstanding the foregoing, nothing herein shall be deemed to preclude, qualify, limit or prevent any of the City's governmental rights, powers or remedies, including, without limitation, with respect to the satisfaction of the remedies of the City, under any laws, statutes, codes or ordinances.

5. NO CONSENT REQUIRED. Unless required by the New York City Charter, nothing contained herein shall be construed as requiring the consent of CPC, the City, any agency thereof or any other person or entity to any sale, transfer, conveyance, mortgage, pledge, lease or assignment of any interest in or any encumbrance on or affecting all or any portion of the Subject Property.

6. RECORDATION. Tenant Declarant shall file and record this Declaration in the Office of the City Register of the City of New York (the "Register's Office"), indexing it against the Subject Property within 30 days after the date of Lease and the Assignment (such date, the "Recording Date"). Tenant Declarant shall promptly provide to the Chair a copy of the Declaration as recorded, so certified by the Register's Office. If Tenant Declarant fails to so record this Declaration by the Recording Date, Landlord Declarant or CPC may record a duplicate original of this Declaration at such time that a Building Permit has been filed with DOB relating to any "new building" associated with the Projected Development, but all costs of recording, whether undertaken by Landlord Declarant or CPC, shall be borne by Tenant Declarant.

7. EFFECTIVE DATE. This Declaration and the provisions and covenants hereof shall become effective as of the date of recordation of this Declaration in accordance with Section 6

above (the “Effective Date”).

8. INVALIDITY.

(a) Notwithstanding anything to the contrary in this Declaration, if the Large Scale Special Permits are at any time declared invalid or are otherwise voided by 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 entry, as the case may be, any reference in this Declaration to the Large Scale Special Permits shall be automatically severed from the remainder of this Declaration and cancelled without further action by Declarants. Such severed and canceled references to the Large Scale Special Permits shall be of no further force or effect and CPC shall, if requested by any Declarant, provide such Declarant with a letter in recordable form stating that the any such reference in this Declaration to the Large Scale Special Permits have been so canceled and are of no further force and effect.

(b) Notwithstanding anything to the contrary in this Declaration, if any of the Approvals are at any time declared invalid or are otherwise voided by 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 entry, as the case may be, this Declaration shall be automatically canceled without further action by Declarants and shall be of no further force or effect and CPC shall, if requested by any Declarant, provide such Declarant with a letter in recordable form stating that the Declaration has been so canceled and is of no further force and effect.

9. NOTICE. 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:

(a) If to Tenant Declarant:

Peninsula JV, LLC
c/o The Hudson Companies, Inc.
826 Broadway, 11 FL
New York, NY 10003
Attn: Aaron Koffman

and

Peninsula JV, LLC
c/o Gilbane Construction Company
7 Jackson Walkway

Providence, RI 02903
Attn: Ed Broderick

and

Peninsula JV, LLC
c/o MHANY Management, Inc.
1 MetroTech Center North, 11 FL
Brooklyn, NY 11201
Attn: Ismene Speliotis

With copies thereof to:

Hirschen Singer & Epstein LP
902 Broadway, 13th FL
New York, NY 10010
Attn: Russell Kivler, Esq.

and

Slater & Beckerman, PC
40 Exchange Place, Suite 1502
New York, NY 10005
Attn: Stuart Beckerman, Esq.

(b) If to Landlord Declarant:

The City of New York
City Hall
New York, New York 10007
Attn: Deputy Mayor for Housing and Economic Development

With copies thereof to:

New York City Law Department
100 Church Street
New York, New York 10007
Attn: Chief, Economic Development Division

and

New York City Economic Development Corporation
110 William Street

New York, New York 10038
Attn: General Counsel

(c) if to CPC:

New York City Planning Commission
120 Broadway, 31st Floor
New York, New York 10271
Attn: Chairperson

With a copy to:

The general counsel of CPC at the same address

(d) if to a Party in Interest other than Declarants:

at the address provided in writing to CPC in accordance with this Section 9

The Declarants, CPC or any Party in Interest may, by notice as provided herein, change any name or address 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 be 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 CPC to any of the Declarants shall also be sent to every other Party-in-Interest of whom CPC has notice, and no Notice shall be deemed properly given to any of the Declarants without such notice to such every other Party-in-Interest.

10. DEFAULTS AND REMEDIES.

(a) Tenant Declarant acknowledge 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 and general public. If Tenant Declarant fails to perform any of Tenant Declarant's obligations under this Declaration, the City shall have the right to enforce this Declaration solely against Tenant Declarant and exercise any administrative, legal, or equitable remedy available to the City, and Tenant Declarant hereby consents to same; provided: (1) that this Declaration shall not be deemed to diminish Tenant Declarant's or any other Party in Interest's right to exercise any and all administrative, legal, or equitable remedies otherwise available to it; (2) that the City's rights of enforcement under this Declaration shall be subject to the cure provisions as provided herein; and (3) provided the Lease Property has been subdivided into

two or more tax lots in accordance with this Declaration and all Legal Requirements, and a party succeeds to the interest of Tenant Declarant under this Declaration in relation to a portion of the Lease Property, if such successor fails to perform any of Tenant Declarant's obligations under this Declaration in relation to the Building or Publicly Accessible Open Space Portion within such successors leasehold estate, the City shall enforce this Declaration solely against such successor in interest to the Tenant Declarant. Tenant 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 including, but not limited to, a mandatory injunction compelling Tenant 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 portion of the Projected Development that does not comply with the terms of this Declaration, provided that no certificate of occupancy, temporary or permanent, may be revoked by the City for any Building constituting the Proposed Development that can be shown by Declarants to be in compliance with the terms of this Declaration and the FEIS, which determination of compliance shall be made by the Chair. In furtherance of the foregoing, in any proceedings brought by the City against Tenant Declarant to enforce the obligations of this Declaration, seeking to deny or revoke building permits or certificates of occupancy for the Projected Development, or to impose a lien, fine, or other penalty, if the event or occurrence which is the basis of an allegation of a failure to comply by Tenant Declarant is a failure to perform an obligation associated with a particular Building, then the City shall only deny or seek the revocation of building permits or certificates of occupancy for the affected Building, and only seek to impose a fine, lien, or other penalty on the affected Building, and any such event or occurrence shall not provide the basis for denial or revocation of building permits or certificates of occupancy or the imposition of a fine, lien, or other penalty with respect to Buildings for which no failure to comply has occurred.

(b) Notwithstanding any provision of this Declaration, only Landlord Declarant and its 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.

(c) Prior to the City instituting any proceeding to enforce the terms or conditions of this Declaration due to any alleged violation hereof, the City shall give Declarants and any mortgagees of whom the City has received notice in accordance with Section 9 ("Mortgagee") hereof forty five (45) days written notice of such alleged violation, during which period Tenant Declarant and any Mortgagee shall have the opportunity to effect a cure of such alleged violation or to demonstrate to the City why the alleged violation has not occurred. If a Mortgagee performs any obligation or effects any cure Tenant Declarant is required to perform or cure pursuant to this Declaration, such performance or cure shall be deemed performance on behalf of Tenant Declarant and shall be accepted by any person or entity benefited hereunder, including CPC, the City, and Landlord Declarant, as if performed by Tenant Declarant. If Tenant Declarant or any Mortgagee commences to effect such cure within such forty five (45)

day period (or if cure is not capable of being commenced within such forty five (45) day period, Tenant Declarant or any Mortgagee commences to effect such cure when such commencement is reasonably possible), and thereafter proceeds diligently toward the effectuation of such cure, the aforesaid forty five (45) day period (as such may be extended in accordance with the preceding clause) shall be extended for so long as Tenant Declarant or any Mortgagee continues to proceed diligently with the effectuation of such cure. The time period for performing obligations contemplated herein or curing any violation by Tenant Declarant and/or any Mortgagee shall be subject to extension for Uncontrollable Circumstances (as hereinafter defined) pursuant to Section 10(e) of this Declaration.

(d) If, after due notice and opportunity to cure as set forth in this Declaration, Tenant Declarant or a Mortgagee shall fail to cure the alleged violation, the City may exercise any and all of its rights, and may disapprove any amendment, modification or cancellation of this Declaration on the sole ground that Tenant Declarant is in default of a material obligation under this Declaration. Notwithstanding the foregoing, in the event of a denial of public access to the Publicly Accessible Open Space, Tenant Declarant shall have the opportunity to effect a cure of such denial within twenty-four (24) hours of receipt thereof. If such denial of access continues beyond such period, the City may thereupon exercise any and all of its rights, including seeking a mandatory injunction, and the provisions of this Section 10 shall not apply to the denial of public access.

(e) Uncontrollable Circumstances.

- i. In the event that, as the result of Uncontrollable Circumstances (defined herein), Tenant Declarant is unable to perform or complete any obligation under this Declaration (A) at the time or times required by this Declaration; (B) at the date set forth in this Declaration for such action, if a specific date for such requirement is set forth herein; or (C) prior to submitting an application for a building permit for the Projected Development or other permit or certificate of occupancy (TCO or PCO) which is tied to the completion of such requirement, where applicable, Tenant Declarant shall promptly, on or about thirty (30) days, after the occurrence of Uncontrollable Circumstances becomes apparent, so notify the Chair in writing. Such notice (the “Delay Notice”) shall include a description of the Uncontrollable Circumstances, their cause and probable duration, and the steps proposed to be taken by Tenant Declarant to mitigate the effects of the Uncontrollable Circumstances. In the exercise of his or her reasonable judgment the Chair shall, within thirty (30) days of its receipt of the Delay Notice (A) certify in writing that the Uncontrollable Circumstances have occurred; or (B) notify Tenant Declarant that it does not reasonably believe that the Uncontrollable Circumstances have occurred. Upon a certification that Uncontrollable Circumstances have occurred, the Chair may grant Tenant Declarant appropriate relief and, as a condition thereto, may require that Tenant Declarant post a bond, letter of credit or other reasonable security in a form reasonably acceptable to the City in order to ensure that the obligation will be

completed in accordance with the provisions of this Declaration.

- ii. Any delay caused as the result of Uncontrollable Circumstances shall be deemed to continue only as long as the Uncontrollable Circumstances continue. Upon cessation of the Uncontrollable Circumstance causing such delay, Tenant Declarant shall promptly recommence the work or implement the measure needed to complete the obligation, in accordance with any applicable directive of the Chair previously issued in connection with a grant of relief, unless an alternative has been specified and agreed to in accordance with this Section 10(e).
- iii. “Uncontrollable Circumstances” shall mean occurrences beyond Tenant Declarant’s reasonable control, and for which Tenant Declarant has taken all steps within Tenant Declarant’s control reasonably necessary to control or minimize, which cause delay in the performance of obligations under this Declaration, including, without limitation, delays resulting from (A) governmental restrictions, limitations, regulations or controls (provided that such are other than ordinary restrictions, limitations, regulations or controls); (B) 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); (C) labor disputes (including strikes, lockouts not caused by Tenant Declarant, slowdowns and similar labor problems); (D) acts of God (including severe weather conditions); (E) war, sabotage, hostilities, invasion, insurrection, riot, acts of terrorism, mob violence, malicious mischief, embargo, quarantines, national, regional or local disasters, calamities or catastrophes, national emergencies, enemy or hostile governmental action, civil disturbance or commotion, earthquake, flood, fire or other casualty; (F) a taking of the whole or any relevant portion of the Subject Property by condemnation or eminent domain; (G) soil conditions that could not have been foreseen that substantially delay construction of any relevant portion of the Subject Project or substantially impair the ability to develop the Subject Property in the manner contemplated by this Declaration; (H) denial to Tenant Declarant by any party of a right of access to any adjoining real property or to the Subject Property which right is vested in Tenant Declarant, by contract or pursuant to applicable law, if such access is required to accomplish the obligations of Tenant Declarant pursuant to this Declaration; (I) inability of a public utility to provide power, heat or light or any other utility service, despite reasonable efforts by Tenant Declarant to procure same from the utility; and, (J) any extraordinary material delay by any department or agency of the City, State of New York or United States government in the issuance of approvals required in order to permit Tenant Declarant to carry out its obligations under this Declaration that is not caused by any act or omission of the Tenant Declarant, as determined by the Chair in accordance with this Section 10(e). In no event shall any of the following constitute Uncontrollable Circumstances: (A) failure to obtain or timely obtain financing, (B) removal of hazardous substances or (C) the inability to (1) pay a sum

of money or (2) obtain or timely obtain any approval or cooperation of a mortgagee.

11. APPLICATIONS.

(a) Tenant Declarant shall include a copy of this Declaration with any application made to DOB for a Building Permit for any portion of the Projected Development subject to the Large Scale Special Permits.

(b) Nothing in this Declaration shall be construed to prevent Declarants or any of their respective successors or assigns from making any application of any sort to any governmental agency or department (each an “Agency”) in connection with the development of the Subject Property; provided, that Declarants shall include a copy of this Declaration in connection with any application for any such discretionary approval, and provided that nothing in this Section 11(b) shall be construed as superseding the requirements, restrictions, or approvals that may be required under agreements with any other Agency or the City.

12. AMENDMENT, MODIFICATION AND CANCELLATION.

(a) This Declaration may be amended, cancelled, or modified only upon application by Tenant Declarant with the consent of Landlord Declarant (which consent shall not be unreasonably withheld) with the express written consent of CPC or an agency succeeding to CPC’s jurisdiction and no other approval shall be required from any other public body, private person, or legal entity of any kind.

(b) Notwithstanding anything to the contrary contained in Section 12(a) hereof, the Chair may by its express written consent administratively approve a modification or amendment to this Declaration that, in the sole judgment of the Chair, are determined to be a minor amendment or modification of this Declaration, and such minor modification or amendment shall not require the approval of CPC.

13. SURRENDER. In the event that Tenant Declarant does not construct the Projected Development pursuant to the Large Scale Special Permits, Tenant Declarant may surrender the Large Scale Special Permits to CPC, and Tenant Declarant may, subject to the Lease, proceed with any use or development of the Subject Property permitted by the Zoning Resolution and any other applicable restrictions as if such Large Scale Special Permits had not been granted. In the event of such a surrender of the Large Scale Special Permits, any reference in this Declaration to the Large Scale Special Permits shall be automatically severed from the remainder of this Declaration and cancelled without further action by Declarants. Such severed and canceled references to the Large Scale Special Permits shall be of no further force or effect and CPC shall, if requested by any Declarant, provide such Declarant with a letter in recordable form stating that the any such reference in this Declaration to the Large Scale Special Permits have been so canceled and are of no further force and effect.

14. WAIVER. For so long as (i) Tenant Declarant or (ii) any successor entity to the balance and entirety of Tenant Declarant's leasehold interest in the Subject Property (the "Successor Declarant") shall hold a leasehold interest in the Subject Property or any portion thereof, all other Parties-in-Interest (other than Landlord Declarant), their heirs, successors, assigns and legal representatives hereby irrevocably (i) consent to any modification, amendment, cancellation, revision or other change in this Declaration, (ii) waive any rights they may have to enter into an amended Declaration or other instrument modifying, cancelling, revising or otherwise changing this Declaration, and (iii) nominate, constitute and appoint Tenant 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 hereafter be required to modify, amend, cancel, revise or otherwise change this Declaration or to evidence such Party-In-Interest's consent or waiver of rights as set forth in this Section 14.

15. SEVERABILITY. In the event that any of the provisions 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 severable and the remainder of this Declaration shall continue to be in full force and effect. To the extent such invalidity or unlawfulness is due to the invalidity of the Large Scale Special Permits, as described in Section 13 hereof, this Declaration shall be severed as provided in Section 13.

16. APPLICABLE 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.

17. INDEMNIFICATION. Provided that Tenant Declarant is found by a court of competent jurisdiction to have been in default in the performance of its obligations under this Declaration after having received written notice of such default and opportunity to cure as provided above, and such finding is upheld on final appeal, or the time for further review of such finding on appeal or by other proceeding has lapsed, subject to the terms hereof, Tenant Declarant, without limiting the generality of the indemnity by Tenant Declarant provided in the Lease, shall indemnify and hold harmless the City, Landlord Declarant, LDC, New York City Economic Development Corporation, and CPC (each, an "Indemnified Party," collectively, the "Indemnified Parties") from and against all of its reasonable legal and administrative expenses arising out of or in connection with the City's enforcement of such obligations under this Declaration.

18. FAILURE TO COMPLY. Tenant Declarant acknowledges that failure to comply with the terms of this Declaration and/or the Lease, may constitute the basis for a denial of a certificate of occupancy (permanent or temporary), or revocation thereof, or constitute grounds for CPC to disapprove any application for a modification or amendment of this Declaration.

19. CONFLICT IN TERMS. In the event of a conflict between any provisions of the Lease and any provisions of this Declaration, the term that imposes the more stringent requirement on Tenant Declarant shall govern.

20. CAPACITY OF LANDLORD DECLARANT. Landlord Declarant's rights, duties and liabilities under this Declaration are limited to its status as the owner of the Subject Property. In the event of a default hereunder by Tenant Declarant, Landlord Declarant shall not be obligated to cure such default or perform any other obligation of Tenant Declarant hereunder. No provision in this Declaration that sets forth the rights, duties and liabilities of Landlord Declarant shall restrict or limit any City agency or other governmental body in the lawful exercise of its executive, judicial, legislative or administrative powers, including, without limitation the City's right to enforce municipal statutes, rules and regulations, local laws, etc., including, without limitation, the ZR and the Administrative Code of the City of New York.

21. 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, the undersigned have executed this Declaration as of the day and year first written above.

THE CITY OF NEW YORK

By: _____

Name:

Title:

Approved as to Form:

Acting Corporation Counsel

[THE PENINSULA JV, LLC]

By: _____

Name:

Title:

ACKNOWLEDGEMENT

STATE OF)
) SS.:
COUNTY OF)

On the ____ day of _____, 20____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

STATE OF)
) SS.:
COUNTY OF)

On the ____ day of _____, 20____, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

EXHIBIT A-1

Manida Street Property

EXHIBIT A-2

Lease Property

EXHIBIT B

Certification

EXHIBIT C

Form of Waiver

EXHIBIT D

DPR Improvement Plan

EXHIBIT E

Overview Plan

EXHIBIT F

Large Scale Special Permit Plans