



**IN THE MATTER OF** an application submitted by Maspeth Manager, LLC and the NYC Department of Housing Preservation and Development 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 requirements of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) and Section 23-711 (Standard minimum distance between buildings), in connection the development of two new buildings and the enlargement and conversion of two existing buildings, within a large-scale general development generally bounded by Jackson Avenue, Debevoise Avenue, Maspeth Avenue and Kingsland Avenue (Block 2885, Lots 1, 20, 23, 28 and 32), in R7-2 and R7-2/C2-4 Districts, Borough of Brooklyn, Community District 1.

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The New York City Department of Housing Preservation and Development (HPD) and Maspeth Manager LLC, filed an application for a special permit to establish a Large-Scale General Development (LSGD) pursuant to Zoning Resolution (ZR) Sections 74-74 and 74-743(a)(2) on June 14, 2021, to facilitate the redevelopment of the former Greenpoint Hospital campus into a mixed-use development with two new buildings and the enlargement of two existing buildings containing 556 units of affordable housing, senior housing, replacement of a 200-bed homeless shelter, community facility uses, and light retail on the site located in the East Williamsburg neighborhood of Brooklyn, Community District 1.

### **RELATED ACTIONS**

In addition to this application (C 210481 ZSK) for special permit to establish an LSGD that is the subject of this report, the proposed project also requires action by the City Planning Commission (CPC or Commission) on the following applications, which are being considered concurrently with this application:

- C 210480 ZMK**      Zoning map amendment to rezone the project area from an R6 zoning district to R7-2 and R7-2/C2-4 zoning districts
- N 210482 ZRK**      Zoning text amendment to Appendix F to establish the project area as a Mandatory Inclusionary Housing (MIH) Area
- C 210483 HAK**      Urban Development Action Area (UDAA) designation, Urban Development Action Area Project (UDAAP) approval, and disposition of City-owned property

**C 210484 PPK** Disposition approval to change use restriction from a health care facility to a general community facility use

## **BACKGROUND**

A full background discussion and description of this application (C 210481 ZSK) appears in the report for the application of the UDAA designation, project approval, and disposition of City-owned property (C 210483 HAK).

## **ENVIRONMENTAL REVIEW**

This application (C 210481 ZSK), in conjunction with the applications for related actions (C 210480 ZMK, N 210482 ZRK, C 210483 HAK, and C 210484 PPK) were 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 New York City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 20HPD007K. The lead is the City Planning Commission.

After a study of the potential environmental impact of the proposed actions, a Negative Declaration was issued on June 18, 2021.

### **Community Board Review**

Brooklyn Community Board 1 held a public hearing on this application (C 210481 ZSK) and the related actions (C 210480 ZMK, N 210482 ZRK, C 210483 HAK, and C 210484 PPK) on July 12, 2021, and on that date, by a vote of 20 in favor, none opposed and seven abstaining, adopted a resolution recommending approval of the application.

### **Borough President Review**

The Brooklyn Borough President held a public hearing on this application (C 210481 ZSK) and the related actions (C 210480 ZMK, N 210482 ZRK, C 210483 HAK, and C 210484 PPK). The

Brooklyn Borough President submitted a recommendation on September 9, 2021, approving this application and the related actions with conditions. A summary of the Borough President's recommendation appears in the report for the application of the UDAA designation, project approval, and disposition of City-owned property (C 210483 HAK).

### **City Planning Commission Public Hearing**

On August 18, 2021 (Calendar No. 4), the CPC scheduled September 1, 2021, for a public hearing on the application (C 210481 ZSK) and the related actions (C 210480 ZMK, N 210482 ZRK, C 210483 HAK, and C 210484 PPK). The hearing was duly held on September 1, 2021 (Calendar Nos. 46). Six speakers testified in favor of the application and none in opposition, as described in the report for the related action (C 210483 HAK), and the hearing was closed.

### **CONSIDERATION**

The Commission believes that this application (C 210481 ZSK) for the grant of a special permit to establish an LSGD is appropriate. A full consideration and analysis of the issues and reasons for approval of this application appear in the report of the related application for a UDAA designation, project approval, and disposition of City-owned property (C 210483 HAK).

### **FINDINGS**

The City Planning Commission hereby makes the following findings pursuant to Section 74-743(a)(2) of the Zoning Resolution:

- (1) the distribution of floor area, open space, dwelling units, rooming units and the location of buildings, primary business entrances and show windows will result in a better site plan and a better relationship among buildings and open areas to adjacent streets, surrounding development, adjacent open areas and shorelines than would be possible without such distribution and will thus benefit both the occupants of the large-scale general development, the neighborhood and the City as a whole;
- (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 therefore;
- (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 Environmental Assessment Statement (EAS) for which a Negative Declaration was issued on June 18,2020, with respect to this application (CEQR No. 20HPD007K), the City Planning Commission finds that the action described herein will have no significant adverse impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, 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 requirements of Section 23-66 (Height and Setback Requirements for Quality Housing Buildings) and Section 23-711 (Standards minimum distance between buildings), in connection the development of two new buildings and the enlargement and conversion of two existing buildings, within a large-scale general development generally bounded by Jackson Avenue, Debevoise Avenue, Maspeth Avenue and Kingsland Avenue (Block 2885, Lots 1, 20, 23, 28 and 32), in R7-2 and R7-2/C2-4 Districts, Borough of Brooklyn, Community District 1 is approved

subject to the following terms and conditions:

- 1. The property that is the subject of this application (C 210481 ZSK) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications and zoning computations indicated on the following plans, prepared by Magnusson Architecture & Planning PC, filed with this application, and incorporated in this resolution:

<b>Dwg No.</b>	<b>Title</b>	<b>Last Revised Date</b>
Z-002.00	Zoning Analysis, Base Plane Calculations	06/07/2021
Z-010.00	Zoning Lot Site Plan	06/07/2021
Z-030.00	Waiver Plan	06/07/2021
Z-040.00	West-East Section 1	06/07/2021
Z-041.00	West-East Section 2	06/07/2021
Z-042.00	West-East Section 3	06/07/2021
Z-043.00	North-South Section 1	06/07/2021
Z-044.00	North-South Section 2	06/07/2021
Z-045.00	North-South Section 3	06/07/2021
Z-054.00	Illustrative Axonometrics	04/30/2021
P-001.00	PAA Phasing Plan	06/07/2021
P-002.00	Publicly Accessible Area Plan	06/07/2021
L-001.00	Site Plan	06/07/2021
L-101.00	Open Area Plan	06/07/2021
L-201.00	Layout and Grading Plan	06/07/2021
L-301.00	Planting Plan	06/07/2021
L-401.00	Furniture and Fencing Plan	06/07/2021
L-501.00	Fence and Furnishing Details	06/07/2021
L-502.00	Planting Details	06/07/2021

- 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. 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.
5. No development pursuant to this resolution shall be permitted until the Restrictive Declaration attached as Exhibit A, as same may be modified with any necessary administrative or technical changes, all as acceptable to the Counsel of the Department of City Planning, is executed and recorded and such Restrictive Declaration shall have been recorded and filed in the Office of the Register of the City of New York, County of Kings. Such Restrictive Declaration shall be deemed incorporated herein as a condition of this resolution.
6. In the event the property that is the subject of the application is developed as, sold as, or converted to condominium units, a homeowners association, or cooperative ownership, a copy of this report and resolution and any subsequent modifications 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 this property.
7. 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 (C 210481 ZSK) 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 or breach of any of the conditions as stated above, may constitute grounds for the City Planning Commission or City Council, as applicable, to disapprove any application for modification, renewal or extension of the special permit hereby granted or of the attached restrictive declaration.
8. 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 210481 ZSK), duly adopted by the City Planning Commission on October 6, 2021 (Calendar No. 22), is filed with the Office of the Speaker, City Council, and the Brooklyn Borough President, in accordance with the requirements of Section 197-d of the New York City Charter.

**ANITA LAREMONT, *Chair***

**KENNETH J. KNUCKLES, Esq., *Vice-Chairman***

**DAVID J. BURNEY, ALFRED C. CERULLO, III, JOSEPH I. DOUEK, RICHARD W. EADDY, HOPE KNIGHT, ANNA HAYES LEVIN, ORLANDO MARIN, LARISA ORTIZ, RAJ RAMPERSHAD, *Commissioners***



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> Cooper Park Commons	
<b>Applicant:</b> HPD - NYC Dept of Housing Preservation & Development	<b>Applicant's Primary Contact:</b> Lin Hua Zeng
<b>Application #</b> 210480ZMK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 20HPD007K	<b>Validated Community Districts:</b> K01

**Docket Description:**

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

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 20	<b># Against:</b> 0	<b># Abstaining:</b> 7	<b>Total members appointed to the board:</b> 27
<b>Date of Vote:</b> 7/12/2021 12:00 AM		<b>Vote Location:</b> WEBEX	

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

<b>Date of Public Hearing:</b> 7/12/2021 6:00 PM	
<b>Was a quorum present?</b> Yes	<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>
<b>Public Hearing Location:</b>	WEBEX

**CONSIDERATION:** Please see the attached.

Recommendation submitted by	BK CB1	Date: 7/16/2021 4:45 PM
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# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> Cooper Park Commons	
<b>Applicant:</b> HPD - NYC Dept of Housing Preservation & Development	<b>Applicant's Primary Contact:</b> Lin Hua Zeng
<b>Application #</b> 210481ZSK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 20HPD007K	<b>Validated Community Districts:</b> K01

**Docket Description:**

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

**RECOMMENDATION: Favorable**

<b># In Favor:</b> 20	<b># Against:</b> 0	<b># Abstaining:</b> 7	<b>Total members appointed to the board:</b> 27
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*Please attach any further explanation of the recommendation on additional sheets as necessary*

**Date of Public Hearing:** 7/12/2021 6:00 PM

**Was a quorum present?** Yes

*A public hearing requires a quorum of 20% of the appointed members of the board but in no event fewer than seven such members*

**Public Hearing Location:**

WEBEX

**CONSIDERATION:** Please see the attached.

Recommendation submitted by	BK CB1	Date: 7/16/2021 4:45 PM
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# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> Cooper Park Commons	
<b>Applicant:</b> HPD - NYC Dept of Housing Preservation & Development	<b>Applicant's Primary Contact:</b> Lin Hua Zeng
<b>Application #</b> 210482ZRK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 20HPD007K	<b>Validated Community Districts:</b> K01

**Docket Description:**

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

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 20	<b># Against:</b> 0	<b># Abstaining:</b> 7	<b>Total members appointed to the board:</b> 27
<b>Date of Vote:</b> 7/12/2021 12:00 AM		<b>Vote Location:</b> WEBEX	

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

<b>Date of Public Hearing:</b> 7/12/2021 6:00 PM	
<b>Was a quorum present?</b> Yes	<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>
<b>Public Hearing Location:</b>	WEBEX

**CONSIDERATION:** Please see the attached.

<b>Recommendation submitted by</b>	BK CB1	<b>Date:</b> 7/16/2021 4:45 PM
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# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> Cooper Park Commons	
<b>Applicant:</b> HPD - NYC Dept of Housing Preservation & Development	<b>Applicant's Primary Contact:</b> Lin Hua Zeng
<b>Application #</b> 210483HAK	<b>Borough:</b>
<b>CEQR Number:</b> 20HPD007K	<b>Validated Community Districts:</b> K01

**Docket Description:**  
IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD)

1) pursuant to Article 16 of the General Municipal Law of New York State for:

a. the designation of property located at 288 Jackson Avenue (Block 2885, Lot 1) as an Urban Development Action Area; and

b. an Urban Development Action Area Project for such area; and

2) pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer to be selected by HPD;

to facilitate the enlargement of two existing buildings and the construction of two new buildings containing approximately 556 affordable and senior housing units, a 200-bed homeless shelter and community facility and commercial space, Borough of Brooklyn, Community District 1.

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

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 20	<b># Against:</b> 0	<b># Abstaining:</b> 7	<b>Total members appointed to the board:</b> 27
<b>Date of Vote:</b> 7/12/2021 12:00 AM		<b>Vote Location:</b> WEBEX	

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

<b>Date of Public Hearing:</b> 7/12/2021 6:00 PM	
<b>Was a quorum present?</b> Yes	<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>
<b>Public Hearing Location:</b>	WEBEX

<b>CONSIDERATION:</b> Please see the attached.	
Recommendation submitted by	BK CB1
	Date: 7/16/2021 4:45 PM



# COMMUNITY/BOROUGH BOARD RECOMMENDATION

<b>Project Name:</b> Cooper Park Commons	
<b>Applicant:</b> HPD - NYC Dept of Housing Preservation & Development	<b>Applicant's Primary Contact:</b> Lin Hua Zeng
<b>Application #</b> 210484PPK	<b>Borough:</b> Brooklyn
<b>CEQR Number:</b> 20HPD007K	<b>Validated Community Districts:</b> K01

**Docket Description:**

IN THE MATTER OF an application submitted by the Department of Housing Preservation and Development (HPD), pursuant to Sections 197-c of the New York City Charter, to modify the restriction limiting use of property located at 20 Kingsland Avenue (Block 2885, Lot 10) from a health care facility use to general community facility uses, Borough of Brooklyn, Community District 1.

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

<b>RECOMMENDATION: Favorable</b>			
<b># In Favor:</b> 20	<b># Against:</b> 0	<b># Abstaining:</b> 7	<b>Total members appointed to the board:</b> 27
<b>Date of Vote:</b> 7/12/2021 12:00 AM		<b>Vote Location:</b> WEBEX	

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

<b>Date of Public Hearing:</b> 7/12/2021 6:00 PM	
<b>Was a quorum present?</b> Yes	<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>
<b>Public Hearing Location:</b>	WEBEX

**CONSIDERATION:** Please see the attached.

Recommendation submitted by	BK CB1	Date: 7/16/2021 4:45 PM
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**Brooklyn Borough President Recommendation**

CITY PLANNING COMMISSION

120 Broadway, 31<sup>st</sup> Floor, New York, NY 10271

[CalendarOffice@planning.nyc.gov](mailto:CalendarOffice@planning.nyc.gov)



**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 representatives as indicated on the Notice of Certification.

**APPLICATION #:** COOPER PARK COMMONS – 210480 ZMK, 210481 ZSK, 210482 ZRK, 210483 HAK

An application submitted by the New York City Department of Housing Preservation and Development (HPD) and Maspeth Manager, LLC for land use actions to redevelop the former Greenpoint Hospital campus occupying an entire block bounded by Jackson Street, and Debevoise, Kingsland, and Maspeth avenues in Brooklyn Community District 1 (CD 1).

- a) A zoning map amendment to change the project area from R6 to R7-2 and R7-2/C2-4 districts
- b) A zoning text amendment to create a Mandatory Inclusionary Housing (MIH) area coterminous with the project area
- c) A special permit to establish a Large-Scale General Development (LSGD) to modify regulations governing distance between buildings, height, and setbacks on the site
- d) Urban Development Action Area (UDAA) designation, Urban Development Action Area Project (UDAAP) designation, and disposition of Lot 1, comprising 146,105 square feet (sq. ft.)
- e) Approval to modify a specified community facility use for the disposition of Lot 10, to permit and continue general community facility uses

The requested actions would facilitate a phased, mixed-use complex involving the construction of two new 14- and 18-story buildings, the enlargement of two existing ones, and the replacement of a 200-bed homeless shelter. The resulting development would yield 553 units of affordable and senior housing augmented by community facility uses and light retail. The project would establish connections among four privately-owned residences on the site and ensure the continued operation of the Greenpoint Renaissance Center.

BROOKLYN COMMUNITY DISTRICT NO. 1

BOROUGH OF BROOKLYN

**RECOMMENDATION**

APPROVE  
 APPROVE WITH  
MODIFICATIONS/CONDITIONS

DISAPPROVE  
 DISAPPROVE WITH  
MODIFICATIONS/CONDITION

SEE ATTACHED

*Eric L. Adams*

September 9, 2021

BROOKLYN BOROUGH PRESIDENT

DATE

**RECOMMENDATION FOR: COOPER PARK COMMONS – 210480 ZMK, 210481 ZSK, 210482 ZRK, 210483 HAK**

The New York City Department of Housing Preservation and Development (HPD) and Maspeth Manager, LLC submitted the following applications to redevelop the former Greenpoint Hospital campus, which occupies an entire block bounded by Jackson Street, and Debevoise, Kingsland, and Maspeth avenues in Brooklyn Community District 1 (CD 1).

- a) A zoning map amendment to change the project area from R6 to R7-2 and R7-2/C2-4 districts
- b) A zoning text amendment to create a Mandatory Inclusionary Housing (MIH) area coterminous with the project area
- c) A special permit to establish a Large-Scale General Development (LSGD) to modify regulations governing distance between buildings, height, and setbacks on the site
- d) Urban Development Action Area (UDAA) designation, Urban Development Action Area Project (UDAAP) designation, and disposition of Lot 1, comprising 146,105 square feet (sq. ft.)
- e) Approval to modify a specified community facility use for the disposition of Lot 10, to permit and continue general community facility uses

The requested actions would facilitate a phased, mixed-use complex involving the construction of two new 14- and 18-story buildings, the enlargement of two existing ones, and the replacement of a 200-bed homeless shelter. The resulting development would yield 553 units of affordable and senior housing augmented by community facility uses and light retail. The project would establish connections among four privately-owned residences on the site and ensure the continued operation of the Greenpoint Renaissance Center.

Brooklyn Borough President Eric Adams held a hybrid in-person and virtual public hearing on this application on July 26, 2021. There were no speakers on the item.

In response to Borough President Adams' inquiry regarding the qualifying income range for prospective households based on household size, the anticipated rents based on the number of bedrooms, and the distribution of units by bedroom size, the developer stated the bedroom mix would be 23 percent studios (130 units of which 53 would be reserved for seniors), 36 percent one-bedroom units (202 apartments, of which 53 would also be senior residences), 26 percent (146) two-bedroom apartments, and 13 percent (75) three-bedroom units.

The rentals would be targeted to 167 formerly homeless households (including 33 units within the Affordable Independent Residence for Seniors [AIRS] building) and 73 households with project-based Section 8 vouchers where earnings would not exceed 50 percent of Area Median Income (AMI) for the other seniors. For the remaining units, 51 would be targeted to households at 30 percent AMI, an additional 51 would be set at 40 percent AMI, 75 would be geared to 50 percent AMI, 89 would be targeted at 60 percent AMI, and 121 would not exceed 80 percent AMI. Each tier is underwritten with a three percent qualifying range. Excluding formerly homeless households and those with vouchers, earning limits would range from \$25,140 to \$67,040 for a one-person household to \$38,790 to \$103,440 for a five-person household. Rents would range from \$412 for a studio at 30 percent AMI (\$215 for formerly homeless residents) to \$1,638 for a three-bedroom at 80 percent AMI.

In response to Borough President Adams' inquiry regarding the affordability term, it was noted that because Cooper Park Commons is a public site, an additional 15 percent of the units would be regulated through the New York City Zoning Resolution (ZR) on top of the 25 percent required by MIH Option 1. The St. Nicks Alliance (SNA) attested that it would retain all units as permanently affordable without regard to any regulatory term established by HPD.

In response to Borough President Adams' inquiry regarding what steps would be taken in the tenant selection process to ensure the highest level of participation from CD 1, and whether the applicant's marketing strategy would include a financial literacy campaign to assist local residents in becoming lottery-eligible, it was noted that SNA would conduct extensive outreach to the community, including residents of Cooper Park Houses and area senior centers. Per its standard procedure, SNA would work to familiarize applicants with HPD's Housing Connect system.

In response to Borough President Adams' inquiry regarding the incorporation of sustainable features such as passive house design, blue/green/white roof covering, wind turbines, and/or New York City Department of Environmental Protection (DEP) rain gardens, the developer stated that the tallest buildings would accommodate a solar energy system. Otherwise, roofs would be white, new construction would be passive house standard or LEED Gold, and Skillman Avenue rain gardens and tree pits along Maspeth Avenue would capture stormwater, though this is under discussion with City agencies. It is believed that wind-turbines would not provide enough energy to justify the investment. Consideration would be given to solar facades though dark tile would not mesh well with the color of the existing buildings.

### **Consideration**

Brooklyn Community Board 1 (CB 1) voted to approve this application with conditions on July 12, 2021.

The development site is part of the former Greenpoint Hospital campus, which includes four privately-owned affordable residences, operated by the Neighborhood Women Housing Development Fund Company, Inc. (the "Neighborhood Women HDFC"), an affiliate of SNA. Two of the buildings are located near the intersection of Jackson Street and Kingsland Avenue, and two abut the intersection of Debevoise Avenue and Jackson Street. All will be retained in their current configuration and continue to provide affordable housing. The Greenpoint Renaissance Center (operated by SNA) is also part of the rezoning, though it is not included in the LSGD.

The development site contains three existing buildings on the City-owned disposition area. The five- and six-story former Greenpoint Hospital, situated in center of the project area, contains the Barbara Kleinman Residence. This 200-bed shelter would be relocated to the four-story former Nurses' Residence to facilitate the Hospital building's renovation. The four-story former Nurses' Residence, at the intersection of Maspeth and Debevoise avenues, would also be rehabilitated. Finally, the Hospital's former power plant and current New York City Department of Homeless Services (DHS) laundry facility, located on the south side of Jackson Street midway between Kingsland and Debevoise avenues, would be demolished to allow for residential development.

Cooper Park Commons would be constructed in four phases. The vacant Nurses' Residence would be rehabilitated with a small one-story enlargement. The adult male shelter would be operated by Project Renewal in consultation with a community advisory board. The building would also house a medical clinic, and social services offices. This would be followed by the construction of a mixed-use, 12- to 18-story 100 percent affordable development on vacant land fronting on Maspeth Avenue. This building would contain 310 studio, one-bedroom, two-bedroom, and three-bedroom units, plus a health clinic, social services such as a career center, and a café. It would also provide enclosed parking for 156 bicycles. Following the relocation of the Barbara Kleinman homeless shelter, the Greenpoint Hospital would be converted and enlarged into a 106-unit AIRS, with a mix of studio and one-bedroom apartments. Following the demolition of the laundry and power plant, 14-story mixed-use building with 137 affordable units would be constructed on Jackson Street. It would contain a mix of studio, and one-, two-, and three-bedroom units and 5,318 sq. ft. of community facility floor area, proposed as a senior center. It would have enclosed parking for 69 bicycles.

Cooper Park Commons would contain approximately 70,650 sq. ft. of publicly accessible open space, of which 10,860 sq. ft. would be developed in the first phase; 24,880 sq. ft. would be developed in the second phase, followed by 29,900 sq. ft. in the third phase, and the final 5,000 sq. ft. in the fourth phase.

Pursuant to the ZR, income-restricted housing units are exempt from off-street parking requirements, and no such parking is mandated for non-residential uses. The developer would voluntarily provide a 15-space parking lot for the social service program staff south of the Jackson Street building that would be accessed via Kingsland or Debevoise avenue and exited on Jackson Street. A second parking lot containing five spaces for building and program staff is proposed along Debevoise Avenue, north of the former Nurses' Residence.

The underlying zoning on the block is R6 with a maximum residential floor area ratio (FAR) of 2.2 on narrow streets and 3.0 on wide streets, according to Quality Housing regulations. Up to 3.90 FAR, with a maximum height of 75 feet may be permitted with the inclusion of AIRS. The community facility FAR is 4.8 for buildings without sleeping accommodations. The proposed R7-2 and R7-2/C2-4 districts permit 4.6 MIH residential FAR, 5.01 for AIRS and 6.5 for community facilities without sleeping accommodations. As proposed, the development would be constructed to 3.49 FAR, including 107,358 sq. ft. (0.59 FAR) of AIRS, and 528,698 sq. ft. (2.9 FAR) of non-AIRS floor area.

The proposed LSGD Special Permit would allow greater flexibility for better site planning and urban design. The LSGD Special Permits waivers would yield a better site plan and relationships among buildings and open areas to streets surrounding the development.

The restricted use of the Greenpoint Renaissance Family Health Center would be expanded from family health care to general community facility use to reflect the proposed independent job skills program, and a preparation and placement center for careers in health care.

The surrounding context includes a wide range of uses including one- and two-family residences, elevator apartment buildings, as well as local retail and manufacturing. Directly to the east and north is a superblock containing the New York City Housing Authority (NYCHA) Cooper Park Houses made up of 11 eight-story buildings with 700 units. The remainder of the superblock is defined by two-story one- and two-family homes along Maspeth Avenue that adjoin the southeast corner of the project site. The blocks to the south and west are characterized by one- and two-family homes ranging from one to three stories. Commercial uses are generally limited to ground-floor retail within residential buildings on Kingsland and Metropolitan avenues. The blocks to the east of Cooper Park Houses contain a concentration of industrial and manufacturing uses. Immediately south of the site is the 6.4-acre mapped Cooper Park, which includes a dog run, small playgrounds, pocket parks, and various sports courts.

Brooklyn is one of the fastest growing boroughs in the New York City metropolitan area. Its ongoing renaissance has ushered in extraordinary changes that were virtually unimaginable even a decade ago. Unfortunately, Brooklyn's success has led to the displacement of longtime residents who can no longer afford to live in their neighborhoods. Borough President Adams is committed to addressing Brooklyn's affordable housing crisis through the creation and preservation of units for very low- to middle-income households.

Borough President Adams supports the development of underutilized land to address the City's need for affordable housing. The proposed development would be consistent with Mayor Bill de Blasio's goal of achieving 300,000 affordable housing units over the next decade, according to "Housing New York: A Five-Borough, Ten-Year Plan," as modified in 2017. It is Borough President Adams' policy to support the development of affordable housing and seek for such housing to remain "affordable forever," wherever feasible.



Borough President Adams supports actions to facilitate Cooper Park Commons based on the expectation of permanently affordable residential floor area. A percentage of the anticipated 553 units, including an additional 15 percent required for public sites, would be pursuant to MIH. Such residential floor area, resulting from additional zoning rights, would be affordable in perpetuity. While the non-MIH apartments would be governed by a regulatory agreement with HPD, it is expected that these units would be preserved as part of SNA's core mission. The requested zoning amendment and HPD financing would also ensure that the project's affordability is maintained beyond the regulatory term. Such development is consistent with Borough President Adams' policy for new residential developments to produce permanently affordable housing.

The Cooper Park Commons affordability program would target low- and moderate-income households, in line with Borough President Adams' objective to provide affordable housing at various AMIs. According to the applicant, approximately 50 percent of the rental units would be geared toward households below 50 percent AMI, achieving deep affordability for residents within and outside CD 1.

In addition, as a mission-driven non-profit, SNA would be expected to act as a capable administrator of the proposed development. Their involvement would also help guarantee that the non-MIH units remain affordable in perpetuity. The Cooper Park Commons UDAAP would be consistent with Borough President Adams' policy for new development on City-owned sites to result in permanently affordable housing.

Borough President Adams advocates permanent housing for those seeking refuge in shelters. Cooper Park Commons presents an opportunity to integrate such units with affordable apartments for low- and moderate-income households. Due to a rise in rents versus real income and other recent trends, some former residents of CD 1 have been swept into the City's cumbersome shelter system. Though it is possible that some would return by moving into local transitional accommodations, such facilities do not provide long-term stability.

In 2016, HPD established its Our Space Initiative, which funds supportive services for rental units affordable to formerly homeless households at or below 30 percent AMI. The subsidy supplements funding available through HPD's New Construction Finance programs. Though Cooper Park Commons would not incorporate the Our Space Initiative, it would reserve a 31 percent of units for formerly homeless households, including seniors. According to the applicant, As such, it is consistent with Borough President Adams' policies to set-aside units for the formerly homeless in developments built on public land.

Moreover, in CD 1 and across New York City, there is a pressing need for affordable and stable housing among elderly adults, homeless households, low-income families, and other populations. Increasing the supply of affordable apartments for a range of incomes and household types in mixed-use buildings is a critical strategy for promoting a sustainable neighborhood and city.

Borough President Adams is particularly concerned about affordable housing for New York City's rapidly growing senior population, which numbers 300,000 in Brooklyn alone. DCP's "Zoning for Quality and Affordability" (ZQA) study cited 60 applicants for every apartment in HPD's senior housing developments. LiveOn NY estimates that seniors on those waiting lists face an average wait of seven years. Borough President Adams seeks to advance more City projects, such as this proposal, that prioritize permanently affordable units for older residents.

A recent report has identified that rent-burdened households applying for apartments through affordable housing lotteries are more likely to need family-sized units. Borough President Adams seeks an affordable unit mix that adequately reflects the needs of low- to middle-income rent-burdened families. Such targeted distribution is especially vital in subsidized development on public land, which tends to provide deeper affordability than privately financed, market-rate construction.

The MIH program targets affordable housing units to a broad range of incomes, consistent with Borough President Adams' objective to extend such opportunities to households at various AMI tiers. MIH Option 1 would designate 25 percent of the floor area as affordable to households at an average 60 percent AMI, of which 40 percent must be offered at 40 percent AMI. As Cooper Park Commons would be built on City land, an additional 15 percent of its 553 units would have to be pursuant to MIH. Development adhering to the MIH program is consistent with Borough President Adams' policy that income-restricted housing remains affordable in perpetuity.

It is Borough President Adams' policy for housing non-profits to play a role in maximizing community participation in neighborhood affordable housing opportunities. Administering non-profits are responsible for ensuring that the affordable housing units comply with the regulatory agreement that governs a project's affordable housing plan. Tasks include verifying a prospective tenant household's qualifying income, approving the rents of affordable units, and submitting an affidavit to HPD attesting that the initial lease-up is consistent with the income requirements.

Borough President Adams recognizes that SNA is an established and successful non-profit housing developer in CD 1. They participate in HPD's Housing Ambassadors Program, which trains local community groups to provide free technical assistance and financial counseling to residents who wish to apply for affordable housing. HPD's Housing Ambassadors Program and other locally based non-profits have proven track records of successfully marketing affordable housing units, as well as promoting affordable housing lottery readiness through educational initiatives. It is expected that SNA would implement such an outreach process as part of their marketing strategy for Cooper Park Commons.

Borough President Adams is also concerned that too many Brooklyn residents are currently unemployed or underemployed. According to the Furman Center's "State of New York City's Housing and Neighborhoods in 2015," double-digit unemployment remains a pervasive reality in in the borough with more than half of community districts reporting poverty rates of 25 percent or greater. Prioritizing local hiring would assist in addressing this employment crisis. Additionally, promoting Brooklyn-based businesses, including those that qualify as locally based enterprises (LBEs) and minority- and women-owned business enterprises (MWBEs), is central to Borough President Adams' economic development agenda. This site provides opportunities for the developer to retain a Brooklyn-based contractor and subcontractor, especially those who are designated LBEs consistent with Section 6-108.1 of the City's Administrative Code, and MWBEs that meet or exceed standards per Local Law 1 (no less than 20 percent participation).

As funding for Cooper Park Commons includes financing for which HPD contributes no less than \$2 million, Maspeth Manager, LLC would be required to adopt HPD's MWBE Building Opportunity Initiative Build Up program and meet additional New York State labor participation requirements. Borough President Adams believes that, based on the Build Up program and State requirements, there would be reasonable opportunities to address LBE/MWBE participation disparities in affordable housing development. Additionally, projects that receive HPD subsidies are required to spend at least one-quarter of HPD-supported costs on certified MWBEs in the design and construction process. Finally, the project would participate in both Hire NYC and SNA workforce programs, which are both focused on local hiring.

Borough President Adams believes that the requested density is appropriate, as the development site is convenient to public transportation. The Graham Avenue subway station on the 14<sup>th</sup> Street – Canarsie Local L line is approximately 0.4 miles away from the project area. The B24 bus line runs along Kingsland Avenue with two stops proximate to the development block.

Borough President Adams supports applications enabling the development of Cooper Park Commons. He calls on HPD and the developers Maspeth Manager, LLC to provide a family-oriented bedroom mix, maximize outreach to seniors, incorporate resiliency and sustainability measures, implement

Vision Zero improvements and promote car-sharing. Finally, he calls on the Administration to extend community preference to families of homeless students in local schools and qualify rent-burdened households for affordable housing lotteries.

### **Bedroom Mix**

When reviewing rezoning proposals for affordable housing developments, Borough President Adams seeks a unit mix that adequately reflects the needs of low- and moderate-income families. Maspeth Manager, LLC has expressed intent to provide a mix of studio, and one-, two-, and three-bedroom units, with at least 39 percent configured as family-sized apartments (excluding the AIRS component, about half of the project's 447 affordable units would have two and three bedrooms). However, there is no guarantee that the Cooper Park Commons bedroom mix would be consistent with Borough President Adams' policy to achieve family-oriented affordable housing units.

Borough President Adams believes that right-sizing the bedroom distribution within the affordable housing floor area is more important than maximizing the number of MIH units. Though the applicant is interested in providing larger apartments, development pursuant to MIH lacks leverage to require affordable units with multiple bedrooms. Borough President Adams believes that it is appropriate to use discretionary land use actions to advance policies that constrain what would be permitted as-of-right.

Borough President Adams seeks a binding commitment to secure what has been represented to the community. For this project, it is important to mandate that the developer provide affordable housing pursuant to ZR Section 23-96(c)(1)(ii), with at least 50 percent of the units containing two or three bedrooms and at least 75 percent configured with one or more bedrooms.

Therefore, prior to considering the application, the City Council should obtain written commitments from HPD that its LDA with Maspeth Manager, LLC would require that at least 50 percent of the Cooper Park Commons apartments to have two or three bedrooms, and at least 75 percent to have one or more bedrooms.

### **Maximizing Affordable Housing Opportunities for Seniors**

In addition to family-sized units, there is a pressing need to build affordable apartments for the elderly, many of whom have limited means. As noted in DCP's ZQA study, New York's senior population is expected to grow 40 percent by 2040. The combination of rising housing costs across Brooklyn and declining production of age-based affordable housing has created a severe rent burden for seniors. Many elderly households are struggling to remain in their homes and are exhausting their life's savings to keep up with living expenses until they are displaced from their communities.

A significant number of elderly households have negligible income and are at risk for displacement. As the Federal government has moved away from funding affordable housing for seniors, too few such rental apartments are being built, leaving tremendous demand for age-based affordable housing. As a result, many elderly households are experiencing increased and unsustainable rent burdens. One of Borough President Adams' top priorities is to help Brooklyn seniors secure affordable housing and remain in their neighborhoods. He seeks the advancement of more City projects, such as this proposal, which would result in permanently affordable units for older residents.

While Borough President Adams typically seeks a 50/50 blend of studios, one-bedrooms, two-bedrooms, and three-bedrooms, he believes that when studio and one-bedroom units are rented at 30, 40, and 50 percent AMI, such apartments might be more affordable to senior households. Beyond the dedicated AIRS units, there should be opportunities to accommodate eligible seniors through set-asides for the formerly homeless and units geared to 30, 40 and 50 percent AMI.

With targeted marketing efforts, it is reasonable to expect that a greater share of studios and one-bedrooms at lower AMIs would be awarded to seniors. Borough President Adams calls on SNA to ensure significant outreach to area seniors as part of their marketing and financial literacy efforts, to ensure that the AIRS units benefit older residents of Greenpoint/Williamsburg.

Therefore, prior to considering the application, the City Council should obtain written commitments from HPD that its LDA or regulatory agreement with Hudson Inc. would implement outreach efforts to seniors earning up to 40 percent AMI for single- and dual-person households, including the formerly homeless, to maximize their participation in the Gowanus Green affordable housing lottery.

Therefore, prior to considering the application, the City Council should obtain written commitments from HPD that its LDA with Maspeth Manager, LLC would memorialize outreach efforts to seniors, including the formerly homeless, to maximize their participation in the Cooper Park Commons housing lottery.

### **Advancing Resilient and Sustainable Energy and Stormwater Management Policies**

It is Borough President Adams' policy to advocate for environmentally sustainable development that integrates blue/green/white roofs, solar panels, and/or wind turbines, as well as passive house construction. Such measures tend to increase energy efficiency and reduce a building's carbon footprint.

In the fall of 2019, the City Council passed Local Laws 92 and 94, which require newly constructed buildings as well as those undergoing renovation (with some exceptions) to incorporate a green roof and/or solar installation. The laws further stipulate 100 percent roof coverage for such systems and expand the City's highly reflective (white) roof mandate, which Borough President Adams believes developers should exceed by integrating blue roofs with green roof systems. Regarding solar panels, there are now options beyond traditional roof installation. Multiple companies are manufacturing solar cladding from tempered glass that resembles traditional building materials, with energy output approximating that of mass-market photovoltaic systems. Micro wind turbines can generate sustainable energy for taller buildings and developments near the waterfront. Finally, passive house construction achieves energy efficiency while promoting local construction and procurement.

Borough President Adams' letter to President Joseph R. Biden Jr., dated January 21, 2021 outlined policies to rebuild America as a more equitable and just society, including initiatives consistent with the Green New Deal. Specifically, Borough President Adams advocated investments in renewable energy and battery storage to move beyond reliance on natural gas and dirty "peaker plants" disproportionately sited in communities of color. He believes that grid-connected rooftop batteries should be a standard consideration for commercial buildings. Between existing flat roofs upgrades and new developments, there should be sufficient demand to manufacture such units locally and create industrial jobs.

Borough President Adams believes it is appropriate for Maspeth Manager, LLC to engage the Mayor's Office of Sustainability, the New York State Energy Research and Development Authority (NYSERDA), and/or the New York Power Authority (NYPA) regarding government grants and programs that might offset costs associated with enhancing the resiliency and sustainability of this development. One such program, the City's Green Roof Tax Abatement (GRTA) provides a reduction of City property taxes by \$4.50 per sq. ft. of green roof space, up to \$100,000. The DEP Office of Green Infrastructure advises property owners and their design professionals through the GRTA application process. Borough President Adams encourages the applicant to contact his office for further coordination on this matter.

As part of his resiliency policy, Borough President Adams seeks to advance stormwater management best practices including permeable pavers and/or rain gardens that promote DEP's green infrastructure agenda. He believes that sidewalks with nominal landscaping and/or adjacent roadway surfaces could be transformed through the incorporation of rain gardens, which provide tangible environmental benefits through rainwater collection, improved air quality, and streetscape beautification. Tree plantings can be

consolidated with rain gardens as part of a comprehensive green infrastructure strategy. Where it is not advisable to remove street trees, it's possible to integrate stormwater retention measures into existing tree pits, with additional plantings to increase infiltration and make the site more pleasant for its users. In addition, blue/green roofs, permeable pavers, and rain gardens (including street tree pit enhancements) would help divert stormwater from the Newtown Creek Wastewater Treatment Plant.

The required Builders Pavement Plan (BPP) for the proposed development provides an opportunity to install DEP rain gardens along the development site's Jackson and Maspeth avenues frontages. The ZR requirement to plant street trees provides shade on excessively hot days, helps combat the urban heat island effect, and provides other aesthetic, air quality, and enhanced stormwater retention benefits. It should be noted that a rain garden would require a maintenance commitment and attention from the landlord. Maintenance includes cleaning out debris that can clog the inlet/outlet and prevent water collection, regular inspection to prevent soil erosion, watering during dry and hot periods, and weeding to ensure proper water absorption.

Borough President Adams believes that Maspeth Manager, LLC should consult DEP, the New York City Department of Transportation (DOT), and the New York City Department of Parks and Recreation (NYC Parks) about the integration of rain gardens with street trees as part of the BPP. If there is interest in implementing an enhancement, advance consultation should be initiated with CB 1 and local elected officials.

Therefore, prior to considering the application, the City Council should obtain written commitments from HPD that the LDA with Maspeth Manager, LLC would memorialize integration of additional resiliency and sustainability measures at Cooper Park Commons.

### **Advancing Vision Zero Policies**

Borough President Adams supports Vision Zero policies, including practices that extend sidewalks into the roadway as a means of shortening the path where pedestrians cross in front of traffic lanes. These sidewalk extensions, also known as bulbouts or neckdowns, make drivers more aware of pedestrian crossings and encourage them to slow down.

In 2015, Borough President Adams launched his own initiative, Connecting Residents on Safer Streets (CROSS) Brooklyn. This program supports the creation of bulbouts or curb extensions at dangerous intersections in Brooklyn. During the program's first year, \$1 million was allocated to fund five dangerous intersections in Brooklyn. Curb extensions provide additional sidewalk space for seniors and families especially near dangerous intersections. At the same time, all roadway users benefit from safer streets.

The Cooper Park Commons site is located just outside the North Brooklyn Industrial Business Zone (IBZ). Moreover, the eastern portion of Maspeth Avenue is a designated DOT local truck route with intersections that lack stop signs or traffic lights. Per his CROSS Brooklyn initiative, Borough President Adams believes there is an opportunity to implement curb extensions at the northeast corner of Maspeth and Debevoise avenues. Given the mixed community facility and residential character of this section of CD 1, the site's proximity to Cooper Park, and NYCHA's Cooper Park Houses, as well as the anticipated new residents, it is vital to enhance pedestrian safety at this location. Such improvements would also benefit the Greenpoint Renaissance Center, which provides community enrichment programs during work hours and after school.

Borough President Adams recognizes that costs associated with the construction of sidewalk extensions can be exacerbated by the need to modify infrastructure and/or utilities. Where such consideration might compromise feasibility, Borough President Adams would urge DOT to explore protected painted sidewalk extensions as roadbed surface treatment or as part of a BPP. Implementing a sidewalk extension through roadbed treatment requires a maintenance agreement that indemnifies the City from liability, contains a requirement for insurance, and details the responsibilities of the maintenance partner. If the

implementation meets DOT criteria, Maspeth Manager, LLC should consult CB 1 and local elected officials, and then undertake the improvements as part of its BPP.

Borough President Adams believes that prior to considering the application, the City Council should obtain written commitments from HPD that its LDA with Maspeth Manager, LLC would memorialize coordination with DEP, DOT, and NYC Parks for a curb extension at the northeast corner of Maspeth and Debevoise avenues as a BBP element or a treated roadbed sidewalk extension. All parties should affirm that implementation would be premised on advance consultation with CB 1 and local elected officials. The City Council should seek an additional commitment from Maspeth Manager, LLC to enter a standard DOT maintenance agreement if the curb extension is provided as a treated roadbed sidewalk extension.

### **Promoting Access to Car-Share Vehicles**

Borough President Adams supports the establishment of Transit Zones in the ZR to enable affordable housing development without parking requirements for affordable housing floor area. He also advocates alternatives to car ownership such as bicycle and car share services. A rental car can provide mobility in certain cases, though it is not as flexible as car ownership and can be expensive for longer trips. Car rental requires, at minimum, a full day reservation as well as time and effort to access such facilities. However, there are times when affordable access to automobiles can provide a quality-of-life enhancement, even for wealthier households. Furthermore, research suggests that car-share achieves environmental benefits by reducing automobile use among car owners.

Borough President Adams believes that facilitating car-share at this location would benefit residents of the proposed development, Cooper Park Houses, and adjacent communities. As noted earlier, this 100 percent affordable housing development would not be required to provide parking. However, the developer has expressed intent to accommodate 20 ground-level spaces, primarily for support staff. Based on ZR regulations for provided accessory parking, such spaces could also accommodate car-sharing vehicles. According to ZR Section 36-46(a)(1), a car-sharing entity is permitted to occupy up to five parking spaces, though no more than 20 percent of all spaces in group parking facilities. Cooper Park Commons is expected to add more than 500 households to the area; they would be less likely to own cars. A significant number of Cooper Park Houses residents also lack access to automobiles. Borough President Adams believes that a limited number of the 20 spaces at Cooper Park Commons should be set aside for car-share vehicles through dialogue with car-sharing companies.

To accommodate such rental vehicles within the garage, the developer would have to provide visible signage, per ZR Section 36-523, and state the total number of spaces, as well as the maximum number of car-sharing vehicles. Therefore, prior to considering this application, the City Council should obtain written commitments from HPD that the LDA with Maspeth Manager, LLC engage car-sharing companies to lease parking spaces at Cooper Park Commons.

### **Community Preference: Inclusion of Homeless Shelter Student Population by School Zone**

New York City's community preference policy requires that 50 percent of affordable units filled through affordable housing lotteries be reserved for residents in the host community. There are additional pathways for priority selection through the lottery such as United States Armed Forces veteran status, certain disabilities, and other categories. Given the significant increase in the number of homeless families with school-aged children entering the public shelter system, Borough President Adams believes it is appropriate for HPD to extend local lottery preference to the school zone attended by children of households residing at immediate and neighboring City-funded or -operated homeless shelters.

According to an annual report by Advocates for Children of New York, 31,158 Brooklyn students — nearly one in 10 enrolled — experienced homelessness during the 2018-2019 school year, defined as either living in shelters or doubling up with friends and family. The number of such students in charter and public schools has increased every school year since 2014-2015. Homelessness has profound impacts on school

performance, as such students are more likely to have longer commutes or to transfer schools in the middle of the year, leading to chronic absences, lower graduation rates, and higher dropout rates.

Many parents and students find it important to maintain school continuity despite the circumstances faced by households dependent on the City's shelter system. Borough President Adams believes that the City should take responsible action to eliminate or reduce such hardships, by enabling economically burdened households with children attending public schools to qualify for community preference in the school's community district. According to the Institute for Children, Poverty & Homelessness (ICPH), there are multiple public schools in proximity to the proposed development in Community School District 14 (CSD 14), where the proportion of homeless students is eight to 17 percent.

Borough President Adams believes that HPD should modify its affordable housing lottery community preference standards to include the school zone attended by a child of a household residing at a City-funded or -operated homeless shelter.

### **Accommodating Rent-Burdened Households in Lieu of Strict Area Median Income Standards**

Data shows that more than 80 percent of New York City households earning 50 percent of AMI or less are rent-burdened. The crisis is even worse among those making 30 percent of AMI or less, currently \$32,220 for a family of three. More than 50 percent of this population pays more than half of their income toward rent. Finally, nearly one third of New York City households earn less than \$35,000 and more than one-fifth — over two million people — earn less than \$25,000 annually. As the City's housing crisis grows worse, the burden falls most heavily on these low-income households, exacerbating racial disparities. According to the CHPC, one in four households of color is severely rent-burdened, which is 11 percent more than Caucasian households.

A strict rent-to-income requirement of no more than 30 percent prevents many rent-burdened households, who are often paying the same or greater rent for an apartment from applying for new affordable housing. As noted in his East New York Community Plan ULURP recommendation, Borough President Adams believes it's time to stop excluding families paying too much for substandard accommodations from affordable housing lotteries. He seeks to qualify rent-burdened households for the lottery process, which would maximize their opportunities to secure affordable housing and expand the number of households eligible for affordable housing lotteries.

One way to address this disparity is by amending the ZR AMI qualifications to include households that would maintain or reduce their rent burden. For MIH lotteries, DCP needs to modify the ZR to allow exceptions to the 30 percent of income limit so that those who are rent-burdened and paying equal or greater rent than that of the lottery unit would be eligible to live in new and quality affordable housing. Borough President Adams believes that the CPC and/or the City Council call for modification of the ZR MIH section pertaining to special bulk regulations, to allow rent-burdened households to qualify for MIH affordable housing units.

### **Recommendation**

Be it resolved that the Brooklyn borough president, pursuant to Section 201 of the New York City Charter, recommends that the City Planning Commission (CPC) and City Council approve this application.

### **Be it further resolved:**

1. That the New York City Department of Housing Preservation and Development (HPD) incorporate in its Land Disposition Agreement (LDA) or Regulatory Agreement with Maspeth Manager, LLC commitments to:

- a. Provide an affordable housing mix with at least 50 percent two- or three-bedroom units, and at least 75 percent one-bedroom and larger units, but for studios targeted to households not exceeding 40 percent AMI
  - b. Implement outreach efforts to seniors earning up to 40 percent AMI for single- and dual-person households, including the formerly homeless, to maximize their participation in the affordable housing lottery
  - c. Install curb extensions at the northeast corner of Maspeth and Debevoise avenues either as part of a Builders Pavement Plan (BPP) or as treated roadbed sidewalk extensions, with the understanding that New York City Department of Transportation (DOT) implementation would require advance consultation with Brooklyn Community Board 1 (CB 1) and local elected officials
  - d. Enter into a standard DOT maintenance agreement for the northeast corner of Maspeth and Debevoise avenues
  - e. Advance protected painted areas as an enhanced community amenity for northeast intersection of Maspeth and Debevoise avenues as part of a BPP and/or as treated roadbed sidewalk extensions, with the understanding that DOT implementation would require advance consultation with CB 1 and local elected officials
  - f. Coordinate with the New York City Department of Environmental Protection (DEP), and the New York City Department of Parks and Recreation (NYC Parks) to install DEP gardens as part of a BPP along Jackson and Maspeth avenues, in consultation with CB 1 and local elected officials
  - g. Integrate resiliency and sustainability measures, such as blue/green/white roof treatment, grid-connected rooftop batteries, passive house construction, solar panels and/or façades, and/or wind turbines
  - h. Engage car-sharing companies to lease multiple spaces within the development's parking facilities in consultation with CB 1 and local officials
2. That HPD modify its affordable housing lottery community preference standards to include the school zone, thus capturing the population of public schoolchildren residing at City-funded or -operated shelters
  3. That the CPC and/or the City Council call for modification of the ZR MIH section with a requirement that permits households with rent-burdened status to qualify for MIH affordable housing lotteries (allow for exceptions to the 30 percent of income threshold for households paying the same or higher rent than what the housing lottery offers).



**RESTRICTIVE DECLARATION**

**Made by:**

**MASPETH MANAGER LLC  
and  
[NEIGHBORHOOD WOMEN HOUSING DEVELOPMENT FUND COMPANY, INC.]<sup>1</sup>**

**Dated:**

\_\_\_\_\_, 202\_\_

**County: Kings  
Block: 2885  
Lots: 1, 20, 23, 28, and 32**

**RECORD AND RETURN TO:**

Bryan Cave Leighton Paisner LLP  
1290 Avenue of the Americas  
New York, New York 10104  
Attention: Judith Gallent, Esq.

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<sup>1</sup> Could be made to be a waiving party.

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**SCHEDULE OF EXHIBITS**

EXHIBIT A	Description of <b><u>Subject Property</u></b>
EXHIBIT B-1	Certification of <b><u>Parties-In-Interest</u></b>
EXHIBIT B-2	Waiver and Subordination Agreement(s)
EXHIBIT C	<b><u>Site Plans</u></b>

**DECLARATION OF LARGE-SCALE GENERAL DEVELOPMENT**

THIS **DECLARATION**, made as of this [\_\_\_\_\_] of [\_\_\_\_\_] , 202\_\_ (the “**Declaration**”), by **MASPETH MANAGER LLC**, a New York limited liability company, having a principal office at c/o The Hudson Companies Inc., 826 Broadway, 11th Floor, New York, New York, 10003 (“**Declarant MM**”), and [**NEIGHBORHOOD WOMEN HOUSING DEVELOPMENT FUND COMPANY, INC.**, c/o St. Nicks Alliance Corp., 2 Kingsland Avenue, Brooklyn, New York 11211]<sup>2</sup> (“**Declarant NWHDFC**,” together with Declarant MM are sometimes collectively referred to herein as “**Declarant**”).

**WITNESSETH:**

WHEREAS, the **Declarant MM** is the fee owner of certain real property located in the Borough of Brooklyn, County of Kings, City and State of New York, designated for real property tax purposes as Block 2885, Lot 1, which real property is more particularly described in **Exhibit A-1** annexed hereto (the “**MM Property**”), and the **Declarant NWHDFC** is the fee owner of certain real property located in the Borough of Brooklyn, County of Kings, City and State of New York, designated for real property tax purposes as Block 2885, Lots 20, 23, 28, and 32, which real property is more particularly described in **Exhibit A-2** annexed hereto (the “**NWHDFC Property**,” together with the **MM Property** are sometimes collectively referred to as the “**Subject Property**”); and

WHEREAS, **Declarant MM** desires to improve the **Subject Property** as a “large-scale general development” pursuant to the requirements of Section 12-10 of the New York City Zoning Resolution definition of “large-scale general development” (such proposed improvement of the **Subject Property** hereinafter referred to as the “**Large-Scale Development Project**”); and

WHEREAS, the **NWHDFC Property** is comprised of four tax lots, each containing a four story building used for affordable housing that will remain largely unchanged by the **Large-Scale Development Project**; and

WHEREAS, a single property on Block 2885, Lot 10, is excluded from the **Large-Scale Development Project**, but is included in the Map Amendment (as described below), the Map Amendment area comprises all of Block 2885; and

WHEREAS, the **Large-Scale Development Project**, primarily comprised of the **MM Property**, will be developed in four phases, the **Phase 1 Development**, **Phase 2 Development**, **Phase 3 Development**, and **Phase 4 Development**. The “**Phase 1 Development**” is comprised of **Building 1** and the portion of the **Publicly Accessible Area** located in the **Phase 1 Development** area. The “**Phase 2 Development**” is comprised of **Building 2** and the portion of the **Publicly Accessible Area** located in the **Phase 2 Development** area. The “**Phase 3 Development**” is comprised of **Building 3** and the portion of the **Publicly Accessible Area** located in the **Phase 3 Development** area. The “**Phase 4 Development**” is comprised of

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<sup>2</sup> Could be made to be a waiving party.

**Building 4** and the portion of the **Publicly Accessible Area** located in the **Phase 4 Development** area. (the **Phase 1 Development**, **Phase 2 Development**, **Phase 3 Development**, and the **Phase 4 Development** collectively comprise the “**Phasing Plan**”); and

WHEREAS, in connection with the **Large-Scale Development Project**, **Declarant** has filed an application with the New York City Department of City Planning (“**DCP**”) for approval by New York City Planning Commission (the “**Commission**” or “**CPC**”) of: (1) a Map Amendment to Zoning Maps 13a and 13b to change the zoning on Block 2885 from an R6 zoning district to an R7-2 zoning district with a C2-4 overlay mapped parallel to and within 150 feet north of Maspeth Avenue, under Application No. C 210480 ZMK; (2) a Text Amendment to Appendix F of the Zoning Resolution to create a Mandatory Inclusionary Housing district applicable to Block 2885 under Application No. N 210482 ZRK; and (3) a Special Permit, pursuant to Zoning Resolution Section 74-743, to permit modification of the height and setback regulations and minimum distance between buildings applicable to the **Subject Property** under Application No. C 210481 ZSK (the “**Large-Scale Special Permit**”) (collectively, the “**Land Use Application**”); and

WHEREAS, the site plan for the **Large-Scale Development Project**, attached hereto as Exhibit C, designates a **Publicly Accessible Area** that is to be constructed and maintained by **Declarant** and accessible to the public as set forth in this **Declaration** (referred to herein as the “**Publicly Accessible Area or PAA**”); and

WHEREAS, in connection with the Land Use Applications, an Environmental Assessment Statement (the “**EAS**”) was completed as part of City Environmental Quality Review (“**CEQR**”) Application No. 20HPD007K; that the EAS was performed pursuant to Executive Order No. 91 of 1977, as amended, and the regulations promulgated thereunder at 62 RCNY §5-01 et seq. 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 (“**SEORA**”); that the EAS determined the Land Use Applications would have no significant adverse impact on any CEQR technical area; and

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 of the Zoning Resolution be filed with the Commission; and

WHEREAS, Regal Abstract Corp. (the “**Title Company**”) has certified in the certification (the “Certification”) attached hereto as **Exhibit B-1** and made a part hereof, that as of \_\_\_\_\_, **Declarant** and [Mortgagee(s)] are the sole parties-in-interest (the “Parties-in-Interest”) in the **Subject Property**, as such term is defined in the definition of “zoning lot” in Section 12-10 of the Zoning Resolution; and

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 annexed hereto as **Exhibit B-2** and made a part hereof, which instrument is intended to be recorded simultaneously with this **Declaration**; and

WHEREAS, **Declarant** desires to restrict the manner in which the **Subject Property** is developed in the future, and intends these restrictions to benefit all the land, including land owned by the **City**, lying within a one-half-mile radius of the **Subject Property**.

NOW, THEREFORE, **Declarant** hereby declares covenants and agrees as follows:

## ARTICLE I

### **CERTAIN DEFINITIONS**

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

“**AG**” shall mean the Attorney General of the State of New York.

“**Application**” shall have the meaning set forth in the Recitals to this **Declaration**.

“**Approvals**” shall mean all approvals or consents required of any Governmental Authority with respect to the **Large-Scale Development Project**.

“**Board**” shall have the meaning set forth in Section 9.1 of this **Declaration**.

“**Building 1**” shall mean the 200-bed Kleiman Residence homeless shelter located in an existing structure to be the enlarged and renovated, and located at the northwest corner of the intersection of Maspeth Avenue and Debevoise Avenue.

“**Building 2**” shall mean the mixed building containing 311-units of affordable housing (plus one superintendent dedicated unit), and commercial and community facility uses on the ground floor in a newly constructed building located on the north side of Maspeth Avenue midway between Debevoise and Kingsland Avenues.

“**Building 3**” shall mean the 108-unit affordable independent residence for seniors (plus one superintendent dedicated unit) in a renovated and enlarged existing structure (the former Greenpoint Hospital), located along the formerly mapped Skillman Avenue midway between Debevoise and Kingsland Avenues

“**Building 4**” shall mean the mixed building containing 147-units of affordable housing (plus one superintendent dedicated unit) and community facility use on the ground floor in a newly constructed building located on the south side of Jackson Street midway between Debevoise and Kingsland Avenues.

“**Business Day**” means any day other than a Saturday, Sunday or other day on which banks in the State of New York are authorized or required by Legal Requirements to be closed.

“**Chairperson**” shall mean the then **Chairperson** of the New York City Planning Commission.

“**City**” shall mean the City of New York.

“**CPC**” shall mean the New York City Planning Commission or any successor to its jurisdiction.

“**Condo Declaration**” shall mean that certain declaration of condominium that may be entered into with regard to the ownership of **Building 1**, **Building 2**, **Building 3** or **Building 4**, and as further described in Section 9.1 hereof.

“**Coop/Condominium**” shall have the meaning set out in Section 9.1 of this **Declaration**.

“**DCP**” shall mean the New York City Department of City Planning or any successor to its jurisdiction.

“**Declarant**” shall mean the named **Declarant** and the heirs, successors and assigns of the named **Declarant** except that (i) **Declarant** shall not include the holder of a mortgage or deed of trust on all or any portion of the **Subject Property** unless and until it succeeds to the interest or obligation of **Declarant** by purchase, assignment, foreclosure or otherwise, and (ii) **Declarant** shall include the **Condominium** only from and after the **Condominium Obligation Date** and only as set forth in such **Condo Declaration**.

“**Delay Notice**” shall have the meaning set forth in Section 6.4 hereof.

“**Declaration**” shall have the meaning given in the Preamble to this **Declaration**.

“**Development**” shall mean the construction of the **Large-Scale Development Project**.

“**Development Phase**” shall mean any of **Phase 1 Development**, **Phase 2 Development**, **Phase 3 Development**, or **Phase 4 Development** (each as defined below).

“**Development Phasing Plans**” shall have the meaning set forth in the Recitals to this **Declaration** and shall be as shown on the Phasing Plan that included in the Site Plans.

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

“**DOT**” shall mean the New York City Department of Transportation or any successor to its jurisdiction.

“**Effective Date**” shall mean the date on which this **Declaration** is recorded in the Register’s Office following New York City Council adoption of the Application.

“**Entity**” means any general partnership, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, or association.

“**Final Completion**” or “**Finally Complete**” shall mean the portion of the constructed **Publicly Accessible Area** appurtenant to the respective phase of the Phasing Plan fully complies with all aspects of the **Site Plans** and that all items specified by the **Chairperson**, as incomplete, during the **Substantial Completion** review process were completed, notwithstanding that landscaping, planting of vegetation, or other tasks which must occur seasonally have not been

completed, provided that **Declarant** supplies assurances in a manner reasonably acceptable to the **Chairperson** that such seasonal task will be completed as soon as is practicable.

“**Force Majeure**” shall mean that the **Chairperson** has made the determination required in Section 6.4 hereof.

“**Force Majeure Event**” shall include, but not be limited to, (i) governmental restrictions, regulations or controls; (ii) enemy or hostile government action, civil commotion, insurrection, revolution, terrorism or sabotage; (iii) fire or other casualty; (iv) inclement weather substantially delaying construction of any relevant portion of the **Subject Property**; (v) failure or inability of a public utility to provide power, heat or light or any other utility service; (vi) strikes, lockouts or labor disputes; (vii) inability to obtain labor or materials or reasonable substitutes therefor (unless due to any act or omission of **Declarant**); (viii) acts of God; (ix) a taking of the whole or a portion of the **Subject Property** by condemnation or eminent domain; (x) denial to **Declarant** by any party of a right of access to any adjoining real property which right is vested in **Declarant** by contract or pursuant to applicable law, if such access is required to accomplish the obligations of **Declarant** pursuant to this **Declaration**; (xi) any undue material delay in the issuance of approvals by any department or agency of the **City**, the State of New York or the United States that is not caused by any act or omission of **Declarant**; (xii) underground or soil conditions that were not and could not reasonably have been foreseen by **Declarant** prior to their discovery or occurrence; (xiii) the pendency of any litigation relating to the Application or to the underlying sections of the Zoning Resolution; or (xiv) any other condition similar to the foregoing which are beyond **Declarant’s** control, inclusive of any delays relating to any temporary and/or emergency regulations, health or otherwise, imposed at the City, State or Federal level that have the effect of restricting access and/or construction related activity at the **Subject Property**.

“**Governmental Authority**” shall mean 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.

“**HPD**” shall mean the New York City Department of Housing Preservation and Development, or any successor to its jurisdiction.

“**Land Use Application**” shall have the meaning set forth in the Recitals.

“**Large-Scale Development Project**” shall have the meaning set forth in the Recitals.

“**Large-Scale Special Permit**” shall have the meaning set forth in the Recitals.

“**Legal Requirements**” shall mean all applicable laws, statutes and ordinances, and all orders, rules, regulations, interpretations, directives and requirements, of any Governmental Authority having jurisdiction over the **Large-Scale Development Project**.

“**Maintenance and Repair Obligations**” shall have the meaning set forth in Section 3.4 **Declaration**.



“**Mortgage**” shall mean a mortgage given as security for a loan in respect of all or any portion of the **Phase 1 Development, Phase 2 Development, Phase 3 Development, or Phase 4 Development** other than a mortgage secured by any condominium unit or other individual residential unit located within the **Phase 1 Development, Phase 2 Development, Phase 3 Development, or Phase 4 Development**.

“**Mortgagee**” shall mean the holder of a Mortgage.

“**Notice**” shall have the meaning set forth in Section 8.8 of this **Declaration**.

“**Notice of Final Completion**” shall have the meaning set forth in Section 6.5 of this **Declaration**.

“**Notice of Substantial Completion**” shall have the meaning set forth in Section 6.2 of this **Declaration**.

“**Party-in-Interest**” shall have the meaning set forth in subdivision (d) of the definition of the term “zoning lot” in Section 12-10 of the Zoning Resolution.

“**PCO**” shall mean a Permanent Certificate of Occupancy issued by **DOB**.

“**Person**” shall mean any individual or Entity, and the heirs, executors, administrators, legal representatives, successors and assigns of such Person as the context may require.

“**Phase 1 Development**” shall have the meaning set forth in the Recitals to this **Declaration**.

“**Phase 2 Development**” shall have the meaning set forth in the Recitals to this **Declaration**.

“**Phase 3 Development**” shall have the meaning set forth in the Recitals to this **Declaration**.

“**Phase 4 Development**” shall have the meaning set forth in the Recitals to this **Declaration**.

“**Phasing Plan**” shall have the meaning set forth in the Recitals to this **Declaration**.

“**Publicly Accessible Area**” or “**PAA**” shall have the meaning set forth in the Recitals and in the **Site Plans**.

“**Public Access Easement**” shall have the meaning set forth in Section 3.2 of this **Declaration**.

“**Register’s Office**” shall mean the Register’s Office of the City of New York, Kings County.

“**Site Plans**” shall mean the plans set forth in Exhibit C and referred to in Section 2.2 of this **Declaration**.

“**State**” shall mean the State of New York, its agencies and instrumentalities.

“**Substantial Completion**” or “**Substantially Complete**” shall mean that the portion of the **Publicly Accessible Area** appurtenant to the respective phase of the **Phasing Plan** has been constructed substantially in accordance with the **Site Plans** and the **Phasing Plan**, and that each portion has been completed to such an extent that the **Publicly Accessible Area** in accordance with the **Phasing Plan** and Article VI hereof may be operated and made available for public use, in the reasonable determination of the **Chairperson**, notwithstanding that (i) landscaping, planting of vegetation, or other tasks which must occur seasonally have not been completed, or (ii) certain landscaping located beneath or immediately adjacent to any temporary construction protection installations (e.g., scaffolding or bridging) have not been completed (e.g., certain limited **PAA** located beneath or immediately abutting certain construction protection measures as required on the **Phase 3 Development** in connection with the construction of the adjacent **Phase 4 Development** need not be completed in the **Phase 3 Development** until such protection measures are removed from the **Phase 4 Development**, the forgoing example shall not limit the applicability of this exception to the **Substantial Completion** of other **PAA** in the **Subject Property**).

“**TCO**” shall mean a Temporary Certificate of Occupancy issued by **DOB**.

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

## ARTICLE II

### **DEVELOPMENT AND USE OF THE SUBJECT PROPERTY**

2.1 **Designation of Large-Scale General Development.** **Declarant** hereby declares and agrees that, following the Effective Date as herein defined, the **Subject Property**, if developed pursuant to the **Large-Scale Special Permit**, shall be treated as a large-scale general development site and shall be developed and enlarged as a single unit pursuant to the New York City Zoning Resolution.

2.2. **Development of Large-Scale Development Site.** If the **Subject Property** is developed in whole or part in accordance with the **Large-Scale Special Permit**, **Declarant** covenants that the **Subject Property** shall be developed in substantial conformity with the following plans prepared by Magnusson Architecture & Planning PC, approved as part of the **Large-Scale Special Permit** and annexed hereto in **Exhibit “C”** and made a part hereof **Site Plans** (19 sheets):

<b>Drawing No.</b>	<b>Title</b>	<b>Date</b>
Z-002.00	Zoning Analysis, Base Plane Calculation	06/07/2021
Z-010.00	Zoning Lot Site Plan	06/07/2021
Z-030.00	Waiver Plan	06/07/2021
Z-040.00	West-East Section 1	06/07/2021
Z-041.00	West-East Section 2	06/07/2021
Z-042.00	West-East Section 3	06/07/2021
Z-043.00	North-South Section 1	06/07/2021
Z-044.00	North-South Section 2	06/07/2021
Z-045.00	North-South Section 3	06/07/2021
Z-054.00	Illustrative Axonometrics	04/30/2021
P-001.00	PAA Phasing Plan	06/07/2021
P-002.00	Publicly Accessible Area Plan	06/07/2021
L-001.00	Site Plan	06/07/2021
L-101.00	Open Area Plan	06/07/2021
L-201.00	Layout and Grading Plan	06/07/2021
L-301.00	Planting Plan	06/07/2021
L-401.00	Furniture and Fencing Plan	06/07/2021
L-501.00	Fence and Furnishing Details	06/07/2021
L-502.00	Planting Details	06/07/2021

### ARTICLE III

#### PUBLICLY ACCESSIBLE AREA

##### 3.1 Construction of the Publicly Accessible Area.

(a) **Declarant** shall construct the **Publicly Accessible Area** substantially in accordance with the specifications in Drawing Nos. P-001.00, P-002.00, L-001.00, L-101.00, L-201.00, L-301.00, L-401.00, L-501.00, and L-502.00 of the **Site Plans**, attached hereto in Exhibit C.

(b) **Declarant**, at its sole cost and expense, shall diligently apply for and prosecute the applications for all City, State, and Federal permits and approvals necessary to **Substantially Complete** the **Publicly Accessible Area** located within each **Development Phase** and in accordance with Article VI of this **Declaration**.

##### 3.2 Public Access Easement.

(a) Immediately upon the certification of **Substantial Completion**, **Declarant** grants the **City** and the general public a permanent, perpetual access easement over the entirety of the **Publicly Accessible Area**, unobstructed from the surface of the **Publicly Accessible Area** to the

sky, for the purposes of (i) passive recreational use by the general public and (ii) pedestrian access (the “**Public Access Easement**”).

(b) All liens, including but not limited to judgment liens, mortgage liens, mechanics’ liens and vendees’ liens, and all burdens, covenants, encumbrances, leases, licensees, easements, profits, security interests in personal property or fixtures, and all other interests subsequent thereto, excepting governmental tax liens and assessments, and public utilities and easements, shall be subject and subordinate to the rights, claims, entitlements, interests and priorities created by the **Public Access Easement** as herein defined in Section 3.2(a).

### 3.3 Hours of Access.

(a) The **Publicly Accessible Area** shall be open and accessible to the public each day during the hours of 6:00 a.m. to 1:00 a.m. all year, except that, during the hours of 1:00 a.m. to 6:00 a.m., the PAA shall remain accessible to the public from all the entrances for the sole purpose of pedestrian access to the surrounding streets, which are Maspeth Avenue, Debevoise Avenue, Jackson Street, and Kingsland Avenue.

(b) **Declarant** may only close the **Publicly Accessible Area**, in a manner that ensures that the area and timing of such closure shall be the least extent practicably possible, in order to: (a) perform required maintenance, repairs, or replacements of the **Publicly Accessible Area**, or portions thereof, and shall notify the **Chairperson** of such closure no less than seven (7) days in advance and such notice shall set forth the area and duration of closure as well as confirm the posting of signs providing prior notice to the public at appropriate locations and entrances of the **Publicly Accessible Area**; or (b) perform required repair, restoration, rehabilitation, renovation, or replacement of pipes, utility lines or conduits or other equipment on or under a the **Publicly Accessible Area** and shall notify the **Chairperson** of such closure no less than ten (10) days in advance and such notice shall set forth the area and duration of closure as well as confirm the posting of signs providing prior notice to the public at appropriate locations and entrances of the **Publicly Accessible Area**; or (c) to make emergency repairs to mitigate hazardous site conditions or address other emergency conditions as specified in Section 3.3(c).

(c) In the event that the closure of the **Publicly Accessible Area** is required due to an emergency condition specified herein, **Declarant** shall notify the **Chairperson** of such closing and its expected duration as soon as practicable but in no event more than two (2) business days after such closure. The notice to the **Chairperson** shall further specify which portion has been closed and describe the nature of the emergency or hazardous condition causing the closure. Emergency conditions for which the **Publicly Accessible Area** may be closed, pursuant to Section 3.3(c), shall be limited to actual or imminent emergency situations, including security alerts, riots, casualties, disasters, or other events endangering public safety or property, provided that no such emergency closure shall continue for more than forty-eight (48) consecutive hours without **Declarant** having consulted with **DOB** or other agency and such agency confirming the continued closure of the **Publicly Accessible Area** is required.

(d) In the event of a closure pursuant to Section 3.3(b), **Declarant** will close only those portions of such areas which must or should reasonably be closed to effect the repairs or

remediation, will exercise due diligence in the performance of such repairs or remediation so that it is completed expeditiously and the temporarily closed areas are re-opened to the public promptly, and will, wherever reasonably possible, perform the needed work in such a manner that the public will continue to have access to the **Publicly Accessible Area**.

3.4 **Maintenance and Repair**. **Declarant** shall be responsible for the maintenance and repair of the **Publicly Accessible Area** in accordance with the standards set forth herein (the “**Maintenance and Repair Obligations**”). All such maintenance shall be performed in a good and worker-like manner.

(a) **Cleaning**.

(i) Dirt, litter and obstructions shall be removed as needed and leaves collected and removed as needed to maintain the **Publicly Accessible Area** in clean, neat, and good condition.

(ii) All walkways, lighting and all other improvements and facilities installed in the **Publicly Accessible Area** shall be routinely cleaned and maintained so as to keep such improvements and facilities in a clean, neat, and good condition.

(iii) Graffiti shall be regularly painted over or removed, as appropriate to the nature of the surface, promptly, with reasonable dispatch.

(iv) Drains, sewers and catch basins shall be cleaned regularly to prevent clogging.

(v) Branches and trees damaged or felled by winds, ice, vandalism or by any other reason whatsoever, shall be promptly removed.

(vi) Snow and ice shall be promptly removed from all walkways so as not to interfere with safe passage and from all other paved surfaces no more than 24 hours after each snowfall or accumulation of ice.

(b) **Landscape Maintenance**. A maintenance program for the planted portions of the **Publicly Accessible Area** shall be established, consisting of a “Spring Start-up Period” program, a “Season Closing Period” program, and a continuing maintenance program through the “Growing Season.”

(i) **Spring Start-Up Period**: The Spring Start-up Period shall commence on March 1<sup>st</sup> and terminate not later than the end of the second week of April of each calendar year. The following work shall be undertaken and carried out annually during the Spring Start-up Period:

(aa) Remove any winter protectives from trees, shrubs and other planting materials;

(bb) Remove all landscaping debris including leaves and dead branches;

- (cc) Prune and trim trees that have overextended, dead or otherwise unsightly branches to maintain natural form;
- (dd) Remove or destroy any weeds growing between paving blocks, pavement, and concrete areas;
- (ee) Apply commercially available nitrogen rich fertilizer to trees, shrubs, planting materials and other lawn areas as appropriate;
- (ff) Remove any sand deposited as a result of winter sandings;
- (gg) Replace any plant material or trees that are dead, diseased and/or otherwise unhealthy with specimens of substantially equal type and reasonable size;
- (hh) Reseed grassed areas as needed.

(ii) Season Closing Period: The Season Closing Period shall begin on October 1<sup>st</sup> and shall terminate not later than November 1<sup>st</sup> of each calendar year. The following work shall be undertaken and carried out during the Season Closing Period:

- (aa) Rake and collect leaves;
- (bb) Wrap trees, shrubs, and other plant materials as necessary to ensure adequate winter protection;
- (cc) Apply commercially available nitrogen rich fertilizer to all lawn areas;
- (dd) Reseed grassed areas as needed.

(iii) Growing Season: The Growing Season shall commence at the end of the Spring Start-up period and shall terminate at the end of the Season Closing Period. The following work shall be undertaken and carried out during the Growing Season:

- (aa) Inspect trees on a regular basis and spray when necessary;
- (bb) Water all trees, shrubs, plantings and grass areas as necessary to maintain in a healthy condition. In extended periods of drought (i.e., little precipitation/high temperatures for more than one week) ground cover, trees, shrubs and other plantings shall be thoroughly watered, subject to City or State regulations governing water usage.
- (cc) Mow grassed areas on a bi-weekly basis. During periods of excessive growth, mowing shall occur on a weekly basis. Reseed grassed areas as needed.

(dd) Weed as needed, no less than on a bi-weekly basis.

(c) **Repairs and Replacements.** **Declarant** shall perform repairs and replacements as needed to maintain the **Publicly Accessible Area** in state of good repair and in compliance with the specifications set forth in the **Site Plans**. **Declarant** shall exercise due diligence in commencing the repair or replacement of same as promptly as possible and completing the same within a reasonably expeditious time after commencement. All repairs and replacements shall be performed in substantial compliance with the specifications set forth in the **Site Plans** and replacement materials shall match existing materials to the extent feasible. Repairs shall include, but not be limited to, the following:

(i) Benches or Other Seating: Maintenance, including replacement of any broken or missing slats and painting, as necessary;

(ii) Walls or Other Barriers: Any broken or materially cracked walls, or barriers shall be repaired or removed and replaced;

(iii) Paving: All paved surfaces shall be maintained so as to be safe and attractive;

(iv) Signage: All signs and graphics shall be maintained in good condition and all vandalized or damaged signage shall be promptly cleaned or replaced with new signage or graphics;

(v) Painting: All items with painted surfaces shall be painted on an “as needed” basis. Surfaces shall be scraped free of rust or other extraneous matter and painted to match the installed color;

(vi) Plant Materials and Trees: Plant materials and trees that are dead, diseased and/or otherwise unhealthy shall be replaced with healthy specimens of substantially equal type and reasonable size; and

(vii) Construction Defects and Hazardous Conditions: **Declarant** shall periodically inspect the **Publicly Accessible Area** for construction defects and hazardous conditions and shall promptly repair and remediate any construction defects or hazardous conditions, as well as implement any safety measures required on an interim basis to protect public safety.

3.5 **Signage.** Pursuant to Local Law 116 of 2018, the **Publicly Accessible Area** qualifies as a Privately Owned Public Space (“POPS”), and **Declarant** shall comply with any signage regulations therein promulgated by **DCP** regarding POPS.

#### ARTICLE IV

#### **INTENTIONALLY OMITTED**

## ARTICLE V

### INTENTIONALLY OMITTED

## ARTICLE VI

### CERTIFICATES OF OCCUPANCY

#### 6.1 Temporary Certificates of Occupancy.

(a) **Declarant** shall not apply, upon the completion of any inspections, for the issuance of a **TCO** for **Building 2**, **Building 3**, or **Building 4** until the following conditions have been met:

(i) **DCP** has issued a **Notice of Substantial Completion** for the portion of the **Publicly Accessible Area** located in the **Development Phase** that the building is within, except for **TCOs** relating to **Building 1** and **Building 2**. For **Building 1**, no **Notice of Substantial Completion** for the portion of the **Publicly Accessible Area** located in the **Phase 1 Development** shall be required to apply for a **TCO**. For **Building 2**, a **Notice of Substantial Completion** for the portion of the **Publicly Accessible Area** located in **Phase 1 Development** in addition to **Phase 2 Development** shall be required to apply for a **TCO**.

(b) The **TCO** shall include an appropriate description of the portion of the **PAA** that is appurtenant to the portion of the **Phasing Plan** for which the **TCO** is being sought.

#### 6.2 Notice of Substantial Completion.

(a) *Notification.* **Declarant** shall notify the **Chairperson** at such time as it believes that the **Publicly Accessible Area** within the **Development Phase** that the building, for which **Declarant** is seeking a **TCO**, is **Substantially Complete** and shall request that the **Chairperson** issue a certification to **Declarant** and **DOB** certifying the **Substantial Completion** of the portion of the **Publicly Accessible Area** within such **Development Phase**.

(b) *Initial Review.* No later than twenty (20) days after the receipt of the notification set forth in Section 6.2(a) herein, the **Chairperson** shall either: (A) issue a **Notice of Substantial Completion**; or (B) deliver to **Declarant** written notice setting forth the reasons why the **Publicly Accessible Area** for the **Phase 2 Development**, **Phase 3 Development**, or the **Phase 4 Development**, as applicable, is not **Substantially Complete** and the items that need to be completed in order to determine that the **Publicly Accessible Area** within any such Development Phase is **Substantially Complete** (the “**Notice of Incompletion (substantial)**”). The failure by the **Chairperson** to deliver the **Notice of Substantial Completion** or a **Notice of Incompletion (substantial)** within twenty (20) days after receipt of the notification set forth in Section 6.2(a) herein shall be deemed an issuance by the **Chairperson** of the **Notice of Substantial Completion**.



(c) *Subsequent Review.* Upon completing the outstanding work specified by the **Chairperson** to achieve **Substantial Completion**, **Declarant** shall notify the **Chairperson** of such completion. No later than ten (10) calendar days of the receipt of such notice, the **Chairperson** shall either: (A) issue a **Notice of Substantial Completion**; or (B) notify **Declarant** in writing of items that have not been completed or satisfactorily performed. This process shall continue until the **Chairperson** has issued a **Notice of Substantial Completion** (the “**Subsequent Notice of Incompletion (substantial)**”). The failure by the **Chairperson** to deliver the **Notice of Substantial Completion** or a **Subsequent Notice of Incompletion (substantial)** within ten (10) days after receipt of the notification set forth in this Section 6.2(c) shall be deemed an issuance by the **Chairperson** of the **Notice of Substantial Completion**.

6.3 Intentionally omitted.

6.4 Force Majeure. In the event that **Declarant** is unable to **Substantially Complete** construction of any portion of the **Publicly Accessible Area** appurtenant to the **Phase 2 Development**, **Phase 3 Development**, or the **Phase 4 Development** by the time the associated portion of the **Large-Scale Development Project** is ready for a **TCO**, as a result of a **Force Majeure Event**, then **Declarant** shall so notify **DCP** as soon as **Declarant** learns of such circumstances. **Declarant’s** written notice (the “**Delay Notice**”) shall include a description of the condition or event, its cause and probable duration (if known to **Declarant**), and in **Declarant’s** reasonable judgment, the impact it is reasonably anticipated to have on the completion of the item of work. The **Chairperson** shall, within ten (10) calendar days of its receipt of the **Delay Notice**, (i) certify in writing that a **Force Majeure Event** has occurred, or (ii) notify **Declarant** that it does not reasonably believe a **Force Majeure Event** has occurred, in which case the **Chairperson** shall state with particularity the reasons it believes Force Majeure has not occurred. Such certification or notice shall constitute a final determination. Upon a determination that a **Force Majeure Event** has occurred, the **Chairperson** shall grant **Declarant** appropriate relief for such delay, including certifying in writing to the **DOB** that the Commissioner has no objection to the issuance of a **TCO** for all or part of the building(s) in the **Large-Scale Development Project**. Any delay caused as the result of a **Force Majeure Event** shall be deemed to continue only as long as the **Force Majeure Event** is continuing. Upon cessation of the events causing such delay, the **Declarant** shall promptly recommence the **PAA Work**. As a condition of granting such relief, **DCP** may require that **Declarant** post a bond or other security in a form and amount reasonably acceptable to **DCP** in order to ensure that the **PAA Work** is **Substantially Completed** and that all other requirements of Section 6.1 or 6.5, as applicable, are satisfied. Such security shall be in a sum equal to 125% of the cost of the remaining work in order to **Finally Complete** such **Publicly Accessible Area**. Such estimated cost is subject to the reasonable approval of **DCP**. **Declarant** shall be obligated to **Substantially Complete** or **Finally Complete** construction within the period of time specified in the **Delay Notice**, or such lesser period of time as **DCP** reasonably determined in the **Delay Notice**; provided, however, that if the Force Majeure Event has a longer duration than as set forth in the **Delay Notice** or as reasonably determined by **DCP**, **DCP** may grant additional time for **Substantial Completion** or **Final Completion** of such portion of the **Large-Scale Development Project** as the case may be.

6.5 Permanent Certificates of Occupancy.

(a) **Declarant** shall not apply, upon the completion of any inspections, for the issuance of a **PCO** from **DOB** for any building on the **Subject Property**, until the **Chairperson** certifies to **Declarant** and **DOB** that the **Publicly Accessible Area** within the **Development Phase** that the building is located is **Finally Complete**, in accordance with the following provisions:

(i) *Notification.* **Declarant** shall notify the **Chairperson** at such time as it believes that the **Publicly Accessible Area** within the **Development Phase** that the building, for which **Declarant** is seeking a **PCO**, is located is **Finally Complete** and shall request that the **Chairperson** issue a certification to **Declarant** and **DOB** certifying the **Final Completion** of the **Publicly Accessible Area** for such portion of the **Phasing Plan**.

(ii) *Initial Review.* No later than twenty (20) days after the receipt of the notification set forth in Section 6.5(a)(i) herein, the **Chairperson** shall either: (A) issue a **Notice of Final Completion**; or (B) deliver to **Declarant** written notice setting forth the reasons why the **Publicly Accessible Area** for the applicable **Development Phase** is not **Finally Complete** and the items that need to be completed in order to determine that the **Publicly Accessible Area** for any such phase is **Finally Complete** (the “**Notice of Incompletion (final)**”). The failure by the **Chairperson** to deliver the **Notice of Final Completion** or a **Notice of Incompletion (final)** within twenty (20) days after receipt of the notification set forth in Section 6.5(a)(i) herein shall be deemed an issuance by the **Chairperson** of the **Notice of Final Completion**.

(iii) *Subsequent Review.* Upon completing the outstanding work specified by the **Chairperson** to achieve **Final Completion**, **Declarant** shall notify the **Chairperson** of such completion. No later than ten (10) calendar days of receipt of such notice, the **Chairperson** shall either: (A) issue a **Notice of Final Completion**; or (B) notify **Declarant** in writing of items that have not been completed or satisfactorily performed (the “**Subsequent Notice of Incompletion (final)**”). This process shall continue until the **Chairperson** has issued a **Notice of Final Completion**. The failure by the **Chairperson** to deliver the **Notice of Final Completion** or a **Subsequent Notice of Incompletion (final)** within ten (10) days after receipt of the notification set forth in this Section 6.5(a)(iii) shall be deemed an issuance by the **Chairperson** of the **Notice of Final Completion**.

## ARTICLE VII

### DEFAULTS AND REMEDIES

7.1 **Declarant** acknowledges that the restrictions, covenants, and obligations of this **Declaration** will protect the value and desirability of the **Subject Property**, as well as benefit the **City**. If **Declarant** fails to perform any of **Declarant's** obligations under this **Declaration**, the **City** shall have the right to enforce this **Declaration** against **Declarant** and exercise any administrative legal or equitable remedy available to the **City**, and **Declarant** hereby consents to same; provided that this **Declaration** shall not be deemed to diminish **Declarant's** or any other **Party-in-Interest's** right to exercise any and all administrative, legal, or equitable remedies otherwise available to it, and provided further, that the **City's** rights of enforcement shall be subject to the cure provisions and periods set forth in Section 7.3 herein. **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 **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 **Large-Scale Development Project** on the **Subject Property** subject to the **Large-Scale Special Permit**; provided, however, that such right of revocation shall not permit or be construed to permit the revocation of any certificate of occupancy for any use or improvement that exists on the **Subject Property** as of the date of this **Declaration**.

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

7.3 Prior to **City** instituting any proceeding to enforce the terms or conditions of this **Declaration** due to any alleged violation hereof, **City** shall give **Declarant**, every mortgagee of all or any portion of the Property set forth in a recorded mortgage agreement (a "**Mortgagee**") and every **Party-in-Interest** thirty (30) business days written notice of such alleged violation, during which period **Declarant**, any **Party-in-Interest** and **Mortgagee** shall have the opportunity to effect a cure of such alleged violation or to demonstrate to **City** why the alleged violation has not occurred. If a **Mortgagee** or **Party-in-Interest** performs any obligation or effects any cure **Declarant** is required to perform or cure pursuant to this **Declaration**, such performance or cure shall be deemed performance on behalf of **Declarant** and shall be accepted by any person or entity benefited hereunder, including **CPC** and **City**, as if performed by **Declarant**. If **Declarant**, any **Party-in-Interest** or **Mortgagee** commences to effect such cure within such thirty (30) day period (or if cure is not capable of being commenced within such thirty (30) day period, **Declarant**, any **Party-in-Interest** or **Mortgagee** commences to effect such cure when such commencement is reasonably possible), and thereafter proceeds diligently toward the effectuation of such cure, the aforesaid thirty (30) day period (as such may be extended in accordance with the preceding clause) shall be extended for so long as **Declarant**, any **Party-in-Interest** or **Mortgagee** continues to proceed diligently with the effectuation of

such cure. In the event that more than one **Declarant** exists at any time on the **Subject Property**, notice shall be provided to all **Declarants** from whom **City** has received notice in accordance with Section 8.7 herein, and the right to cure shall apply equally to all **Declarants**.

7.4 If, after due notice and opportunity to cure as set forth in this **Declaration**, **Declarant**, **Mortgagee** or a **Party-in-Interest** fail to cure the alleged violation, the **City** may exercise any and all of its rights, including without limitation those delineated in this Section and may disapprove any amendment, modification or cancellation of this **Declaration** on the sole ground that **Declarant** is in default of a material obligation under this **Declaration**.

7.5. Notwithstanding anything to the contrary contained in this **Declaration**:

(a) The restrictions, covenants, obligations and agreements herein shall be binding on the **Declarant** or any other individual, business, organization or other entity, as the case may be, only for the period during which the **Declarant** or any such **Party-in-Interest** holds fee title to the **Subject Property** or portion thereof, and subject to the further provisions of this Section 7.5.

(b) The **City** shall look solely to the interest of the **Declarant** in the **Subject Property** for the collection of any judgment recovered against the **Declarant** or the enforcement of any remedy based upon any breach by the **Declarant** under this **Declaration**, and no other property of the **Declarant** or its principals, disclosed or undisclosed, partners, shareholders, directors, officers, members 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**.

(c) The **City** shall then look solely to the interest of any **Party-in-Interest** in the **Subject Property** for the collection of any deficiency not collected from **Declarant** or any judgment recovered against **Declaration** or the enforcement of any remedy based upon any breach by the **Declarant** under this **Declaration**, but only after the **City** has exhausted all legal and equitable remedies against **Declarant**. No other property of any **Party-in-Interest** or its principals, disclosed or undisclosed, partners, shareholders, directors, officers, members 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 any **Party-in-Interest**, disclosed or undisclosed, shall have no personal liability under this **Declaration**.

(d) Notwithstanding anything to the contrary in this Section 7.5, nothing herein shall be deemed to preclude, qualify, limit or prevent the exercise by the **City** of any of the **City's** governmental rights, powers or remedies under any laws, statutes, codes, or ordinances, including, without limitation, with respect to the satisfaction of the remedies of the **City** under such laws, statutes, codes, or ordinances.

## ARTICLE VIII

### MISCELLANEOUS

8.1 Representation. **Declarant** hereby represents and warrants that there is no restriction of record on the development, enlargement, or use of the **Subject Property**, nor any present or presently existing estate or interest in the **Subject Property**, nor any existing lien, obligation, covenant, easement, limitation, or encumbrance of any kind that shall preclude the restriction and obligation to develop and enlarge the **Subject Property** as a large-scale general development as set forth herein.

8.2 Binding Nature; Successors and Assigns.

(a) The provisions of this **Declaration** shall be covenants running with the land and shall inure to the benefit of and be binding upon the respective heirs, successors, legal representatives and assigns of **Declarant** to the **Subject Property**, including **Mortgagee** (provided **Mortgagee** shall have no performance or payment obligations unless and until any such **Mortgagee** succeeds to a possessory interest, and references to **Declarant** shall be deemed to include such heirs, successors, legal representatives and assigns as well as the successors to their interests in the **Subject Property**, subject to the further provisions of this Section 8.2. Reference in this **Declaration** to agencies or instrumentalities of the **City** shall be deemed to include agencies or instrumentalities succeeding to jurisdiction thereof pursuant to the laws of the State of New York and the New York City Charter.

(b) Notwithstanding anything to the contrary contained in this **Declaration**, in the event that any building in the **Large-Scale Development Project** is converted to condominium or cooperative corporation forms of ownership, the **Coop/Condominium** (as hereinafter defined) and any **Unit Interested Party** (except that where the **Declarant** or any successor in interest to **Declarant** is also a **Unit Interested Party**, it shall remain obligated as **Declarant** pursuant to the provisions of this **Declaration**) shall not have any obligations under this **Declaration** to construct the **Public Access Area**.

(c) Notwithstanding the provisions of Section 8.2(b), in the event that a **TCO** or **PCO** has been issued for any portion of the **Large-Scale Development Project** prior to the receipt of a **Notice of Substantial Completion** or **Notice Final Completion** due to a **Force Majeure Event**, the **Declarant** that developed such portion of the **Large-Scale Development Project** shall remain obligated as **Declarant** hereunder until a **Notice of Final Completion** has been issued. The foregoing provision shall not be applicable to the **TCO** or **PCO** for **Building 1**.

8.3 Parties-in-Interest. As of the date hereof, the Title Company has determined that there has been no change in the certification attached as **Exhibit B** and **Declarant** represents and warrants that the **Parties-in-Interest** listed in **Exhibit B** are the only known **Parties-in-Interest** in the **Subject Property** as of the date hereof.

8.4 Counterparts. This **Declaration** may be executed in one or more counterparts, each of which shall be an original and all of which, together, shall constitute one agreement.

8.5 Recordation. **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 five (5) business days of the New York City Council’s approval of the **Land Use Applications** by an affirmative vote or by operation of law as set forth in New York City Charter Section 197-d (such date hereinafter referred to as the “**Recording Date**”). **Declarant** shall promptly provide to the **Chairperson** of the **CPC** a copy of the **Declaration** as recorded, so certified by the City Register. If **Declarant** fails to so record this **Declaration** by the Recording Date, **CPC** may record a duplicate original of this **Declaration**, but all costs of recording, whether undertaken by **Declarant** or by **CPC**, shall be borne by **Declarant**.

8.6 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 8.5 above.

8.7 Notice.

(a) All notices, demands, requests, consents, approvals, and other communications (collectively referred to as “**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:

- (i) if to **Declarant**:  
to the address at the commencement of this **Declaration**  
Attention: Director of Development  
with a copy to:  
Bryan Cave Leighton Paisner LLP  
1290 Avenue of the Americas  
New York, New York 10104  
Attention: Judith Gallent, Esq.
- (ii) if to **CPC**:  
New York City Planning Commission  
120 Broadway, 31<sup>st</sup> Floor  
New York, New York 10271  
Attention: **Chairperson**  
with a copy to:  
the General Counsel of **CPC** at the same address
- (iii) if to a **Mortgagee**:  
[mortgagee]  
at the address provided in writing to **CPC** in accordance with this **Declaration**

(b) **Declarant**, **CPC**, any **Party-in-Interest**, and any **Mortgagee** may, by notice provided in accordance with this Section, 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 on the date that the **Notice** was received or was refused; or (C) delivered by hand, in which case the **Notice** will be deemed delivered for all purposes on the date that the **Notice** was received. All **Notices** from **CPC** to **Declarant** shall also be sent to every **Mortgagee** of whom **CPC** has notice, and no **Notice** shall be deemed properly given to **Declarant** without such notice to such **Mortgagee(s)**. In the event that there is more than one **Declarant** at any time, any **Notice** from the **City** or the **CPC** shall be provided to all **Declarants** of whom **CPC** has notice.

#### 8.8 Applications.

(a) **Declarant** shall include a copy of this **Declaration** with any application made to **DOB** for a foundation, new building, alteration, or other permit for any portion of the **Large Scale Development Project** subject to the **Large-Scale Special Permit**. Nothing in this **Declaration** herein shall be construed to prohibit or preclude **Declarant** from filing for, or **DOB** from issuing, any permit for all or any portion of the **Large-Scale Development Project**, in such phase or order as **Declarant** sees fit in **Declarant's** sole discretion.

(b) Nothing in this **Declaration** shall be construed to prevent **Declarant** or any of **Declarant's** 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 **Declarant** shall include a copy of this **Declaration** in connection with any application for any such discretionary approval, and provided that nothing in this Section 8.8(b) shall be construed as superseding the requirements, restrictions, or approvals that may be required under agreements with any other **Agency** or the **City**.

8.9 Severability. In the event that any of the provisions of the **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.

8.10 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.

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

## ARTICLE IX

### CONDOMINIUMS AND COOPERATIVE CORPORATIONS

#### 9.1 Filing Requirements.

(a) In the event that any part of the **Large-Scale Development Project** shall be subject to a condominium declaration, or if any part of the **Large-Scale Development Project** shall be owned or otherwise held by a cooperative corporation in accordance with the provisions of the laws of the State of New York (in either instance, referred to herein as the “**Coop/Condominium**,” and such term shall refer to either organizational form), from and after the date the declaration of condominium has been recorded in the Office of the City Register, or the date that the **Large-Scale Development Project** (or some portion thereof) shall be held by the cooperative corporation (the “**Coop/Condominium Obligation Date**”), under the directorship of a duly elected or appointed Board of Directors or Board of Managers, as the case may be (the “**Board**”), the **Coop/Condominium** shall thereafter be deemed to be a **Declarant** under this **Declaration**. The owners of the shares of stock of the cooperative corporation, the holder of a lien encumbering any such shares, the holder of a proprietary lease or of any other right to occupancy or other interest therein, the owner of any residential or commercial unit in the condominium, or the holder of a lien encumbering any such condominium unit and the holder of any lease, right of occupancy or any other interest in such condominium unit, or the holder of any Affordable Housing Unit (each of the foregoing, hereinafter, a “**Unit Interested Party**”) shall not be deemed to be a **Declarant** or a **Party-in-Interest**.

(b) From and after the date the **Declarant** no longer holds any fee interest in the **Subject Property** or any portion thereof (other than one or more individual residential or commercial condominium units or shares in a cooperative corporation), and provided the **Coop/Condominium** shall have been organized as provided in this **Declaration**, such **Coop/Condominium** shall be deemed to be the sole **Declarant** and **Party-in-Interest** under this **Declaration**. In such event, the **Coop/Condominium** shall be the sole party with any right to amend, modify, cancel, revise or otherwise change the **Declaration**, or make any application therefor.

(c) Each and every **Unit Interested Party** hereby (x) irrevocably consents to any amendment, modification, cancellation, revision or other change in this **Declaration** by the Board; (y) waives and subordinates any rights it may have to enter into an amended **Declaration** or other instrument amending, modifying, canceling, revising or otherwise changing this **Declaration**; and (z) nominates, constitutes and appoints the Board its true and lawful attorney-in-fact, coupled with an interest, to execute any documents or instruments that may be required in order to amend, modify, cancel, revise or otherwise change this **Declaration** and Exhibits hereto.

9.2 Offering Plans. Upon the marketing and sale of securities appurtenant to units in a **Coop/Condominium** constructed or otherwise included in the **Large-Scale Development Project** as is contemplated in this Article, a summary of the terms of this **Declaration** shall be included in any offering plan or “red herring” issued in connection therewith (the “**Offering Plan**”). Such Offering Plan shall clearly identify the rights and obligations of the unit owners or



the owners of shares of stock in the cooperative corporation, as the case may be, under this **Declaration**. The cost of maintenance of the Public Access Area and the obligations of the **Coop/Condominium** under this **Declaration** are essential elements of the **City** actions permitting the development of the **Large-Scale Development Project** in accordance with the provisions of this **Declaration**, and in accordance with any other approvals granted by the **City**, shall be included in any Offering Plan along with a copy of the **Declaration** and **PAA** Maintenance Agreement as exhibits.

9.3 **Common Elements**. Any condominium declaration shall, upon filing, contain provisions describing the **PAA** and all areas covered in the **PAA** as “common elements,” as that term is constructed under RPL 339-I.

9.4 **Affordable Housing and Common Expenses**. No Affordable Housing Unit which may be constructed in the **Large-Scale Development Project** shall have any obligation for the Maintenance Obligations, or other costs to the **Coop/Condominium** attendant to this **Declaration**, and the calculation of any rents, common charges or maintenance on an Affordable Housing Unit shall not include any *pro rata* contribution thereto.

9.5 **Estoppel**. **Declarant** shall certify in writing to the **Chairperson**, or any individual succeeding to their jurisdiction, that all governing documents of the **Coop/Condominium** are in full compliance with the requirements of this **Declaration** and shall provide the **Chairperson** with copies of such governing documents within ten (10) days of the **AG** approving the **Offering Plan**. If **Declarant** fails to comply with the provisions herein, the **City** may proceed with any available enforcement measures.

## ARTICLE X

### **AMENDMENT, MODIFICATION, AND CANCELLATION**

10.3 In the event that any part of the **Large-Scale Development Project** shall become a **Coop/Condominium**, until the **Coop/Condominium** shall be deemed to be the sole Declarant and **Party-in-Interest** as contemplated in Section 9.1(b), any **Unit Interested Party**, any **Board** hereby (x) irrevocably consent to any amendment, modification, cancellation, revision or other change in this **Declaration** by **Declarant**; (y) waive and subordinate any rights they may have to enter into an amended **Declaration** or other instrument amending, modifying, canceling, revising or otherwise changing this **Declaration**; and (z) nominate, constitute and appoint **Declarant** their true and lawful attorney-in-fact, coupled with an interest, to execute any document or instruments that may be required in order to amend, modify, cancel, revise or otherwise change this **Declaration**.

10.4 Notwithstanding any other provision herein, this **Declaration** shall automatically and without any further public or private action be canceled, and the restrictions, covenants, obligations, liens and agreements hereof shall be of no further force and effect if, prior to the issuance by the **DOB** of a building permit for the, **Declarant** delivers to the **Chairperson** and records with the **City Register’s Office**, a document duly executed and acknowledged in which

the **Declarant** discharges this **Declaration** of record and surrenders its rights to develop the **Large-Scale Development Project**.

10.5 **Declarant** may cancel the **Declaration**, subsequent to the issuance by the **DOB** of a building permit for the **Large-Scale Development Project**, if **Declarant** demonstrates to the **Chairperson** that no construction pursuant to the building permit has commenced. In such event, **Declarant** acknowledges that the future development of the **Subject Property** may be subject to a new **Large-Scale Special Permit** pursuant to the New York City Zoning Resolution Section 74-743.

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**IN WITNESS WHEREOF**, the undersigned has executed this **Declaration** as of the date written above.

MASPETH MANAGER LLC

[NEIGHBORHOOD WOMEN HOUSING  
DEVELOPMENT FUND COMPANY,  
INC.]<sup>3</sup>

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

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<sup>3</sup> Could be removed if deemed a waiving party.



**Exhibit A-1**

Description of the **MM Property**

## Exhibit A-2

### Description of the NWHDFC Property (Lots 20, 23, 28, and 32)

#### **Lot 20**

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

BEGINNING at the corner formed by the intersection of the easterly side of Kingsland Avenue and the southerly side of Jackson Street;

RUNNING THENCE easterly along the southerly side of Jackson Street, 59 feet 2 inches;

THENCE southerly at right angles to Jackson Street, 17 feet 11 inches;

THENCE southerly at an interior angle of 164 degrees 25 minutes 33 seconds with the last mentioned course, 188 feet 2-7/8 inches;

THENCE westerly at an interior angle of 105 degrees 34 minutes 27 seconds with the last mentioned course, 64 feet 2-3/8 inches to the easterly side of Kingsland Avenue;

THENCE northerly along the easterly side of Kingsland Avenue, 206 feet 10 inches to the point or place of BEGINNING.

#### **Lot 23**

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

BEGINNING at a point on the southerly side of Jackson Street, distant 59 feet 2-1/2 inches easterly from the corner formed by the intersection of the southerly side of Jackson Street and the easterly side of Kingsland Avenue;

RUNNING THENCE southerly at right angles to Jackson Street, 17 feet 11 inches;

THENCE southerly at an exterior angle of 164 degrees 25 minutes 33 seconds with the last mentioned course, 44 feet 3-1/2 inches;

THENCE easterly at an interior angle of 74 degrees 25 minutes 33 seconds with the last mentioned course, 120 feet 1-1/8 inches;

THENCE northerly at right angles to Jackson Street, 60 feet 5-7/8 inches to the southerly side of Jackson Street;

THENCE westerly along the southerly side of Jackson Street, 108 feet 2-3/8 inches to the point or place of BEGINNING.

Exhibit A-2 (continued)

Lot 28

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

BEGINNING at a point on the southerly side of Jackson Street, distant 61 feet 0-1/2 inch westerly from the corner formed by the intersection of the southerly side of Jackson Street and the westerly side of Debevoise Avenue;

RUNNING THENCE southerly at an exterior angle of 93 degrees 59 minutes 06 seconds, 108 feet 1-1/8 inches;

THENCE westerly at an interior angle of 93 degrees 59 minutes 06 seconds with the last mentioned course, 5 feet;

THENCE in a northerly direction at an interior angle of 106 degrees 55 minutes 08 seconds with the last mentioned course, 46 feet 10-7/8 inches;

THENCE westerly at an exterior angle of 106 degrees 55 minutes 08 seconds with the last mentioned course, 70 feet 10-1/2 inches;

THENCE northerly at right angles to Jackson Street, 62 feet 11-1/2 inches to the southerly side of Jackson Street;

THENCE easterly along the southerly side of Jackson Street, 97 feet 0-3/8 inches to the point or place of BEGINNING.

Lot 32

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

BEGINNING at the corner formed by the intersection of the southerly side of Jackson Street and the westerly side of Debevoise Avenue;

RUNNING THENCE westerly along the southerly side of Jackson Street 61 feet 0-1/2 inches to a point;

THENCE southerly on a line forming an interior angle of 93 degrees 59 minutes 06 seconds a distance of 108 feet 1-1/8 inches to a point of curvature;

THENCE easterly on a curve to the left having a radius of 126 feet 6 inches and a central angle of 32 degrees 19 minutes 09 seconds a distance of 71 feet 4-1/4 inches to a point on the westerly side of Debevoise Avenue distant 147 feet 8-1/4 inches southerly from the corner formed by the intersection of the southerly side of Jackson Street and the westerly side of Debevoise Avenue;

THENCE northerly along the westerly side of Debevoise Avenue 147 feet 8-1/4 inches to the corner formed by the intersection of the southerly side of Jackson Street and the westerly side of Debevoise Avenue, the point or place of BEGINNING.

**Exhibit B-1**

Certification of **Parties-in-Interest**



**Exhibit B-2**

Waiver and Subordination Agreement(s)

**Exhibit C**

**Site Plans**