SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF

MONDAY, DECEMBER 21, 2009

THE COUNCIL

Minutes of the
STATED MEETING
of
Monday, December 21, 2009, 2:45 p.m.

The President Pro Tempore (Council Member Rivera)
Acting Presiding Officer

Council Members

Christine C. Quinn, Speaker

Maria del Carmen Arroyo	Vincent J. Gentile	James S. Oddo
Tony Avella	Alan J. Gerson	Annabel Palma
Charles Barron	Eric N. Gioia	Domenic M. Recchia, Jr.
Gale A. Brewer	Sara M. Gonzalez	Diana Reyna
Leroy G. Comrie, Jr.	Vincent M. Ignizio	Joel Rivera
Elizabeth S. Crowley	Robert Jackson	Ydanis A. Rodriguez
Bill de Blasio	Letitia James	James Sanders, Jr.
Inez E. Dickens	Melinda R. Katz	Larry B. Seabrook
Erik Martin Dilan	G. Oliver Koppell	Helen Sears
Mathieu Eugene	Jessica S. Lappin	Kendall B. Stewart
Simcha Felder	John C. Liu	Eric A. Ulrich
Julissa Ferreras	Melissa Mark-Viverito	James Vacca
Lewis A. Fidler	Darlene Mealy	Peter F. Vallone, Jr.
Helen D. Foster	Rosie Mendez	Albert Vann
Daniel R. Garodnick	Kenneth C. Mitchell	David I. Weprin
James F. Gennaro	Michael Nelson	Thomas White, Jr.
		David Yassky

Excused: Council Member Baez.

At the request of the Speaker (Council Member Quinn), the Majority Leader (Council Member Rivera) assumed the Chair as the President Pro Tempore and Acting Presiding Officer.

After being informed by the City Clerk and Clerk of the Council (Mr. McSweeney), the presence of a quorum was announced by the President Pro Tempore (Council Member Rivera).

There were 50 Council Members present at this Stated Meeting.

INVOCATION

The Invocation was delivered by Rabbi Jonathan Glass, Civic Center Synagogue, 49 White Street, New York, New York 10013.

Men and women of the City Council,
we find ourselves in the near aftermath
of the Hanukkah holiday
that concluded just this weekend.
Many times from this forum
I have reminded you of the message
of the story being one of religious tolerance,
which first found its voice
thousands of years ago.
This is a city
that invited a Jewish community to its shores
over 400 years ago
who were victims at that time
of religious persecution.

And the City Council
is at the vanguard of that legacy.
So it has been my honor
and privilege to be invited here today
for all those years in the past
as well to invoke my blessing
upon your proceedings.
It is also my distinct honor
to pronounce this blessing
of twelve of our members
and to wish them well
in all their future endeavors,
especially my dear friend and classmate,
Alan J. Gerson, of the First District.

Finally, for all our new members,
may they enjoy
inspired leadership and collegiality
for the vital work ahead
on behalf of our great city of New York.
Amen and thank you.

Council Member Gerson moved to spread the Invocation in full upon the Record.

At a later point in the Meeting, the Speaker (Council Member Quinn) noted the contributions of the Council Members who were leaving office at the end of the Council session on December 31, 2009; the departing Council Members were Council Members Avella, Baez, de Blasio, Gerson, Gioia, Katz, Liu, Mitchell, Sears, Stewart, Weprin, and Yassky.

MESSAGES & PAPERS FROM THE MAYOR

M-1692

Communication from the Mayor - Mayors veto and disapproval message of Resolution Number 2295, disapproving the decision of the City Planning Commission on ULURP No. C 090236 MMX, an amendment to the City Map (L.U. No. 1256).

December 17, 2009

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Transmitted herewith are the resolutions disapproved by the Mayor. The resolutions are as follows:

Resolution Number 2295

A Resolution disapproving the decision of the City Planning Commission on ULURP No. C090236 MMX, an amendment to the City Map (L.U. No. 1256).

Resolution Number 2296

A Resolution disapproving the decision of the City Planning Commission on ULURP No. C090237 MMX, an amendment to the City Map (L.U. No. 1257).

Resolution Number 2297

A Resolution disapproving the decision of the City Planning Commission on ULURP No. C090437 ZMX, a Zoning Map amendment (L.U. No. 1258).

Resolution Number 2298

A Resolution disapproving the decision of the City Planning Commission on ULURP No. C090438 PPX, for the disposition of one (1) city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), Borough of Bronx (L.U. No. 1259).

Sincerely,

Eddie Bautista

(For Veto and Disapproval Letters for Res No. 2296, 2297, 2298, please see M-1693, M-1694, and M-1695 printed respectively in this Messages and Papers from the Mayor section of these Minutes; the following is the text of the Mayor's Veto and Disapproval Letter for Res No. 2295:)

December 17, 2009

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Pursuant to subdivision (e) of Section 197-d of the New York City Charter, I hereby disapprove Resolution Number 2295 disapproving the decision of the City Planning Commission on ULURP No. C090236 MMX, an amendment to the City Map (L.U. No. 1256). Resolution 2295 is one of four resolutions related to the redevelopment of the Kingsbridge Armory in the Bronx.

In disapproving the Kingsbridge Armory redevelopment project, the Council unraveled more than three years of collaborative planning with community leaders and negated an opportunity to generate more than $300 million in private investment and 2,200 jobs in the Bronx, many of them paying middle class salaries.

The Kingsbridge Armory redevelopment proposal was born out of a planning process that began with the 2006 creation of the Kingsbridge Armory Task Force. The Task Force was comprised of the two neighboring Community Boards, local civic groups, and elected officials, including the local Council Members. Working together, the members of this group gave careful consideration to the needs and preferences of the Bronx communities surrounding the long-vacant armory site. The work of the Task Force ensured that these needs were reflected in the City's Request for Proposals (RFP) to redevelop the Armory site, with the RFP process resulting in a winning proposal that would transform the armory into a shopping and entertainment complex, including community space, that would revitalize the area, create jobs, and provide a valuable resource for Bronx residents and all New Yorkers alike.

This proposal would also create a much-needed economic engine for the Bronx, where residents disproportionately travel elsewhere to shop. Each year, the Bronx loses more than 40% of potential retail sales to locations outside the borough, which translates to $2.8 billion in spending by Bronx residents that could be spent close to home and within New York City. This outward flow of spending has a compounding effect on unemployment in the Bronx, which has the highest unemployment rate of any county in the State. Redevelopment of the armory would result in 1,200 new permanent jobs and 1,000 construction jobs, many of which would be filled by Bronx residents.

Given the continued negative economic effects of the national recession, including high unemployment and a scaling back of job-creating development, the Kingsbridge Armory redevelopment plan came at a particularly important moment for the City of New York and especially for the Borough of the Bronx. Disapproval of the plan serves as a particularly untimely setback to the fulfillment of these goals.

The public review of the proposal conducted under the Uniform Land Use Review Procedure did not identify any land use impacts or implications which warranted Council disapproval. The Kingsbridge Armory redevelopment plan was also considered in a comprehensive and detailed Environmental Impact Statement (EIS) which both the City Planning Commission and the City Council recognized met all environmental standards. There was thus no land use or environmental justification for the Council action.

Failure to approve this redevelopment will leave this challenging site vacant for the foreseeable future and will cause a potential City asset to continue instead to drain the City of millions of dollars annually for the operational, security, and capital expenses to maintain an empty facility. An opportunity will be lost to adaptively reuse this historic site for a project that would stimulate growth and jobs, benefitting the Bronx and the City as a whole.

Accordingly, for all the reasons set forth above, I hereby disapprove Resolution Number 2295.

Sincerely,

Michael R. Bloomberg
Mayor

Referred to the Committee on Land Use.

M-1693

Communication from the Mayor - Mayors veto and disapproval message of Resolution Number 2296, disapproving the decision of the City Planning Commission on ULURP No. C 090237 MMX, an amendment to the City Map (L.U. No. 1257).

December 17, 2009

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Pursuant to subdivision (e) of Section 197-d of the New York City Charter, I hereby disapprove Resolution Number 2296 disapproving the decision of the City Planning Commission on ULURP No. C090237 MMX, an amendment to the City Map (L.U. No. 1257). Resolution 2296 is one of four resolutions related to the redevelopment of the Kingsbridge Armory in the Bronx.

In disapproving the Kingsbridge Armory redevelopment project, the Council unraveled more than three years of collaborative planning with community leaders and negated an opportunity to generate more than $300 million in private investment and 2,200 jobs in the Bronx, many of them paying middle class salaries.

The Kingsbridge Armory redevelopment proposal was born out of a planning process that began with the 2006 creation of the Kingsbridge Armory Task Force. The Task Force was comprised of the two neighboring Community Boards, local civic groups, and elected officials, including the local Council Members. Working together, the members of this group gave careful consideration to the needs and preferences of the Bronx communities surrounding the long-vacant armory site. The work of the Task Force ensured that these needs were reflected in the City's Request for Proposals (RFP) to redevelop the Armory site, with the RFP process resulting in a winning proposal that would transform the armory into a shopping and entertainment complex, including community space, that would revitalize the area, create jobs, and provide a valuable resource for Bronx residents and all New Yorkers alike.

This proposal would also create a much-needed economic engine for the Bronx, where residents disproportionately travel elsewhere to shop. Each year, the Bronx loses more than 40% of potential retail sales to locations outside the borough, which translates to $2.8 billion in spending by Bronx residents that could be spent close to home and within New York City. This outward flow of spending has a compounding

effect on unemployment in the Bronx, which has the highest unemployment rate of any county in the State. Redevelopment of the armory would result in 1,200 new permanent jobs and 1,000 construction jobs, many of which would be filled by Bronx residents.

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Accordingly, for all the reasons set forth above, I hereby disapprove Resolution Number 2296.

Sincerely,

Michael R. Bloomberg
Mayor

Referred to the Committee on Land Use.

M-1694

Communication from the Mayor - Mayors veto and disapproval message of Resolution Number 2297, disapproving the decision of the City Planning Commission on ULURP No. C 090437 ZMX, a Zoning Map amendment (L.U. No. 1258).

December 17, 2009

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Pursuant to subdivision (e) of Section 197-d of the New York City Charter, I hereby disapprove Resolution Number 2297 disapproving the decision of the City Planning Commission on ULURP. No. C090437 ZMX, a Zoning Map amendment (L.U. No. 1258). Resolution 2297 is one of four resolutions related to the redevelopment of the Kingsbridge Armory in the Bronx.

In disapproving the Kingsbridge Armory redevelopment project, the Council unraveled more than three years of collaborative planning with community leaders and negated an opportunity to generate more than $300 million in private investment and 2,200 jobs in the Bronx, many of them paying middle class salaries.

The Kingsbridge Armory redevelopment proposal was born out of a planning process that began with the 2006 creation of the Kingsbridge Armory Task Force. The Task Force was comprised of the two neighboring Community Boards, local civic groups, and elected officials, including the local Council Members. Working together, the members of this group gave careful consideration to the needs and preferences of the Bronx communities surrounding the long-vacant armory site. The work of the Task Force ensured that these needs were reflected in the City's Request for Proposals (RFP) to redevelop the Armory site, with the RFP process resulting in a winning proposal that would transform the armory into a shopping and entertainment complex, including community space, that would revitalize the area, create jobs, and provide a valuable resource for Bronx residents and all New Yorkers alike.

This proposal would also create a much-needed economic engine for the Bronx, where residents disproportionately travel elsewhere to shop. Each year, the Bronx loses more than 40% of potential retail sales to locations outside the borough, which translates to $2.8 billion in spending by Bronx residents that could be spent close to home and within New York City. This outward flow of spending has a compounding effect on unemployment in the Bronx, which has the highest unemployment rate of any county in the State. Redevelopment of the armory would result in 1,200 new permanent jobs and 1,000 construction jobs, many of which would be filled by Bronx residents.

Given the continued negative economic effects of the national recession, including high unemployment and a scaling back of job-creating development, the Kingsbridge Armory redevelopment plan came at a particularly important moment for the City of New York and especially for the Borough of the Bronx. Disapproval of the plan serves as a particularly untimely setback to the fulfillment of these goals.

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Accordingly, for all the reasons set forth above, I hereby disapprove Resolution Number 2297.

Sincerely,

Michael R. Bloomberg
Mayor

Referred to the Committee on Land Use.

M-1695

Communication from the Mayor - Mayors veto and disapproval message of Resolution Number 2298, disapproving the decision of the City Planning Commission on ULURP No. C 090438 PPX, for the disposition of one (1) city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), Borough of the Bronx (L.U. No. 1259).

December 17, 2009

Hon. Michael McSweeney
City Clerk and Clerk of the Council
141 Worth Street
New York, NY 10013

Dear Mr. McSweeney:

Pursuant to subdivision (e) of Section 197-d of the New York City Charter, I hereby disapprove Resolution Number 2298 disapproving the decision of the City Planning Commission on ULURP No. C090438 PPX, for the disposition of one (1) city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), Borough of Bronx (L.U. No. 1259). Resolution 2298 is one of four resolutions related to the redevelopment of the Kingsbridge Armory in the Bronx.

In disapproving the Kingsbridge Armory redevelopment project, the Council unraveled more than three years of collaborative planning with community leaders and negated an opportunity to generate more than $300 million in private investment and 2,200 jobs in the Bronx, many of them paying middle class salaries.

The Kingsbridge Armory redevelopment proposal was born out of a planning process that began with the 2006 creation of the Kingsbridge Armory Task Force. The Task Force was comprised of the two neighboring Community Boards, local civic groups, and elected officials, including the local Council Members. Working together, the members of this group gave careful consideration to the needs and preferences of the Bronx communities surrounding the long-vacant armory site. The work of the Task Force ensured that these needs were reflected in the City's Request for Proposals (RFP) to redevelop the Armory site, with the RFP process resulting in a winning proposal that would transform the armory into a shopping and entertainment complex, including community space, that would revitalize the area, create jobs, and provide a valuable resource for Bronx residents and all New Yorkers alike.

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Accordingly, for all the reasons set forth above, I hereby disapprove Resolution Number 2298.

Sincerely,

Michael R. Bloomberg
Mayor

Referred to the Committee on Land Use.

COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

M-1696

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license A Ride for ALL LLC., Council District 26, pursuant to Section 19-511(i), of the administrative code of the city of New York.

NEW YORK CITY TAXI & LIMOUSINE COMMISSION

Licensing & Standards Division
32-02 Queens Boulevard, 2nd Floor
Long Island City, New York 11101-2324
Tel: 212.227.6324 Fax: 718-391-5786

Matthew W. Daus, Commissioner/Chair

December 18, 2009

The Honorable Speaker Christine C. Quinn
Attention: Mr. John Lisyanskiy
Council of the City of New York
City Hall
New York, New York 10007

Re:Taxi & Limousine Commission
For-Hire Vehicle Base License approvals

Dear Speaker Quinn:

Please be advised that on December 17, 2009 the Taxi & Limousine Commission voted to approve the following 12 for-hire-vehicle base license applications:

RENEWALS (12):	LICENSE #	COUNCIL DISTRICT
A Ride for All LLC	B02026	26
Azuay Corp. D/b/a Caribe Car Service	B01745	32
Boulevard Transportation Inc.	B00369	29
High Class Limo. Car Service Corp.	B01639	7
Jamaica Express Car Service Inc. D/b/a Sunshine Car Service	B01623	32
J.T. Transportation Co. Inc.	B01445	38
Kew Gardens Enterprises Inc.	B00337	29
Kew Garden Operating Corp.	B00183	29
New Experience #1 Inc.	B01467	26
NY 88 Express Corp.	B01984	38
Omega Car Service Inc.	B00833	31
Riverside Radio Dispatcher	B00937	10

The complete application package compiled for each of the above bases is available for your review upon request. If you wish to receive a copy please contact Ms. Michelle Lange, Business Licensing Unit, at 718-391-5697.

Please find enclosed herein the original application for each of the approved base stations.

Very truly yours,

Georgia Steele-Radway
Director of Applicant Licensing
Taxi & Limousine Commission

Printed on paper containing 30% post-consumer material.

Referred to the Committee on Transportation.

M-1697

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Azuay Corp., Council District 32, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1698

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Boulevard Transportation Inc., Council District 29, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1699

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license High Class Limo. Car Service Corp., Council District 7, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1700

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Jamaica Express Car Service Inc., Council District 33, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1701

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license J.T. Transportation Co., Council District 33, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1702

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Kew Gardens Enterprises Inc., Council District 29, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1703

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Kew Garden Operating Corp., Council District 29, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1704

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license New Experience #1 Inc., Council District 33, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1705

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license NY 88 Express Corp., Council District 38, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1706

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Omega Car Service Inc., Council District 31, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

M-1707

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Riverside Radio Dispatcher., Council District 10, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of TLC letter, please see M-1696 printed above in this Communication from City, County, and Borough Offices section of these Minutes).

Referred to the Committee on Transportation.

LAND USE CALL UPS

M-1708

By the Chair of the Land Use Committee Council Member Katz:

Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Application nos. C 090383 ZSR shall be subject to Council review. This item is related to Uniform Land Use Procedure Application no. N 090384 ZRR.

Coupled on Call- Up Vote.

LAND USE CALL UP VOTE

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such motion which was decided in the **affirmative** by the following vote:

Affirmative –Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone Jr., Vann, Weprin, White, Yassky, Oddo, Rivera and the Speaker (Council Member Quinn) – **50.**

At this point, the President Pro Tempore (Council Member Rivera) declared the aforementioned item **adopted** and referred this item to the Committee on Land Use and to the appropriate Land Use subcommittee.

REPORTS OF THE STANDING COMMITTEES

Reports of the Committee on Consumer Affairs

Report for Int. No. 240-A

Report of the Committee on Consumer Affairs in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to the penalties associated with the sale of toy guns.

The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on March 22, 2006 (Minutes, page 1158), respectfully

REPORTS:

I. INTRODUCTION

On Friday, December 18, 2009, the Committee on Consumer Affairs, chaired by Council Member Leroy G. Comrie, will conduct its second hearing on Proposed Introductory Bill Number 240-A ("Proposed Int. 240-A"), a Local Law to amend the administrative code of the city of New York, in relation to penalties associated with the sale of toy guns. The committee previously heard the Proposed Int. 240-A on December 8, 2009, where the Department of Consumer Affairs ("DCA") and the Criminal Justice Coordinator testified in favor of the bill.

II. BACKGROUND

There is little debate that realistic-looking toy guns pose a serious threat to the safety and welfare of law enforcement officers and the general public. A person holding a fake gun can cause real harm if a police officer believes his or her life is danger and discharges his or her firearm in response. Unfortunately, New York City is no stranger to violence that can result from toy guns. In November 2009, a Bronx teenager was shot in the cheek after wielding a realistic-looking fake gun during a confrontation with police.[1] A similar incident took place in Long Island in August 2009, when a man was fatally shot after pointing a fake Uzi submachine gun at police who were responding to reports of gunfire in the area.[2] Fake firearms have been the cause of several other recent incidents in New York City, including a 2007 gunfight with police officers in Brooklyn[3] and the 2003 death of a teenager who pointed a fake 9mm gun at an undercover officer in Harlem.[4] In 2003, the New York City Police Department testified at a Consumer Affairs hearing on toy guns that these ersatz weapons had been the cause of twelve shootings by police since 1998.[5]

Cognizant of the threat to public safety, the federal government requires that toy guns have an orange cap to distinguish them from actual guns.[6] State law goes a step further, requiring that toy guns have a wide orange stripe on both sides of the barrel and come only in non-metallic colors.[7] At the local level, toy guns sold in New York City must be painted bright colors so as to distinguish them from actual firearms.[8]

Unfortunately, realistic toy guns are cheap and easily accessible to New Yorkers from retailers who continue to flout existing laws. A 2003 study by the New York City Council found that the average cost of an illegal toy gun was about $6, with the cheapest selling for only $1.[9] Nearly 20 percent of the 53 toy stores investigated as part of the study were found to be selling illegal toy guns in violation of the law.[10] Furthermore, the Council's study found that 50 percent of stores cited by the New York City Department of Consumer Affairs (DCA) in 2001 for selling illegal toy guns were still selling them in 2003.[11]

From 2002 to 2005, DCA cited over 90 stores for illegally selling realistic-looking fake guns, resulting in the removal of more than 5,600 toy guns and in fines totaling $600,000.[12] In April 2008, DCA discovered that eleven Party City retail stores had sold more than 800 illegal fake guns.[13] In January 2009, an investigation by the Brooklyn District Attorney's Office resulted in the seizure of over 2,000 illegal fake guns in an East Williamsburg warehouse.[14] Most recently, in late July, New York State Attorney General Andrew Cuomo sent cease-and-desist orders to over 500 stores in New York State that were selling toy guns inadequately marked to distinguish them from real firearms.[15]

III. LEGISLATION

Current Law

Current New York City law prohibits the sale, possession, or use of any toy gun which "substantially duplicates or can be reasonably perceived to be firearm" and mandates that the exterior of all toy guns be brightly colored, transparent, or translucent. Furthermore, the barrels of toy guns must be plugged, the toy must have the manufacturer's brand name on it and no laser pointer may be attached to the gun.[16] Violators may face both civil and criminal penalties including fines of up to $1000 and/or up to one year in jail.[17]

Proposed Introductory Bill 240-A

Proposed Int. 240-A would increase the penalties for any violation of the current law. First time offenders could be fined between $1000 and $5000 per violation, while a second offence within two years of the first offense would bring penalties of between $3000 and $8000 per offense. The sale or distribution of a single toy gun in violation of the law would constitute a single offense.

Under Proposed Int. 240-A, premises owned or operated by persons found guilty of violating the current law on three or more separate occasions within two years could be padlocked for up to five consecutive days. For the purposes of determining repeat violations, violations at locations previously owned by a different person would not be considered unless the commissioner establishes that subsequent owner did not acquire the premises via an arm's length transaction, or acquired it for the purposes of avoiding prosecution. A transaction would be presumed to not be arm's length if it is between i) relatives, ii) related companies or business partners or iii) the facts and circumstances indicate that the primary purpose of such transaction is to avoid prosecution under the law.

The procedure for sealing premises would be the same as for sealing unlicensed businesses and would be as follows:

1. The notice of a third violation would state that the premises could be sealed upon a finding of guilt;
2. Upon a finding a guilt, DCA would post a notice at the premises signifying their intent to seal it;
3. Ten days after the posting and upon written permission of the commissioner, the police department would be authorized to seal the premises;
4. The owner of the premises could be charged for removal and storage of any contraband items removed from the premises.

(The following is from the text of the Fiscal Impact Statement for Int. No. 240-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There is a potential for fine revenue to be raised resulting from the enactment of this legislation. DCA collected $547,614 in fine revenue in Fiscal Year 2005 which declined to $185,318 in Fiscal Year 2008 reflecting a trend toward compliance with the existing toy gun legislation. The proposed legislation substantially increases the penalties for violation of the toy gun law, but any fine revenues resulting from this legislation would be minimal as the rationale for increasing fines is to foster compliance with the law, rather than generate revenue.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director
Walter Pitts, Legislative Financial Analyst

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[1] "In Separate Episodes, 2 Are Shot by the Police," *N.Y. Times*, November 8, 2009.
[2] Yaniv, O., "Man With Fake Gun Shot Dead," *Daily News*, August 7, 2009, at 22.
[3] Fleming, B. and Celona, L., "Toy Leads to Gunplay," *N.Y. Post*, February 25, 2007, at 12.
[4] Gorta, W. J. and Messing, P., "Cops Kill 4 in First 2 Days – Youth is Slain As He Wields 'Toy' Gun," *N.Y. Post*, January 3, 2003, at 4.
[5] Christian, N. M., "Libertarians' Toy-Gun Joke Is a Flop in East Harlem," *N.Y. Times*, February 7, 2003, at B4.
[6] Chang, S., "Aiming at toy guns; Cuomo targets stores selling toy arms that look real; Hits 500-plus retailers with cease-and-desist orders," *Newsday*, August 1, 2009, at A02.
[7] *Id*.
[8] Danis, K., "Toy Seller Hit Over 'Too Real' Fake Guns," *N.Y. Daily News*, April 11, 2008, at 2.
[9] New York City Council Committee on Oversight and Investigations, "Toy Guns: A Deadly Game", Dec. 2003, at 10. Available at http://prtl-prd-web.nyc.gov/html/records/pdf/govpub/838toyguns.pdf
[10] *Id* at 9.
[11] *Id.*
[12] "DCA Cites Stores for Selling Illegal Fake Guns and Urges Parents to Be Vigilant This Halloween," New York City Department of Consumer Affairs, Press Release, Available at www.nyc.gov/html/dca/html/pr2005/pr_102605.shtml, Accessed on December 3, 2009.
[13] *Supra* note 8.
[14] "Kings County District Attorney Charles J. Hynes Announces Seizure of Warehouse Used to Store Counterfeit Products from China," Kings County District Attorney's Office, Press Release, Available at http://www.brooklynda.org/press_releases/pr_jan_09.htm, Accessed on December 3, 2009.
[15] *Supra* note 6.
[16] NYC Admin. Code §10-131(g) (1)
[17] NYC Admin. Code §10-131(g) (3,4)

HISTORY: Introduced as Int. 240 by Council and referred to the Committee on Consumer Affairs on March 22, 2006. On December 8, 2009, the Committee held a hearing on Int. 240 and it was laid over. An amendment has been proposed, and the bill will be considered by the Committee as Proposed Int. 240-A on December 18, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 240-A:)

Int. No. 240-A

By Council Members Vann, Weprin, Arroyo, Brewer, Comrie, Foster, Gennaro, James, Koppell, Mark-Viverito, Nelson, Stewart, Liu, Vallone, Jr., Rivera, Jackson, White, Recchia, Garodnick, Mealy, Rodriguez and Lappin.

A Local Law to amend the administrative code of the city of New York, in relation to the penalties associated with the sale of toy guns.

Be it enacted by the Council as follows:

Section 1. Findings and Intent. Toy manufacturers and retailers in New York City and around the nation produce and sell imitation firearms bearing a striking resemblance to real weapons, whether in size, shape, or overall appearance. Therefore, New York City presently prohibits the sale of toy firearms unless the physical appearance of the toy gun conforms with the requirements set out in subdivision g of section 10-131 of the administrative code. New York State's highest court has held that that this provision is not preempted by federal law, which requires only minimal markings on toy guns, such as an orange blaze around the barrel. Although the federal statute preempts local laws that require "inconsistent" markings, it allows cities to require clearer markings in addition to the federal ones.

Since this local legislation was enacted, the City's Department of Consumer Affairs (DCA) has uncovered numerous violations. DCA has removed more than 7,000 toy guns from the shelves of over 220 stores and levied $3.3 million in fines. However, the current penalty scheme insufficiently deters the sale of toy guns by City businesses. Indeed, some stores are repeat offenders, selling fake guns even after having paid penalties for previous violations. By increasing the base penalty for first violations and by imposing greater penalties for repeat offenses, the revised code provision would more forcefully deter businesses from stocking toy guns and would also target businesses that continue to flout the law even after paying penalties for previous violations. If a business commits three or more violations in a two-year period, then the revised code provision would allow it to be closed briefly to allow the business time to take corrective actions including, but not limited to, removing and disposing of all fake guns that do not comply with the law; reviewing inventory; reviewing shipment orders; removing promotional materials; drafting policies and procedures; and training staff to ensure that remaining fake guns comply with the law and to stop the ordering of fake guns that do not comply with the law.

Not only are realistic-looking fake guns used to commit crimes, but there have been a variety of tragic incidents involving young people carrying imitation guns who were wounded or killed by police officers who mistook toy weapons for real ones. In 2006, for example, police killed a 15-year-old at a middle school in Longwood, Florida after he brandished a look-alike gun whose safety markings had been painted black. On February 24, 2007, a 27-year-old man pointed a fake AK-47 assault rifle at New York City police officers, leading them to fire back but not to injure him.

Accordingly, the Council finds that legislation increasing penalties for stores that fail to abide by the terms of subdivision g of section 10-131 of the administrative code is warranted.

§ 2. Paragraph 3 of subdivision g of section 10-131 of the administrative code of the city of New York, as added by local law 58 for the year 1999, is hereby amended to read as follows:

3. *(a)* Authorized agents and employees of the department of consumer affairs, and of any other agency designated by the mayor, shall have the authority to enforce the provisions of this subdivision. A proceeding to recover any civil penalty pursuant to this subdivision shall be commenced by service of a notice of hearing that shall be returnable to the administrative tribunal of the department of consumer affairs. The administrative tribunal of such department shall have the power to impose civil penalties for a violation of this subdivision of not [more] *less* than one thousand dollars ($1000) *nor more than five thousand dollars ($5000) for the first offense and not less than three thousand dollars ($3000) nor more than eight thousand dollars ($8000) for each succeeding offense occurring within two years of the first offense, without regard to whether the first offense involved a toy or imitation firearm of the same model involved in any succeeding offense. For the purposes of this subdivision, selling, offering for sale, possessing, using or attempting to use or give away any single toy or imitation firearm in violation of this subdivision shall be considered a single violation.*

(b) If any person is found to have violated the provisions of paragraph one of this subdivision on three or more separate occasions within two years, then, in addition to imposing the penalties set forth in subparagraph (a) of this paragraph, the department shall be authorized to order that any or all premises operated by such person where the violations occurred be sealed for a period not to exceed five consecutive days, except that such premises may be entered with the permission of the department solely for actions necessary to remedy past violations of this subdivision or prevent future violations. Notice of any third violation for engaging in a violation of paragraph one of this subdivision shall state that premises may be ordered sealed after a finding of a third violation and specify which premises may be subject to sealing. For the purpose of this subparagraph, any violations at a place of business operated by a different person shall not be included in determining the number of violations of any subsequent operator of a business at that location unless the commissioner establishes that the subsequent operator of such business did not acquire the premises or business through an arm's length transaction as defined in subparagraph (c) of this paragraph or that the sale or lease was conducted, in whole or in part, for the purpose of permitting the previous operator of the business who had been found guilty of violating paragraph one at such premises to avoid the effect of violations on the premises. The procedures provided for in subdivisions c, e, f, i, and j of section 20-105 of title twenty of this code shall apply to an order of the commissioner for sealing of such premises.

(c) For purposes of subparagraph (b) of this paragraph, "arm's length transaction" means a sale of a fee or all undivided interests in real property, or a lease of any part thereof, or a sale of a business, in good faith and for valuable consideration, that reflects the fair market value of such real property or lease, or business, in the open market, between two informed and willing parties, where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale or lease was made for the purpose of permitting the original operator to avoid the effect of violations on the premises. The following sales or leases shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale or lease was not conducted, in whole or in part, for the purpose of permitting the original operator to avoid the effect of violations on the premises:

(i) a sale between relatives, which term shall mean, for purposes of this paragraph, a person and his or her spouse, domestic partner, parent, grandparent, child, stepchild, or stepparent, or any person who is the direct descendant of the grandparents of the person or of the spouse or domestic partner of the person;

(ii) a sale between related companies or partners in a business; or

(iii) a sale or lease affected by other facts or circumstances that would indicate that the sale or lease is entered into for the primary purpose of permitting the original operator to avoid the effect of violations on the premises.

(d) For purposes of this paragraph:

(i) the term "department" shall refer to the department of consumer affairs;

(ii) the term "commissioner" shall refer to the commissioner of the department of consumer affairs;

(iii) the term "premises" shall refer to land and improvements or appurtenances or any part thereof; and

(iv) companies shall be deemed "related" if an officer, principal, director, or stockholder owning more than ten percent of the outstanding stock of the corporation of one company is or has been an officer, principal, director, or stockholder owning more than ten percent of the outstanding stock of the other, but companies shall not be deemed related solely because they share employees other than officers, principals, or directors.

(e) A closing directed by the department pursuant to this paragraph shall not constitute an act of possession, ownership or control by the city of the closed premises.

(f) Mutilation or removal of a posted order of the commissioner or his designee shall be a violation punishable by a fine of not more than two hundred fifty dollars or by imprisonment not exceeding fifteen days, or both, provided such order contains therein a notice of such penalty. Any other intentional disobedience or resistance to any provision of the orders issued pursuant to this paragraph, including using or occupying or permitting any other person to use or occupy any premises ordered closed without the permission of the department as described in subparagraph (b) shall, in addition to any other punishment prescribed by law, be a misdemeanor punishable by a fine of not more than one thousand dollars ($1000), or by imprisonment not exceeding six months, or both.

§3. This local law shall take effect 30 days after it shall have become a law, provided that, prior to such effective date, the commissioner of consumer affairs and the head of any other agency designated by the mayor in accordance with paragraph 3 of subdivision g of section 10-131 of the New York City administrative code may promulgate such rules and take such other actions as are necessary to its timely implementation.

LEROY G. COMRIE, Chairperson; CHARLES BARRON, JAMES F. GENNARO, G. OLIVER KOPPELL, JOHN C. LIU, Committee on Consumer Affairs, December 18, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 853-A

Report of the Committee on Consumer Affairs in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to amusement devices.

The Committee on Consumer Affairs, to which the annexed amended proposed local law was referred on October 23, 2008 (Minutes, page 6620), respectfully

REPORTS:

I. INTRODUCTION

On Friday, December 18, 2009, the Committee on Consumer Affairs, chaired by Council Member Leroy G. Comrie, Jr., will vote on Proposed Introductory Bill No. 853-A ("Intro. 853-A"), a Local Law to amend the administrative code of the city of New York, in relation to amusement devices. The Committee previously held a hearing on this bill on November 8, 2008. Those invited to testify at the first hearing included the New York City Department of Consumer Affairs, local Community Board leaders, members of the arcade industry, and other interested parties.

II. BACKGROUND

The Department of Consumer Affairs ("DCA") has regulatory authority over amusement devises and arcades in New York City.[1] Current law requires establishments with five or more player operated amusement devices to obtain a license from the Department of Consumer Affairs.[2] In order to procure a license, an arcade must provide documentation from the Department of Buildings that the arcade will be located in an area zoned to allow arcades, generally a commercial or mixed used zone, or a letter of no objection from the Department.[3]

A "player operated amusement device" is defined by the Administrative Code as "any machine, contrivance, apparatus, booth or other device intended as a game that one or more persons are permitted to play by controlling the mechanical, electrical or electronic components that are needed to operate or manipulate the game in exchange for the payment of a fee, charge or thing of value, and that provides amusement, diversion or entertainment."[4] In 2003, DCA wrote a memorandum interpreting the definition of "player operated amusement device" to mean a device that can be played by one person. This was a change from a 2001 DCA memo which stated that two linked amusement devices that could be played simultaneously by two people were considered one device for purposes of §20-211.[5] Under the 2003 interpretation, linked devices are to be counted separately, regardless of how many players may play simultaneously. Thus it is conceivable that, under the 2003 DCA memo, an establishment could have gone from having five devices to ten devices literally overnight.

Arcade industry officials argue that the five device limit is arbitrary and that the economic viability of their industry has been negatively impacted by the 2003 memo. Consumer advocates are concerned that any change to the number of devices an arcade can have without obtaining a license may increase the number of locations with player operated amusement devices in residential neighborhoods and other areas not traditionally zoned for gaming establishments.

III. PROPOSED INT. NO. 853-A

Proposed Intro. 853-A would amend the administrative code by increasing the number of amusement devices an establishment must have to be considered an "amusement arcade." Currently, an arcade is any venue that has five or more amusement devices; this legislation would increase the number of amusement devices to ten. At the hearing, the Department of Consumer Affairs expressed concern that by exempting establishments with nine or fewer games from licensing regulations, enforcement of truancy regulations at these locations may become difficult. Therefore, the amended version of this legislation would also prohibit any person from admitting a minor under the age of 18 into an establishment with between four and nine amusement devices during school hours, unless the truancy laws do not otherwise apply to the minor. Additionally, Proposed Intro. 853-A would require locations with between four and nine games to post a notice stating that minors are not permitted on the premises between the hours of 9 a.m. and 3 p.m. during school days.

[1] NYC Admin. Code §§20-211—20-216
[2] NYC Admin. Code §20-212
[3] NYC Admin. Code §20-214(a)(2)
[4] NYC Admin. Code §20-212(b)
[5] Letter from Commissioner Jonathan Mintz, dated September 17, 2003. On file with committee.

(The following is from the text of the Fiscal Impact Statement for Int. No. 853-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There is a potential for fine revenue to be raised resulting from the enactment of this legislation, but it is premature to estimate it at this time.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director Walter Pitts, Legislative Financial Analyst

HISTORY: Introduced as Int. 853 by Council and referred to the Committee on Consumer Affairs on October 23, 2008. On November 6, 2008, the Committee held a hearing on Int. 853 and it was laid over. An amendment has been proposed, and the bill will be considered by the Committee as Proposed Int. 853-A on December 18, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 853-A:)

Int. No. 853-A

By Council Members Comrie, Gennaro, Palma, Seabrook, Weprin, White, Mealy and Arroyo.

A Local Law to amend the administrative code of the city of New York, in relation to amusement devices.

Be it enacted by the Council as follows:

Section 1. Subdivision c of section 20-211 of the administrative code of the city of New York, as amended by local law number 58 for the year 2005, is amended to read as follows:

c. "Amusement arcade" means any premises wherein there are [operated] *located*, in any combination, [five] *ten* or more of the amusement devices and/or player-operated amusement devices defined in subdivisions a and b of this section.

§2. Section 20-216 of the administrative code of the city of New York, as amended by local law number 58 for the year 2005, is amended to read as follows:

§ 20–216 Location of Player-Operated Amusement Devices *and prohibition on minors entering certain premises where located.*

a. No person shall [operate] *locate* a player-operated amusement device or a gaming cafe within two hundred feet of a public or a private elementary or secondary school.

b. The provisions contained in subdivision a of this section shall not apply to fixed stand coin operated rides as defined in subdivision j of section 19-136 of this code.

c. *No person shall permit persons under the age of eighteen, unless such persons under the age of eighteen are otherwise exempt under New York State Education Law, to enter or remain, between the hours of nine a.m. through three p.m. on weekdays during the regularly scheduled school year for public schools, in a premises wherein there are located more than four and fewer than ten player-operated amusement devices.*

d. Premises wherein there are located more than four and fewer than ten player-operated amusement devices shall prominently display a sign stating that, unless exempt by New York State Education Law, persons under eighteen years of age are not to enter or remain on the premises between the hours of nine a.m. through three p.m. on weekdays during the regularly scheduled school year for public schools, and that the truancy laws of the state of New York will be enforced.

e. Any person who violates the provisions of this section or any rules promulgated hereunder shall be guilty of a class B misdemeanor. In addition, the commissioner may, upon due notice, hold hearings to determine whether violations of the provisions of this section have occurred. Such notice shall contain a concise statement of the facts constituting the alleged violation and shall set forth the date, time and place of the hearing. Upon a finding of a violation of the provisions of this section, the commissioner shall be authorized to impose a civil penalty of not more than five hundred dollars.

§3. This local law shall take effect ninety days after enactment except that the commissioner shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

LEROY G. COMRIE, Chairperson; CHARLES BARRON, JAMES F. GENNARO, G. OLIVER KOPPELL, JOHN C. LIU, Committee on Consumer Affairs, December 18, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Economic Development

Report for Int. No. 1014-A

Report of the Committee on Economic Development in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to regionally significant projects and empire zones.

The Committee on Economic Development, to which the annexed amended proposed local law was referred on May 20, 2009 (Minutes, page 2059), respectfully

REPORTS:

I. Introduction

On December 21, 2009, the Committee on Economic Development, chaired by Council Member Thomas White Jr., will hold a hearing on Proposed Int. No. 1014-A, "A Local Law to amend the administrative code of the City of New York, in relation to regionally significant projects and empire zones." Proposed Int. No. 1014-A (a copy of which is annexed) would, if enacted, authorize submission of an application by Epic Pharma LLC, a manufacturer of pharmaceuticals, to the Empire State Development Corporation for designation as a "Regionally Significant Project" in accordance with the State's Empire Zone Program.

At a prior Committee hearing on October 29, 2009, the members of the Committee received and considered testimony on Proposed Int. No. 1014-A from a variety of witnesses with different perspectives.

II. Background

In 1986 New York State established the Empire Zone Program (formerly known as the Economic Development Zone Program) through which a variety of tax benefits are offered to companies who move into or expand their operations within prescribed geographic areas known as Empire Zones. There are eleven (11) such zones in New York City.

In 2005, the News York State Legislature enacted legislation that significantly restructured the Empire Zone Program. This legislation created the concept of a "regionally significant project," a business enterprise that could be associated with an Empire Zone so as to be eligible for benefits, although not physically located within a zone, if it is consistent with that Empire Zone's business plan. In order to qualify different types of businesses would be expected to create a certain net number of new jobs. A manufacturing company would have to have an estimate of creating 50 or more net new jobs. The following incentives are available to businesses taking part in the Program:[1]

Wage Tax Credit

Employee Wage Tax Credits are applied against a business's state tax liability. An Empire Zone employer, paying employees at least 135 percent of minimum wage, may be entitled to a $3,000 credit for targeted employees or $1,500 credit for all non-targeted employees. Both credits may be taken for up to five consecutive years, beginning with the first tax year in which Empire Zone wages are paid. An additional $500 credit is available in investment zones for jobs paying $40,000 or greater.

Targeted Employee

A targeted employee is a New York State resident who receives Empire Zone wages and who is eligible under the federal Work Opportunity Tax Credit "WOTC" program, (the WOTC program was designed to promote the hiring of individuals who qualify as a member of a target group while simultaneously providing a federal tax credit to employers who hire these individuals) or is eligible for benefits under the Workforce Investment Act as a dislocated worker or a low-income individual, or has received public assistance benefits anytime within the previous two years (e.g. cash payments including Temporary Assistance to Needy Families (TANF), Safety Net, Medicaid, Food Stamps), or has income below the United States Commerce Department's established poverty level, or is a member of a family whose income is below poverty level or is an honorably discharged veteran from any branch of the United States Armed Forces.

Based on the number of jobs created, the company's assets in the Zone and income taxes owed by the company, Qualified Empire Zones Enterprises (QEZE) are eligible to receive the following tax credits and exemptions:

QEZE Sales Tax Exemptions:

Qualified Empire Zone Enterprises (QEZEs) are granted a 10-year exemption from State sales tax on purchases of goods and services (including utility services) used predominantly in an Empire Zone.

QEZE Credit for Real Property Taxes:

Qualified Empire Zone Enterprises are allowed a refundable credit against business or income tax equal to a percentage of real property taxes paid in the zone (effective for taxable years beginning on or after January 1, 2001).

QEZE Tax Reduction Credit:

Qualified Empire Zone Enterprises are allowed a credit against business or income tax equal to a percentage of taxes attributable to the zone enterprise (effective taxable years beginning on or after January 1, 2001).

EZ Wage Tax Credit:

This credit is available for up to five consecutive years for companies hiring full-time employees in newly created jobs. For employees in special targeted groups, this credit equals $3,000 per year, with a credit of $1,500 per year effective January 1, 2001, for all other new hires.

EZ Investment Tax and Employment Incentive Credits:

Businesses that create new jobs and make new investments in production, property and equipment may qualify for tax credits of up to 19% of the company's eligible investment.

New Business Refund:

Businesses new to New York State are entitled to a 50% cash refund of unused EZ-WTC and ITC amounts. Other businesses may carry forward unused credits indefinitely.

Utility Rate Savings:

Special reduced electric and gas rates may be available through investor-owned utilities in New York State. Businesses that locate or expand their operations in an EZ may receive significantly reduced rates.

Zone Capital Credit:

A 25% tax credit against personal or corporate income taxes is available for contributing or purchasing shares in a zone capital corporation; or for a direct equity investment in a certified zone business; or for contributions to approved community development projects within an EZ. A Zone Capital Corporation is an entity incorporated for the purpose of raising funds through private and public grants, donations or investments, to be used in making investments in and loans to certified zone businesses to encourage the establishment or expansion of such businesses, thereby providing new job opportunities within an economic development zone.[3]

Sales Tax Refund or Credit:

Purchases of building materials to be used for commercial or industrial real property located in an EZ are eligible for a refund or credit of NYS sales taxes. A similar refund or credit of local sales tax may also be available from the locality.

Real Property Tax Abatement:

EZs may offer tax abatements from an increased assessment, with the abatement value based on improvements to real property for up to 10 years. This holds true for up to seven years at 100%, decreasing over the last three years of the exemption.

Technical Assistance:

Each local zone office is staffed with professionals qualified to assist businesses locating or expanding in an EZ.

Businesses which receive Empire Zone benefits and fail to meet their job creation projection may have their certification revoked pursuant to Title 5 of the Official Compilation of the New York Codes, Rules and Regulations, Part 11.9 (5 NYCRR §11.9).

III. Regionally Significant Projects

According to General Municipal Law § 957(d)(i), a regionally significant project means, (1) a manufacturer projecting the creation of fifty or more jobs, (2) an agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more jobs, (3) a financial or insurance services or distribution center creating three hundred or more jobs, (4) a clean energy research and development enterprise shall be eligible as a regionally significant project as determined by the local zone administrative board and the commissioner, and (5) other projects may be considered by the zone designation board.

Because it is a state-wide program, a broad array of commercial activities were identified for inclusion as types of businesses from which a "regionally significant project" could be designated. However, it is critical that such designations, if they are to be made, focus strategically on those types of businesses that best advance the intentions and goals of the Empire Zones Program and not companies and types of commercial activities that already receive the bulk of the City's economic development benefits. Thus, it is anticipated that designations of "regionally significant projects" will be directed at those types of businesses that are most likely to promote economic development which will benefit the people who were intended to be assisted through the creation of Empire Zones.

A manufacturer is defined as a taxpayer which during the taxable year is principally engaged in the production of goods by manufacturing, processing, assembling, refining, mining, extracting, farming, agriculture, horticulture, floriculture, viticulture, or commercial fishing or a business engaged in emerging technologies pursuant to section 3201-e of the Public Authorities Law.[3]

A business wishing to become a regionally significant project (RSP) must apply to a local Zone Administrative Board (ZAB) for a resolution by which the ZAB finds that the proposed RSP will create the requisite number of jobs, that the proposed RSP's operations are consistent with the Zone's business plan, and that the company is within New York City but is outside the boundaries of a designated zone. Upon receipt of the resolution from the ZAB, the business must then submit an application package to the New York State Empire State Development Corporation (ESDC) for a "determination of eligibility."

If the project is deemed eligible by ESDC, there will be a formal application for designation of the proposed location as being within a Zone Administrative Board's Empire Zone.

The New York City Council must pass a local law permitting the business to make the formal application for designation to ESDC. If the proposed location is designated for a company, the company must complete the EZ-1 Application of Joint Certification as an Empire Zone Enterprise.

IV. Epic Pharma LLC

In July 2008, Epic Pharma LLC (Epic Pharma), a pharmaceutical manufacturing company, purchased, through its subsidiary, Epic Holding Company, an existing pharmaceutical manufacturing facility from Sandoz, Inc. (Sandoz), an international pharmaceutical manufacturing company, that was located at 227-15 North Conduit Avenue in Laurelton, Queens. Epic Pharma continued operations at that facility as a contract manufacturer for Sandoz. In August 2008, the Empire State Development Corporation (ESDC) awarded Epic Pharma a $300,000 capital grant to assist in purchasing new equipment as part of its takeover of the Sandoz plant.

Subsequent to its purchase of the manufacturing facility, Epic Pharma submitted an application to ESDC seeking designation as a "regionally significant project" under the State's Empire Zone Program. In its application, Epic Pharma stated that it intended to expand the product line beyond what it was manufacturing for Sandoz and in response to questions posed by Council staff, that its growth profile "could be slowed significantly without Empire Zone benefits by inhibiting Epic Pharma from competing in the drug manufacturing industry as a dependable supplier for Sandoz and from developing its own identity as a developer/manufacturer of new products."

In its application, Epic Pharma also stated that in 2008 it had spent (or expected to spend by year's end) $1.3 million in building improvements and equipment purchases and that it expected to purchase equipment in 2009 valued at $1,215,000, in 2010 valued at $940,000 and in 2011valued at $245,000. The application also recited that at the time of its submission, Epic Pharma had 171 employees, 104 from Queens and 28 from other areas within New York City and that from 2009 through 2011, it intended to increase jobs by 21 (the application says 20 but the descriptions of the specific jobs and the number of each adds up to 21) in 2009, 18 in 2010 and 12 in 2011. Epic Pharma also said that it "hopes" to draw new employees from surrounding communities and that it is "committed to work with local job placement organizations such as, Rockaway Development and Revitalization Corporation, the Queens Workforce1 Career Center, the Queens Business Services Center and Greater Jamaica Development Corporation to assure that residents from the communities surrounding its facility are given notification of job openings and an equal opportunity to apply for and obtain job placements at Epic Pharma."

As noted above, designation as a regionally significant project requires affiliation with an existing Empire Zone and the South Jamaica Empire Zone is the host Empire Zone for Epic Pharma. A resolution approved on January 6, 2009 by the Zone Administrative Board (ZAB) of the South Jamaica Empire Zone, stated that it [ZAB] had reviewed the operations and plans of Epic Pharma, LLC "…and have concluded that it meets all of the requirements for the Program and that the expansion and increased employment at Epic Pharma LLC would be "in the best interest of South Jamaica and the local community."[4] (A copy of that Resolution is annexed as Exhibit A).

By letter to the City's Department of Small Business Services dated April 30, 2009, ESDC made a preliminary determination that "…this project meets the eligibility requirements as a regionally significant project pursuant to §957(d) of the general municipal law and is eligible for inclusion within the South Jamaica Empire Zone in an area that is outside of the distinct and separate contiguous areas as identified and approved by the Empire Zone Designation Board." That letter established a schedule for new net job creation that Epic Pharma must meet in order to maintain eligibility to receive benefits:

- By year end 2009 16 full-time equivalent positions
- By year end 2010 34 full-time equivalent positions
- By year end 2011 50 full-time equivalent positions[5]

V. Revisions to Int. No. 1014

As introduced, Int. No. 1014 added a new section 22-719 to Chapter 7 of Title 22 of the Administrative Code. However, subsequent to its introduction, a new section 22-719 was enacted, necessitating amending Int. No. 1014 to add a new section 22-720 to Chapter 7 of Title 22 instead of section 22-719.

[1]Information available at http://www.tax.state.ny.us/sbc/qeze.htm Accessed June 24, 2009.
[2] 5 NYCRR 10.2(n).
[3] Tax Law §14(k)(1).
[4] South Jamaica Empire Zone Administrative Board Resolution Relating to Epic Pharma LLC dated January 6, 2009.
[5] ESDC letter dated April 30, 2009 to Robert W. Walsh, Chair NYC Empire Zone Administrative Board, April 30, 2009 (Annexed as Exhibit B).

(The following is from the text of the Fiscal Impact Statement for Int. No. 1014-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable

SOURCE OF INFORMATION: New York City Council Finance Division

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director

Ralph P. Hernandez, Legislative Financial Analyst
New York City Council Finance Division

HISTORY: This legislation was introduced by the Full Council and referred to the Economic Development Committee as Proposed Int. 1014 on May 20, 2009. The Committee held a hearing and proposed an amendment to this legislation as Proposed Int. 1014-A and laid over Proposed Int. 1014-A on October 29, 2009. The Committee will reconsider Proposed Int. 1014-A on December 21, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1014-A:)

Int. No. 1014-A

By Council Members White, Weprin and Mealy.

A Local Law to amend the administrative code of the city of New York, in relation to regionally significant projects and empire zones.

Be it enacted by the Council as follows:

Section 1. Statement of legislative findings and intent. Under Section 957(d)(i) of the General Municipal Law, certain business enterprises located outside the boundaries of an Empire Zone may still be eligible for Empire Zone benefits as a "regionally significant project" because the economic activity of such enterprise is of a nature that is encouraged by the State, and the Administrative Board of such Empire Zone recommends the designation of such business as a regionally significant project. The New York State Department of Economic Development has determined that Epic Pharma LLC, a minority-owned pharmaceutical manufacturer is projected to create 50 new jobs and has been provisionally approved for Empire Zones benefits as a regionally significant project under Section 957(d)(i) of the General Municipal Law.

§2. Chapter 7 of title 22 of the administrative code of the city of New York is amended by adding new section 22-720 to read as follows:

§22-720 Authorization for the designation of a regionally significant project - Epic Pharma LLC. a. Pursuant to the provisions of article 18-B of the general municipal law, a business enterprise may be designated as a regionally significant project if the criteria set forth in paragraph i of subdivision d of section 957 of such article are met.

b. By a resolution of the South Jamaica empire zone administrative board, dated December 9, 2008, such administrative board, in accordance with the provisions of article 18-B of the general municipal law, supported the designation of Epic Pharma LLC, having federal employer identification number 32-0254130 and located at 227-15 North Conduit Avenue, in the borough of Queens, as a regionally significant project.

c. Pursuant to the provisions of article 18-B of the general municipal law, such regionally significant project shall be as set forth as follows:

Epic Pharma LLC, having federal employer identification number 32-0254130 and located at 227-15 North Conduit Avenue, also known as Block: 13193 Lot: 170, in the borough of Queens.

§3. This local law shall take effect immediately and the commissioner of small business services shall immediately take such actions as are necessary for the administration and implementation of this local law.

THOMAS WHITE JR., Chairperson; DIANA REYNA, ALAN J. GERSON, ALBERT VANN, DAVID I.L WEPRIN, LETITIA JAMES, ANNABEL PALMA, KENNETH C. MITCHELL, Committee on Economic Development, December 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Economic Development and had been favorably reported for adoption.

Report for Res. No. 2304

Report of the Committee on Economic Development in favor of approving a Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1014-A.

The Committee on Economic Development, to which the annexed resolution was referred on December 21, 2009, respectfully

REPORTS:

(For text of report, please see the related Report of the Committee on Economic Development for Int No. 1014-A printed in these Minutes)

Accordingly, Your Committee recommends its adoption.

(The following is the text of Res. No. 2304:)

Res. No. 2304

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1014-A.

By Council Members White, Mealy and Weprin.

Whereas, The enactment of Proposed Int. No. 1014-A is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, The Economic Development Corporation has prepared on behalf of the Office of the Mayor, a co-lead agency pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, an Environmental Assessment Statement, pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review an Environmental Assessment Statement; and

Whereas, The Council, as a co-lead agency pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued: and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

Resolved, That the Council of the City of New York, having considered the Negative Declaration, hereby finds that:

(1) the requirements of The State Environmental Quality Review Act, Part 617 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review have been met; and

(2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

THOMAS WHITE JR., Chairperson; DIANA REYNA, ALAN J. GERSON, ALBERT VANN, DAVID I.L WEPRIN, LETITIA JAMES, ANNABEL PALMA, KENNETH C. MITCHELL, Committee on Economic Development, December 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Finance

Report for Int. No. 1106

Report of the Committee on Finance in favor of approving and adopting a Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended in eight business improvement districts.

The Committee on Finance, to which the annexed proposed local law was referred on December 9, 2009 (Minutes, page 6060), respectfully

REPORTS:

This proposed local law would authorize an increase in the annual expenditures for eight Business Improvement Districts ("BIDs") effective as of July 1, 2009.

Pursuant to §§ 25-410(b) and 25-416 of the Administrative Code, a Business Improvement District ("BID") may obtain an increase in its budget (i.e. the total amount allowed to be expended annually by the BID for improvements, services, maintenance and operation) by means of the adoption of a local law amending the BID district plan. Such a local law may be adopted by the City Council after a determination that it is in the public interest to authorize such an increase in the maximum annual amount, and that the tax and debt limits prescribed in section 25-412 of the Administrative Code will not be exceeded. Notice of the hearing on this local law must be published in at least one newspaper having general circulation in the district specifying the time when, and the place where, the hearing will be held and stating the increase proposed in the maximum amount to be expended annually.

Although this is the only relevant legal requirement for the provision of notice, in the case of other recent requests for budget increases by BIDs, the Finance Committee Chair informed the Department of Small Business Services that it desires written notices of the proposed increases and the hearing date to be mailed to property owners within the BIDs, and has only considered budget increases for those BIDs providing such additional notice.

The following BIDs have requested increases to their budgets as indicated below:

BID Name	Year **Est.**	Last **Assessment Increase**	Present **Assessment**	Proposed **Assessment**	**Purpose of Assessment Increase**
125th Street	1994	FY 08 $116,766	$719,766	$842,126	Increase in office expenses due to relocation, insurance, professional fees and other general and administrative expenses; revenue sources decreased over $200,000.
Columbus-Amsterdam	1987	FY 04 $33,600	$201,600	$260,000	Increase in promotional programs, tree pits, holiday lights, and general and administrative costs such as office expenses and rent.
DUMBO	2005	Not applicable (First Increase)	$400,000	$500,000	Increase in promotions, marketing and special; insurance costs projected to increase by 43% as a result of the opening of The Archway under the Manhattan Bridge; increase in other general and administrative costs such as rent and printing.
Lower East Side	1992	FY 09 $45,200	$290,400	$335,600	Increase in economic development activities to assist businesses in the down economy; grants and contributions projected to decrease by 44%.
Montague Street	1998	FY 03 $16,500	$124,500	$175,000	Increase expenses related to the expansion of landscaping, holiday programming and office expenses; anticipate increases in audit costs.
Pitkin Avenue	1994	FY 98 $11,500	$125,403	$225,000	Increase to adjust to cost of living increases for several years; increases for marketing and outreach programs, sanitation and administrative expenses. Salary increase will allow for a part-time hire and plans to have more events and promotions to help businesses in the district.
Queens Plaza/ Court Square	2006	Not applicable (First increase)	$300,000	$450,000	Additional services will be added to serve new commercial and residential tenants, including sanitation and security; cost of living increase.
Union Square	1984	FY 06	$1,439,500	$2,000,000	Reduced sponsorship income and

(14th Street)		$250,000			lower interest rates, lowering the revenue projections; expenses increased given inflation and the demands of increased pedestrians on the streets and the users of Union Square Park; a new multi-year sanitation contract increased expenses up to 15-20%; administrative costs increase including health insurance and insurance costs; community programming for Union Square Park, including the North End, and new costs related to care and maintenance of 80 tree pits along 14th Street.

These increases, which have already been approved by the District Management Associations of the 8 BIDs, would result in a higher assessment on all properties currently subject to BID assessments as a result of the increase in the assessment rate.

When the Committee considers this proposed local law on December 21, 2009, it must answer the following three questions:

1. Were all notice requirements contained in the BID Law complied with?

2. Is it in the public interest to authorize an increase in expenditures for the individual BIDs?

3. Have the tax and debt limits prescribed in section 25-412 of the BID Law been complied with?

If the Committee finds in the affirmative on these three questions (and if the additional mailed notices were sent out as per the Committee's instructions) then the legislation can be adopted. The local law authorizing the increases would be effective immediately, but would be deemed to have been in effect from July 1, 2009.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1106:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES AND EXPENDITURES: There will be no net impact on revenues or expenditures resulting from the enactment of this legislation on the City's budget adopted for Fiscal 2010. The BID assessments are charges separate from the City's property tax levy and thus do not impact the General Fund. The assessments are levied on the businesses located in the impacted BIDs. The BIDs' budgets for Fiscal 2010 will increase from the Fiscal 2009 amounts (see below) as a result of this legislation.

BID Name	Year **Est.**	Last **Assessment Increase**	Present **Assessment**	Proposed **Assessment**	**Purpose of Assessment Increase**
125th Street	1994	FY 08 $116,766	$719,766	$842,126	Increase in office expenses due to relocation, insurance, professional fees and other general and administrative expenses; revenue sources decreased over $200,000.
Columbus-Amsterdam	1987	FY 04 $33,600	$201,600	$260,000	Increase in promotional programs, tree pits, holiday lights, and general and administrative costs such as office expenses and rent.
DUMBO	2005	Not applicable	$400,000	$500,000	Increase in promotions, marketing and special; insurance costs projected to increase by 43% as a result of the opening of The Archway under the Manhattan Bridge; increase in other general and administrative costs such as rent and printing.
Lower East Side	1992	FY 09 $45,200	$290,400	$335,600	Increase in economic development activities to assist businesses in the down economy; grants and contributions projected to decrease by 44%.
Montague Street	1998	FY 03 $16,500	$124,500	$175,000	Increase expenses related to the expansion of landscaping, holiday programming and office expenses; anticipate increases in audit costs.
Pitkin Avenue	1994	FY 98 $11,500	$125,403	$225,000	Increase to adjust to cost of living increases for several years; increases for marketing and outreach programs, sanitation and administrative expenses. Salary increase will allow for a part-time hire and plans to have more events and promotions to help businesses in the district.
Queens Plaza/ Court Square	2006	Not applicable	$300,000	$450,000	Additional services will be added to serve new commercial and residential tenants, including sanitation and security; cost of living increase.
Union Square (14th Street)	1984	FY 06 $250,000	$1,439,500	$2,000,000	Reduced sponsorship income and lower interest rates, lowering the revenue projections; expenses increased given inflation and the demands of increased pedestrians on the streets and the users of Union Square Park; a new multi-year sanitation contract increased expenses up to 15-20%; administrative costs increase including health insurance and insurance costs; community programming for Union Square Park, including the North End, and new costs related to care and maintenance of 80 tree pits along 14th Street.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: BID special assessments.

SOURCE OF INFORMATION: City Council Finance Division
NY City Department of Small Business Services

ESTIMATE PREPARED BY: Tanisha Edwards, Counsel
Ralph Hernandez, Finance Analyst

FIS HISTORY: To be considered by the Committee on December 21, 2009.

Accordingly, Your Committee recommends its adoption.

(The following is the text of Int. No. 1106:)

Int. No. 1106

By Council Member Weprin (by request of the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to authorizing an increase in the amount to be expended in eight business improvement districts.

Be it enacted by the Council as follows:

Section 1. Subdivision a of section 25-428.1 of the administrative code of the city of New York, as amended by local law number 60 for the year 2008, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Lower East Side business improvement district beginning on July 1, [2008] *2009*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [two hundred ninety thousand four hundred dollars ($290,400)] *three hundred thirty-five thousand six hundred dollars ($335,600)*.

§ 2. Subdivision a of section 25-433.1 of the administrative code of the city of New York, as amended by local law number 44 for the year 1997, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Pitkin Avenue business improvement district beginning on July 1, [1997] *2009*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one hundred twenty-five thousand four hundred three dollars ($125,403)] *two hundred twenty-five thousand dollars ($225,000)*.

§ 3. Subdivision a of section 25-437.1 of the administrative code of the city of New York, as amended by local law number 61 for the year 2007, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 125th Street business improvement district beginning on July 1, [2007] *2009*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [seven hundred nineteen thousand seven hundred sixty-six dollars ($719,766)] *eight hundred forty-two thousand one hundred twenty-six dollars ($842,126)*.

§ 4. Subdivision a of section 25-444.1 of the administrative code of the city of New York, as amended by local law number 135 for the year 2005, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the 14th Street-Union Square business improvement district beginning on July 1, [2005] *2009*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one million four hundred thirty-nine thousand five hundred dollars ($1,439,500)] *two million dollars*

($2,000,000).

§ 5. Subdivision a of section 25-454.1 of the administrative code of the city of New York, as added by local law number 30 for the year 2002, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Montague Street business improvement district beginning

on July 1, [2002] *2009*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [one hundred twenty-four thousand five hundred dollars ($124,500)] *one hundred seventy-five thousand dollars ($175,000).*

§ 6. Subdivision a of section 25-461 of the administrative code of the city of New York, as added by local law number 10 for the year 2004, is amended to read as follows:

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Columbus/Amsterdam business improvement district beginning on July 1, [2003] *2009*, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of [two hundred one thousand six hundred dollars ($201,600)] *two hundred sixty thousand dollars ($260, 000).*

§ 7. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-467.1 to read as follows:

§25-467.1 Queens Plaza/Court Square business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the Queens Plaza/Court Square business improvement district beginning on July 1, 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of four hundred fifty thousand dollars ($450,000).

b. The amount of such expenditure to be levied upon each property in the district

shall be determined in accordance with the method of assessment set forth in the Queens Plaza/Court Square business improvement district plan.

§ 8. Chapter 5 of title 25 of the administrative code of the city of New York is amended by adding a new section 25-469.1 to read as follows:

§25-469.1 DUMBO business improvement district.

a. The city council having determined, pursuant to subdivision b of section 25-410 of chapter four of this title, that it is in the public interest to authorize an increase in the amount to be expended annually in the DUMBO business improvement district beginning on July 1, 2009, and the council having determined further that the tax and debt limits prescribed in section 25-412 of chapter four of this title will not be exceeded by such increased expenditure, there is hereby authorized in such district an annual expenditure of five hundred thousand dollars ($500,000).

b. The amount of such expenditure to be levied upon each property in the district shall be determined in accordance with the method of assessment set forth in the DUMBO business improvement district plan.

§ 9. This local law shall take effect immediately and shall be retroactive to and deemed to have been in full force and effect as of July 1, 2009.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DE BLASIO, LEWIS A. FIDLER, ALAN J. GERSON, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, December 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for Int. No. 1110

Report of the Committee on Finance in favor of approving and adopting a Local Law in relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand eleven.

The Committee on Finance, to which the annexed proposed local law was referred on December 21, 2009, respectfully

REPORTS:

ANALYSIS:

Various provisions in chapter ten of the New York City Charter (the "Charter") prescribe the actions that need to be taken as part of the annual budget submission process for the following fiscal year's budget. Chapter one of the Charter contains a provision providing for the Mayor's submission of, and Council hearings on, the Mayor's Preliminary Management Report ("PMMR").

This intro would provide for an extension of the date for the submission by the Mayor of the preliminary budget for fiscal year 2011, as well as providing extensions for subsequent steps in the budget submission process. This legislation would also extend the dates for submission by the Mayor of the PMMR and the date by which the Council must conduct its hearings and submit its recommendations on the report.

Pursuant to the proposed legislation, the dates for the Charter-prescribed actions of the budget submission process, and PMMR would be extended as follows:

	Charter Date	Extended Date For FY 2011
Mayor's submission of preliminary management report (Charter sec.12)	not later than January 30	not later than February 11
Council's public hearings and report on preliminary management report (sec.12) ***(These hearings are done jointly with the prelim. budget hearings)***	prior to April 8	prior to April 20
Mayor's preliminary certificate on maximum capital debt and obligations (sec.235)	not later than January 16	not later than January 28
Mayor's submission of preliminary budget (sec.236)	**not later than January 16**	**not later than January 28**
IBO revenue report (sec.237)	on or before February 1	on or before February 11
Community boards submission of assessment of preliminary budget (sec.238)	not later than February 15	not later than February 25
Finance Commissioner's submission of estimate of assessed valuation and of taxes due and uncollected (sec.239)	not later than February 15	not later than February 25
Mayor's submission of tax benefit report (sec.240)	not later than February 15	not later than February 25

Borough board's statement on borough priorities (sec. 241)	not later than February 25	not later than March 8
Council's submission of operating budget (sec.243)	**not later than March 10**	**not later than March 31**
Borough President's submission of recommended modifications to preliminary budget (sec.245)	not later than March 10	not later than March 22
IBO preliminary budget report (sec.246)	on or before March 15	on or before March 26
Council's preliminary budget hearings and submission of recommendations (sec.247)	**not later than March 25**	**not later than April 8**
Campaign Finance Board's submission of financial needs (sec.1052)	**not later than** March 10	**not later than** March 22

This legislation would take effect immediately, except that if it shall have become a law after January 16, 2010, it shall be retroactive to and deemed to have been in full force and effect as of January 16, 2010.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1110:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There would no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: Not applicable

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Tanisha Edwards
City Council Finance Division

HISTORY: To be considered by Committee on December 21, 2009

Accordingly, Your Committee recommends its adoption.

(The following is the text of Int. No. 1110:)

Int. No. 1110

By Council Members Weprin and Comrie (by request of the Mayor).

A Local Law in relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand eleven.

Be it enacted by the Council as follows:

Section 1. During the calendar year 2010 and in relation to the 2011 fiscal year:

1. Notwithstanding any inconsistent provisions of section 12 of the New York city charter, as amended by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a preliminary management report as therein described not later than February 11, 2010, and the council shall conduct public hearings on such report prior to April 20, 2010 and submit to the mayor and make public not later than April 20, 2010, a report or reports of findings and recommendations.

2. Notwithstanding any inconsistent provisions of section 235 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit and publish a preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects as therein described not later than January 28, 2010.

3. Notwithstanding any inconsistent provisions of section 236 of the New York city charter, as amended by local law number 25 for the year 1998, the mayor shall pursuant to such section submit a preliminary budget as therein described not later than January 28, 2010.

4. Notwithstanding any inconsistent provisions of section 237 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the independent budget office shall publish a report on revenues and expenditures as therein described on or before February 11, 2010.

5. Notwithstanding any inconsistent provisions of section 238 of the New York city charter, as added by vote of the electors on November 7, 1989, each community board shall pursuant to such section submit a statement and recommendations in regard to the preliminary budget as therein described not later than February 25, 2010.

6. Notwithstanding any inconsistent provisions of section 239 of the New York city charter, as added by vote of the electors on November 7, 1989, the commissioner of finance shall pursuant to such section submit an estimate of the assessed valuation of real property and a certified statement of all real property taxes due as therein described not later than February 25, 2010.

7. Notwithstanding any inconsistent provisions of section 240 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a tax benefit report as therein described not later than February 25, 2010.

8. Notwithstanding any inconsistent provisions of section 241 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough board shall pursuant to such section submit a statement of budget priorities as therein described not later than March 8, 2010.

9. Notwithstanding any inconsistent provisions of section 243 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section approve and submit estimates of the financial needs of the council as therein described not later than March 31, 2010.

10. Notwithstanding any inconsistent provisions of section 245 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough president shall pursuant to such section submit any proposed modifications of the preliminary budget as therein described not later than March 22, 2010.

11. Notwithstanding any inconsistent provisions of section 246 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the independent budget office shall pursuant to such section publish a report analyzing the preliminary budget as therein described on or before March 26, 2010.

12. Notwithstanding any inconsistent provisions of section 247 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section hold hearings and submit recommendations as therein described not later than April 8, 2010.

13. Notwithstanding any inconsistent provisions of subdivision c of section 1052 of the New York city charter, as added by vote of the electors on November 3, 1998, the campaign finance board shall pursuant to such subdivision submit estimates of the financial needs of the campaign finance board as therein described not later than March 22, 2010.

§ 2. This local law shall take effect immediately, except that if it shall have become a law after January 16, 2010, it shall be retroactive to and deemed to have been in full force and effect as of January 16, 2010.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DE BLASIO, LEWIS A. FIDLER, ALAN J. GERSON, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, December 21, 2009.

(The following is the text of a Message of Necessity from the Mayor for the Immediate Passage of Int No. 1110:)

Pursuant to authority vested in me by section twenty of the Municipal Home Rule and by section thirty-seven of the New York City Charter, I hereby certify to the necessity for the immediate passage of a local law, entitled:

A LOCAL LAW

In relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand eleven.

Given under my hand and seal this 21st day of
December, 2009 at City Hall in the City of New York.

_____

Michael R. Bloomberg
Mayor

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been preconsidered by the Committee on Finance and had been favorably reported for adoption.

Report for Res. No. 2303

Report of the Committee on Finance in favor of approving a Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2009 and fiscal 2010 Expense Budget.

The Committee on Finance, to which the annexed resolution was referred on December 21, 2009, respectfully

REPORTS:

Introduction. The Council of the City of New York (the "Council") annually adopts the City's budget covering expenditures other than for capital projects (the "expense budget") pursuant to Section 254 of the Charter. On June 19, 2009, the Council adopted the expense budget for fiscal year 2010 with various programs and initiatives (the "Fiscal 2010 Expense Budget"). On June 29, 2008, the Council adopted the expense budget for fiscal year 2009 with various programs and initiatives (the "Fiscal 2009 Expense Budget").

Analysis. This Resolution, dated December 21, 2009, changes the Purpose of Funds for the Greenwich Village-Chelsea Chamber of Commerce ("GVCCC") within the budget of the Department of Small Business Services. The Purpose of Funds for the GVCCC listed in the Fiscal 2010 Expense Budget reads: "The Greenwich Village-Chelsea Chamber of Commerce requests funding for the publication of a map and guide. This Member Directory will feature expanded business listings and full-color street, bus and subway maps, making it easier for tourists and residents, alike, to find our members." This Resolution now changes the Purpose of Funds to read: "The Greenwich Village-Chelsea Chamber of Commerce requests funding for the ***web*** publication of a map and guide. This Member Directory will feature expanded business listings and full-color street, bus and subway maps, making it easier for tourists and residents, alike, to find our members."

Also, this Resolution changes the Purpose of Funds for the Brooklyn Ballet within the budget of the Department of Youth and Community Development. The Purpose of Funds for the Brooklyn Ballet in the Fiscal 2010 Expense Budget reads: "Funds will provide during school day programs in local schools." This Resolution now changes the Purpose of Funds to read: "Funds will help to provide youth programming to local school children"

Additionally, this Resolution changes the Purpose of Funds for the Homecrest Community Services within the budget of the Department of Youth and Community Development. The Purpose of Funds for the Homecrest Community Services in the Fiscal 2010 Expense Budget reads: "Provide youth and community development services." This Resolution now changes the Purpose of Funds to read: "Provide community development including services to the aging population."

Moreover, this Resolution approves new designations and changes in the designation of certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2010 Expense Budget. In addition, this Resolution approves the new designations and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in the Fiscal 2010 Expense Budget.

Lastly, this Resolution approves the new designation and changes in the designation of an organization receiving funding pursuant to an initiative in the Fiscal 2009 Expense Budget.

In an effort to continue to make the budget process more transparent, the Council is providing a list setting forth new designations and/or changes in the designation of certain organizations receiving local, aging, and youth discretionary funding, as well as new designations and/or changes in the designation of certain organizations to receive funding pursuant to certain initiatives in the Fiscal 2009 and Fiscal 2010 Expense Budgets.

This resolution sets forth new designations and specific changes in the designation of certain organizations receiving local initiative funding, as described in Chart 1, attached hereto as Exhibit A; sets forth new designations and changes in the designation of aging discretionary funding, as described in Chart 2, attached thereto as Exhibit B; sets forth new designations and changes in the designation of youth discretionary funding, as described in Chart 3, attached thereto as Exhibit C; sets forth the new designations and changes in the designation of certain organizations that will receive funding pursuant to certain initiatives in the Fiscal 2010 Expense Budget, as described in Charts 4-13, attached hereto as reflected in Exhibits D-M; and sets forth new designations and changes in the designation of organizations that will receive funding pursuant to certain discretionary funding in the Fiscal 2009 Expense Budget, as set forth in Charts 14-15, as reflected in Exhibits N-O.

The charts, attached to the resolution, contain the following information: name of the council member(s) designating the organization to receive funding or name of the initiative, as set forth in Adjustments Summary/Schedule C/ Fiscal 2010 Expense Budget, dated June 19, 2009, or the Adjustments Summary/Schedule C/ Fiscal 2009 Expense Budget, dated June 29, 2008; name of the organization; organization's Employer Identification Number (EIN), if applicable; agency name; increase or decrease in funding; name of fiscal conduit, if applicable; and the EIN of the fiscal conduit, if applicable.

Specifically, Chart 1 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding.

Chart 2 sets forth the new designation and changes in the designation of certain organizations receiving aging discretionary funding.

Chart 3 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding.

Chart 4 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative. As indicated in Chart 4, funding in the amount of $20,000 for the Queens Council on the Arts, Inc. Public School 136Q has been withdrawn. This money will be used to fund the American Museum of the Moving Image- Public School 238Q.

Chart 5 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Opportunity Initiative.

Chart 6 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the Food Pantries Initiative.

Chart 7 sets forth the new designation of certain organizations receiving funding in various amounts, totaling $1,950,000 in the aggregate, pursuant to The Space Costs for Seniors Initiative.

Chart 8 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Senior Center PEG Restoration Initiative. As indicated in Chart 8, funding in the amount of $50,000 for the Senior Center PEG Restoration has been withdrawn. This money will be used to fund the Visiting Neighbors, Inc.

Chart 9 sets forth the new designation and changes in the designation of certain organizations receiving funding pursuant to the Infant Mortality Reduction Initiative. As indicated in Chart 10, funding in the amount of $59,412.96 for the Cribs for Kids has been withdrawn. This money will be used to fund the SIDS of PA, Inc.

Chart 10 indicates an Initiative Fund transfer. As indicated in Chart 10, funding for the Small Business and Job Development/Financial Literacy Initiative within the budget of the Department of Small Services ("DSBS") in the amount of $100,000 is removed and transferred to the MWBE Leadership Associations Initiative within the budget of DSBS.

Chart 11 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the Children Under Five Initiative.

Chart 12 sets forth the new designation in the designation of a certain organization receiving funding in various amounts, totaling $2,750,000 in the aggregate, pursuant to the Primary Care Initiative.

Chart 13 sets forth the new designation and changes in the designation of a certain organization receiving funding pursuant to the Legal Services/Anti-Eviction Initiative.

Chart 14 sets forth the new designation and changes in the designation of a certain organization to receive local discretionary funding in accordance with the Fiscal 2009 Expense Budget. Chart 14 indicates a name correction. The Fiscal 2009 Expense Budget listed the Ilion Block Association, Inc. as the name for an organization receiving local discretionary. The correct name for this organization is the Ilion Avenue Area Homeowners Association.

Chart 15 sets forth the new designation and changes in the designation of certain organizations to receive youth discretionary funding in accordance with the Fiscal 2009 Expense Budget.

It is to be noted that organizations identified in the attached charts with an asterisk (*) have not yet completed or begun the prequalification process conducted by the Mayor's Office of Contract Services (for organizations receiving more than $10,000) or by the Council (for organizations receiving $10,000 or less total). Organizations identified without an asterisk have completed the appropriate prequalification review.

Description of Above-captioned Resolution. In the above-captioned resolution, the Council would approve the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2009 and Fiscal 2010 Expense Budgets. Such resolution would take effect as of the date of adoption.

Accordingly, Your Committee recommends its adoption.

(The following is the text of Res. No. 2303:)

Res. No. 2303

Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2009 and Fiscal 2010 Expense Budgets.

By Council Member Weprin.

Whereas, On June 19, 2009 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2010 with various programs and initiatives (the "Fiscal 2010 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted Fiscal 2010 Budget by approving the new Purpose of Funds for the Greenwich Village-Chelsea Chamber of Commerce ("GVCCC") within the budget of the Department of Small Business Services; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted 2010 Budget by approving the new Purpose of Funds for the Brooklyn Ballet within the budget of the Department of Youth and Community Development; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted 2010 Budget by approving the new Purpose of Funds for the Homecrest Community Services within the budget of the Department of Youth and Community Development; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted Fiscal 2010 Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, On June 29, 2008, the City Council adopted the expense budget for fiscal year 2009 with various programs and initiatives (the "Fiscal 2009 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2009 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local and youth discretionary funding; now, therefore, be it

Resolved, That the City Council approves the new Purpose of Funds for the Greenwich Village-Chelsea Chamber of Commerce ("GVCCC") within the budget of the Department of Small Business Services to read: "The Greenwich Village-Chelsea Chamber of Commerce requests funding for the ***web*** publication of a map and guide. This Member Directory will feature expanded business listings and full-color street, bus and subway maps, making it easier for tourists and residents, alike, to find our members."; and be it further

Resolved, That the City Council approves the new Purpose of Funds for the Brooklyn Ballet within the budget of the Department of Youth and Community Development to read: "Funds will help to provide youth programming to local school children"; and be it further

Resolved, That the City Council approves the new Purpose of Funds for the Homecrest Community Services within the budget of the Department of Youth and Community Development to read: "Provide community development including services to the aging population."; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding as set forth in Chart 1, attached hereto as Exhibit A; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving aging discretionary funding as set forth in Chart 2, attached hereto as Exhibit B; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding as set forth in Chart 3, attached hereto as Exhibit C; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative, as set forth in Chart 4, attached hereto as Exhibit D; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Opportunity Initiative, as set forth in Chart 5 attached hereto as Exhibit E; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Food Pantries Initiative, as set forth in Chart 6 attached hereto as Exhibit F; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Space Costs for Seniors Initiative, as set forth in Chart 7 attached hereto as Exhibit G; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Senior Center PEG Restoration Initiative, as set forth in Chart 8 attached hereto as Exhibit H; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Infant

Mortality Reduction Initiative, as set forth in Chart 9 attached hereto as Exhibit I; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to an Initiative Fund Transfer, as set forth in Chart 10 attached hereto as Exhibit J; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Children Under Five Initiative, as set forth in Chart 11 attached hereto as Exhibit K; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Primary Care Initiative, as set forth in Chart 12 attached hereto as Exhibit L; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Legal Services/Anti-Eviction Initiative, as set forth in Chart 13 attached hereto as Exhibit M; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of an organization receiving local discretionary funding in accordance with the Fiscal 2009 Expense Budget, as set forth in Chart 14, attached hereto as Exhibit N; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of an organization receiving youth discretionary funding in accordance with the Fiscal 2009 Expense Budget, as set forth in Chart 15, attached hereto as Exhibit O.

ATTACHMENT:

EXHIBIT A

CHART 1: Local Initiatives

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Comrie	Ilion Area Block Association, Inc.	11-2909605	DYCD		250	005			
Comrie	Ilion Avenue Area Homeowners Association	11-2909605	DYCD	$5,000.00	250	005			*
Barron	Soul Tigers Marching Band, Inc.	77-0615740	DYCD		250	312			*
Barron	Soul Tigers Marching Band, Inc.	11-0615740	DYCD	$3,000.00	250	312			*
Comrie	St. Albans/Jamaica Little League	11-2495698	DYCD		250	312			
Comrie	St. Albans/Jamaica Little League	80-0103495	DYCD	$9,000.00	250	312			
Dickens	NYC KidsFest	20-2325719	DPR		846	006			
Dickens	NYC KidsFest	26-3538262	DPR	$5,000.00	846	006	Performance Zone, Inc.	13-3357408	
Jackson	Community Assisted Tenant Controlled Housing, Inc.	13-3706059	DYCD		250	005			*
Jackson	Community Assisted Tenant Controlled Housing, Inc.	13-3706959	DYCD	$3,500.00	250	005			*
Quinn	Holy Apostles Community Chorus	76-0843120	DCA		126	003			
Quinn	New York City Community Chorus at Holy Apostles	76-0843120	DCA	$3,000.00	126	003			
Arroyo	Bronx Academy of Arts and Dance	13-3997265	DCA		126	003			
Arroyo	Arthur Aviles Typical Theatre, Inc. - Bronx Academy of Arts and Dance	13-3997265	DCA	$10,000.00	126	003			
Mitchell	Staten Island Liberian Community Association	38-3685524	DYCD		250	005			*
Mitchell	Staten Island Liberian Community Association	13-3936101	DYCD	$10,000.00	250	005			*
Vann	Bedford Stuyvesant Restoration Corporation	11-6083182	DSBS		801	002			
Vann	Bedford Stuyvesant Restoration Corporation	11-6083182	DYCD	$90,000.00	250	312			
Fidler	Wyckoff House Association, Inc.**	11-2615053	DCA		126	003			
Fidler	Wyckoff House Association, Inc.**	11-2615053	DYCD	$10,250.00	250	312			
Ignizio	Emergency Children's Help Organization, Inc.**	11-3828185	DYCD		250	312			
Ignizio	Special Olympics New York, Inc.**	23-7061382	DYCD		250	312			
Ignizio	Garibaldi-Meucci Museum**	06-1725844	DCA	$10,000.00	126	003			
CC-Fidler, Brooklyn Delegation	Ridgewood Bushwick Senior Citizens Council, Inc.**	11-2453853	DFTA		125	003			
CC-Fidler, Brooklyn Delegation	Ridgewood Bushwick Senior Citizens Council, Inc.**	11-2453853	DYCD	$350,000.00	250	005			
Dickens	Wadleigh Secondary School for the Visual and Performing Arts**	13-6400434	DOE		040	402			
Dickens	Wadleigh Secondary School for the Visual and Performing Arts**	13-6400434	DYCD	$5,000.00	290	312	Community Works, Inc.	13-3580813	
Yassky	Council of Urban Professionals, Inc.**	01-0683413	DSBS		801	002			*
Yassky	Council of Urban Professionals, Inc.**	01-0683413	DYCD	$10,000.00	250	005			*
Viverito	Raices Latin Music Museum**	20-8531737	DCA		126	003			
Viverito	Raices Latin Music Museum**	20-8531737	DYCD	$5,000.00	250	005			
Brewer	American Composers Orchestra**	13-2838450	DYCD		250	312			
Brewer	American Composers Orchestra**	13-2838450	DOE	$3,500.00	040	402			
CC-White, Weprin, Mitchell, Reyna	New York Industrial Retention Network**	51-0178586	DSBS		801	002			

* Indicates pending completion of pre-qualification review.
** Requires a budget modification for the changes to take effect

CHART 1: Local Initiatives (continued)

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
CC-White, Weprin, Mitchell, Reyna	Fund for the City of New York, Inc. - New York Industrial Retention Network**	13-2612524	DSBS	$145,000.00	801	002			
Mitchell	Serving Those Who Serve, Inc.**	20-0069773	DYCD		260	005			*
Mitchell	Immaculate Conception School**	13-2887296	DYCD		260	312	United Activities Unlimited, Inc.	13-2921483	*
Mitchell	Our Lady of Mount Carmel -St. Benedicta School**	13-3594429	DYCD		260	312			
Mitchell	St. Mary's Parochial Elemenary School**	13-2688405	DYCD		260	312	United Activities Unlimited, Inc.	13-2921483	*
Mitchell	Daughters of Africa, Inc.**	13-4175519	DYCD		260	312			
Mitchell	A Very Special Place, Inc.**	13-3005006	DYCD	$500.00	260	312			*
Mitchell	Staten Island Federation of Parent Teacher Association's**	13-3255938	DOE	$1,000.00	040	402			
Mitchell	Art Lab, Inc. - The Art School at Snug Harbor**	13-2977495	DYCD	$5,000.00	260	312			*
Mitchell	West Brighton Community Local Development Corporation**	13-3046424	DSBS	$5,000.00	801	002			
Mitchell	Staten Island University Hospital**	11-2868878	DOHMH	$2,000.00	816	113			
Mitchell	Utopia Outreach, Inc.**	31-1720015	DYCD		260	312	United Activities Unlimited, Inc.	13-2921483	*
Mitchell	Staten Island University Hospital**	11-2868878	DOHMH	$3,000.00	816	113			
Vann	Education Through Music, Inc.**	13-3613210	DCA		126	003			
Vann	Rise Up and Walk Youth Outreach Center, Inc.**	04-3707153	DYCD		250	312			
Vann	Little Sun People, Inc.**	11-3081207	DYCD		260	312			
Dickens	We Care Media Arts, Inc.	30-0493227	DFTA		125	003			
Dickens	We Care Media Arts, Inc.	30-0493227	DFTA	$5,000.00	125	003	Washington Heights-Inwood Coalition	13-2989768	
CC-Felder, Recchia, Weprin	SBH Community Service Network, Inc. (Sephardic Bikur Chomlim)**	23-7406410	DFTA		125	003			
CC-Felder, Recchia, Weprin	SBH Community Service Network, Inc. (Sephardic Bikur Chomlim)**	23-7406410	DYCD	$150,000.00	260	005			
Ferreras	Neighborhood Housing Services of New York City, Inc.	13-3098397	HPD		806	009			
Ferreras	Neighborhood Housing Services of Northern Queens	13-3098397	HPD	$4,500.00	806	009			
				$0.00					

* Indicates pending completion of pre-qualification review.
** Requires a budget modification for the changes to take effect

EXHIBIT B

CHART 2: Aging Discretionary

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Foster	Arturo Schomburg Senior Citizen Council, Inc.	13-2987263	DFTA		125	003			
Foster	Institute for the Puerto Rican/Hispanic Elderly, Inc. - Arturo Schomburg Senior Citizens Council, Inc.	13-2987263	DFTA	$20,000.00	125	003			
Palma	Mechler Hall Community Services, Inc. - Mechler Hall Senior Center	13-1740162	DFTA		125	003			*
Palma	Aging in America Community Services, Inc. - Mechler Hall Senior Center	13-4099045	DFTA	$12,000.00	125	003			
Jackson	Convent Avenue Baptist Church	13-1769584	DFTA		125	003			*
Jackson	Convent Avenue Baptist Church	13-2780116	DFTA	$9,500.00	125	003			*
Nelson	Jewish Community Council of Kings Bay, Inc.	11-2714997	DFTA		125	003			
Nelson	Jewish Community Council of Kings Bay, Inc.	11-2714997	DFTA	$6,500.00	125	003	Metropolitan New York Coordinating Council on Jewish Poverty, Inc.	13-2738818	
Barron	Wayside Out-Reach Development, Inc. - Cypress Senior Center	11-3528680	DFTA		125	003			
Barron	Cypress Hills Fulton Street Senior Citizens Center, Inc.	11-2297647	DFTA	$8,000.00	125	003	Wayside Out-Reach Development, Inc.	11-3528680	
Barron	Wayside Out-Reach Development, Inc. - Spring Creek Senior Center	11-3528680	DFTA		125	003			
Barron	Spring Creek Senior Partners, Inc.	74-3158439	DFTA	$8,000.00	125	003	Wayside Out-Reach Development, Inc.	11-3528680	
Vann	St. John's Recreation Center Seniors Group	01-0871740	DFTA		125	003			
Vann	City of New York Parks and Recreation St. John's Recreation Center	13-6400434	DFTA	$5,000.00	125	003			
Viverito	Casita Maria, Inc.	13-1623994	DFTA		125	003			
Viverito	Institute for the Puerto Rican/Hispanic Elderly, Inc.	13-2987263	DFTA	$9,500.00	125	003			
				$0.00					

* Indicates pending completion of pre-qualification review.

EXHIBIT C

CHART 3: Youth Discretionary

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Yassky	Brooklyn Perinatal Network, Inc.	13-2428222	DYCD		260	312			
Yassky	Brooklyn Perinatal Network, Inc.	13-3428222	DYCD	$10,000.00	260	312			
Ignizio	Emergency Children's Help Organization, Inc.	11-3828185	DYCD	$5,000.00	260	312			
Ignizio	Special Olympics New York, Inc.	23-7061382	DYCD	$5,000.00	260	312			
Ignizio	Garibaldi-Meucci Museum	06-1725844	DYCD		260	312			
Stewart	United States Steelband Association, Inc.	11-3612068	DYCD		260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728	
Stewart	Action Arts League, Inc.	20-4582464	DYCD	$1,000.00	260	312			
Viverito	Chica Luna Productions, Inc.	52-2415915	DYCD		260	312	Latino Educational Media Center	13-3227788	
Viverito	Chica Luna Productions, Inc.	52-2415915	DYCD	$5,000.00	260	312			
Mitchell	Roza Promotions, Inc.	13-3792863	DYCD		260	312			*
Mitchell	St. John's Lutheran Church & School	13-2578419	DYCD		260	312	United Activities Unlimited, Inc.	13-2921483	*
Mitchell	A Very Special Place, Inc.	13-3005006	DYCD	$6,500.00	260	312			
Vann	Education Through Music, Inc.	13-3613210	DYCD		260	312			
Vann	Rise Up and Walk Youth Outreach Center, Inc.	04-3707153	DYCD	$10,000.00	260	312			
Vann	Little Sun People, Inc.	11-3081207	DYCD	$5,000.00	260	312			
Dickens	National Association of Each One Teach One, Inc.	13-3163783	DYCD		260	312			
Dickens	National Association of Each One Teach One, Inc.	13-3163183	DYCD	$10,000.00	260	312			
				$0.00					

* Indicates pending completion of pre-qualification review.

EXHIBIT D

CHART 4: Cultural After School Adventure (CASA)

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A *
Comrie	Queens Council on the Arts, Inc. - Public School 136Q	11-2219193	DCA		126	003
Comrie	American Museum of the Moving Image - Public School 238Q	11-2730714	DCA	$20,000.00	126	003
				$0.00		

* Indicates pending completion of pre-qualification review.

EXHIBIT E

CHART 5: Immigrant Opportunities Initiative (IOI)

Borough	Organization	EIN Number	Agency	Amount	Agy #	U/A *
Bronx	Kingsbridge Heights Community Center, Inc.	13-5562265	DYCD		260	005
Bronx	Kingsbridge Heights Community Center, Inc.	13-2813809	DYCD	$35,000.00	260	005
Staten Island	Polonians Organized to Minister Our Community (POMOC), Inc.	11-2594500	DYCD		260	005
Staten Island	St. Stanislaus Kostka Church**	13-5564133	DYCD	$40,000.00	260	005
				$0.00		

* Indicates pending completion of pre-qualification review.
** Indicates Polonians Organized to Minister Our Community (POMOC), Inc. is the fiscal conduit

EXHIBIT F

CHART 6: Food Pantries

Borough	Organization	EIN Number	Agency	Amount	Agy #	U/A *
Brooklyn	Blessed Sacrament Church		DYCD		260	005 *
Brooklyn	Blessed Sacrament Church	11-1667600	DYCD	$9,500.00	260	005 *
Manhattan	Convent Avenue Baptist Church	13-1769584	DYCD		260	005 *
Manhattan	Convent Avenue Baptist Church	13-2780116	DYCD	$5,778.00	260	005 *
				$0.00		

* Indicates pending completion of pre-qualification review.

EXHIBIT G

CHART 7: Space Costs for Seniors

Organization	EIN Number	Agency	Amount	Agy #	U/A *
Agudath Israel of America Community Services, Inc. - Boro Park Senior Citizens Center	13-3975090	DFTA	$14,614.00	125	003
Alpha Phi Alpha Senior Citizens Center, Inc.	23-7436147	DFTA	$75,000.00	125	003 *
ARC XVI Fort Washington, Inc. - Fort Washington Senior Center	13-2745426	DFTA	$12,000.00	125	003
Bedford Park Multi-Service Center for Senior Citizens, Inc. - Sister Annunciata	13-2745303	DFTA	$10,000.00	125	003
Caring Community, Inc. The - 1st Presbyterian	13-2980755	DFTA	$11,280.00	125	003
Caring Community, Inc., The - Center on the Square Senior Center	13-2980755	DFTA	$30,600.00	125	003
Carter Burden Center for the Aging, Inc., The - Carter Burden Luncheon Club	23-7129499	DFTA	$25,000.00	125	003
Catholic Charities Neighborhood Services, Inc. - Bayside Senior Center	11-2047151	DFTA	$15,000.00	125	003
Catholic Charities Neighborhood Services, Inc. - Hillcrest Senior Center	11-2047151	DFTA	$17,000.00	125	003
Catholic Charities Neighborhood Services, Inc. - Northside Senior Center	11-2047151	DFTA	$28,000.00	125	003
Catholic Charities Neighborhood Services, Inc. - Southwest Queens Case Management	11-2047151	DFTA	$23,161.00	125	003
Catholic Charities Neighborhood Services, Inc. - St. Louis Senior Center	11-2047151	DFTA	$29,000.00	125	003
Catholic Charities Neighborhood Services, Inc. - Steinway Senior Center	11-2047151	DFTA	$13,000.00	125	003
Chinese American Planning Council, Inc. - Queens Nan Shan Senior Center	13-6202692	DFTA	$66,893.00	125	003
Church on the Hill Older Adult (COTHOA) Luncheon Club, Inc.	13-3608860	DFTA	$21,000.00	125	003
Council of Belmont Organizations, Inc. - Mt. Carmel Center for Senior Citizens	13-2755323	DFTA	$25,000.00	125	003
Crown Heights Preservation Committee Corp. - Shalom Senior Center	11-2322490	DFTA	$3,000.00	125	003
East Side Community Group for Senior Services, Inc. - Stein Senior Center	23-7378342	DFTA	$17,500.00	125	003 *
Eileen Dugan Senior Citizens Center, Inc.	11-2301785	DFTA	$19,646.00	125	003
Elmcor Youth and Adult Activities, Inc. - Elmcor Lefrak Senior Center	11-2224539	DFTA	$65,000.00	125	003
Encore Community Services, Inc. - Encore Luncheon Club	13-3104293	DFTA	$10,000.00	125	003
Fort Greene Senior Citizens Council, Inc. - Fort Greene Senior Action Center	11-2300840	DFTA	$99,074.00	125	003
Glenridge Senior Citizen Multi-Service & Advisory Center, Inc. - Glenridge Senior Citizens	11-2327136	DFTA	$40,800.00	125	003
Heights and Hill Community Council, Inc. - Heights and Hill Case Management	23-7237927	DFTA	$7,226.00	125	003
Hope of Israel Senior Center, Inc.	13-2749857	DFTA	$15,000.00	125	003 *
Hunts Point Multi-Service Center, Inc. - Maria Isabel Senior Center	13-2612532	DFTA	$15,000.00	125	003
Institute for the Puerto Rican/Hispanic Elderly, Inc.	13-2987263	DFTA	$31,000.00	125	003
Italian Senior Citizens Center, Inc. - Newtown-Italian Senior Center	11-2308129	DFTA	$8,000.00	125	003 *
Jamaica Service Program for Older Adults, Inc. (JSPOA) - JSPOA Transportation	51-0204121	DFTA	$2,436.00	125	003
Jewish Association for Services for the Aged (JASA) - HES Senior Center	13-2620896	DFTA	$4,500.00	125	003
Jewish Association for Services for the Aged (JASA) - Manhattan Beach	13-2620896	DFTA	$1,400.00	125	003
Jewish Association for Services for the Aged (JASA) - Roy Reuther	13-2620896	DFTA	$62,000.00	125	003
Jewish Association for Services for the Aged (JASA) - Starrett City Senior Center	13-2620896	DFTA	$39,000.00	125	003
Jewish Community Council of Greater Coney Island, Inc. - Jay Senior Center	11-2665181	DFTA	$15,000.00	125	003
Korean Community Services of Metropolitan New York, Inc. - Korean American of Corona	23-7348989	DFTA	$37,400.00	125	003
Korean Community Services of Metropolitan New York, Inc. - Korean American of Flushing	23-7348989	DFTA	$35,000.00	125	003
Lenox Hill Neighborhood House, Inc. - Lenox Hill Senior Center II	13-1628180	DFTA	$5,000.00	125	003
Merrill Park Civic Association of Springfield Gardens - Robert Couche Senior Citizen Center	11-2304928	DFTA	$46,000.00	125	003

* Indicates pending completion of pre-qualification review.

CHART 7: Space Costs for Seniors (continued)

Organization	EIN Number	Agency	Amount	Agy #	U/A *
North East Bronx Senior Citizens Center, Inc.	13-2759045	DFTA	$74,200.00	125	003
One Stop Senior Services	13-3174492	DFTA	$60,000.00	125	003
Park Slope Senior Citizen's Center	11-2334269	DFTA	$3,500.00	125	003
Peter Cardella Senior Citizen Center, Inc.	11-2328536	DFTA	$25,000.00	125	003
Presbyterian Senior Services - Harlem Senior Center	13-1981482	DFTA	$14,000.00	125	003
Rabbi Israel Meyer Hacohen Rabbinical Seminary of America, Inc. - Middle Village Senior Center	11-1752021	DFTA	$40,000.00	125	003
Regional Aid for Interim Needs, Inc. - Boston East Senior Center	13-6213586	DFTA	$29,200.00	125	003
Regional Aid for Interim Needs, Inc. - East Tremont Senior Center	13-6213586	DFTA	$21,400.00	125	003
Regional Aid for Interim Needs, Inc. - Inwood Senior Center	13-6213586	DFTA	$6,500.00	125	003
Regional Aid for Interim Needs, Inc. - Nereid Senior Center	13-6213586	DFTA	$45,000.00	125	003
Ridgewood Older Adult Center and Services, Inc.	05-0607283	DFTA	$75,000.00	125	003
Riverdale Senior Services, Inc.	23-7357997	DFTA	$24,000.00	125	003
SEBCO Development, Inc. - SEBCO Senior Program	13-2944013	DFTA	$4,920.00	125	003
Selfhelp Community Services, Inc. - Austin Street Senior Center	13-1624178	DFTA	$47,000.00	125	003
Selfhelp Community Services, Inc. - Clearview Senior Center	13-1624178	DFTA	$11,000.00	125	003
Selfhelp Community Services, Inc. - Maspeth Senior Center	13-1624178	DFTA	$25,000.00	125	003
Senior Citizens League of Flatbush, Inc. - Midwood Senior League Satellite	11-2347331	DFTA	$10,000.00	125	003
Services Now for Adult Persons (SNAP), Inc. - Rosedale	11-2591783	DFTA	$21,212.00	125	003
Southeast Queens Multiservice Senior Citizens Center, Inc. - Howard Beach Senior Center	23-7287548	DFTA	$4,202.00	125	003
Southside United Housing Development Fund Corp. - Los Sures Senior Center	11-2268359	DFTA	$33,500.00	125	003
Spanish Speaking Elderly Council-RAICES - RAICES/Corona Senior Center	11-2730462	DFTA	$109,000.00	125	003
St. Gabriel's Episcopal Church Senior Center - St. Gabriels Senior Center	11-2463892	DFTA	$18,000.00	125	003 *
St. John-St. Matthew Emanuel Lutheran Church - Prospect Hill Senior Services Center	11-2252592	DFTA	$68,284.00	125	003
Staten Island Community Services Friendship Clubs, Inc. - Arrochar Friendship Club Senior Center	13-2778244	DFTA	$5,000.00	125	003
Staten Island Community Services Friendship Clubs, Inc. - Mt. Loretto Friendship Club Senior Center	13-2778244	DFTA	$6,000.00	125	003
Staten Island Community Services Friendship Clubs, Inc. - Staten Island Friendship	13-2778244	DFTA	$20,000.00	125	003
Sunnyside Community Services Center, Inc. - Senior Center	51-0189327	DFTA	$76,340.00	125	003
Tolentine-Zeiser Community Life Center, Inc. - Nutrition Program	13-3131888	DFTA	$21,212.00	125	003
United Hindu Cultural Council of USA, North America, Inc.	11-3451990	DFTA	$6,000.00	125	003 *
United Senior Citizen Center of Sunset Park, Inc.	11-2358277	DFTA	$10,000.00	125	003
Young Israel of Forest Hills - Senior League	11-2582218	DFTA	$20,000.00	125	003
Young Israel of Queens Valley	13-3613262	DFTA	$12,000.00	125	003 *
Young Israel of Wavecrest and Bayswater	11-2342565	DFTA	$8,000.00	125	003 *
			$1,950,000.00		

* Indicates pending completion of pre-qualification review.

EXHIBIT H

CHART 8: Senior Center PEG Restoration

Organization	EIN Number	Agency	Amount	Agy #	U/A *
Senior Center PEG Restoration		DFTA		125	003
Visiting Neighbors, Inc.	23-7379098	DFTA	$50,000.00	125	003
			$0.00		

* Indicates pending completion of pre-qualification review.

EXHIBIT I

CHART 9: Infant Mortality Reduction

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
Cribs for Kids	25-1442806	DOHMH		816	113	
SIDS of PA, Inc.	25-1442806	DOHMH	$59,412.96	816	113	
			$0.00			

* Indicates pending completion of pre-qualification review.

EXHIBIT J

CHART 10: Initiative Transfer

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
Small Business and Job Development / Financial Literacy**		DSBS		801	002	*
MWBE Leadership Associations**		DSBS	$100,000.00	801	005	*
			$0.00			

* Indicates pending completion of pre-qualification review.
** This transfer will move funding for the Jamaica Business Resource Center from Small Business and Job Development / Financial Literacy to MWBE Leadership Associations.

EXHIBIT K

CHART 11: Children Under Five

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
Coalition for Hispanic Family Services, Inc.	13-3546023	DOHMH		816	120	*
Safe Horizon, Inc.	13-2946970	DOHMH	$69,395.24	816	120	
			$0.00			

* Indicates pending completion of pre-qualification review.

EXHIBIT L

CHART 12: Primary Care Initiative

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
Theodore Roosevelt High School School-Based Health Clinic	13-6400434	DOHMH	$175,000.00	816	117	
James Monroe High School School-Based Health Clinic	13-6400434	DOHMH	$225,000.00	816	117	
Greenpoint Family Health Center	13-6400434	HHC	$300,000.00	819	001	
Franklin K. Lane High School School-Based Health Clinic	13-6400434	DOHMH	$175,000.00	816	117	
Wingate Campus School-Based Health Clinic	13-6400434	DOHMH	$40,000.00	816	117	
Baruch Family Health Center	13-6400434	HHC	$240,000.00	819	001	
Gouverneur Healthcare Services	13-6400434	HHC	$462,000.00	819	001	
Springfield Gardens Medical Center	13-6400434	HHC	$414,000.00	819	001	
Long Island City High School School-Based Health Clinic	13-6400434	DOHMH	$150,000.00	816	117	
New Dorp High School School-Based Health Clinic	13-6400434	DOHMH	$181,000.00	816	117	
Citywide School-Based Health Clinic Gap Funding	13-6400434	HHC	$388,000.00	819	001	
			$2,750,000.00			

* Indicates pending completion of pre-qualification review.

EXHIBIT M

CHART 13: Legal Services/Anti-Eviction

Organization	EIN Number	Agency	Amount	Agy #	U/A	*
Legal Aid Society / Civil Division- Bronx	13-5562265	HPD		806	011	
Legal Aid Society / Civil Division- Bronx	16-1759590	HPD	$144,643.00	806	011	
Legal Services NYC - Manhattan Legal Services	13-2600199	HPD		806	011	
Legal Services NYC - Manhattan Legal Services	13-2613958	HPD	$159,556.00	806	011	
			$0.00			

* Indicates pending completion of pre-qualification review.

EXHIBIT N

CHART 14: Local Initiatives-FY 2009

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	*
Comrie	Ilion Area Block Association, Inc.	11-2909605	DYCD		260	005	Southern Queens Park Association, Inc.	11-2432846	
Comrie	Ilion Avenue Area Homeowners Association	11-2909605	DYCD	$5,000.00	260	005	Southern Queens Park Association, Inc.	11-2432846	
				$0.00					

* Indicates pending completion of pre-qualification review.

EXHIBIT O

CHART 15: Youth Discretionary-FY 2009

Member	Organization	EIN Number	Agency	Amount	Agy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN *
Stewart	67th Precinct Explorers		DYCD		260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	67th Precinct Police Athletic League		DYCD		260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	Citizens for a Better Community		DYCD		260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	East 34th Street Block Association		DYCD		260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	East 40th Street Block Association		DYCD		260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	67th Precinct Explorers	13-1624015	DYCD	$2,500.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	67th Precinct Police Athletic League	13-1624015	DYCD	$2,500.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	Citizens for a Better Community	11-3630592	DYCD	$2,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	East 34th Street Block Association	04-3707046	DYCD	$2,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Stewart	East 40th Street Block Association	20-5778751	DYCD	$2,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728
Ferraras	Helping Our Guys and Girls Succeed, Inc.	20-5423388	DYCD		260	312		
Ferraras	Helping Our Guys and Girls Succeed, Inc.	11-2202969	DYCD	$10,000.00	260	312		
Yassky	Open Space Alliance for Northern Brooklyn	01-0879087	DYCD		260	312		
Yassky	Open Space Alliance for Northern Brooklyn	01-0849087	DYCD	$10,000.00	260	312		
				$0.00				

* Indicates pending completion of pre-qualification review.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DE BLASIO, LEWIS A. FIDLER, ALAN J. GERSON, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, December 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 1294

Report of the Committee on Finance in favor of approving Southeast Grand Street Guild HDFC, Block 341, Lot 1, Manhattan, Council District No. 1, Section 577 of Private Housing Finance Law.

The Committee on Finance, to which the annexed Land Use resolution was referred on December 21, 2009, respectfully

REPORTS:

(The following is the text of the Memo sent to the Finance Committee from the Finance Division of the New York City Council:)

December 21, 2009

TO: Hon. David Weprin
Chair, Finance Committee

Members of the Finance Committee

FROM: Anthony Brito, Finance Division

RE: Finance Committee Agenda of December 21, 2009-Resolution approving partial tax exemptions for three preconsidered Land Use Items (Council District 1).

HPD has submitted a request to the Council to approve three partial property tax exemptions for the following properties: Grand Street Guild East HDFC located at Block 341, Lot 70 in Manhattan, Southeast Grand Street Guild HDFC located at Block 341, Lot 1 in Manhattan, and Grand Street Guild HDFC located at Block 341, Lot 58 in Manhattan.

All three Housing Development Fund Company's (HDFC's) are sponsored by the Grand Street Settlement House which will rehabilitate a combined total of 600 units of rental housing for low income families. These projects were originally financed with Section 236 mortgage loans from the Department of Housing and Urban Development ("HUD") and tax exemptions from the City which will expire on July 1, 2014. Grand Street Settlement House intends to refinance the prior mortgages with new mortgage loans that will fund significant capital improvements to all three projects. In order to facilitate the refinancing and rehabilitation of all three projects, the current exemptions must be terminated and replaced with new partial exemptions pursuant to Section 577 of the Private Housing Finance Law that are coterminous with the new mortgages. The combined value of all three tax exemptions is projected at $741,734 in the first year and $62.5 million over the 40-year length of the exemptions.

These items have the approval of Council Member Gerson.

Accordingly, Your Committee recommends the adoption of LU No. 1294, 1295, and 1296 along with their respective coupled resolutions.

(For text of the coupled resolutions for LU No. 1295 and 1296, please see the Report of the Committee on Finance for LU No. 1295 and the Report of the Committee on Finance for LU No. 1296, respectively; for text of the coupled resolution for LU No. 1294, please see below:)

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2305

Resolution approving a partial exemption from real property taxes for property located at (Block 341, Lot 1) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1294).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated November 16, 2009 that the Council take the following action regarding a housing project to be located at (Block 341, Lot 1) Borough of Manhattan ("Exemption Area "):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of Private Housing Finance Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on December 21, 2009;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

   a. "Effective Date" shall mean the date on which the Secretary of HUD certifies on the New Mortgage Loan Note that the total sum of the New Mortgage Loan has been approved for insurance .

   b. "Exemption Area" shall mean the real property located in the County, City, and State of New York and identified as Block 341, Lot 1 on the Tax Map of the City.

c. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date upon which the Use Agreement ceases to bind all parties in interest to the Exemption Area, (iii) the date upon which the Regulatory Agreement ceases to bind all parties in interest to the Exemption Area, or (iv) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.

d. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

e. "HUD" shall mean the United States Department of Housing and Urban Development.

f. "New Exemption" shall mean the partial exemption from real property taxation provided hereunder with respect to the Exemption Area.

g. "New Mortgage" shall mean the HUD mortgage loan, with Federal Housing Administration loan number 012-35696, that is insured pursuant to Section 221 (d)(3) of the National Housing Act, as amended.

h. "New Mortgage Loan Note" shall mean the mortgage loan note made by the Owner for the New Mortgage.

i. "Owner" shall mean Southeast Grand Street Guild Housing Development Fund Company, Inc.

j. "Prior Exemption" shall mean the partial exemption from real property taxation approved by the Board of Estimate on December 3, 1970 (Cal. No. 2-A) with respect to the Exemption Area.

k. "Prior Mortgage" shall mean the original loan to Owner secured by a mortgage on the Exemption Area that was insured under Section 236 of the National Housing Act, as amended.

l. "Regulatory Agreement" shall mean an agreement by and between HPD and Owner which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that (i) notwithstanding any term of the Use Agreement or any other agreement to the contrary, the Exemption Area shall remain subject to the terms of the Use Agreement until a date which is forty (40) years from the Effective Date, (ii) in the event of a breach or a threatened beach of any of the covenants and agreements contained in the Use Agreement, in addition to any other remedies that HPD has or may have at law or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements and to enjoin any acts which violate such covenants and agreements, (iii) the Owner shall exercise any and all available options to renew Rental Subsidy for eligible tenants, and (iv) the Owner shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.

m. "Rental Subsidy" shall mean a Section 8 Housing Assistance Payments Contract and any similar form of rental assistance from any governmental entity.

n. "Use Agreement" shall mean an agreement between HUD and the Owner which commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that the Exemption Area continue to use Rental Subsidy and that all existing dwelling units in the

Exemption Area must be rented to families whose incomes comply with the income restrictions of Section 236 of the National Housing Act, as amended.

o. "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.

p. "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of the Shelter Rent**,** but in no event less than $152,765.00 per annum.

2. The Prior Exemption shall terminate upon the Effective Date.

3. All of the value of the property in the Exemption Area, including both the land and any improvements shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date

4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the amount of the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule, or regulation.

5. Notwithstanding any provision hereof to the contrary:

a. The New Exemption shall terminate if HPD determines that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the record owner of the Exemption Area and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

b. The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.

c. Nothing herein shall entitle the Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

6. In consideration of the New Exemption, on or before the Effective Date, the Owner, for itself, its successors and assigns, shall (i) execute and record a Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, and (iii) waive, for so long as the New Exemption shall remain in effect, the benefits of additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DE BLASIO, LEWIS A. FIDLER, ALAN J. GERSON, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, December 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 1295

Report of the Committee on Finance in favor of approving Grand Street Guild East HDFC, Block 341, Lot 70, Manhattan, Council District No. 1, Section 577 of the Private Housing Finance Law.

The Committee on Finance, to which the annexed Land Use resolution was referred on December 21, 2009, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for LU No. 1294 printed in these Minutes).

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2306

Resolution approving a partial exemption from real property taxes for property located at (Block 341, Lot 70) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1295).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated November 16, 2009 that the Council take the following action regarding a housing project to be located at (Block 341, Lot 70) Borough of Manhattan ("Exemption Area "):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of Private Housing Finance Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on December 21, 2009;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

   a. "Effective Date" shall mean the date on which the Secretary of HUD certifies on the New Mortgage Loan Note that the total sum of the New Mortgage Loan has been approved for insurance..

   b. "Exemption Area" shall mean the real property located in the County, City, and State of New York and identified as Block 341, Lot 70 on the Tax Map of the City.

   c. "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date upon which the Use Agreement ceases to bind all parties in interest to the Exemption Area, (iii) the date upon which the Regulatory Agreement ceases to bind all parties in interest to the Exemption Area, or (iv) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.

   d. "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

   e. "HUD" shall mean the United States Department of Housing and Urban Development.

   f. "New Exemption" shall mean the partial exemption from real property taxation provided hereunder with respect to the Exemption Area.

   g. "New Mortgage" shall mean the HUD mortgage loan with Federal Housing Administration loan number 012-35695 that is pursuant to Section 221 (d) (3) of the National Housing Act, as amended.

   h. "New Mortgage Loan Note" shall mean the mortgage loan note made by the Owner for the New Mortgage

   i. "Owner" shall mean Southeast Grand Street Guild Housing Development Fund Company, Inc.

   j. "Prior Exemption" shall mean the partial exemption from real property taxation approved by the Board of Estimate on December 3, 1970 (Cal. No. 3-A) with respect to the Exemption Area.

   k. "Prior Mortgage" shall mean the original loan to Owner secured by a mortgage on the Exemption Area that was insured under Section 236 of the National Housing Act, as amended.

   l. "Regulatory Agreement" shall mean an agreement by and between HPD and Owner which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that (i) notwithstanding any term of the Use Agreement or any other agreement to the contrary, the Exemption Area shall remain subject to the terms of the Use Agreement until a date which is forty (40) years from the Effective Date, (ii) in the event of a breach or a threatened beach of any of the covenants and agreements contained in the Use Agreement, in addition to any other remedies that HPD has or may have at law or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements and to enjoin any acts which violate such covenants and agreements, (iii) the Owner shall exercise any and all available options to renew Rental Subsidy for eligible tenants, and (iv) the Owner shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.

   m. "Rental Subsidy" shall mean a Section 8 Housing Assistance Payments Contract and any similar form of rental assistance from any governmental entity.

   n. "Use Agreement" shall mean an agreement between HUD and the Owner which commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that the Exemption Area continue to use Rental Subsidy and that all existing dwelling units in the Exemption Area must be rented to families whose incomes comply with the income restrictions of Section 236 of the National Housing Act, as amended.

   o. "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.

   p. "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of the Shelter Rent**,** but in no event less than $144,256.00 per annum.

2. The Prior Exemption shall terminate upon the Effective Date.

3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date

4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the amount of the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule, or regulation.

5. Notwithstanding any provision hereof to the contrary:

   a. The New Exemption shall terminate if HPD determines that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with

the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the record owner of the Exemption Area and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

b. The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.

c. Nothing herein shall entitle the Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

6. In consideration of the New Exemption, on or before the Effective Date, the Owner, for itself, its successors and assigns, shall (i) execute and record a Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, and (iii) waive, for so long as the New Exemption shall remain in effect, the benefits of additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DE BLASIO, LEWIS A. FIDLER, ALAN J. GERSON, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, December 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Finance and had been favorably reported for adoption.

Report for L.U. No. 1296

Report of the Committee on Finance in favor of approving Grand Street Guild HDFC, Block 341, Lot 58, Manhattan, Council District No. 1, Section 577 of the Private Housing Finance Law.

The Committee on Finance, to which the annexed Land Use resolution was referred on December 21, 2009, respectfully

REPORTS:

(For text of report, please see the Report of the Committee on Finance for LU No. 1294 printed in these Minutes).

Accordingly, Your Committee recommends its adoption.

In connection herewith, Council Member Weprin offered the following resolution:

Res. No. 2307

Resolution approving a partial exemption from real property taxes for property located at (Block 341, Lot 58) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1296).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated November 16, 2009 that the Council take the following action regarding a housing project to be located at (Block 341, Lot 58) Borough of Manhattan (“Exemption Area ”):

Approve a partial exemption of the Project from real property taxes pursuant to Section 577 of Private Housing Finance Law (the "Tax Exemption");

WHEREAS, the project description that HPD provided to the Council states that the purchaser of the Project (the "Sponsor") is a duly organized housing development fund company under Article XI of the Private Housing Finance Law;

WHEREAS, the Council held a hearing on the Project on December 21, 2009;

WHEREAS, the Council has considered the financial implications relating to the Tax Exemption;

RESOLVED:

The Project shall be developed upon the terms and conditions set forth in the Project Summary that HPD has submitted to the Council, a copy of which is attached hereto.

The Council hereby grants an exemption from real property taxes as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

a. "Effective Date” shall mean the date on which the Secretary of HUD certifies on the New Mortgage Loan Note that the total sum of the New Mortgage Loan has been approved for insurance.

b. "Exemption Area” shall mean the real property located in the County, City, and State of New York and identified as Block 341, Lot 58 on the Tax Map of the City.

c. "Expiration Date” shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date upon which the Use Agreement ceases to bind all parties in interest to the Exemption Area, (iii) the date upon which the Regulatory Agreement ceases to bind all parties in interest to the Exemption Area, or (iv) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.

d. “HPD” shall mean the Department of Housing Preservation and Development of the City of New York.

e. “HUD” shall mean the United States Department of Housing and Urban Development.

f. "New Exemption" shall mean the partial exemption from real property taxation provided hereunder with respect to the Exemption Area.

g. "New Mortgage" shall mean the HUD mortgage loan, with Federal Housing Administration loan number 012-35694, that is insured pursuant to Section 221 (d) (3) of the National Housing Act, as amended.

h. “New Mortgage Loan Note” shall mean the mortgage loan note made by the Owner for the New Mortgage.

i. "Owner" shall mean Grand Street Guild Housing Development Fund Company, Inc.

j. "Prior Exemption" shall mean the partial exemption from real property taxation approved by the Board of Estimate on December 3, 1970 (Cal. No. 1-A) with respect to the Exemption Area.

k. ”Prior Mortgage" shall mean the original loan to Owner secured by a mortgage on the Exemption Area that was insured under Section 236 of the National Housing Act, as amended.

l. "Regulatory Agreement” shall mean an agreement by and between HPD and Owner which commences on or before the Effective Date, runs with the land, binds all subsequent parties in interest to the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that (i) notwithstanding any term of the Use Agreement or any other agreement to the

contrary, the Exemption Area shall remain subject to the terms of the Use Agreement until a date which is forty (40) years from the Effective Date, (ii) in the event of a breach or a threatened beach of any of the covenants and agreements contained in the Use Agreement, in addition to any other remedies that HPD has or may have at law or in equity, HPD shall be entitled to institute legal action to enforce specific performance of such covenants and agreements and to enjoin any acts which violate such covenants and agreements, (iii) the Owner shall exercise any and all available options to renew Rental Subsidy for eligible tenants, and (iv) the Owner shall not cause or permit the Rental Subsidy to expire, to not be extended, to not be renewed, or to be terminated.

m. "Rental Subsidy" shall mean a Section 8 Housing Assistance Payments Contract and any similar form of rental assistance from any governmental entity.

n. "Use Agreement" shall mean an agreement between HUD and the Owner which commences on or before the Effective Date, runs with the land, binds all subsequent owners and creditors of the Exemption Area until a date which is forty (40) years from the Effective Date, and requires, *inter alia*, that the Exemption Area continue to use Rental Subsidy and that all existing dwelling units in the Exemption Area must be rented to families whose incomes comply with the income restrictions of Section 236 of the National Housing Act, as amended.

o. "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.

p. "Shelter Rent Tax" shall mean an amount equal to ten percent (10%) of the Shelter Rent**,** but in no event less than $147,763.00 per annum.

2. The Prior Exemption shall terminate upon the Effective Date.

3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding those portions, if any, devoted to commercial use), shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date

4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the Owner shall make real property tax payments in the amount of the Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule, or regulation.

5. Notwithstanding any provision hereof to the contrary:

a. The New Exemption shall terminate if HPD determines that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iv) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the record owner of the Exemption Area and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.

b. The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.

c. Nothing herein shall entitle the Owner to a refund of any real property taxes which accrued and were paid with respect to the Exemption Area prior to the Effective Date.

6. In consideration of the New Exemption, on or before the Effective Date, the Owner, for itself, its successors and assigns, shall (i) execute and record a Use Agreement with HUD, (ii) execute and record a Regulatory Agreement with HPD, and (iii) waive, for so long as the New Exemption shall remain in effect, the benefits of additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, GALE A. BREWER, LEROY G. COMRIE, BILL DE BLASIO, LEWIS A. FIDLER, ALAN J. GERSON, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, December 21, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Land Use

Override Report for L.U. No. 1256

Report of the Committee on Land Use in favor of disapproving Application no. C 090236 MMX submitted by the Economic Development Corporation and Related Retail Armory, LLC pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq*. of the New York City Administrative Code, for an amendment to the City Map.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5524) which was disapproved by the Council on December 14, 2009 (Minutes, page 6077) but vetoed by the Mayor on December 8, 2009, respectfully

REPORTS:

SUBJECT

BRONX CB - 7 **C 090236 MMX**

City Planning Commission decision approving an application submitted by the New York City Economic Development Corporation, Related Retail Armory, LLC, and the Department of Parks and Recreation, pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq*. of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of Reservoir Avenue at its intersection with West Kingsbridge Road;
- the establishment of a Park (Barnhill Square);
- the adjustment of legal grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13126, dated May 11, 2009, and signed by the Borough President.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary:

COMMITTEE ACTION I

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

COUNCIL ACTIONS

On December 14, 2009, the Council adopted Resolution No. 2295 disapproving the decision. Said Resolution was filed with the Mayor on December 14, 2009. On December 17, 2009, the Mayor filed with the Council a written disapproval of the Council's action.

COMMITTEE ACTION II (A)

DATE: December 21, 2009

The Committee recommends that the Council approve the attached Resolution notwithstanding the objection of the Mayor.

COMMITTEE ACTION II (B)

DATE: December 21, 2009

The Committee recommends that the Council file the veto and disapproval message from the Mayor (M 1692-Resolution Number 2295) and approve the attached Resolution.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2295

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090236 MMX, an amendment to the City Map (L.U. No. 1256).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Economic Development Corporation, Related Retail Armory, LLC, and the Department of Parks and Recreation, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of Reservoir Avenue at its intersection with West Kingsbridge Road;
- the establishment of a Park (Barnhill Square);
- the adjustment of legal grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13126, dated May 11, 2009, and signed by the Borough President, (ULURP No. C 090236 MMX), Community District 7, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090237 MMX (L.U. No. 1257), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue; C 090437 ZMX (L.U. No. 1258), a Zoning Map Amendment, changing an R6 district to a C4-4 district; and C 090438 PPX (L.U. No. 1259), a disposition of City-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(2) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X); and

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

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 199 of the New York City Charter, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled for Disapproval.

Override Report for L.U. No. 1257

Report of the Committee on Land Use in favor of disapproving Application no. C 090237 MMX submitted by the Economic Development Corporation pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 et seq. of the New York City Administrative Code, for an amendment to the City Map. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5524) which was disapproved by the Council on December 14, 2009 (Minutes, page 6080) but was vetoed by the Mayor on December 8, 2009, respectfully

REPORTS:

SUBJECT

BRONX CB - 7 **C 090237 MMX**

City Planning Commission decision approving an application submitted by the New York City Economic Development Corporation pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 *et seq*. of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue;
- the adjustment of legal grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13127, dated May 11, 2009, and signed by the Borough President.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary:

COMMITTEE ACTION I

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

COUNCIL ACTIONS

On December 14, 2009, the Council adopted Resolution No. 2295 disapproving the decision. Said Resolution was filed with the Mayor on December 14, 2009. On December 17, 2009, the Mayor filed with the Council a written disapproval of the Council's action.

COMMITTEE ACTION II (A)

DATE: December 21, 2009

The Committee recommends that the Council approve the attached Resolution notwithstanding the objection of the Mayor.

COMMITTEE ACTION II (B)

DATE: December 21, 2009

The Committee recommends that the Council file the veto and disapproval message from the Mayor (M 1693-Resolution Number 2296) and approve the attached Resolution.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2296

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090237 MMX, an amendment to the City Map (L.U. No. 1257).

By Council Member Avella .

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Economic Development Corporation, pursuant to Sections 197-c and 199 of the New York City Charter and Section 5-430 *et seq.* of the New York City Administrative Code, for an amendment to the City Map involving:

- the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue;
- the adjustment of legal grades necessitated thereby; and
- any acquisition or disposition of real property related thereto,

in accordance with Map No. 13127, dated May 11, 2009, and signed by the Borough President, (ULURP No. C 090237 MMX), Community District 7, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090236 MMX (L.U. No. 1256), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of Reservoir Avenue and West Kingsbridge Road, and the mapping of Barnhill Triangle as parkland; C 090437 ZMX (L.U. No. 1258), a Zoning Map Amendment, changing an R6 district to a C4-4 district; and C 090438 PPX (L.U. No. 1259), a disposition of City-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(2) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X); and

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

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 199 of the New York City Charter, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled for Disapproval.

Override Report for L.U. No. 1258

Report of the Committee on Land Use in favor of disapproving Application no. C 090437 ZMX submitted by Related Retail Armory, LLC and the Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3c: changing from an R6 District to a C4-4 District property bounded by West 195th Street*, Jerome Avenue, West Kingsbridge Road, and Reservoir Avenue.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5525) which was disapproved by the Council on December 14, 2009 (Minutes, page 6083) but was vetoed by the Mayor on December 8, 2009, respectfully

REPORTS:

SUBJECT

BRONX CB - C 090437 ZMX

City Planning Commission decision approving an application submitted by Related Retail Armory, LLC and the Economic Development Corporation pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 3c: changing from an R6 district to a C4-4 District property bounded by West 195th Street, Jerome Avenue, West Kingsbridge Road, and Reservoir Avenue, as shown in a diagram (for illustrative purposes only) dated May 18, 2009.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

COMMITTEE ACTION I

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

COUNCIL ACTIONS

On December 14, 2009, the Council adopted Resolution No. 2295 disapproving the decision. Said Resolution was filed with the Mayor on December 14, 2009. On December 17, 2009, the Mayor filed with the Council a written disapproval of the Council's action.

COMMITTEE ACTION II (A)

DATE: December 21, 2009

The Committee recommends that the Council approve the attached Resolution notwithstanding the objection of the Mayor.

COMMITTEE ACTION II (B)

DATE: December 21, 2009

The Committee recommends that the Council file the veto and disapproval message from the Mayor (M 1694-Resolution Number 2297) and approve the attached Resolution.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2297

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090437 ZMX, a Zoning Map amendment (L.U. No. 1258).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by Related Retail Armory, LLC and the Economic Development Corporation, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map to facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of Community District 7, Borough of the Bronx (ULURP No. C 090437 ZMX) (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090236 MMX (L.U. No. 1256), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of Reservoir Avenue and West Kingsbridge Road, and the mapping of Barnhill Triangle as parkland; C 090237 MMX (L.U. No. 1257), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue; and C 090438 PPX (L.U. No. 1259), a disposition of City-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X).

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled for Disapproval.

Override Report for L.U. No. 1259

Report of the Committee on Land Use in favor of disapproving Application no. C 090438 PPX submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for the disposition of one city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), pursuant to zoning. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on October 28, 2009 (Minutes, page 5525) which was disapproved by the Council on December 14, 2009 (Minutes, page 6086) but was vetoed by the Mayor on December 8, 2009, respectfully

REPORTS:

SUBJECT

BRONX CB - 7 **C 090438 PPX**

City Planning Commission decision approving an application submitted by the Department of Citywide Administrative Services (DCAS), pursuant to Section 197-c of New York City Charter, for the disposition of one city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), pursuant to zoning.

INTENT

To facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of the Bronx.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

COMMITTEE ACTION I

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby disapprove the decision of the City Planning Commission.

COUNCIL ACTIONS

On December 14, 2009, the Council adopted Resolution No. 2295 disapproving the decision. Said Resolution was filed with the Mayor on December 14, 2009. On December 17, 2009, the Mayor filed with the Council a written disapproval of the Council's action.

COMMITTEE ACTION II (A)

DATE: December 21, 2009

The Committee recommends that the Council approve the attached Resolution notwithstanding the objection of the Mayor.

COMMITTEE ACTION II (B)

DATE: December 21, 2009

The Committee recommends that the Council file the veto and disapproval message from the Mayor (M 1695-Resolution Number 2298) and approve the attached Resolution.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2298

Resolution disapproving the decision of the City Planning Commission on ULURP No. C 090438 PPX, for the disposition of one (1) city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), Borough of the Bronx (L.U. No. 1259).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision") on the application submitted pursuant to Section 197-c of the New York City Charter by the Department of Citywide Administrative Services (DCAS) for disposition of one (1) city-owned property located 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), pursuant to zoning, to facilitate the development of an approximately 600,000 square foot retail, entertainment, and community facility development within an existing building, the Kingsbridge Armory in the Kingsbridge neighborhood of Community District 7, Borough of the Bronx (ULURP Application Number C 090438 PPX) (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 090236 MMX (L.U. No. 1256), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of Reservoir Avenue and West Kingsbridge Road, and the mapping of Barnhill Triangle as parkland; C 090237 MMX (L.U. No. 1257), an amendment to the City Map involving the elimination, discontinuance and closing of a portion of West 195th Street between Reservoir Avenue and Jerome Avenue; and C 090437 ZMX (L.U. No. 1258), a Zoning Map Amendment, changing an R6 district to a C4-4 district;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(3) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 17, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 1, 2009 (CEQR No. 08DME004X); and

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

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential consideration from among the reasonable alternatives thereto, the actions to be approved are ones which minimize or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the Final Environmental Impact Statement will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Section 197-d of the City Charter and on the basis of the Application and the Decision, the Council disapproves the Decision.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled for Disapproval.

Report for M-1692

Report of the Committee on Land Use in favor of filing a Communication from the Mayor regarding the Mayors veto and disapproval message of Resolution Number 2295, disapproving the decision of the City Planning Commission on ULURP No. C 090236 MMX, an amendment to the City Map (L.U. No. 1256).

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 21, 2009, respectfully

REPORTS:

Since this Committee is approving Res No. 2295, notwithstanding the objection of the Mayor, the Committee recommends the filing of M-1692 (the Mayor's veto and disapproval of Res No. 2295) and thereby recommend the removal of M-1692 from the Council's legislative calendar.

Accordingly, Your Committee recommends the filing of M-1692.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled to be Filed.

Report for M-1693

Report of the Committee on Land Use in favor of filing a Communication from the Mayor regarding the Mayors veto and disapproval message of Resolution Number 2296, disapproving the decision of the City Planning

Commission on ULURP No. C 090237 MMX, an amendment to the City Map (L.U. No. 1257).

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 21, 2009, respectfully

REPORTS:

Since this Committee is approving Res No. 2296, notwithstanding the objection of the Mayor, the Committee recommends the filing of M-1693 (the Mayor's veto and disapproval of Res No. 2296) and thereby recommend the removal of M-1693 from the Council's legislative calendar.

Accordingly, Your Committee recommends the filing of M-1693.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled to be Filed.

Report for M-1694

Report of the Committee on Land Use in favor of filing a Communication from the Mayor regarding the Mayors veto and disapproval message of Resolution Number 2297, disapproving the decision of the City Planning Commission on ULURP No. C 090437 ZMX, a Zoning Map amendment (L.U. No. 1258).

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 21, 2009, respectfully

REPORTS:

Since this Committee is approving Res No. 2297, notwithstanding the objection of the Mayor, the Committee recommends the filing of M-1694 (the Mayor's veto and disapproval of Res No. 2297) and thereby recommend the removal of M-1694 from the Council's legislative calendar.

Accordingly, Your Committee recommends the filing of M-1694.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled to be Filed.

Report for M-1695

Report of the Committee on Land Use in favor of filing a Communication from the Mayor regarding the Mayors veto and disapproval message of Resolution Number 2298, disapproving the decision of the City Planning Commission on ULURP No. C 090438 PPX, for the disposition of one (1) city-owned property located at 29 West Kingsbridge Road (Block 3247, Lots 10 and p/o 2), Borough of the Bronx (L.U. No. 1259).

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 21, 2009, respectfully

REPORTS:

Since this Committee is approving Res No. 2298, notwithstanding the objection of the Mayor, the Committee recommends the filing of M-1695 (the Mayor's veto and disapproval of Res No. 2298) and thereby recommends the removal of M-1695 from the Council's legislative calendar.

Accordingly, Your Committee recommends the filing of M-1695.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

Coupled to be Filed.

Report for L.U. No. 1271

Report of the Committee on Land Use in favor of approving Application no. 20105209 HAQ, an amendment to an Urban Development Action Area Project located at 89-06 138th Street and 107-05 Sutphin Boulevard, Council Districts no. 24 and 28, Borough of Queens. This matter is subject to Council review and action at the request of the New York City Department of Housing Preservation and Development, and pursuant to Section 577 of the Private Housing Finance Law for an exemption from real property taxes.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 16, 2009 (Minutes, page 5763), respectfully

REPORTS:

SUBJECT

QUEENS CB - 12 **20105209 HAQ**

Application submitted by the New York City Department of Housing Preservation and Development for Council approval, pursuant to Section 577 of the Private Housing Finance Law, for a modification to a previously approved Urban Development Action Area Project and related tax exemption located at 89-06 138th Street107-05 Sutphin Boulevard and 107-08 150th Street, Borough of Queens, Council Districts no. 24 and 28.

INTENT

To facilitate the rehabilitation of two multiple dwellings.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 15, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the tax exemption.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2308

Resolution approving pursuant to Section 577 of the Private Housing Finance Law for an Exemption Area located at 89-06 138 Street (Block 09970, Lot 23), 107-05 Sutphin Boulevard, aka 107-04 150th Street (Block 10090, Lot 21), and 107-08 150th Street (Block 10090, Lot 23), Borough of Queens, a tax exemption (L.U. No. 1271; 20105209 HAQ).

By Council Members Katz and Garodnick.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council on November 2, 2009 its request dated October 19, 2009 that the Council take the following actions regarding the following Urban Development Action Area Project (the "Project") located at 89-06 138 Street (Block 09970, Lot 23), 107-05 Sutphin Boulevard, aka 107-04 150th Street (Block 10090, Lot 21), and 107-08 150th Street (Block 10090, Lot 23), Community District 12, Borough of Queens (the "Disposition Area"):

Approve an exemption of the Project from real property taxes pursuant to Section 577 of Article XI of the Private Housing Finance Law (the "Tax Exemption");

WHEREAS, upon due notice, the Council held a public hearing on the Project on December 15, 2009;

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

HPD recommends approval to this matter and requests that it be referred to the appropriate committee at the next scheduled meeting of the Council.

RESOLVED:

The Council approves the Tax Exemption as follows:

1. For the purposes hereof, the following terms shall have the following meanings:

a) "Effective Date" shall mean the later of (i) the date of conveyance of the Disposition Area to Sponsor, and (ii) the date that HPD and Sponsor, in their respective sole discretion, enter into the Regulatory Agreement.

b) "Exemption" shall mean the exemption from real property taxation provided hereunder.

c) "Disposition Area" shall mean the real property located in the Borough of Queens, City and State of New York, identified as Block 09970, Lot 23, Block 10090, Lot 21, Block 10090, Lot 23 on the Tax Map of the City of New York.

d) "Expiration Date" shall mean the earlier to occur of (i) a date which is forty (40) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Disposition Area ceases to be owned by either a housing development fund company of an entity wholly controlled by a housing development fund company.

e) "Sponsor" shall mean Allen Affordable Housing Development Fund Corporation.

f) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

g) "Owner" shall mean Sponsor or any future owner of the Disposition Area.

h) " Regulatory Agreement" shall mean the regulatory agreement between HPD and Sponsor establishing certain controls upon the operation of the Disposition Area during the term of the Exemption.

2. All of the value of the property in the Disposition Area, including both the land and any improvements (excluding those portions, if any devoted to business or commercial use) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon Expiration Date.

3. Notwithstanding any provision hereof to the contrary, the exemption from real property taxation provided hereunder ("Exemption") shall terminate if HPD determines at any time that (i) the Disposition Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Disposition Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Disposition Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iii) the demolition of any private or multiple dwelling on the Disposition Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.

4. In consideration of the Exemption, the Sponsor, for so long as the Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.

5. The Exemption shall not apply to any building constructed on the Disposition Area which did not have a permanent certificate of occupancy on the Effective Date.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1282

Report of the Committee on Land Use in favor of approving Application no. 20105211 GFY, an Authorizing Resolution for the granting of franchises for the installation of public pay telephones and associated equipment on, over and under the inalienable property of the City.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 30, 2009 (Minutes, page 5878), respectfully

REPORTS:

SUBJECT

CITYWIDE **20105211 GFY**

Authorizing Resolution for the granting of franchises for the installation of public pay telephones and associated equipment on, over, and under the inalienable property of the City.

INTENT

To allow the Department of Information Technology and Telecommunications to grant franchises for public pay telephone service.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 15, 2009

The Committee recommends that the Council approve the Authorizing Resolution.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2309

Authorizing Resolution for the granting of franchises for the installation of public pay telephones and associated equipment on, over, and under the inalienable property of the City (L.U. No. 1282).

By Council Members Katz and Avella.

WHEREAS, by Executive Order 25, dated August 23, 1995, the Mayor has designated the Department of Information Technology and Telecommunications (the "Department") as the responsible agency for the granting of telecommunications franchises; and

WHEREAS, pursuant to Section 363 of the Charter (the "Charter") of the City of New York (the "City"), the Commissioner of the Department of Information Technology and Telecommunications (the "Commissioner") has made the initial determination of the need for franchises for public pay telephone service in the City of New York; and

WHEREAS, pursuant to Section 1072 of the Charter, the Department has proposed an authorizing resolution for franchises for public pay phones in the City of New York;

The Council hereby resolves that:

A. The Council authorizes the Department, or any successor thereto, to grant non-exclusive franchises for the installation of public pay telephones and associated equipment on, over and under the inalienable property of the City.

B. "Public pay telephone" shall be defined as set forth Section 23-401(f) of the Administrative Code of the City of New York (the "Code") or any successor provision thereto.

C. For purposes of this resolution, "inalienable property of the City" shall mean property designated as inalienable in Section 383 of the Charter.

D. For purposes of this resolution, "Street" shall be defined by subdivision 13 of Section 1-112 of the Code, or any successor provision thereto.

E. The public service to be provided pursuant to this resolution shall be public pay telephone service.

F. The authorization to grant franchises pursuant to this resolution shall expire on the fifth anniversary of the date on which this resolution is adopted by the Council (the "Expiration Date"). No franchises shall be granted pursuant to this resolution by the Department, nor approved by the Franchise and Concession Review Committee or the Mayor, after the Expiration Date.

G. Prior to the grant of such a franchise, a Request For Proposals ("RFP") or other solicitation shall be issued by the Department or any successor thereto. Prior to issuing any such RFP or other solicitation, all necessary environmental and land use review shall be conducted in accordance with the New York State Environmental Quality Review Act ("SEQRA"), the regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et. seq., the City Environmental Quality Review process ("CEQR") (Chapter 5 of Title 62 and Chapter 6 of Title 43 of the Rules of the City of New York), and Section 197-c of the Charter.

H. Any such RFP or other solicitation shall contain siting criteria (the "criteria") which shall be utilized by the Department in approving or designating locations for the placement of public pay telephones and associated equipment on, over and under the inalienable property of the City. Said criteria shall address, but shall not be limited to, the following factors to the extent permitted by law:

(1) proximity to water, sewer, electrical or other pipes, conduits or other structure(s);

(2) visual impacts, if any, on vehicular traffic;

(3) proximity to other existing structures including but not limited to traffic lights, traffic and other signs, newsstands, fire hydrants, underground vaults, bus stop shelters, public pay toilets, enclosed and unenclosed sidewalk cafes, building entrances and exits, and curb cuts; (provided that in no event shall a pedestal or other structure which holds one or more public pay telephones be located less than fifty (50) feet from any other such pedestal or structure on any one "block"(the term "block" being defined as that portion of the sidewalk on one side of a street which is between the lot line and the curb and which is between two points, each of which is ten (10) feet from the corner of said street and its intersecting street, in conformity with the City's sidewalk corner clearance policy generally);

(4) adequate sidewalk clearance to assure reasonable pedestrian flow;

(5) whether the proposed location is adjacent to a curb or adjacent to a building or other structure; and

(6) impacts, if any, on landmarks or historic districts so designated by the Landmarks Preservation Commission ("LPC") or any successor thereto.

In no event however, shall the Department include any criteria in any such RFP or other solicitation which the City would be preempted, pursuant to federal law, from thus including; and in no event shall the Department apply any criteria to be included in any such RFP or other solicitation in a manner which the City would be preempted, pursuant to federal law, from thus applying.

I. The criteria to be used by the Department to evaluate responses to any such RFP or other solicitation shall, include, but not be limited to, the following, if and to the extent permitted by law:

(1) the financial, legal, technical and managerial experience and capabilities of the applicant(s);

(2) the adequacy and nature of the proposed compensation to be paid to the City; and

(3) the ability of the applicant(s) to maintain the property of the City in good condition throughout the term of the franchise.

In no event however, shall the Department include any criteria in any such RFP or other solicitation which the City would be preempted, pursuant to federal law, from thus including; and in no event shall the Department apply any criteria to be included in any such RFP or other solicitation in a manner which the City would be preempted, pursuant to federal law, from thus applying.

J. Any franchise granted pursuant to this resolution shall be by written agreement and shall include, but not be limited to, terms and conditions consistent with the following to the extent permitted by law (provided however, that no term or condition, whether or not listed hereinafter, shall be included in a written franchise agreement if the City is preempted, by federal law, from including such a term or condition in such agreement, and provided that no term or condition, whether or not listed hereinafter, shall be included in a written agreement in a form or manner which the City is preempted by federal law from using with respect to such agreement):

(1) The term of such franchise shall not exceed fifteen (15) years.

(2) The compensation paid to the City shall be adequate and shall not be considered in any manner to be in the nature of a tax, but such payments shall be made in addition to any and all taxes of whatsoever kind and description which are now or may at any time hereafter be required to be paid pursuant to any local law of the City, law of the State of New York, or law of the federal government.

(3) Such franchise may be terminated or canceled by the Department in the event of a franchisee's failure to comply with the terms and conditions of this agreement.

(4) Such franchise shall include provisions for the franchisee to provide security to the City securing the performance of the franchisee's duties and obligations.

(5) The City shall have the right to inspect the facilities of the franchisee that are located on the City's inalienable property and to order the relocation or removal of such facilities at the direction of the Department.

(6) There shall be requirements for adequate insurance and indemnification to protect the interests of the public and the City.

(7) The franchisee shall be required to maintain complete and accurate records and books of account that shall be made available for audit by the City for the purpose of auditing performance of the franchisee's duties and obligations under such franchise.

(8) There may be provisions to allow the franchisee to sell or lease advertising space on its public pay telephones, but in no event shall such advertising be permitted in zoning districts other than commercial and/or manufacturing zoning districts (defined as zoning districts where commercial and/or manufacturing uses are permitted as of right), and provided that in the event that a franchise authorizes such advertising the franchise shall require that prior to the installation of any such advertising, the franchisee shall (i) submit to the Commissioner a list of each location where advertising is sought to be sold or leased; (ii) indicate the zoning designation for each such location; and (iii) certify, in writing, that each location complies with the zoning district requirements of this paragraph (8).

(9) In the event that a franchisee is authorized to, and does, sell or lease advertising space on its public pay telephones, then: (i) advertising for tobacco products shall be prohibited; (ii) there shall be a requirement for the provision of free advertising space for public service announcements, (iii) said space for public service announcements shall represent at least two percent (2%) of total advertising space; (iv) the Department shall be responsible for informing all agencies of City government of such free advertising space for public service announcements; and (v)

in order to ensure wide and fair distribution of such free advertising space, the Department shall maintain and implement a plan for coordinating requests by said agencies for use of such space.

(10) There shall be provisions requiring that all work involved in the installation, construction, operation, maintenance, repair, upgrade, removal or deactivation of the equipment and facilities of the franchisee on, over and under the inalienable property of the City shall be performed in a safe, thorough and reliable manner using materials of good and durable quality and that such work will be done in accordance with any rules promulgated under Section 23-403 of the Code (or any successor provision thereto) in relation thereto; additionally, the installation of public pay telephones on distinctive sidewalks shall be prohibited.

(11) The franchisee shall comply with all applicable sections of the buildings and electrical codes of the City of New York and, where the nature of any work to be done in connection with the installation, construction, operation, maintenance, repair, upgrade, removal or deactivation of such public pay telephones and associated equipment on, over and under the inalienable property of the City requires that such work be done by an electrician, the franchisees shall employ and utilize only licensed electricians.

(12) There shall be provisions containing the agreements required pursuant to paragraph 6 of subdivision (h) of Section 363 of the Charter relating to collective bargaining and other matters.

(13) There shall be provisions requiring the franchisee to comply with all applicable City, state and federal laws, regulations and policies.

(14) There shall be provisions to ensure the adequate oversight by the City of the franchisee's performance of its obligations under such franchise.

(15) There shall be provisions to restrict the assignment or other transfer of such franchise without the prior written consent of the City and provisions to restrict changes in control of the franchisee without the prior written consent of the City.

(16) There shall be provisions to require the franchisee to comply with the applicable provisions of the Americans with Disabilities Act and any additional applicable federal, state and local laws relating to accessibility for persons with disabilities, and at least twenty-five (25) percent of each franchisee's telephones shall be equipped with volume control equipment to enable hearing impaired persons to access and utilize telecommunications services (such volume control-equipped telephones to be distributed reasonably evenly among the telephones installed by the franchisee).

(17) There shall be remedies to protect the City's interests in the event of the franchisee's failure to comply with the terms and conditions of the agreement.

(18) There shall be provisions to protect the City's interest in the event of the subsequent invalidity of any portion of the agreement and in the event of any change in applicable law.

(19) The franchisee shall have been subject to, prior to commencement of the term of such franchise, review pursuant to the City's Vendor Information Exchange System ("VENDEX") or any successor system.

(20) The franchisee shall obtain all necessary licenses and permits from and comply with all rules and regulations of the New York State Public Service Commission, the Federal Communications Commission and any other governmental body having jurisdiction over the franchisee.

(21) The franchisee shall obtain the permit(s) required by Section 23-402 and defined by Section 23-401(d) of the Code, or any successor provision thereto, and the fees paid to obtain said permits shall not be considered in any manner to be compensation or in the nature of a tax.

(22) The franchisee shall establish and maintain prompt and efficient complaint handling procedures.

(23) There shall be provisions for inspecting and cleaning the public pay telephones and associated equipment and for the prompt removal of graffiti, which inspection, cleaning and graffiti removal shall occur a minimum of two times per month.

(24) The franchisee shall establish and maintain a program, accessible by the City, to monitor the operability of its equipment at all times at all locations.

(25) In the event of an outage, the source of which is under the direct control of the franchisee(s), the franchisee(s) shall be required to restore service within twenty-four (24) hours at all locations so affected, and if the source of the outage is not under the direct control of the franchisee(s) then the franchisee(s) shall notify the responsible party and the Commissioner within twenty-four (24) hours.

(26) The franchisee shall ensure that not more than ten percent (10%) of its public pay telephones are out of service at any given time.

(27) There shall be provisions preserving the right of the City to perform public works or public improvements in and around those areas subject to such franchise.

(28) There shall be provisions requiring the franchisee to protect the property of the City and the delivery of other public services from damage or interruption of operation resulting from the installation, construction, operation, maintenance, repair, upgrade, removal or deactivation of the equipment or facilities related to the franchise.

(29) There shall be provisions designed to minimize the extent to which the public use of the streets of the City is disrupted in connection with the installation, construction, operation, maintenance, repair, upgrade, removal or deactivation of the equipment and facilities related to such franchise.

(30) There shall be provisions requiring that emergency calling to the 911 emergency number, to the certified operator service provider and to any other appropriately authorized emergency access number be in accordance with the rules and regulations promulgated by the New York State Public Service Commission.

(31) There shall be a provision, consistent with such regulations as have been or may be promulgated by the New York State Public Service Commission, requiring that each public pay telephone clearly and legibly (i) identify the owner and/or operator of such public pay telephone, (ii) indicate that the owner and/or operator has been franchised by the City of New York and (iii) provide such telephone numbers as may be required by the Department where complaints regarding the telephone may be directed.

(32) There shall be provisions incorporating the MacBride Principles.

K. The Department shall maintain a process for consultation with Council Members and Community Boards with respect to the siting of public pay telephones on the Streets and complaints regarding same including requests for removal and relocation. This process shall include, but not be limited to:

(1) allowing Council Members and Community Boards to submit to the Department a prioritized list of areas requiring additional service, reduced service, or a change in service;

(2) requiring the Department to make available for public review proposed locations for new public pay telephones on the Streets; and

(3) requiring the Commissioner to respond in writing to complaints and requests received from Council Members and Community Boards regarding installation, change of service, removal or relocation of public pay telephones on the Streets pursuant to the Commissioner's authority under the Code.

L. The Department shall file the following documents with the Council:

(1) within fifteen (15) days of filing or receipt, a copy of all documents, including but not limited to forms, applications, reports and correspondence, regarding SEQRA, CEQR and ULURP;

(2) within fifteen (15) days of issuance, a copy of each RFP or other solicitation issued pursuant to this resolution;

(3) within fifteen (15) days of approval by the Mayor, a copy of the agreement for each franchise granted pursuant to this resolution and any subsequent modification thereof; and

(4) on or before July 1 of each year, for the preceding calendar year, a report detailing the revenues received by the City from each franchise granted pursuant to this resolution.

M. This Resolution repeals and replaces in their entirety Resolution No. 1043 of 2003 and Resolution No. 502 of 2004.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1283

Report of the Committee on Land Use in favor of approving Application no. 20095681 TCX pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Greentree to establish, maintain and operate an unenclosed sidewalk café located at 5693 Riverdale Avenue, Borough of the Bronx, Council District no. 11.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 30, 2009 (Minutes, page 5878), respectfully

REPORTS:

SUBJECT

BRONX CB - 8 **20095681 TCX**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of 5693 Restaurant Corp., d/b/a Greentree, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café at 5693 Riverdale Avenue.

INTENT

To allow an eating or drinking place located on a property which abuts the street to establish, maintain and operate an unenclosed service area on the sidewalk of such street.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 15, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2310

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 5693 Riverdale Avenue, Borough of the Bronx (20095681 TCX; L.U. No. 1283).

By Council Members Katz and Avella.

WHEREAS, the Department of Consumer Affairs filed with the Council on November 18, 2009 its approval dated November 18, 2009 of the petition of 5693 Restaurant Corp., d/b/a Greentree, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 5693 Riverdale Avenue, Community District 8, Borough of the Bronx (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on December 15, 2009; and

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

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1284

Report of the Committee on Land Use in favor of approving Application no. N 090509 ZRM submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York concerning Section 93-063 (Modification of use and bulk regulations for zoning lots fronting upon Delury Square Park) in the Special Lower Manhattan District.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 30, 2009 (Minutes, page 5878), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 1 **N 090509 ZRM**

City Planning Commission decision approving an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York, concerning Section 91-063 (Modification of use and bulk regulations for zoning lots fronting upon DeLury Square Park) in the Special Lower Manhattan District, Borough of Manhattan.

INTENT

To modify the use and bulk regulations for zoning lots fronting upon DeLury Square Park in the Special Lower Manhattan District.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2311

Resolution approving the decision of the City Planning Commission on Application No. N 090509 ZRM, for an amendment to the Zoning Resolution of the City of New York, concerning Section 91-063 (Modification of use and bulk regulations for zoning lots fronting upon DeLury Square Park) in the Special Lower Manhattan District, Borough of Manhattan (L.U. No. 1284).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on November 23, 2009 its decision dated November 23, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of City Planning for an amendment to the Zoning Resolution of the City of New York, concerning Section 91-063 (Modification of use and bulk regulations for zoning lots fronting upon DeLury Square Park) in the Special Lower Manhattan District, Borough of Manhattan (Application No. N 090509 ZRM) (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on July 27, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration (CEQR No. HUD CDBG B-02-DW-36-0001);

After a study of the potential environmental impacts, the lead agency determined that the proposed action represents a minor modification which does not alter the conclusions of the environmental assessment and in a memo issued August, 14, 2009, stated that the finding of no significant adverse impact pursuant to the National Environmental Policy Act (NEPA) and Negative Declaration pursuant to the State Environmental Quality Review Act (SEQRA) for the Fulton Street Corridor Revitalization Project issued on February 14, 2008, remain valid.

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;
Matter in ~~strikeout~~ is old, to be deleted;
* * * indicates where unchanged text appears in the Zoning Resolution

ARTICLE IX: SPECIAL PURPOSE DISTRICTS

Chapter 1: Special Lower Manhattan District

* * *

91-07

Modification of use and bulk regulations for zoning lots fronting upon DeLury Square Park

Where the #lot line# of a #zoning lot# coincides with, or is within 20 feet of the boundary of DeLury Square Park, such #lot line# shall be considered to be a #street line# for the purposes of applying all #use# and #bulk# regulations of this Resolution.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1285

Report of the Committee on Land Use in favor of approving Application no. N 080396 NPK, pursuant to Section 197-a and Section 197-d of the New York City Charter concerning The Brooklyn Community Board 7 197-a Plan for Sunset Park in Council District no. 38.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 30, 2009 (Minutes, page 5879), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 7 **N 080396 NPK**

City Planning Commission decision approving a plan concerning Community Board 7 in Brooklyn, submitted by Community Board 7, for consideration pursuant to Section 197-a of the New York City Charter. The proposed plan for adoption is called "New Connections/New Opportunities – Sunset Park 197-a Plan".

INTENT

To create a comprehensive framework for the revitalization of the Sunset Park Waterfront as an economically viable and environmentally sustainable resource that is closely related to and serves the needs of the adjacent upland communities.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve decision of the City Planning Commission.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2312

Resolution approving the decision of the City Planning Commission on Non-ULURP No. N 080396 NPK, a Section 197-a Plan for the "New Connections/New Opportunities—Sunset Park 197-a Plan" (L.U. No. 1285).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on November 23, 2009 its decision dated November 18, 2009 (the "Decision"), on the plan, *for the adoption of the "New Connections/New Opportunities—Sunset Park 197-a Plan,"* submitted by Community Board 7, pursuant to Section 197-a of the New York City Charter (Non-ULURP No. N 080396 NPK), Community District 7, Borough of Brooklyn (the "Plan");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Plan on December 15, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on March 30, 2009 (CEQR No. 09DCP065K);

RESOLVED:

The Council finds that the action described herein will have no significant effect on the environment;

Pursuant to Sections 197-a and 197-d of the City Charter and on the basis of the Decision and Plan, the Council approves the Decision.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1286

Report of the Committee on Land Use in favor of approving Application no. 20105193 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Trel Restaurant, Inc. d/b/a Rosie O'Grady's to establish, maintain and operate an unenclosed sidewalk café located at 800 Seventh Avenue, Borough of Manhattan, Council District no. 3.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on November 30, 2009 (Minutes, page 5879), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 5 **20105193 TCM**

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Trel Restaurant Inc., d/b/a Rosie O'Grady's, for a revocable consent to establish, maintain and operate an unenclosed small sidewalk café at 800 Seventh Avenue.

INTENT

To allow an eating or drinking place located on a property which abuts the street to establish, maintain and operate an unenclosed service area on the sidewalk of such street.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the Petition.

In connection herewith, Council Members Katz and Avella offered the following resolution:

Res. No. 2313

Resolution approving the petition for a revocable consent for an unenclosed sidewalk café located at 800 Seventh Avenue, Borough of Manhattan (20105193 TCM; L.U. No. 1286).

By Council Members Katz and Avella.

WHEREAS, the Department of Consumer Affairs filed with the Council on November 18, 2009 its approval dated November 18, 2009 of the petition of Trel Restaurant Inc., d/b/a Rosie O'Grady's, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 800 Seventh Avenue, Community District 5, Borough of Manhattan (the "Petition"), pursuant to Section 20-226 of the New York City Administrative Code (the "Administrative Code");

WHEREAS, the Petition is subject to review by the Council pursuant to Section 20-226(g) of the Administrative Code;

WHEREAS, upon due notice, the Council held a public hearing on the Petition on December 15, 2009; and

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

RESOLVED:

Pursuant to Section 20-226 of the Administrative Code, the Council approves the Petition.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1287

Report of the Committee on Land Use in favor of approving Application no. 20105215 PPK, the exchange of city-owned property located at 250 Baltic Street for state-owned property located at 338 Forbell Street, Borough of Brooklyn, Council Districts no. 39 and 37. This matter is subject to Council review and action pursuant to §72-h of the General Municipal Law.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 9, 2009 (Minutes, page 6062), respectfully

REPORTS:

SUBJECT

BROOKLYN CB's - 5 and 6 **20105215 PPK**

Application pursuant to §72-h of the New York State General Municipal Law, by the Department of Citywide Administrative Services, concerning the proposed exchange of city-owned property located at 250 Baltic Street for state-owned property located at 338 Forbell Street, Borough of Brooklyn, Council Districts nos. 39 and 37.

INTENT

To exchange City-owned property for State-owned property to coordinate services.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the exchange of the property.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2314

Resolution approving the exchange of real property located at 250 Baltic Street for state-owned property located at 338 Forbell Street, Borough of Brooklyn (20105215 PPK; L.U. No. 1287).

By Council Members Katz and Lappin.

WHEREAS, the Department of Citywide Administrative Services filed with the Council on November 25, 2009 notice of the Mayor's authorization dated November 19, 2009 of the exchange of real property located 250 Baltic Street for State-owned property located at 338 Forbell Street, Borough of Brooklyn, Council Districts Nos. 39 and 37, and upon terms and conditions set forth in the Mayor's resolution authorizing the exchange, a copy of which is attached hereto (the "Exchange");

WHEREAS, the Exchange is subject to review and action by the Council pursuant to Section 72-h of the New York State General Municipal Law;

WHEREAS, upon due notice, the Council held a public hearing on the Exchange on December 15, 2009;

WHEREAS, the Council has considered policy issues relating to the Exchange;

RESOLVED:

Pursuant to Section 72-h of the General Municipal Law, the Council approves the Exchange and upon the terms and conditions set forth in the Mayor's resolution authorizing the Exchange, a copy of which is attached hereto.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1288

Report of the Committee on Land Use in favor of approving Uniform land use review procedure application no. C 100067 HAK, an Urban Development Action Area Designation and Project, located at 1612 Park Place and 404A, 408, 414 and 416 Hopkinson Avenue, and the disposition of such property, Borough of Brooklyn, Council District no. 41. This matter is subject to Council review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 9, 2009 (Minutes, page 6062), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 16 **C 100067 HAK**

City Planning Commission decision approving 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 1612 Park Place (Block 1468, Lot 56); and 404 A, 408, 414, and 416 Hopkinson Avenue (Block 1468, Lots 58, 60, 63, and 64), 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 selected by HPD.

INTENT

To facilitate development of a residential building, tentatively known as Hopkinson/Park Place, with approximately 25 units.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the designation and the project, make the findings required by Article 16 of the General Municipal Law and approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2315

Resolution approving the decision of the City Planning Commission on an application submitted by the Department of Housing Preservation and Development ("HPD"), No. C 100067 HAK, approving the designation of property located at 1612 Park Place (Block 1468, Lot 56); and 404A, 408, 414, and 416 Hopkinson Avenue (Block 1468, Lots 58, 60, 63, and 64), Borough of Brooklyn, as an Urban Development Action Area (the "Area"), approving the project for the area as an Urban Development Action Area Project (the "Project"), and approving the disposition of such property to a developer selected by the Department of Housing Preservation and Development (L.U. No. 1288; C 100067 HAK).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on November 23, 2009 its decision dated November 18, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Article 16 of the General Municipal Law of New York State regarding:

a. the designation of property located at 1612 Park Place (Block 1468, Lot 56); and 404A, 408, 414, and 416 Hopkinson Avenue (Block 1468, Lots 58, 60, 63, and 64) as an Urban Development Action Area (the "Area"); and

b. an Urban Development Action Area Project for such area (the "Project"); and

pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the Department of Housing Preservation and Development to facilitate development of a residential building, tentatively known as Hopkinson/Park Place, with approximately 25 units, to be developed under the Department of Housing Preservation and Development's New Foundations Program (C 100067 HAK), Community District 16, Borough of Brooklyn (the "Application");

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, the New York City Department of Housing Preservation and Development submitted to the Council its recommendations regarding the Application on December 3, 2009;

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on December 15, 2009;

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

RESOLVED:

Pursuant to Article 16 of the General Municipal Law, the Council approves the decision of the City Planning Commission (C 100067 HAK).

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

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

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

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1292

Report of the Committee on Land Use in favor of approving Application no. 20105203 HKQ (N 100137 HKQ), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.420, LP-2321) by the Landmarks Preservation Commission of the Herman A. Schleicher Mansion, located at 11-41 123rd Street (Block 3997, Lot 40) as an historic landmark, Council District no. 19.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 9, 2009 (Minutes, page 6064), respectfully

REPORTS:

SUBJECT

QUEENS CB - 7 20105203 HKQ (N 100137 HKQ)

Designation by the Landmarks Preservation Commission (List No. 420/LP-2321), pursuant to Section 3020 of the New York City Charter of the landmark designation of the Herman A. Schleicher Mansion, located at 11-41 123rd Street (Block 3997, Lot 40), as an historic landmark.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby affirm the designation.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2316

Resolution affirming the designation by the Landmarks Preservation Commission of the Herman A. and Malvina Schleicher House, located at 11-41 123rd Street (Block 3997, Lot 40), Borough of Queens, Designation List No. 420, LP-2321; L.U. No. 1292; 20105203 HKQ; N 100137 HKQ).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on November 2, 2009 a copy of its designation dated October 20, 2009 (the "Designation"), of the Herman A. and Malvina Schleicher House located at 11-41 123rd Street, Community District 7, Borough of Queens, as an historic landmark and Block 3997, Lot 40 as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on December 3, 2009 its report on the Designation dated December 2, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on December 17, 2009; and

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

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Land Use and had been favorably reported for adoption.

Report for L.U. No. 1297

Report of the Committee on Land Use in favor of approving Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 612-seat primary/intermediate school facility, known as P.S./I.S. 281-Manhattan, to be located on the east side of First Avenue between East 35th Street and East 36th Street (Block 967, Lot 1 (in portion), Community School District No. 2. (20105219 SCM)

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 21, 2009, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 6 20105219 SCM

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 612-Seat Primary/Intermediate School Facility, known as P.S./I.S. 281, to be located on the East Side of First Avenue between East 35th and East 36th Streets (Block 967, Lot 1 in portion) in Community School District No. 2.

INTENT

To facilitate the development of a new, approximately 612-seat primary/intermediate school facility.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve Site Plan.

In connection herewith, Council Members Katz and Lappin offered the following resolution:

Res. No. 2317

Resolution approving the site plan for a new, approximately 612-Seat Primary/Intermediate School Facility to be located on the east side of First Avenue between East 35th Street and East 36th Street (Block 967, Lot 1 in portion), Borough of Manhattan (Non-ULURP No. 20105219 SCM; Preconsidered L.U. No. 1297).

Council Members Katz and Lappin.

WHEREAS, the New York City School Construction Authority submitted to the Council on December 10, 2009, a site plan dated December 10, 2009 pursuant to Section 1732 of the New York State Public Authorities Law for a new, approximately 612-Seat Primary/Intermediate School Facility, known as P.S. 281-Manhattan, to be located at on the east side of First Avenue between East 35th Street and East 36th Street (Block 967, Lot 1 in portion), Borough of Manhattan, Community Board No. 6, Borough of Manhattan, Community School District No. 2 (the "Site Plan");

WHEREAS, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

WHEREAS, upon due notice, the Council held a public hearing on the Site Plan on December 15, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the FSEIS issued on January 18, 2008 (CEQR Project Number 06DCPO39M); and

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

RESOLVED:

The Council finds that the inclusion of the school in the Proposed Actions development program (as modified and approved by the CPC and City Council) would not result in any significant adverse impacts not already identified in the FSEIS.

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

At this point the Speaker (Council Member Quinn) announced that the following items had been **preconsidered** by the Committee on Land Use and had been favorably reported for adoption.

Report for L.U. No. 1298

Report of the Committee on Land Use in favor of approving Application submitted by the New York City Department of Housing Preservation and Development for Council approval, pursuant to Article 16 of the General Municipal Law, for a modification to a previously approved Urban Development Action Area Project and 924 and 928 Madison Street and 1023, 1013, 1007, 1052 and 1054 Putnam Avenue, Borough of Brooklyn, Council District no. 41. (20105220 HAK)

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution) was referred on December 21, 2009, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 3 **20105220 HAK**

Application submitted by the New York City Department of Housing Preservation and Development for Council approval, pursuant to Article 16 of the General Municipal Law, for a modification to a previously approved Urban Development Action Area Project and 924 and 928 Madison Street and 1023, 1013, 1007, 1052 and 1054 Putnam Avenue, Borough of Brooklyn, Council District no. 41.

INTENT

To facilitate the construction of seven buildings with approximately forty-seven residential units.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 17, 2009

The Committee recommends that the Council approve the attached resolution and thereby make the findings required by the General Municipal Law.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2318

Resolution approving an application submitted by the New York City Department of Housing Preservation and Development ("HPD"), Non-ULURP No. 20105220 HAK, approving the designation of property located at 924 and 928 Madison Street and 1023, 1013, 1007, 1052 and 1054 Putnam Avenue, Borough of Brooklyn, as an Urban Development Action Area (the "Area"), and approving the project for the area as an Urban Development Action Area Project ("the Project") (Preconsidered L.U. No. 1298; Non-ULURP No. 20105220 HAK).

By Council Members Katz and Garodnick.

WHEREAS, the Department of Housing Preservation and Development filed with the Council on December 3, 2009 its request dated November 16, 2009, pursuant to Article 16 of the General Municipal Law of New York State regarding:

a. the designation of property located at 924 and 928 Madison Street and 1023, 1013, 1007, 1052 and 1054 Putnam Avenue, as an Urban Development Action Area (the "Area"); and

b. an Urban Development Action Area Project for such area (the "Project");

to facilitate the construction of seven residential buildings with approximately forty-seven units, Community District 3, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 080278 HAK (L.U. No. 774; Resolution No. 1524 of 2008);

WHEREAS, the Application is subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, upon due notice, the Council held a public hearing on the Application on December 15, 2009:

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

RESOLVED:

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

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

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

MELINDA R. KATZ, Chairperson; TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, JOHN C. LIU, LARRY B. SEABROOK, HELEN SEARS, SARA M. GONZALEZ, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report of the Committee on Parks and Recreation

Report for Int. No. 1103-A

Report of the Committee on Parks and Recreation in favor of approving and adopting, as amended, a Local Law In relation to the naming of 70 thoroughfares and public places, Ron Carey Avenue, Borough of Queens, Betty Pegen Way, Borough of Queens, Sol Soskin Way, Borough of Queens, Kenneth Jackson, Jr. Blvd., Borough of Brooklyn, Power Memorial Way, Borough of Manhattan, Morris R. Lee Place, Borough of Queens, John Hicks Way, Borough of Manhattan, Sugar Ray Robinson Way, Borough of Manhattan, Anthony Aristedes Delgado Way, Borough of Brooklyn, Thomas Joseph Sgroi A 9-11 Memorial Way, Borough of Brooklyn, Mitad del Mundo, Borough of Queens, Veterans Memorial Way, Borough of Brooklyn, Rev. Robert G. Lane Blvd., Borough of the Bronx, FF Alfred Ronaldson Place, Borough of the Bronx, Walter L. Johnson Corner Developer of Dyker Heights, Borough of Brooklyn, Rosemarie O' Keefe Way, Borough of Brooklyn, Hank Vogt Way, Borough of Brooklyn, Dr. Michael Brienza Way, Borough of Brooklyn, Hon. Thomas Tam Way, Borough of Manhattan, The Bowery Mission Way, Borough of Manhattan, Roger Laghezza Place, Borough of Queens, Nicolas A. Nowillo Place, Borough of Queens, Francesco "Frankie" Loccisano Way, Borough of Brooklyn, Dr. Jitendra Sukhadia Crossing, Borough of Staten Island, Benny A. Lyde Place, Borough of Brooklyn, Bernard L. Shapiro Boulevard, Borough of Queens, Janice Marie Knight Street, Borough of Brooklyn, Dr. Saul J. Farber Way, Borough of Manhattan, NYS Senator 1956-2006, Hon. John J. Marchi Way, Borough of Staten Island, Catherine Vanden-Heuvel Way, Borough of Staten Island, Elizabeth Stanton Way, Borough of Staten Island, Arthur F. Newcombe Sr. Way, Borough of Staten Island, FDNY Lt. John "Muzz" Murray Way, Borough of Staten Island, Corporal John C. Johnson, Sr. Road, Borough of Staten Island, Custodian Martin T. Cavanagh Way, Borough of Staten Island, Sergeant Gerald A. Johnson Corner, Borough of Staten Island, Carmine Narducci Way, Borough of Staten Island, Bobby Smith Court, Borough of Staten Island, Curtis High School Alumni Way, Borough of Staten Island, Michael Cocozza Way, Borough of Staten Island, Rabbi Dr. Joseph I. Singer Way, Borough of Brooklyn, Sheila Nelson Way, Borough of Brooklyn, P.O. Kevin M. Lee Way, Borough of Staten Island, Eugene S. Devlin III Way, Borough of Staten Island, Michael A. Primiano Way, Borough of Staten Island, Sal Somma Way, Borough of Staten Island, PV2 Isaac T. Cortes Way, Borough of the Bronx, Sister Jane Talbot Way, Borough of Brooklyn, Ken Siegelman Way, Borough of Brooklyn, Lance Corporal Alberto Francesconi Place, Borough of the Bronx, Supervising Fire Dispatcher Dennis Patrick O' Connell Place, Borough of the Bronx, Mr. Joseph Zinzi Place, Borough of the Bronx, J. Clifford Gadsden Place, Borough of Queens, Edith Copeland Baldwin Way, Borough of the Bronx, Det. Rudolph Vinston Edwards, Sr. Way, Borough of the Bronx, Gloria D. Alexander Way, Borough of the Bronx, Dorothy Gomes Way, Borough of the Bronx, Christian Regenhard Way, Borough of the Bronx, Charles Carroccetto Corner, Borough of the Bronx, Officer Dominick Pezzulo Triangle, Borough of the Bronx, Beverly Baxter Blvd., Borough of Queens, Sean Bell Way, Borough of Queens, Ghanwatti Boodram Way, Borough of Queens, Mike Lee Corner, Borough of Brooklyn, Burlingame Court, Borough of Queens, James Court, Borough of Queens, McKee Court, Borough of Queens, Calhoun Court, Borough of Queens, Moncrief Court, Borough of Queens, Lockwood Court, Borough of Queens and the repeal of sections 7 and 10 of local law number 46 for the year 2009, the repeal of sections 17 and 37 of local law number 48 for the year 2008 and the repeal of section 48 of local law number 64 for the year 2008.

The Committee on Parks and Recreation, to which the annexed amended proposed local law was referred on December 9, 2009 (Minutes, page 5996), respectfully

REPORTS:

Comment:

On December 17, 2009, the Committee on Parks and Recreation held a hearing to consider a bill renaming thoroughfares and public places. This was the second hearing on the bill. At this hearing the Committee voted 4 in favor, 0 opposed and 1 abstention on the bill. The Council acts upon the authority granted in subdivision (b) of section 25-102.1 of the New York City Administrative Code which states:

> b. Unless the local law specifically provides otherwise, any local law changing the name of a street, park, playground or portion thereof, or any facility or structure, located and laid out on the city map, that bears a name indicated on the city map shall not be construed to require a change in such name as it is indicated on the city map; provided, however, that in the case of a local law changing the name of a street or portion thereof, the name added by such local law shall be posted on a sign placed adjacent to or near a sign bearing the name of such street or portion thereof indicated on the city map.

The following street name changes are not to be construed as a change in the City Map, but as additional names to be posted near or adjacent to the street or location indicated on the City Map.

Section 1. Ron Carey Avenue

Introduced by Council Member Avella

Died December 11, 2008

Ron Carey was a highly regarded member of his community and influential President of the Teamsters Union who succeeded in championing the rights of union workers and reforming the union to better represent its members.

Section 2. Betty Pegen Way

Introduced by Council Member Avella

February 2, 1912 – January 29, 2008

Betty Pegen was a resident of College Point for more than 75 years. For more than 50 years she dedicated herself to tending to the care and cultivation of the gardens at the Poppenhusen Monument Park. She also devoted many hours to the care of the gardens in other areas throughout the College Point community including the Municipal Park and the Poppenhusen Library.

Section 3. Sol Soskin Way

Introduced by Council Member Avella

Died August 2009

Sol Soskin earned two Purple Hearts during World War II and was a member of the Allied Forces that liberated Rome and Nazi Concentration Camp in Salzburg, Austria. He later went on to serve his community by being an active member of Community Board 11 for over 30 years and as president of the 111th Precinct Council for over 50 years.

Section 4. Kenneth Jackson, Jr. Blvd.

Introduced by Council Member Barron

July 7, 1983 - October 6, 2007

Kenneth Jackson Jr. was very involved in his church as well as his community. He was involved with the Junior Usher Board, Boy Scouts, Buds of Promise and visited many nursing homes. He qualified for the NYC Gifted Program at PS 159 and later enrolled in Clinton Junior College in Rock Hill, South Carolina. He served as a mentor to the younger generation in his neighborhood in East New York and worked as a Senior Counselor at the Police Athletic League.

Section 5. Power Memorial Way

Introduced by Council Member Brewer

Power Memorial Academy was founded in 1931 when, at the request of the Archbishop of the New York Diocese, a new community of Irish Christian Brothers took over the five attached row houses on 124th Street that had previously been occupied by the Bothers other school, All Hallows. They named it Power Memorial Academy in memory of Monsignor Power who had originally invited the Irish Christian Brothers to this country and who had died in 1926. By 1938 the schools student body had increased to such an extent that a new location was required. A building at 161 W 61st Street, which had previously housed the NY Nursery & Childs Hospital, was purchased as the new school site. The Power Memorial Academy Alumni Association continues its legacy by maintaining a scholarship fund at Rice High School in Harlem and All Hallows High School in the Bronx. Recipients demonstrate scholastic aptitude and dedication to both the Catholic community and their neighborhood. Power Memorial Academy produced numerous

star athletes, including Kareem Abdul-Jabbar, Len Elmore and Chris Mullin. The Power Memorial Academy band has been the official band of the New York City Fire Department.

Section 6. Morris R. Lee Place

Introduced by Council Member Comrie

Died 2008

Morris R. Lee was born and raised in Tuscaloosa and served in the United States Air Force for 10 years. He moved his family to New York and settled in Cambria Heights, Queens, NY in 1968. He earned a B.A. and Masters Degree in economics from Queens College and served on the board of the Health Systems Agency of New York City. He was also very active in many community activities and was a founding member of the Cambria Heights Kiwanis Club, served as treasurer of the Queens County Overall Economic Development Corporation and was vice president of Community Planning Board, Community Board #13, Queens. He also served as Executive Director of the Council for Airport Opportunity for the airline industry and the Port Authority of New York and New Jersey for more than three decades; securing employment for many thousands in the minority community as well as others.

Section 7. John Hicks Way

Introduced by Council Member Dickens

December 21, 1941 – May 10, 2006

John Hicks was a prolific mainstay of jazz in New York since the late 1960's who gave his final performance at a fund-raising concert at St. Mark's United Methodist Church in Harlem. After high school, he attended Lincoln University in Missouri, the Berklee School of Music in Boston and the Juilliard School. He spent time on the road with various blues and jazz bandleaders, including Albert King and Johnny Griffin. In 1963 he moved to New York City. With a dense, heavy, physical style, he played in all kinds of situations, from free jazz to programs of music written by Billy Strayhorn, Mary Lou Williams and Sonny Clark. Among his dozens of jobs with working bands, Mr. Hicks had stretches with three of the most important incubators of young jazz musicians playing in Art Blakey's Jazz Messengers, with the singer Betty Carter, and with Woody Herman's big band. In the late 1970's that his career as a leader gained momentum and went on to record many albums under his own name and continues to influence many musicians today.

Section 8. Sugar Ray Robinson Way

Introduced by Council Member Dickens

May 3, 1921 – April 12, 1989

Sugar Ray Robinson was born in Ailey, Georgia, and moved to New York with his family when he was a teenager to escape the prevalent prejudice in the South. It was in a Harlem gym that he was first introduced to boxing. When his future coach George Gainford watched him box for the first time, Gainford commented that the young boxer's style and fluid motions were sweet as sugar and the nickname stuck for the rest of his career. He won the New York Golden Gloves championship in 1940 and at the age of 19 turned pro and became the world welterweight champion in 1946. Sugar Ray's record was 128-1-2 with 84 knockouts at the pinnacle of his career. In over 200 fights, Sugar Ray was never physically knocked out although he did receive one technical KO. Altogether, he amassed 109 KOs, and finished with a record of 175-19-6 with two no-decisions and is considered one of the best boxers of all time.

Section 9. **Anthony Aristedes Delgado Way**

Introduced by Council Member Dilan

Anthony Delgado was killed when he was struck by a tow truck in a hit-and-run accident. Because of the accident, a traffic signal was installed at the intersection where he was killed. He was thirteen years old.

Section 10. Thomas Joseph Sgroi
A 9-11 Memorial Way

Submitted by Council Member Felder

Died on September 11, 2001

Thomas Joseph Sgroi was killed on 9/11/01. At the time of his death, he was employed by Marsh and McLennan as Vice President for Technology and Information Services. Mr. Sgroi was born and raised in the Borough Park area. Mr. Sgroi was an active congregant at St. Francis de Chantel Church in Borough Park, where his mother worked for almost 40 years.

Section 11. Mitad del Mundo

Introduced by Council Member Ferreras

This co-naming will represent the sizable number of individuals of Ecuadorian decent who live in the 21st Council District and the City of New York. It is estimated that 40.6% of the population are Ecuadorian decent.

Section 12. Veterans Memorial Way

Submitted by Council Member Fidler

This street co-naming will honor and recognize the lives of all individuals for their esteemed military service. The location has been chosen because it is part of the route for many parades honoring the nation's veterans. Among these groups are the Argonne Marine Park Veterans of Foreign Post #107, the American Legion, the Marine Corps League, Jewish War Veterans, Catholic War Veterans Korean War Veterans, Vietnam War Veterans and Disabled American Veterans.

Section 13. Rev. Robert G. Lane Blvd.

Introduced by Council Member Foster

November 26, 1926 – February 2009.

Rev. Robert G. Lane was an Associate Minister at the Mount Zion Baptist Church in West Virginia and later relocated his family to the Bronx. He organized the New Zion Pilgrim Baptist and was an active member of the Baptist Minister Day Conference of New York, president of Baptist Minister Evening Conference of New York and Vicinity, a member of Baptist Minister Evening Conference of the Bronx, the United Missionary Baptist Association, Empire State Baptist Convention and Community Planning Board 3.

Section 14. FF Alfred Ronaldson Place

Introduced by Council Member Foster

Died 1991

Alfred Ronaldson was 36 years old when he was killed in the line of duty when a section of floor caved in under him after a fire had been mostly extinguished in a Bronx building. In his 13-year career, he won six citations for bravery.

Section 15. Walter L. Johnson Corner Developer of Dyker Heights

Introduced by Council Member Gentile

August 13, 1873 – June 6, 1953

Walter L. Johnson developed Dyker Heights in 1895. He built houses, installed gas lines and planted sugar maple trees and began the Dyker Heights community. In September 1899, he donated a 100x100 lot of land on which St. Philips was built.

Section 16. Rosemarie O' Keefe Way

Introduced by Council Member Gentile

November 25, 1943 – July 17, 2009

Rosemarie O' Keefe was very active in the Bay Ridge civic and political communities. Under former Mayor Rudolph Giuliani, she served as commissioner of the Mayor's Community Assistance Unit. She received a number of awards for her community activities/services including the Solan Public Service Award, the International Woman of the Year, and the Civic Honoree of the Joint Consulates of Israel, Ireland and Italy.

Section 17. Hank Vogt Way

Introduced by Council Member Gentile

Died in 2007

Hank Vogt was the founder and first board chair of the Bay Ridge Ambulance Volunteer Organization (BRAVO) started in 1974. He was also very involved in his community serving as Parade Chairman of the Ragamuffin Parade for many years as well as chairman of Planning Board 10.

Section 18. Dr. Michael Brienza Way

Introduced by Council Member Gentile

May 2, 1969 - April 10, 2009

Dr. Michael John Brienza graduated from Xaverian High School in Brooklyn, Adelphi University and New York University College of Dentistry. After graduating dental school, he completed a one year general practice residency at Woodhull Hospital and a two year residency in general anesthesiology at Brookdale Hospital. He entered general practice with his father in July 1997, and had many other affiliations including attending at Brookdale and N.Y. Methodist Hospital, where he was section chief in conscious sedation. Michael was a member of the American Dental Association, second District Dental Society, Bay Ridge Dental Society (past president), N.Y. State Dental Society of Anesthesiology (President), was a Fellow of the American Dental Society of Anesthesiology and was board certified (by the NDBA). He also served his country in the United States Naval Reserves where he received a number of commendations and awards for his service, including as an expert marksman the homeland security commendation for his service.

Section 19. Hon. Thomas Tam Way

Introduced by Council Member Gerson

April 15, 1946 –

Dr. Tam was a highly regarded educator who served Asian American communities in so many beneficial ways. He organized the first Asian American Higher Education Council, comprising faculty and staff throughout CUNY and led efforts to establish the first Asian American Asian Research Institute at CUNY. Dr. Tam's professional career reflected his devotion to education, particularly at the collegiate level, and a special emphasis on community healthcare and education, both in New York City and elsewhere.

Section 20. The Bowery Mission Way

Introduced by Council Member Gerson

The Bowery Mission is the third oldest Rescue Mission in the United States and has been serving the homeless in the city of New York since 1879. It provides meals, shelter, showers, clothing and medical care to the homeless.

Section 21. Roger Laghezza Place

Introduced by Council Member Gioia

Died February 2, 2009

Roger Laghezza was a co-founder of the Queens Gazette newspaper. He was a lifelong resident of the Dutch Kills neighborhood and was a member of the Ravenswood chapter of Lions Club International and over several years collected more than 100,000 pairs of used eyeglasses for the Lions' eyeglass recycling program. He served a term as vice president of the Dutch Kills Civic Association and was a member in good standing of that organization until his death.

Section 22. Nicolas A. Nowillo Place

Introduced by Council Member Gioia

Died September 2008

Nicolas A. Nowillo died trying to protect a neighbor from getting robbed on the street. He volunteered at the East River Development Alliance and helped organize a seminar to teach new immigrants how to start businesses.

Section 23. Francesco "Frankie" Loccisano Way

Introduced by Council Member Gonzalez

1990 – 2007

Francesco "Frankie" Loccisano lobbied Congress for the passage of the Conquer Childhood Cancer Act, which calls for the advancement of medical research and treatments into pediatric cancers and ensures patients and families have access to current treatments and information regarding pediatric cancers. Congress Member Vito Fossella worked with Mr. Loccisano prior to Mr. Loccisano's death to get the bill passed. The Act was signed into law on July 28, 2008. Mr. Loccisano also worked to have a foundation established to fight against pediatric cancers, which was established following his death. He passed away after his 3 year battle with cancer.

Section 24. Dr. Jitendra Sukhadia Crossing

Submitted by Council Member Ignizio

Died March 21, 2008

Dr. Jitendra Sukhadia was one of Staten Island's most beloved pediatricians serving an estimated 10,000 patients and was considered a "man of vision and principal." His community services included raising funds for the Share and Care Foundation, the Vishwa Hindu Parishad Association, Habitat for Humanity and pediatric cancer awareness.

Section 25. Benny A. Lyde Place

Introduced by Council Member James

Died September 2005

Benny A. Lyde was a resident of Lincoln Place (age 21 at the time of his death) was shot on September 2, 2005, and later succumbed to his injuries. Mr. Lyde, a business management and computer science student at Long Island University at the time of his death, helped run Groundwork for Youth, a youth literacy program in his East New York neighborhood.

Section 26. Bernard L. Shapiro Boulevard

Introduced by Council Member Liu

Died February 9, 2009

Bernard L. Shapiro was a community leader who gave most of his time to the Garden Jewish Center of Flushing and its members serving as the temple attorney for over thirty (30) years. He gave legal advice to the Center's board of directors and clergy on a pro bono basis and helped establish youth programs and additional funding for the temple as well as, oversaw many contracts and renovations. Before his death, he negotiated a lease with a private school to allow the temple to continue during these difficult economic times. He also received awards and commendations from the Long Island Jewish Commission of Rabbis, UJA testimonials and a number of awards from the Garden Jewish Center.

Section 27. Janice Marie Knight Street

Introduced by Council Member Mealy

Died December 30, 2007

Janice Marie Knight began her career as a teacher at PS 235 of a gifted pre-kindergarten class. Her work ethic attributed to her appointment of Assistant Principal of PS 235 in 1995. When she became Principal in 1999, she actively pursued opportunities at the district and community level to assure that the children became well grounded in literacy. She was an active member of the Columbia University Teacher's College Reading and Writing Project and served as a facilitator and liaison for PS 235. In 2004, she received the prestigious Cahn Fellowship for distinguished New York City Principals.

Section 28. Dr. Saul J. Farber Way

Introduced by Council Member Mendez

Died October 11, 2006

Dr. Saul J. Farber was a recognized leader in medical education, clinical research and medical school administration who profoundly influenced and shaped public health in New York City and mentored generations of physicians throughout the world. For over 50 years, he led Bellevue Hospital Center and New York University School of Medicine to national prominence creating an educational environment that produced an extraordinary number of medical school faculty and clinician leaders. His awards include the Great Teacher Award of the NYU Alumni Association, the Solomon A. Berson Medical Alumni Achievement Award, the Distinguished Teacher Award of the American College of Physicians and the Abraham Flexner Award of the Association of American Medical Colleges.

Section 29. NYS Senator 1956-2006, Hon. John J. Marchi Way

Submitted by Council Members Mitchell and Oddo

May 20, 1921 – April 25, 2009

NYS Senator John J. Marchi was a WWII veteran who fought in the battle of Okinawa and went on to become one of the nation's longest serving elected officials with 49 years of service. He was responsible for drafting crucial legislation that helped shape the city and state university systems. He was a key backer of the successful effort to close the Fresh Kills landfill and appointed by President Nixon as the only state legislator on the National Advisory Committee on Drug Abuse Prevention.

Section 30. Catherine Vanden-Heuvel Way

Submitted by Council Members Mitchell and Oddo

Died 2002

Catherine Vanden-Heuvel was active in many community organizations during her lifetime. She was a co-founder and president of the Mothers Club at St. Teresa's Elementary School for several years while her children attended the school. She also coached girls' basketball at St. Teresa's and the CYO. She was President and held other offices for the Federation of Catholic School Parents on Staten Island, the Bayley Seton Chapter of AARP, St. Teresa's Altar and Rosary Society, the Golden Age Club and Port Richmond HS Alumni Association. She also held vigil each week at the Perpetual Adoration Chapel at the Society of St. Paul's Alba House.

Section 31. Elizabeth Stanton Way

Submitted by Council Member Mitchell

Died December 30, 2008

Elizabeth Stanton was a legal receptionist, homemaker and a dedicated member of her community in Staten Island. She lived in the Richmond Terrace Houses where she was president of the tenants' association for 20 years, as well as president of the New York City Housing Authority Staten Island Council of Presidents for several years. She was a dedicated foster parent and a Boy Scout troop leader. She was also awarded a Lifetime Achievement Award by State Sen. Diane Savino for contributing to her community of New Brighton.

Section 32. Arthur F. Newcombe Sr. Way

Submitted by Council Member Mitchell

Died March 18, 2009

Arthur F. Newcombe Sr. was a lifelong Staten Islander, a veteran and an important aspect of to his community of West Brighton. For 30 years, he was a bus driver for the New York City Transit Authority and volunteered at the West Brighton Youth Club. He was honored in 1977 by the city housing authority for a decade of service to the youth. He also served as director of the West Brighton Community Center, vice president of the Port Richmond High School Father's Club, vice commander of the Corporal Lawrence Thompson VFW Post and a committee member with the Richmond County Democratic Party for 20 years.

Section 33. FDNY Lt. John "Muzz" Murray Way

Submitted by Council Members Mitchell and Oddo

John Murray died after he battled cancer for ten months. In 1983, he entered the Fire Academy and after graduation was assigned to Ladder Co. 20 in Manhattan where he served on the FDNY for 14 years. Later, he was promoted to lieutenant and assigned to Engine Co. 165 in New Dorp. He was also very devoted to his family, coached his children's sports teams at Blessed Sacrament School and belonged to the FDNY's Emerald Society, the FDNY's Retirees Association and the Blessed Sacrament Titan League.

Section 34. Corporal John C. Johnson, Sr. Road

Submitted by Council Member Mitchell

July 31, 1919 – May 9, 1999

Corporal John C. Johnson, Sr. was a dock builder for over 40 years and at one point worked construction on the Verrazano-Narrows Bridge. He was a corporal in the United States Army during WWII and was awarded the American Service Medal, Asiatic-Pacific Service Medal, Distinguished Unit Badge, the Good Conduct Medal and the WWII Victory Medal. He later became a member of the North Shore Democratic Club and the West Brighton chapter of the AARP.

Section 35. Custodian Martin T. Cavanagh Way

Submitted by Council Member Mitchell

Died December 18, 2008

Martin T. Cavanagh worked as a custodial engineer and district plant manager with the Department of Education for 37 years. He was a devoted supporter of the ALS Association, rallying friends and family to raise tens of thousands of dollars to find a cure for ALS. He actively participated in many clinical trials to help combat ALS and was a pioneer who traveled internationally to undergo stem cell therapy.

Section 36. Sergeant Gerald A. Johnson Corner

Submitted by Council Member Mitchell

September 19, 1921 – April 9, 2000

Gerald A. Johnson fought in WWII in the 9th Infantry Division and was stationed in North Africa and Europe. He was given numerous medals and citations including the Silver Star, Bronze Star/Cluster and Arrow Head and two Purple Hearts. He was also given French and Belgium Medals for his part in capturing 67 Germans soldiers in Cherbourg. He was also decorated with the New York State Conspicuous Service Cross.

Section 37. Carmine Narducci Way

Submitted by Council Member Mitchell

Died 2009

Carmine Narducci worked for the NYPD as a police officer for 27 years and was assigned to Brooklyn and Manhattan. He was a founding member of the Mariners Harbor VFW Post and served for 60 years with the post. There, he ran the club's bingo game for 43 years and cooked food for all the club's events. He also served in the United States Navy during WWII, was the first vice president and former president of the Harbor Terrace AARP and a parishioner of St. Michael's/St. Clement's R.C. Church.

Section 38. Bobby Smith Court

Submitted by Council Members Mitchell and Oddo

Died May 29, 2008

Bobby Smith was referred to as the Mayor of Forest Avenue and served in the Vietnam War in 1970 as a member of the United States Army. After being discharged, he taught physical education at Sacred Heart School in West Brighton. Over 30 years ago, he was founder of the Pepper Martin Run, the third and most difficult leg of Staten Islands Triple Crown road racing series and was an organizer of the annual PS 45 Courtyard Reunion in West Brighton as well as being a longtime parishioner of St. Peter's R.C. Church. He volunteered and donated food for the runners and volunteers at NYC Marathon start at Fort Wadsworth every year. Every baseball season he organized trips at his own expense to Yankee Stadium for Staten Island youth who did not have the means to attend Yankee games. As a member of St. Peters R.C. Church he was an aid to Monsignor James Downey, Regional Vicar of Staten Island R.C. Churches and organized the "Night of Solemn Remembrance each September 10th along with members of the Notre Dame Club of Staten Island.

Section 39. Curtis High School Alumni Way

Submitted by Council Member Mitchell

Curtis High School Association of Alumni & Friends is an association that provides ten annual scholarships and supports Curtis High School, its students and programs.

Section 40. Michael Cocozza Way

Submitted by Council Members Mitchell and Oddo

August 5, 1947 – July 24, 2003

Michael Cocozza was a very important veterans' advocate. He served in the United States Army 1st Infantry Division in the Vietnam War. He was very active in the Democratic Party and ran for State Senate. He served as the vice president of the Democratic Organization of the County of Richmond and campaign manager for Joseph Wein when he ran for City Council in 2001. He also served as president of the Thomas J. Tori chapter, Vietnam Veterans of America, and involved in Disabled American Veterans, Veterans of Foreign Wars and Catholic War Veterans.

Section 41. Rabbi Dr. Joseph I. Singer Way

Introduced by Council Member Nelson

Died March 5, 2004

Rabbi Dr. Joseph I. Singer served as Spiritual Leader of the Manhattan Beach Jewish Center for nearly fifty years beginning in 1947 and thereafter as Rabbi Emeritus until his death. Under his leadership, the Manhattan Beach Jewish Center built a three story Synagogue and a seven story Community Center housing an Elementary Yeshivah, Talmud Torah School , day camp, cardiac rehabilitation gym and a senior center. He was a scholar and educator who taught at Stern College of Yeshiva University and Kingsborough Community College, was the sermon editor of the Rabbinical Council of America and served on the Board of Directors of Menorah Nursing Home, Manhattan Beach.

Section 42. Sheila Nelson Way

Introduced by Council Member Nelson

September 10, 1945 – December 10, 2008

Sheila Nelson was a community activist and educator for over 34 years. She was a special education teacher, a Dean at Boody Junior High School, a Teacher Trainer, headed the Gifted Program in District 21, Coordinator of the Sigma Program and the Director of Family College at Kingsborough. She was involved in many organizations such as the Hadassah and the National Council of Jewish Women and won dozens of awards and was honored by the Highway Democrats in 2002, by the Brighton Neighborhood Association in 2003 with the Woman of the Year award.

Section 43. P.O. Kevin M. Lee Way

Submitted by Council Member Oddo

April 25, 1974 – January 27, 2006

Kevin M. Lee attended I.S. 2 and graduated from Staten Island Technical High School. In 1995, after attending St. John's University, he graduated from the New York City Police Academy. Upon graduating, Kevin was assigned to Manhattan's 30th Precinct as part of the elite Manhattan North Grand Larceny Squad where he was credited with over 200 arrests in his short career. He collapsed after chasing and struggling to capture a trio of robbery suspects in Manhattan and later died in Lenox Hill Hospital.

Section 44. Eugene S. Devlin III Way

Submitted by Council Member Oddo

December 16, 1947 – April 6, 2009

Eugene S. Devlin III was a "quiet hero who served his city and his country with honor and courage for more than 30 years." He was a lifelong resident of Staten Island who served in the United States Army from 1967 to 1969, stationed in Bremerhaven, Germany as an MP. He served for another 20 years as an Army Reserve. Chief Devlin was a member of several law enforcement societies including the International Association of Chiefs of Police. According to the Iron Hill Civic Association, under his watch, the crime rate was down 70 percent. He was also very involved in the Bread of Life Drive, United Activities Unlimited and the Notre Dame Club.

Section 45. Michael A. Primiano Way

Submitted by Council Member Oddo

March 2, 1940 – August 13, 1992

Michael A. Primiano was a very dedicated and active member of his community. In 1975, he gathered a group of people together and established the New Dorp Central Civic Association. He was also a member of Community Board 2, the 122 Police Precinct Council, the Principal's Advisory Board at New Dorp High School and was a board member of the Jacques Marchais Tibetan Museum. He also organized the first parade from New Dorp Plaza to Miller Field.

Section 46. Sal Somma Way

Submitted by Council Member Oddo

May 6, 1910 – February 2, 1993

Sal Somma was one of Staten Island's legendary sports heroes as the coach of New Dorp High School's football team. He was the head coach and a teacher for 37 years. Under Coach Somma, New Dorp High School's football team won six PSAL city titles, three undefeated seasons and amassed a record of 154-52-10. He was inducted into the New Dorp High School Football Hall of Fame in 1989 and the Sal Somma Educational Center at New Dorp High School opened on September 19, 2009.

Section 47. PV2 Isaac T. Cortes Way

Introduced by Council Member Palma

Died November 27, 2007

Private Isaac T. Cortes resided in the Parkchester neighborhood of the Bronx. While serving in the United States Army, he received multiple and awards and decorations including the Purple Heart, the Bronze Star and the National Defense Service Medal. Private Cortes was killed when an explosive device detonated in Amerli, Iraq, just north of Baghdad.

Section 48. Sister Jane Talbot Way

Introduced by Council Member Recchia, Jr.

Died June 6, 2009

Sister Jane Talbot began her career as a teacher and found herself drawn to a life mission of serving the poor, sick, and needy. In 1956, she made her final vows as a Sister of Mercy and joined the Pastoral Ministry of Our Lady of Grace Church where she fed thousands of hungry families. She also collected clothes for the poor and visited the sick in hospitals, nursing homes and hospices.

Section 49. Ken Siegelman Way

Introduced by Council Member Recchia, Jr.

Died June 19, 2009

Ken Siegelman was a social studies teacher for 33 years at Abraham Lincoln High School. English was an unfamiliar language in his classroom composed of Russian and Spanish teens so he developed a classroom poetry curriculum to bridge the language gap. His genius was recognized by Sandy Feldman and the UFT, who presented him with the John Bunzel Award. His innovative poetry centered curriculum was purchased by Teacher's Discovery and he was also awarded a grant from the Puffin Foundation which he used to help young poets at Kingsborough

Community College. He, later on was appointed Brooklyn Poet Laureate by Brooklyn Borough President Marty Markowitz on January 24, 2002.

Section 50. Lance Corporal Alberto Francesconi Place

Introduced by Council Member Rivera

September 3, 1987 – December 29, 2008

Alberto Francesconi made the ultimate sacrifice for his community as well as his country when he was killed in action in Afghanistan on December 29, 2008.

Section 51. Supervising Fire Dispatcher Dennis Patrick O' Connell Place

Introduced by Council Member Rivera

March 6, 1952 – October 19, 2008

Dennis Patrick O' Connell was a lifelong resident of the Bronx and at age 11 became the president of the FDNY Explorer Post 588 and rode with Engine 88 during the "Bronx is Burning Years." In 1973, he chose to serve on the FDNY as a Fire Alarm Dispatcher for the next 37 years contributing to saving many lives through his knowledge of the ins and outs of the Bronx directing Fire Companies efficiently to emergencies. He volunteered his time as a bagpiper in the FDNY Emerald Society Pipes and Drum Band and was a member of Leonard H. Hawkins American Legion Post 156 as well as a Den Leader for Cub/Boy Scouts Troop 211 for many years.

Section 52. Mr. Joseph Zinzi Place

Introduced by Council Member Rivera

Died March 2007

Joseph Zinzi was an activist and advocate for the Belmont community and worked to promote racial and ethnic harmony as a founding member of the Bronx Community Board 6 Inter-Racial and Inter-Ethnic Council. He was also involved with the Italian American Alliance for Education where he was devoted to securing and expanding educational, career and recreational opportunities for the youth of the community for over 35 years. He was also the Steward of the Mount Carmel Senior Center for over ten years.

Section 53. J. Clifford Gadsden Place

Introduced by Council Member Sanders, Jr.

June 6, 1926 –

J. Clifford Gadsden was a community leader and activist for decades and was often referred to as "the Mayor of Springfield Gardens." He was a great spokesman who motivated the residents of Springfield Gardens to unite in order to protect their rights and residential property from being rezoned as commercial property. He was one of the founders and first chairperson of the Spring-Gar Community Civic Association. He also served on Community Board 13 for over 20 years, was the Democratic District Leader in the 31st Assembly District – Part B, and served on the Community School Board – District 29 in Queens.

Section 54. Edith Copeland Baldwin Way

Introduced by Council Member Seabrook

November 16, 1920 – April 22, 2009

Edith Copeland Baldwin received numerous honors and awards for her efforts to improve the lives and surroundings of her neighbors and community. She had worked in the capacity of clerk in the controller's office and section leader for R.H. Macy. While employed, she was a Shop Steward and Executive Board Member for the Department Store Workers Union, Local IS. She used her voice and leadership skills to advocate for those who could not speak for themselves at Tilden Towers II. She was elected chairperson of the Cooperative Advisory Council for 32 years and was also elected and served from 1984 to 1998 as State Committee woman for the 82nd Assembly District.

Section 55. Det. Rudolph Vinston Edwards, Sr. Way

Introduced by Council Member Seabrook

November 25, 1932 – December 5, 2008

While attending St. John's University, Rudolph Vinston Edwards, Sr. was drafted into the United States Army and served as a medic while stationed in Straubing, Germany. On October 9, 1961, he was sworn in as a New York City Housing Authority Police Officer and assigned to St. Mary's Houses and later transferred to Millbrook and Mott Haven Houses. In 1969, he was reassigned to Edenwald Houses in the North Bronx and gained the reputation of Rudy the Cop and the Mayor of Edenwald. There, he assisted grief stricken families, in some instances, helped deliver babies and served as a role model and mentor for all people. Later in his career, he was selected to be a Training Officer for other police officers, a Community Relations Officer, a Crime Prevention Officer and finally retired as Detective.

Section 56. Gloria D. Alexander Way

Introduced by Council Member Seabrook

July 4, 1932 – May 26, 2008

Gloria D. Alexander graduated with honors from Rhodes High School and went on to receive her bachelors from Hunter College. She later received her nursing certification from Mt. Sinai School of Nursing. Her love for life and animals fueled her exploration into the field of veterinary science resulting in a 20 year career at Memorial Sloan Kettering Cancer Research Institute in the field of comparative medicine. Becoming very active in politics, she was one of the first members of the Northeast Bronx Democratic Club, and later on became a member of the 47th Precinct Council, Community Board 12, the Williamsbridge NAACP, the National Council of Negro Women, the 47th Precinct Clergy Coalition and the St. Luke's Episcopal Church Adventure's Club.

Section 57. Dorothy P. Gomes Way

Introduced by Council Member Seabrook

December 5, 1939 – March 2, 2009

Dorothy Gomes was very active in political and social work as a founding member of the Northeast Bronx Democratic Committee and active with Community Board 12 and the 47th Precinct Council. She became an independent Licensed Automobile Insurance Broker and founded her own business called Dorcal Edenwald, Inc. As president, she not only sold automobile policies, but she also provided income tax and transportation services as well. In 1985, Dorothy petitioned the New York City Board of Estimate for Dorcal Edenwald, Inc., to provide daily bus service in order to fill the void caused by the discontinuance of the BX14 bus. After her hard work, the Board of Estimate authorized Dorcal Edenwald, Inc. Ms. Gomez became the first African-American to own and operate a bus franchise in the state of New York.

Section 58. Christian Regenhard Way

Introduced by Council Member Seabrook

August 25, 1973 September 11, 2001

Christian Regenhard was a Probationary Firefighter at Ladder 131 in Red Hook, Brooklyn. He was one of 17 Probationary Firefighter lost in the 9-11 terrorist attacks and was a member of the FDNY for only six months. The Christian Michael Otto Regenhard Fund for Justice, Humanity and the Environment was created to support causes for which Cristian believed in. In his memory, Christian's family founded The Skyscraper Safety Campaign, Inc. which called for the Federal Investigation into the WTC collapse and advocated for national building code reform and increased technology and safety for firefighters.

Section 59. Charles Carroccetto Corner

Introduced by Council Member Vacca

April 21, 1917 – November 24, 2008

Charles Carroccetto was a prominent merchant and lifelong activist in the Pelham Bay section of the east Bronx. He operated Charlie's, an Italian deli and ricotta cheese shop employing countless local teenagers and contributing generously to youth and civic associations. He was a major benefactor to the Boy's Club of New York, serving as President of the Board of Trustees from 1981-82 and as Chairman from 1991-92. He also served as president of the Kiwanis Club of Pelham Bay, a local charitable organization, from 1961-62. In addition, he was an active member of Bronx Community Board 10, the Pelham Bay Taxpayers and Civic Association, and St. Benedict's Parish.

Section 60. Officer Dominick Pezzulo Triangle

Introduced by Council Member Vacca

1965 – September 11, 2001

Port Authority Police Officer Dominick Pezzulo was assigned to the Port Authority Bus Terminal and volunteered to assist in the rescue effort at the World Trade Center on 9-11. While in the South Tower, attempting to rescue a colleague, Officer Pezzulo perished. He was a Throgs Neck resident and, prior to joining the PAPD, taught auto repair, math and computer technology at Herbert H. Lehman High School.

Section 61. Beverly Baxter Blvd.

Introduced by Council Member Ulrich

August 14, 1960 – January 26, 2009

Beverly Baxter graduated from Columbia University where she majored in theater, creative writing and journalism. She moved to Rockaway in 1992 and was an active member of the community. She wrote the column, "On the Beach" for the Rockaway Wave newspaper and participated in many local community organizations including the Queens County Parade Committee, the Rockaway Republican Club, the Rockaway Homeowners Association and the Rockaway Action Committee. Ms. Baxter was an integral part and a pillar of the Rockaway community who was instrumental in starting the Rockaway Music and Arts Festival. Ms. Baxter was a highly visible, influential and esteemed figure in the Rockaway community who was an inspiration to hundreds of those in the community throughout her battle with cancer.

Section 62. Sean Bell Way

Introduced by Council Members White, Jr. and Comrie

May 18, 1983 – November 25, 2006

Sean Bell discovered at the age of six that he was passionate about baseball. He began playing for the Ozone Park Wakefield Little League where he remained a player for eight years. He then went on to play baseball for John Adams High School where he led his team to the NYC High School Championship played at Yankee Stadium. He went on to play for Nassau Community College where he averaged 11.0. He put his baseball career on hold to support his family. In the early

morning hours of his wedding day on November 25, 2006, he walked out of a Queens nightclub, climbed into his car with two friends who had been celebrating with him and was killed by bullets fired by five police officers. The shooting sparked protests throughout the City. The officers involved were ultimately acquitted of criminal charges brought against them. Nevertheless, Mr. Bell's death has led to reforms within the Police Department, including the administering of breathalyzer tests after every time a police officer discharges his/her firearm. In all, 19 reforms were undertaken by the NYPD since the Sean Bell shooting, to wit:

1. Develop methods for the psychological screening of candidates for undercover assignments
2. Provide periodic psychological screening and counseling for active undercover officers whose assignments are the most stressful in the Department and provide training for managing stress
3. Enhance scenario based training for undercover officers through the use of professional actors
4. Expand the pool of potential undercover officers by accepting particularly suitable candidates with less than 2 years of service and provide training tailored to their needs
5. Develop specific training for supervisors who oversee undercover operations with an emphasis on management, leadership, communication and interpersonal skills
6. Conduct a formal job analysis of the undercover assignments in order to establish a more effective performance evaluation system
7. Develop a community outreach program that educates the public about the risks, challenges and necessity of undercover operations
8. Develop a training video for officers involved in undercover operations which includes the perspectives of community leaders from the areas where operations are most often undertaken
9. Require tactical plans for undercover operations to include relevant information about the neighborhood in which the operation will take place
10. Require the administration of a Breathalyzer test in all cases in which a member of the service is involved in a firearms discharge incident, on duty or off duty, which results in injury or death
11. Clarify Department procedures regarding the consumption of alcohol by undercover officers during operations to limit such consumption to two drinks per tour and provide training on credible ways to avoid drinking altogether when pressured to do so by subjects
12. Develop a management accountability mechanism tailored to access the performance of supervisors who oversee undercover operations
13. Require the Investigations Units of the relevant Bureaus to conduct periodic inspections of tactical meetings to assess their adequacy and completeness
14. Establish a mechanism for assuring the completion of required annual firearms training by undercover officers, while assuring the security of their identities
15. Design a standard, readily identifiable, highly reflective jacket for officers' use when involved in plainclothes operations
16. Provide supervisors of undercover operations with portable megaphones and install light packages and public address systems in unmarked Department vehicles so as to enhance the awareness of police presence during enforcement actions
17. Require the inspection of all members of undercover operations, prior to deployment, to assure that all required equipment is being carried and is in good working order
18. Modify the tactical plan template to include specific consideration of the placement of marked police vehicles near the set to be deployed as needed, depending on the characteristics of the site
19. Develop incentives to retain experienced and highly competent undercover officers

Section 63. Ghanwatti Boodram Way

Introduced by Council Member Weprin

1969 - April 24, 2009

Ghanwatti Boodram was killed when a Con Ed explosion took place on 260th Street between 80th and 81st Avenues in Floral Park, Queens. She was in her home when it exploded. Thousands of people in New York, Canada, England and her native Guyana mourned her death. Individuals from the Guyanese community came from around the world to attend her funeral, and hundreds sat with the mourning family in the weeks following her death. She was born in the parish of Bush Lot Village, Guyana. She immigrated to the United States in 1997 to further her education. Upon arriving in the United States she earned her RN degree and Bachelors Degrees in Nursing from York College. Upon the completion of her education, she impacted many patients she cared for at St. Luke's Hospital; with her colleagues at the New York State Nurses Association of which she was an active member; and the administration, faculty and Parent Association at PS 115.

Section 64. Mike Lee Corner

Introduced by Council Member Yassky

August 1, 1936 – May 20, 2006

Mike Lee dedicated his personal life and business life to improving Williamsburg and giving its residents a chance to pursue their goals. Through his architectural skills, he preserved and maintained many historic buildings. He also encouraged local children and seniors throughout the community to engage in many artistic activities.

Section 65. Burlingame Court

Introduced by Council Member Ulrich

This section of the bill would co-name what is now called 163rd Road in Queens, Burlingame Court.

Section 66. James Court

Introduced by Council Member Ulrich

This section of the bill would co-name what is now called 163rd Drive in Queens, James Court.

Section 67. McKee Court

Introduced by Council Member Ulrich

This section of the bill would co-name what is now called 164th Avenue in Queens, McKee Court.

Section 68. Calhoun Court

Introduced by Council Member Ulrich

This section of the bill would co-name what is now called 164th Road in Queens, Calhoun Court.

Section 69. Moncrief Court

Introduced by Council Member Ulrich

This section of the bill would co-name what is now called 164th Drive in Queens, Moncrief Court.

Section 70. Lockwood Court

Introduced by Council Member Ulrich

This section of the bill would co-name what is now called 165th Avenue in Queens, Lockwood Court.

Section 71. The REPEAL of Sections 7 and 10 of local law number 46 for the year 2009. This section repeals Sections 7 and 10 of Local Law number 46 for the year 2009.

Section 72. The REPEAL of Sections 17 and 37 of local law number 48 for the year 2008. This section repeals Sections 17 and 37 of Local Law number 48 for the year 2008.

Section 73. The REPEAL of Section 48 of local law number 64 for the year 2008. This section repeals Section 48 of Local Law number 64 for the year 2008.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1103-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	$0	$0	$0
Expenditures (-)	($22,680)	$0	($22,680)
Net	($22,680)	$0	($22,680)

IMPACT ON REVENUES: There would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: This legislation would require approximately 70 signs at $74 each and an additional $17,500 for the installation of these signs. The total cost of enacting this legislation would be approximately $22,680.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director
Walter Pitts, Legislative Financial Analyst

HISTORY: Introduced as Int. 1103 by Council and referred to the Committee on Parks and Recreation on December 9, 2009. On December 10, 2009, the Committee held a hearing on Int. 1103 and it was laid over. An amendment has been proposed, and Int. 1103-A will be considered by the Committee on December 17, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1103-A:)

Int. No. 1103-A

By Council Members Avella, Barron, Brewer, Comrie, Dickens, Dilan, Ferreras, Foster, Gentile, Gerson, Gioia, Gonzalez, James, Liu, Mealy, Mendez, Nelson, Palma, Recchia, Rivera, Sanders, Seabrook, Vacca, Ulrich, Weprin, White. and Yassky.

A Local Law in relation to the naming of 70 thoroughfares and public places, Ron Carey Avenue, Borough of Queens, Betty Pegen Way, Borough of Queens, Sol Soskin Way, Borough of Queens, Kenneth Jackson, Jr. Blvd., Borough of Brooklyn, Power Memorial Way, Borough of Manhattan, Morris R. Lee Place, Borough of Queens, John Hicks Way, Borough of Manhattan, Sugar Ray Robinson Way, Borough of Manhattan, Anthony Aristedes Delgado Way, Borough of Brooklyn, Thomas Joseph Sgroi A 9-11 Memorial Way, Borough of Brooklyn, Mitad del Mundo, Borough of Queens, Veterans Memorial Way, Borough of Brooklyn, Rev. Robert G. Lane Blvd., Borough of the Bronx, FF Alfred Ronaldson Place, Borough of the Bronx, Walter L. Johnson Corner Developer of Dyker Heights, Borough of Brooklyn, Rosemarie O' Keefe Way, Borough of Brooklyn, Hank Vogt Way, Borough of Brooklyn, Dr. Michael Brienza Way, Borough of Brooklyn, Hon. Thomas Tam Way, Borough of Manhattan, The Bowery Mission Way, Borough of Manhattan, Roger Laghezza Place, Borough of Queens, Nicolas A. Nowillo Place, Borough of Queens, Francesco "Frankie" Loccisano Way, Borough of Brooklyn, Dr. Jitendra Sukhadia Crossing, Borough of Staten Island, Benny A. Lyde Place, Borough of Brooklyn, Bernard L. Shapiro Boulevard, Borough of Queens, Janice Marie Knight Street, Borough of Brooklyn, Dr. Saul J. Farber Way, Borough of Manhattan, NYS Senator 1956-2006, Hon. John J. Marchi Way, Borough of Staten Island, Catherine Vanden-Heuvel Way, Borough of Staten Island, Elizabeth Stanton Way, Borough of Staten Island, Arthur F. Newcombe Sr. Way, Borough of Staten Island, FDNY Lt. John "Muzz" Murray Way, Borough of Staten Island, Corporal John C. Johnson, Sr. Road, Borough of Staten Island, Custodian Martin T. Cavanagh Way, Borough of Staten Island, Sergeant Gerald A. Johnson Corner, Borough of Staten Island, Carmine Narducci Way, Borough of Staten Island, Bobby Smith Court, Borough of Staten Island, Curtis High School Alumni Way, Borough of Staten Island, Michael Cocozza Way, Borough of Staten Island, Rabbi Dr. Joseph I. Singer Way, Borough of Brooklyn, Sheila Nelson Way, Borough of Brooklyn, P.O. Kevin M. Lee Way, Borough of Staten Island, Eugene S. Devlin III Way, Borough of Staten Island, Michael A. Primiano Way, Borough of Staten Island, Sal Somma Way, Borough of Staten Island, PV2 Isaac T. Cortes Way, Borough of the Bronx, Sister Jane Talbot Way, Borough of Brooklyn, Ken Siegelman Way, Borough of Brooklyn, Lance Corporal Alberto Francesconi Place, Borough of the Bronx, Supervising Fire Dispatcher Dennis Patrick O' Connell Place, Borough of the Bronx, Mr. Joseph Zinzi Place, Borough of the Bronx, J. Clifford Gadsden Place, Borough of Queens, Edith Copeland Baldwin Way, Borough of the Bronx, Det. Rudolph Vinston Edwards, Sr. Way, Borough of the Bronx, Gloria D. Alexander Way, Borough of the Bronx, Dorothy Gomes Way, Borough of the Bronx, Christian Regenhard Way, Borough of the Bronx, Charles Carroccetto Corner, Borough of the Bronx, Officer Dominick Pezzulo Triangle, Borough of the Bronx, Beverly Baxter Blvd., Borough of Queens, Sean Bell Way, Borough of Queens, Ghanwatti Boodram Way, Borough of Queens, Mike Lee Corner, Borough of Brooklyn, Burlingame Court, Borough of Queens, James Court, Borough of Queens, McKee Court, Borough of Queens, Calhoun Court, Borough of Queens, Moncrief Court, Borough of Queens, Lockwood Court, Borough of Queens and the repeal of sections 7 and 10 of local law number 46 for the year 2009, the repeal of sections 17 and 37 of local law number 48 for the year 2008 and the repeal of section 48 of local law number 64 for the year 2008.

Be it enacted by the Council as follows:

Section 1. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Ron Carey Avenue	28th Avenue	Between 203rd and 206th Streets

§2. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Betty Pegen Way	None	At the intersection of 12th Avenue and College Place

§3. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Sol Soskin Way	215th Street	Between 45th Road and Northern Boulevard

§4. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Kenneth Jackson, Jr. Blvd.	Autumn Avenue	Between Conduit Avenue and Sutter Avenue

§5. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Power Memorial Way	None	At the intersection of West 61st Street and Amsterdam Avenue

§6. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Morris R. Lee Place	228th Street	Between Linden Boulevard and 116th Avenue

§7. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
John Hicks Way	West 139th Street	Between Edgecombe Avenue and Frederick Douglas Boulevard

§8. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Sugar Ray Robinson Way	Adam Clayton Powell, Jr. Boulevard	Between 123rd Street and 124th Street

§9. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Anthony Aristedes Delgado Way	None	At the corner of Central Avenue and Palmetto Street

§10. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Thomas Joseph Sgroi A 9-11 Memorial Way	None	Northeast corner of 15th Avenue and 15th Street

§11. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Mitad del Mundo	Elmhurst Avenue	Between 94th Street and 95th Street

§12. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Veterans Memorial	Whitney Avenue	Between Gerritsen

Way		Avenue and Burnett Street

§13. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Rev. Robert G. Lane Blvd.	Washington Avenue	Between East 165th Street and East 166th Street

§14. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
FF Alfred Ronaldson Place	Washington Avenue	Between East 172nd Street and East 173rd Street

§15. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Walter L. Johnson Corner Developer of Dyker Heights	None	At the southwest corner of 82nd Street and 11th Avenue

§16. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Rosemarie O' Keefe Way	None	At the intersection of Bay Ridge Parkway and 5th Avenue

§17. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Hank Vogt Way	None	At the intersection of 85th Street and 7th Avenue

§18. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Dr. Michael Brienza Way	None	At the intersection of 15th Avenue and Cropsey Avenue

§19. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Hon. Thomas Tam Way	None	Underneath the Canal Street sign on the Southeast corner of Canal and Cortland Alley

§20. The following street name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
The Bowery Mission Way	227 Bowery at the intersection with Prince Street	Between Rivington Street and Stanton Street

§21. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Roger Laghezza Place	None	At the intersection of 29th Street and 39th Avenue

§22. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Nicolas A. Nowillo Place	None	At the intersection of Crescent Street and 40th Avenue

§23. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Francesco "Frankie" Loccisano Way	None	At the intersection of 63rd Street and 14th Avenue

§24. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Dr. Jitendra Sukhadia Crossing	None	At the intersection of Amboy Road and Arden Avenue

§25. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Benny A. Lyde Place	None	At the northeast corner of Lincoln Place and New York Avenue

§26. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Bernard L. Shapiro Boulevard	None	At the intersection of Parsons Boulevard and 24th Avenue

§27. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Janice Marie Knight Street	East 40th Street	Between Lenox Road and Clarkson Avenue

§28. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Dr. Saul J. Farber Way	None	At the intersection of East 30th Street and First Avenue

§29. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
NYS Senator 1956-2006, Hon. John J. Marchi Way	None	At the intersection of Nixon Avenue and Ward Avenue

§30. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Catherine Vanden-Heuvel Way	None	At the intersection of Mountainview Avenue and Purdy Avenue

§31. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Elizabeth Stanton Way	None	At the intersection of Richmond Terrace and Jersey Street

§32. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Arthur F. Newcombe Sr. Way	None	At the intersection of Henderson Avenue and Broadway

§33. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
FDNY Lt. John "Muzz" Murray Way	None	At the intersection of Kingsley Avenue and Manor Road

§34. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Corporal John C. Johnson, Sr. Road	None	At the intersection of Curtis Avenue and Manor Road

§35. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Custodian Martin T. Cavanagh Way	None	At the intersection of Benziger Avenue and Daniel Low Terrace

§36. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Sergeant Gerald A. Johnson Corner	None	At the intersection of Floyd Street and Raymond Place

§37. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Carmine Narducci Way	None	At the intersection of Maple Parkway and Walloon Avenue

§38. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Bobby Smith Court	None	At the intersection of Lawrence Avenue and Forest Avenue

§39. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Curtis High School Alumni Way	None	At the intersection of Nicholas Street and St. Marks Place

§40. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Michael Cocozza Way	None	At the intersection of St. Mary's Avenue and Ormond Place

§41. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Rabbi Dr. Joseph I. Singer Way	None	At the intersection of West End Avenue and Cass Place

§42. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Sheila Nelson Way	None	At the intersection of East 21st Street and Emmons Avenue

§43. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
P.O. Kevin M. Lee Way	None	At the intersection of Cromwell Avenue and Hylan Boulevard

§44. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Eugene S. Devlin III Way	None	At the intersection of Todt Hill Road and Flagg Place

§45. The following street name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Michael A. Primiano Way	8th Street	Between New Dorp Lane and Rose Avenue

§46. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Sal Somma Way	None	At the intersection of New Dorp Lane and Hylan Boulevard

§47. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
PV2 Isaac T. Cortes Way	Unionport Road	Between Metropolitan Oval and Starling Avenue

§48. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Sister Jane Talbot Way	East 4th Street	Between Avenue W and Gravesend Neck Road

§49. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Ken Siegelman Way	West 5th Street	Between Avenue V and Wolf Place

§50. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Lance Corporal Alberto Francesconi Place	None	At the intersection of East 187th Street and Park Avenue

§51. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits

Supervising Fire Dispatcher Dennis Patrick O' Connell Place	East 180th Street	Between Bronx Park Avenue and Devoe Avenue

§52. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Mr. Joseph Zinzi Place	None	At the intersection of Arthur Avenue and East 187th Street

§53. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
J. Clifford Gadsden Place	175th Street	Between 145th Avenue and 146th Avenue

§54. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Edith Copeland Baldwin Way	None	At the intersection of Tilden Street and Barnes Avenue

§55. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Det. Rudolph Vinston Edwards, Sr. Way	None	At the intersection of Schieffelin Avenue and Baychester Avenue

§56. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Gloria D. Alexander Way	Digney Avenue	Between East 233rd Street and Bussing Avenue

§57. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Dorothy Gomes Way	None	Edenwald Avenue and East 233rd Street

§58. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Christian Regenhard Way	None	At the intersection of Aldrich Street and Asch Loop

§59. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Charles Carroccetto Corner	None	At the intersection of Crosby Avenue and Roberts Avenue

§60. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Officer Dominick Pezzulo Triangle	None	At the intersection of the Hutchinson River Parkway and East Tremont Avenue

§61. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Beverly Baxter Blvd.	Rockaway Beach Boulevard	Between the west side of Beach 108 Street to the east side of Beach 116th Street

§62. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Sean Bell Way	Liverpool Street	Between 94th Avenue and 101st Street

§63. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Ghanwatti Boodram Way	260th Street	Between 80th Avenue and 81st Avenue

§64. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Mike Lee Corner	None	At the intersection of Wythe Avenue and North 6th Street

§65. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Burlingame Court	163rd Road	Between 104th Street and Hawtree Basin

§66. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
James Court	163rd Drive	Between 104th Street and Hawtree Basin

§67. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
McKee Court	164th Avenue	Between 104th Street and Hawtree Basin

§68. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Calhoun Court	164th Road	Between 104th Street and Hawtree Basin

§69. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Moncrief Court	164th Drive	Between 104th Street and Hawtree Basin

§70. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Lockwood Court	165th Avenue	Between 104th Street and Hawtree Basin

§71. Sections 7 and 10 of local law number 46 for the year 2009 are hereby REPEALED.

§72. Sections 17 and 37 of local law number 48 for the year 2008 are hereby REPEALED.

§73. Section 48 of local law number 64 for the year 2008 is hereby REPEALED.

§74. This local law shall take effect immediately.

HELEN D. FOSTER, Chairperson; ALAN J. GERSON, HELEN SEARS, LETITIA JAMES, Committee on Parks and Recreation, December 17, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Reports of the Committee on Transportation

Override Report for Int. No. 662-A

Report of the Committee on Transportation in favor of approving, nothwithstanding the objection the Mayor, and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to clergy parking permits.

The Committee on Transportation, to which the annexed amended proposed local law was referred on December 16, 2007 (Minutes, page 5293) which was later adopted by the Council on November 16, 2009 (Minutes, page 5707) but vetoed by the Mayor on December 8, 2009, respectfully

REPORTS:

INTRODUCTION

On December 14, 2009, the Committee on Transportation, chaired by Council Member John Liu, will hold a hearing on Int. No. 662-A regarding clergy parking permits. This committee held a first hearing on Int. No. 662-A on May 21, 2009 and another hearing on November 16, 2009.

BACKGROUND

On July 31, 1996, the Council adopted a bill that would create clergy parking permits.[1] Then Mayor Rudolph W. Giuliani signed the bill into law on August 14, 1996.[2] Clergy parking permits allow for up to four hours of parking in no parking zones adjacent to the clergymember's house of worship and up to three hours in no parking zones adjacent to hospitals.[3] DOT has issued approximately 400 clergy parking permits.[4]

Some members of the clergy believe that DOT's clergy parking permit program is overly restrictive, denying some legitimate clergymembers a permit, and that the areas where clergy are allowed to park needs to be expanded.[5] Among some of the clergymember concerns are (i) clergymembers cannot derive their principal income from an outside source, which arguably discriminates against smaller churches unable to pay for a full-time clergymember; (ii) clergymember vehicles must be registered in New York State, but some clergymembers live out-of-state; (iii) the vehicle associated with the clergy parking permit must be registered in the clergymember's name, which may cause problems for some clergy who take vows of poverty; and (iv) parking permits should allow clergymembers to park adjacent to funeral homes, where they are often officiate at a funeral.[6] This bill would attempt to address these concerns and others.

ANALYSIS

Section one of Int. No. 662-A would amend paragraph one of subdivision a of section 19-162.1, which defines the term "member of the clergy," by replacing the term "clergyman" with "clergymember," removing provisions excluding clergy who derive their principal income from any other occupation or profession or who do not officiate or preside over services on behalf of a religious corporation or association of any denomination and requiring clergy to work on average twenty hours per week on behalf of a religious corporation or association to qualify for a permit.

Section two of Int. No. 662–A would amend paragraph two of subdivision a of section 19-162.1 by amending the definition of "passenger car" as used in such section to mean a motor vehicle lawfully registered in any state, designed and used for carrying not more than fifteen people, including the driver. Section three of Int. No. 662-A would amend subdivision a of section 19-162.1 by adding a new paragraph 5 defining funeral establishment as used in the section to mean a place devoted to or used for the care and preparation of a body of a deceased person for disposition and for mourning or funeral ceremonial purposes.

Section four of Int. No. 662-A would amend subdivision b of section 19-162.1 to allow a clergymember to park a passenger car which is owned, registered or leased by a clergymember or by a religious corporation or association employing such clergymember to park in certain areas where parking is prohibited by a sign. Subdivision b would be further amended to increase the time that a clergymember is allowed to park adjacent to his or her house of worship from four to five hours and adding a new subparagraph (iii), which would allow members of the clergy with an appropriate department permit to park for a period of up to four hours on the roadway adjacent to a funeral establishment when such member of the clergy is performing official duties at such funeral establishment. Section five of Int. No. 662-A would provide that this local law shall take effect sixty days after it is enacted into law.

[1] Vivian S. Toy, "'No Parking'? No Problem, For the Clergy," New York Times, Aug. 1, 1996. Information retrieved from http://www.nyc.gov/html/dot/html/permits/clergy.shtml on May 18, 2009.
[2] *Id.*
[3] Reuven Blau and Kathianne Boniello, "Kabbalah Parking Paradise," New York Post, July 20, 2008.
[4] Meeting regarding Clergy Parking Permits between clergymembers, Council Members and council staff on March 24, 2009.
[5] *Id.*

(The following is from the text of the Fiscal Impact Statement for Int. No. 662-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 11
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There would be minimal to no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: There would be minimal to no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Nathan Toth, Assistant Director
Chima Obichere, Supervising Legislative Financial Analyst

HISTORY: Introduced as Int. 662 by Council and referred to the Committee on Transportation on December 11, 2007.
Hearing held and laid over by the Committee on May 21, 2009. An amended version (Proposed Intro. 662-A) is to be considered by the Committee on November 16, 2009.

DATE SUBMITTED TO COUNCIL: December 11, 2007.

Accordingly, notwithstanding the objection of the Mayor, Your Committee recommends the adoption of Int. No. 662-A, as amended.

(The following is the text of Int. No. 662-A:)

Int. No. 662-A

By Council Members Jackson, Comrie, Dickens, Gennaro, Gentile, Gerson, Gonzalez, Stewart, Arroyo, Seabrook, Mealy, Yassky, James, Reyna, White, Liu, Eugene, Koppell, Recchia, Weprin, Mark-Viverito, Avella, Barron, de Blasio, Felder, Ferreras, Fidler, Foster, Gioia, Lappin, Mendez, Mitchell, Nelson, Palma, Rivera, Sanders Jr., Sears, Vann, Ignizio, Oddo, Ulrich and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to clergy parking permits.

Be it enacted by the Council as follows:

Section 1. Paragraph 1 of subdivision a of section 19-162.1 of the administrative code of the city of New York is amended to read as follows:

1. The term "member of the clergy" as used in this section means a clergy[man]*member* or minister as defined in the religious corporations law including, but not limited to a pastor, rector, priest, rabbi or iman who officiates at or presides over services on behalf of a religious corporation or association of any denomination *and works an average of at least twenty hours per week on behalf of such religious corporation or association*. [Such term shall not include clergy who derive their principal income from any other occupation or profession or who do not

officiate at or preside over services on behalf of a religious corporation or association of any denomination.]

§2. Paragraph 2 of subdivision a of section 19-162.1 of the administrative code of the city of New York is amended to read as follows:

2. The term "passenger car" as used in this section means a motor vehicle*, lawfully registered in any state,* designed and used for carrying not more than fifteen people, including the driver. Such term shall not include a vehicle licensed to operate pursuant to chapter five of this title or a commercial vehicle as defined in section 19-170 of this code.

§3. Subdivision a of section 19-162.1 of the administrative code of the city of New York is amended by adding a new paragraph 5 to read as follows:

5. The term "funeral establishment" as used in this section means a place devoted to or used for the care and preparation of a body of a deceased person for disposition and for mourning or funeral ceremonial purposes.

§4. Subdivision b of section 19-162.1 of the administrative code of the city of New York is amended to read as follows:

b. Notwithstanding any local law or rule to the contrary, it shall be permissible for a member of the clergy to park a passenger car which is owned, registered or leased by such member of the clergy *or by a religious corporation or association employing such member of the clergy* and displays an appropriate department permit, in an available space where parking is prohibited by a posted sign (i) for a period of up to [four] *five* hours upon the roadway adjacent to the house of worship at whose services such member of the clergy officiates or presides as noted on such permit [or], (ii) for a period of up to three hours on the roadway adjacent to a hospital when such member of the clergy is performing official duties at such hospital*, or (iii) for a period of up to four hours on the roadway adjacent to a funeral establishment when such member of the clergy is performing official duties at such funeral establishment*. It shall not be permissible for a member of the clergy to park where parking is prohibited by rule or where stopping or standing are prohibited by a posted sign or rule.

§ 5. This local law shall take effect sixty days after it is enacted into law.

JOHN C. LIU, Chairperson; DIANA REYNA, GALE A. BREWER, G. OLIVER KOPPELL, LARRY B. SEABROOK, DANIEL R. GARODNICK, JESSICA S. LAPPIN, DARLENE MEALY, YDANIS RODRIGUEZ, VINCENT M. IGNIZIO, ERIC A. ULRICH, Committee on Transportation, December 14, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Override Report for Int. No. 907

Report of the Committee on Transportation in favor of approving, nothwithstanding the objection the Mayor, and adopting, a Local Law to amend the administrative code of the city of New York, in relation to establishing a grace period for certain parking violations.

The Committee on Transportation, to which the annexed proposed local law was referred on January 7, 2009 (Minutes, page 84) which was later adopted by the Council on November 16, 2009 (Minutes, page 5711) but vetoed by the Mayor on December 8, 2009, respectfully

REPORTS:

INTRODUCTION

On December 14, 2009, the Committee on Transportation, chaired by Council Member John Liu, will hold a hearing on Int. No. 907. Int. No. 907 would amend the Administrative Code of the City of New York to establish a grace period for certain parking violations. The Committee first heard this bill on February 25, 2009 and held another hearing on November 16, 2009.

BACKGROUND

From July 2007 to July 2008, City traffic enforcement agents ("TEAs") issued over 9.9 million parking tickets.[1] Parking tickets have surged 42 percent since 2002 and the City has collected 64 percent more in fines over the same period.[2] Additionally, during the Bloomberg Administration, the number of TEAs have increased by 793, to the current level of 2,529 agents.[3] The increase in both number of violations issued and staff has resulted in allegations of overzealous ticketing.[4]

Another factor adding to the increased ticketing is the elimination of the policy that granted drivers an informal grace period.[5] The agents are currently instructed to use "common sense," when issuing tickets.[6] The City also now has the ability to adjudicate parking tickets faster. In 2005, the Department of Finance introduced a settlement program to encourage quicker dispositions of violations by offering a lower fine in exchange for foregoing a hearing.[7]

In Fiscal Year 2008, parking fines totaled over $624 million, lending credence to allegations that violations are being written to generate revenue for the City, instead of for maintaining traffic safety. Of the 9.9 million summonses, 276,000 were issued within five minutes of alternate-side parking regulations going into effect and 28,000 issued at the exact minute the regulation went into effect.[8]

Several jurisdictions throughout the United States have implemented (temporarily in some cases) or are considering implementing a parking meter grace period, including Ann Arbor, Michigan;[9] Santa Rosa, California;[10] Montclair[11] and Princeton, New Jersey;[12] and Tempe, Arizona.[13] In some of these instances, the grace period, which fluctuates between five and ten minutes, was created administratively, and in others, legislatively.[14]

Int. No. 907 would provide a five minute grace period for motorists who park their vehicles at munimeters and on certain streets where parking is regulated by signs.

ANALYSIS

Section one of Int. No. 907 would add a new section 19-213 of the Administrative Code entitled "Grace period." Subdivision a of new section 19-213 would define the term "munimeter receipt" to mean the receipt showing the amount of parking time purchased that is dispensed by an electronic parking meter and must be displayed in a conspicuous place on a vehicle's dashboard.

Subdivision b of new section 19-213 would mandate that no notice of violation shall be issued for allegedly parking in excess of the allotted time displayed on a munimeter receipt or longer than the time period allowed by a sign posted by the department until five minutes after the time that such a violation occurs.

Section two of Int. No. 907 would provide that this local law take effect ninety days after it is enacted into law.

Editor's Note Update:

On November 16, 2009, the Committee passed this legislation. On November 16, 2009, Int. No. 907 was approved by the Council and sent to the Mayor.

On December 8, 2009, the Mayor vetoed Int. No. 907.

[1] Matthew Bloch & Amanda Cox, "A Year of Parking Tickets," New York Times, Nov. 26, 2008.
[2] Jo Craven McGinty & Ralph Blumenthal, "Adding to the City's Coffers, One Ticket at a Time," New York Times, Nov. 27, 2008.
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] Jo Craven McGinty & Ralph Blumenthal, "Fighting Parking Tickets Gets Harder", New York Times, Jan. 24, 2009.
[8] *Id.*
[9] Ann Arbor City Council, *Ann Arbor City Council Minutes- Budget Working Session* 2001, http://www.a2gov.org/government/city_administration/City_Clerk/Council_Agenda_Information/Documents/Minutes/2001/05-14-01.pdf.
[10] Santa Rosa City Council, *City of Santa Rosa City Council* 2008, http://ci.santa-rosa.ca.us/doclib/agendas_packets_minutes/Documents/20081216_CC_Item11.3.pdf.
[11] Liz George, "Skipping Grace", Baristanet, Apr. 23, 2007.
[12] Terry Pristin, "Getting Tougher (Or Gentler) on Parking Fines", New York Times, Mar. 23, 1997.
[13] Tempe City Council, *City Council's Finance, Economy & Veterans' Affairs Committee* 2007, http://www.tempe.gov/PublicBodies/Archive/FinanceEconomicAndVeteransAffairs/20070220FinanceEconomyVeteransAffairsMinutes.pdf.
[14] *Id.*

(The following is from the text of the Fiscal Impact Statement for Int. No. 907:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 11
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: It is estimated that there would be minimal to no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Nathan Toth, Assistant Director
Chima Obichere, Supervising Legislative Financial Analyst

HISTORY: Introduced as Intro. 907 by the Council on January 7, 2009 and referred to the Committee on Transportation. Hearing was held on February 25, 2009 and laid over by the Committee. Intro. 907 was voted out of the Committee and passed by the Full Council on November 16, 2009. On December 8, 2009 the

Council received a Mayor's veto and disapproval message – M 1689-2009. This bill will be considered again by the Committee on December 14, 2009 for an override of the veto, and will be considered by the Full Council on December 21, 2009.

DATE SUBMITTED TO COUNCIL: January 7, 2009.

Accordingly, notwithstanding the objection of the Mayor, Your Committee recommends the adoption of Int. No. 907.

(The following is the text of Int. No. 907:)

Int. No. 907

By Council Members Felder, Vacca, Barron, Comrie, Fidler, Gentile, Jackson, James, Nelson, Sears, Weprin, Stewart, Palma, Yassky, Gerson, Koppell, Gennaro, White, Liu, Eugene, Ulrich, Dickens, Vallone Jr., Recchia, Mark-Viverito, Mealy and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to establishing a grace period for certain parking violations.

Be it enacted by the Council as follows:

Section 1. Chapter two of title 19 of the administrative code of the city of New York is amended by adding a new section 19-213 to read as follows:

§19-213. Grace period. a. For the purposes of this section, the term "munimeter receipt" shall mean the receipt showing the amount of parking time purchased that is dispensed by an electronic parking meter and must be displayed in a conspicuous place on a vehicle's dashboard.

b. No notice of violation shall be issued for allegedly parking in excess of the allotted time displayed on a munimeter receipt or longer than the time period allowed by a sign posted by the department until five minutes after the time that such a violation occurs.

§2. This local law shall take effect ninety days after it is enacted.

JOHN C. LIU, Chairperson; DIANA REYNA, GALE A. BREWER, G. OLIVER KOPPELL, LARRY B. SEABROOK, JESSICA S. LAPPIN, DARLENE MEALY, YDANIS RODRIGUEZ, VINCENT M. IGNIZIO, ERIC A. ULRICH, Committee on Transportation, December 14, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for Int. No. 1063-A

Report of the Committee on Transportation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to notice of major transportation projects.

The Committee on Transportation, to which the annexed amended proposed local law was referred on August 20, 2009 (Minutes, page 4665), respectfully

REPORTS:

INTRODUCTION

On December 21, 2009, the Committee on Transportation, chaired by Council Member John Liu, will hold a hearing on Proposed Int. No. 1063-A. This legislation would amend the Administrative Code of the City of New York, to require the Department of Transportation ("DOT") to provide notice of major transportation projects to affected council member(s) and community board(s).

BACKGROUND

The City Charter authorizes DOT to have charge and control of the construction, maintenance and repair of public roads, streets, highways, parkways, bridges and tunnels.[1] Recently, there have been some complaints that when DOT does a major transportation project, it does not give notice or enough notice to the all parties that might be affected by the project.[2] This bill would seek to ensure that the public gets sufficient notice of certain major projects by requiring DOT to at least provide notice to affected community boards and council members.

The Council intends for this bill to provide minimum notice requirements for major transportation projects. Nothing in this bill should be construed to prohibit DOT, or other City agencies that implement major transportation projects, from providing notice that exceeds the requirements of this bill, including for length of notice, requirements for number of public hearings, etc. The Council expects City agencies, when performing major transportation projects that will severely affect an area, to provide notice that exceeds the requirements of this bill.

ANALYSIS

Section one of Pro. Int. No. 1063-A would add a new section 19-101.2 entitled "Review of major transportation projects" to the code. Paragraph 1 of new subdivision a would define the term "Affected council member(s) and community board(s)," to mean the council member(s) and community board(s) in whose districts a proposed major transportation project is to be located. Paragraph 2 of new subdivision a would define "Major transportation project," to mean any project that, after construction will alter four or more consecutive blocks, or 1,000 consecutive feet of street, whichever is less, involving a major realignment of the roadway, including wither removal of a vehicular lane (s) or full time removal of a parking lane(s) or addition of vehicular travel lane(s).

Subdivision b of new section 19-101.2 would provide that if any agency of the City other than DOT implements a major transportation project, such agency, in lieu of DOT, shall provide the notice required by new section 19-101.2. Subsection c would provide that prior to implementation of a major transportation project, DOT shall forward notice of such project to affected council member(s) and community board(s) by electronic mail.

Subsection d would provide that within ten business days after receipt of notice, the affected council member(s) may submit recommendations and/or comments on such notice to DOT and the affected community board(s) may submit recommendations and/or comments on such notice to DOT and/or request a presentation of the major transportation project plan by DOT, which shall be made to the community board within thirty days of such community board's request.

Subsection e would provide that DOT's presentation to the community board include, at a minimum, the project limits, a description, and a justification of such plan, and a map showing the streets affected by such plan, and within three days of such presentation, shall be forwarded to the affected council member(s).

Subdivision f would provide that DOT consider recommendations and comments, if any, made under subdivision d of new section 19-101.2 and/or within seven days of the presentation to the community board, from the affected council member(s) and affected community board(s), and may incorporate changes, where appropriate, into the plan.

Subdivision g would provide that DOT may implement its plan fourteen or more days after it sends an amended plan or notice that it will proceed with its original plan to the affected council member(s) and community board(s).

Subdivision h would provide that nothing in new section 19-101.2 be construed to prohibit DOT or other City agencies from providing notice of its major transportation projects on its website and to affected council member(s) and community board(s) and other interested parties by other means in addition to those specified in this section.

Subdivision i would provide that nothing contained in new section 19-101.2 be construed to require DOT to provide notification of major transportation projects requiring immediate implementation to preserve public safety.

Section two of Proposed Int. No. 1063-A would provide that this local law take effect one hundred twenty days after its enactment.

[1] City Charter §2903.
[2] Michael Crowley, "Honk, Honk, Aaah " New York Magazine, May 17, 2009, retrieved from http://nymag.com/news/features/56794/ on Oct. 6, 2009.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1063-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 11
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: It is estimated that there would be minimal to no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Nathan Toth, Assistant Director
Chima Obichere, Supervising Legislative Financial Analyst

HISTORY: Int. 1063 was introduced by the Council and referred to the Committee on Transportation on August 20, 2009. Hearing held and laid over by the

Committee on October 8, 2009. The amended version, Proposed Int. 1063-A will be considered by the Committee on December 21, 2009.

DATE SUBMITTED TO COUNCIL: August 20, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1063-A:)

Int. No. 1063-A

By Council Members Gerson, Gentile, Vacca, Comrie, Foster, Gonzalez, James, Lappin, Nelson, Liu, White Jr., Arroyo, Garodnick, Jackson, Mealy, Weprin and Yassky.

A Local Law to amend the administrative code of the city of New York, in relation to notice of major transportation projects.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 19 of the administrative code of the city of New York is amended by adding a new section 19-101.2 to read as follows:

§19-101.2 Review of major transportation projects. a. For the purposes of this section, the following terms shall be defined as follows:

1. "Affected council member(s) and community board(s)" shall mean the council member(s) and community board(s) in whose districts a proposed major transportation project is to be located, in whole or in part.

2. "Major transportation project" shall mean any project that, after construction will alter four or more consecutive blocks, or 1,000 consecutive feet of street, whichever is less, involving a major realignment of the roadway, including either removal of a vehicular lane(s) or full time removal of a parking lane(s) or addition of vehicular travel lane(s).

b. If an agency of the city other than the department implements a major transportation project, such agency, in lieu of the department, shall provide the notice required by this section.

c. Prior to the implementation of a major transportation project, the department shall forward notice of such project to affected council member(s) and community board(s) by electronic mail.

d. Within ten business days after receipt of such notice: (i) the affected council member(s) may submit recommendations and/or comments on such notice to the department; and (ii) the affected community board(s) may either submit recommendations and/or comments on such notice to the department and/or request a presentation of the major transportation project plan by the department, which shall be made to the community board within thirty days of such community board's request.

e. Each presentation shall include, at a minimum, the project limits, a description, and a justification of such plan, and a map showing the streets affected by such plan and, within three days of such presentation, shall be forwarded to the affected council member(s).

f. The department shall consider recommendations and/or comments, if any, made under the provisions of subdivision d of this section and/or within seven days of the presentation to the community board, from the affected council member(s) and affected community board(s), and may incorporate changes, where appropriate, into the plan.

g. The department may implement its plan fourteen or more days after it sends an amended plan or notice that it will proceed with its original plan to the affected council member(s) and community board(s).

h. Nothing in this section shall be construed to prohibit the department from providing notice of its major transportation projects on its website and to affected council member(s) and community board(s) and other interested parties by other means in addition to those specified in this section.

i. Nothing in this section shall be construed to require the department to provide notification of major transportation projects requiring immediate implementation to preserve public safety.

§2. This local law shall take effect one hundred and twenty days after it is enacted into law.

JOHN C. LIU, Chairperson; DIANA REYNA, GALE A. BREWER, G. OLIVER KOPPELL, LARRY B. SEABROOK, JESSICA S. LAPPIN, DARLENE MEALY, YDANIS RODRIGUEZ, VINCENT M. IGNIZIO, ERIC A. ULRICH, Committee on Transportation, December 14, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for M-1688

Report of the Committee on Transportation in favor of filing a Communication from the Mayor regarding the Mayors veto and disapproval message of Introductory Number 662-A, in relation to clergy parking permits.

The Committee on Transportation, to which the annexed communication was referred on December 9, 2009 (Minutes, page 5888), respectfully

REPORTS:

Since this Committee is adopting Int No. 662-A, notwithstanding the objection of the Mayor, the Committee recommends the filing of M-1688 (the Mayor's veto and disapproval of Int No. 662-A) and thereby recommends the removal of M-1688 from the Council's legislative calendar.

Accordingly, Your Committee recommends the filing of M-1688.

JOHN C. LIU, Chairperson; DIANA REYNA, GALE A. BREWER, G. OLIVER KOPPELL, LARRY B. SEABROOK, JESSICA S. LAPPIN, DARLENE MEALY, YDANIS RODRIGUEZ, VINCENT M. IGNIZIO, ERIC A. ULRICH, Committee on Transportation, December 14, 2009.

Coupled to be Filed.

Report for M-1689

Report of the Committee on Transportation in favor of filing a Communication from the Mayor regarding the Mayors veto and disapproval message of Introductory Number 907, in relation to establishing a grace period for certain parking violations.

The Committee on Transportation, to which the annexed communication was referred on December 9, 2009 (Minutes, page 5890), respectfully

REPORTS:

Since this Committee is adopting Int No. 907, notwithstanding the objection of the Mayor, the Committee recommends the filing of M-1689 (the Mayor's veto and disapproval of Int No. 907) and thereby recommends the removal of M-1689 from the Council's legislative calendar.

Accordingly, Your Committee recommends the filing of M-1689.

JOHN C. LIU, Chairperson; DIANA REYNA, GALE A. BREWER, G. OLIVER KOPPELL, LARRY B. SEABROOK, JESSICA S. LAPPIN, DARLENE MEALY, YDANIS RODRIGUEZ, VINCENT M. IGNIZIO, ERIC A. ULRICH, Committee on Transportation, December 14, 2009.

Coupled to be Filed.

GENERAL ORDER CALENDAR

Report for Int. No. 1083-A

Report of the Committee on Parks and Recreation in favor of approving and adopting, as amended, a Local Law to amend the administrative code of the city of New York, in relation to requiring local representation on park conservancies.

The Committee on Parks and Recreation, to which the annexed amended proposed local law was referred on September 17, 2009 (Minutes, page 4853) which was originally presented before the Council on December 9, 2009 but was laid over (Minutes, page 5992), respectfully

REPORTS:

BACKGROUND

On December 8, 2009, the Committee on Parks and Recreation, chaired by Council Member Helen Diane Foster, held a hearing on Proposed Int. No. 1083-A, A Local Law to amend the administrative code of the city of New York, in relation to requiring local representation on park conservancies. This was the second hearing

concerning this legislative manner. At this hearing, the Committee voted 4-0 in support of this bill.

During the 1970's, New York City (NYC) experienced financial difficulties that led to budget reductions. All NYC agencies including the Department of Parks and Recreation (DPR) were affected by the cuts. As a result of these budget cuts, many of the City's Parks were in a state of disrepair or neglect due to the lack of sufficient funding to provide the necessary level of maintenance and upkeep. The need to continue upkeep in order to maintain the parks led DPR to initiate agreements with not-for-profit organizations who in turn, would contribute and take on most of the responsibilities to maintain the parks. The agreements between DPR and the not-for-profit organizations became known as partnerships, now often referred to as conservancies.[1]

The conservancies and other park organizations are funded primarily from contributions made by individuals, corporations, and foundations within the metropolitan area, as well as project and contract revenue pursuant to its partnership agreement with DPR. These amounts are used to fund major capital improvements, provide horticulture care and maintenance, and offer programs for volunteers and visitors to Central Park, or other parks.[2]

Park Conservancies are typically comprised of a Board of Trustees which includes the Parks Commissioner and the Borough President, both ex officio, Trustees appointed by the Mayor of the City of New York and private sector members representing the City's business and philanthropic communities.[3]

The purpose of this bill is to ensure that Conservancies that often set policy for parks contain neighborhood representation. As noted above, conservancy arrangements generally are license agreements between the City and a private not for profit entity that permits that entity to operate a public park or portion of a park. Much of the staffing and programming is then provided for by the conservancy. While many people view conservancies as important fundraisers which keep public parks functioning with less of a drain on the City's budget, others see conservancies as entities having no accountability, with private interests governing public space. Moreover, there are some concerns that conservancies do not have proper representation from the geographic area that they serve.

Proposed Int. No. 1083-A

Proposed Int. No. 1083-A would mandate that for any conservancy arrangement, there be one or more individuals appointed or elected to the Board of Directors of such conservancy, known as a "local representative", who either reside or maintain a place of business within each Council District where the park that such conservancy oversees is located or abuts. There will be a maximum of two of the abutting districts represented at any one time, and in the event more than two districts abut the park, the local representation would be rotated. There will also be a maximum of 20 percent of "local representatives" on any such Board of Directors. In addition, the bill exempts any not-for-profit entity that manages a park or portion of a park in three or more boroughs. Proposed Int. No.1083-A is aimed at traditional park conservancies as distinct from cultural institutions that operate and program City parks under the jurisdiction of the Department of Cultural Affairs in support of living collections, horticulture, historic preservation and the like.

The local representative will be designated by the Department of Parks and Recreation in consultation with the relevant Council Member(s). Prior to such designation, the Commissioner will consult with the local Council Member(s) and will accept written recommendations from such Council Member(s). While the details of such consultation would be determined by the Parks Department, there would be required a minimum 30 day period from the time of the initial consultation until the Parks Department designation of the local representative. During that time, the Council Member could send written suggestions as to who such local representative should be.

[1] Audit Report on the New York City Department of Parks and Recreation's Oversight of Public-Private Partnerships by the Office of the State Comptroller, June 11, 2002.
[2] Central Park Conservancy annual report September 23, 2005.
[3] *See*, The Official Website for Central Park at http://www.centralparknyc.org/aboutcpc/partnership.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1083-A:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	$0	$0	$0
Expenditures (-)	$0	$0	$0
Net	$0	$0	$0

IMPACT ON REVENUES: There would be no impact on revenues resulting from the enactment of this legislation.

IMPACT ON EXPENDITURES: There would be no impact on expenditures resulting from the enactment of this legislation.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION: City Council Finance Division

ESTIMATE PREPARED BY: Jonathan Rosenberg, Deputy Director
Walter Pitts, Legislative Financial Analyst

HISTORY: Introduced as Int. 1083 by Council and referred to the Committee on Parks and Recreation on September 17, 2009. On October 30, 2009, the Committee held a hearing on Proposed Int. 1083 and it was laid over. A further amendment has been proposed, and the bill will be considered by Committee as Proposed Int. 1083-A on December 8, 2009.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 1083-A:)

Int. No. 1083-A

By Council Members Mark-Viverito, Avella, Jackson, Barron, Dickens, James, Koppell, Lappin, Palma, Sanders, Seabrook, Nelson, Foster, Ferreras, Vann, Mendez, Sears, Liu, White, Arroyo and Rodriguez.

A Local Law to amend the administrative code of the city of New York, in relation to requiring local representation on park conservancies.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 18 of the administrative code of the city of New York is amended by adding a new section 18-137 to read as follows:

§18-137 Representation on park conservancies. a. For purposes of this section, the following terms shall have the following meanings:

1. "Conservancy" shall mean any not-for-profit entity that operates any park or portion of any park under the jurisdiction of the commissioner, pursuant to a written conservancy arrangement, provided that "conservancy" shall not include any not-for-profit entity that operates in three or more boroughs.

2. "Conservancy arrangement" shall mean any license or other written authorization allowing a conservancy to operate any park or portion of any park under the jurisdiction of the commissioner.

3. "Operates" shall mean the ability to hire a majority of full time staff for such park.

4. "Local representative" shall mean an individual who resides within or whose place of business is located within a council district in which such park is located or which such park abuts.

b. Any conservancy arrangement entered into, renewed or otherwise granted or executed on or after the effective date of the local law that added this section shall require that at least one local representative from each council district where such park is located or which such park abuts be a voting member of the board of directors, or other governing body of such conservancy, provided that no more than one local representative from each council district in which such park is located and one local representative from two of the council districts which abut such park shall be required, and provided further that no more than twenty percent of the total appointed or elected membership of such conservancy's board of directors or other governing body shall be required to be local representatives. Such local representatives shall be designated in consultation with the council members representing the districts in which the park is located or which abut such park. The nature of such consultation shall be determined by the department, provided that the department shall make the designation of each local representative not less than thirty days following its initial consultation with the appropriate council member, during which time the council member may make a written recommendation regarding the local representative to be designated from their district. In the event that representation from council districts from which a local representative may be designated would in the aggregate be greater than twenty percent of the total appointed membership of such conservancy's board of directors or other governing body or there are more than two council districts abutting such park, the department may determine which council districts shall be represented initially, in consultation with the appropriate council members, with districts from which local representatives shall be designated rotating thereafter in a manner to be determined by the department.

§2. This local law shall take effect immediately upon enactment.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1227 & Res. No. 2319

Report of the Committee on Land Use in favor of approving and adopting Uniform Land Use Review Procedure application no. C 090413 ZMK pursuant to §197-c and §197-d of the New York City Charter, concerning

changes to the zoning map, Section No.13b, Borough of Brooklyn, Council District no. 33.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on September 30, 2009 (Minutes, page 5230) and originally reported to the Council on December 9, 2009 (Minutes, page 5982), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1 **C 090413 ZMK**

City Planning Commission decision approving an application submitted by the New York City Department of Housing Preservation and Development pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 13b.

INTENT

To facilitate the development of six sites containing residential, commercial and community facility uses within the Broadway Triangle Urban Renewal Area.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 7, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2319

Resolution approving the decision of the City Planning Commission on ULURP No. C 090413 ZMK, a Zoning Map amendment (L.U. No. 1227).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map to rezone 9 blocks bounded by Lynch Street, Throop, Flushing Avenue and Harrison Avenue, Walton Street, and Union Avenue from C8-2, M1-2, and M3-1 to C4-3, R6A and R7A districts with C2-4 overlays (ULURP No. C 090413 ZMK) (the "Application");

WHEREAS, the Application is related to Applications Numbers N 090414 ZRK (L.U. No. 1228), an amendment to the Zoning Resolution; C 090415 HUK (L.U. No. 1229), an amendment to the Broadway Triangle Urban Renewal Plan; C 090416 HAK (L.U. No. 1230), an urban development action area project designation, project approval and disposition of city-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 19, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 7, 2009 (CEQR No. 09HPD019K);

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) From among the reasonable alternatives thereto, the actions to be approved are one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigation measures that were identified as practicable.

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 13b:

1. changing from a C8-2 District to an R6A District property bounded by Lynch Street, Broadway, Middleton Street and its northeasterly centerline prolongation, and Union Avenue;

2. changing from an M1-2 District to an R6A District property bounded by Middleton Street, Throop Avenue, Walton Street, Harrison Avenue, and Union Avenue;

3. changing from an M3-1 District to an R6A District property bounded by Lorimer Street, Harrison Avenue, the southwesterly centerline prolongation of Walton Street, and Union Avenue;

4. changing from an M1-2 District to an R7A District property bounded by Walton Street, Throop Avenue, Whipple Street, Flushing Avenue, and Harrison Avenue;

5. changing from an M1-2 District to a C4-3 District property bounded by Whipple Street, Throop Avenue, and Flushing Avenue;

6. establishing within a proposed R6A a C2-4 District bounded by Lynch Street, Broadway, the northeasterly centerline prolongation of Middleton Street, Throop Avenue, Lorimer Street, a line 100 feet southwesterly of Throop Avenue, a line midway between Lynch Street and Middleton Street, a line 100 feet northeasterly of Union Avenue, a line 100 feet northeasterly of Harrison Avenue, Lorimer Street, Harrison Avenue, the southwesterly centerline prolongation of Walton Street, and Union Avenue; and

7. establishing within a proposed R7A a C2-4 District bounded by:

   a. Walton Street, Throop Avenue, Bartlett Street, and a line 100 feet southwesterly of Throop Avenue; and

   b. Walton Street, a line 100 feet northeasterly of Harrison Avenue, a line 100 feet northerly of Flushing Avenue, a line perpendicular to the northwesterly street line of Whipple Street distant 50 feet northeasterly (as measured along the street line) from the point of intersection of the northwesterly street line of Whipple Street and the northerly street line of Flushing Avenue, Whipple Street, Flushing Avenue, and Harrison Avenue;

as shown on a diagram (for illustrative purposes only), dated May 18, 2009, and subject to the conditions of CEQR Declaration E-238, Community District 1, Borough of Brooklyn.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1228 & Res. No. 2320

Report of the Committee on Land Use in favor of approving and adopting Zoning resolution amendment application no. N 090414 ZRK, pursuant to Sections 197-d and 200 of the New York City Charter, respecting changes in the text of the Zoning Resolution, relating to Article II, Chapter 3, Sections 23-90, inclusive.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on September 30, 2009 (Minutes, page 5249) and originally reported to the Council on December 9, 2009 (Minutes, page 5981), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1 **N 090414 ZRK**

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article II, Chapter 3 (Bulk regulations for Residential Buildings in Residence Districts), Section 23-90, inclusive, relating to the extension of the Inclusionary Housing Program to proposed R6A and R7A districts, in Community District 1, Borough of Brooklyn.

INTENT

To facilitate the development of six sites containing residential, commercial and community facility uses within the Broadway Triangle Urban Renewal Area.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Land Use Committee approve the decision of the City Planning Commission.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2320

Resolution approving the decision of the City Planning Commission on Application No. N 090414 ZRK, for an amendment of the Zoning Resolution of the City of New York, relating to Article II, Chapter 3 (Bulk regulations for Residential Buildings in Residence Districts), Section 23-90, inclusive, relating to the extension of the Inclusionary Housing Program to proposed R6A and R7A districts, in Community District 1, Borough of Brooklyn (L.U. No. 1228).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of Housing Preservation and Development, for an amendment of the Zoning Resolution of the City of New York, relating to Article II, Chapter 3 (Bulk regulations for Residential Buildings in Residence Districts), Section 23-90, inclusive, relating to the extension of the Inclusionary Housing Program to proposed R6A and R7A districts, in Community District 1, Borough of Brooklyn, (Application No. N 090414 ZRK), (the "Application"):

WHEREAS, the Application is related to Applications Numbers C 090413 ZMK (L.U. No. 1227), an amendment to the Zoning Map; C 090415 HUK (L.U. No. 1229), an amendment to the Broadway Triangle Urban Renewal Plan; C 090416 HAK (L.U. No. 1230), an urban development action area project designation, project approval and disposition of city-owned property;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 19, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 7, 2009 (CEQR No. 09HPD019K);

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) From among the reasonable alternatives thereto, the actions to be approved are one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigation measures that were identified as practicable; and

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in <u>underline</u> is new, to be added;
Matter in ~~strikeout~~ is old, to be deleted;
Mater in # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution

APPENDIX F (7/29/09)
INCLUSIONARY HOUSING DESIGNATED AREAS

The boundaries of #Inclusionary Housing designated areas# are shown on the maps listed in this Appendix F. The #Residence Districts# listed for such areas shall include #Commercial Districts# where #residential buildings# or the #residential# portion of #mixed buildings# are governed by #bulk# regulations of such #residence districts#.

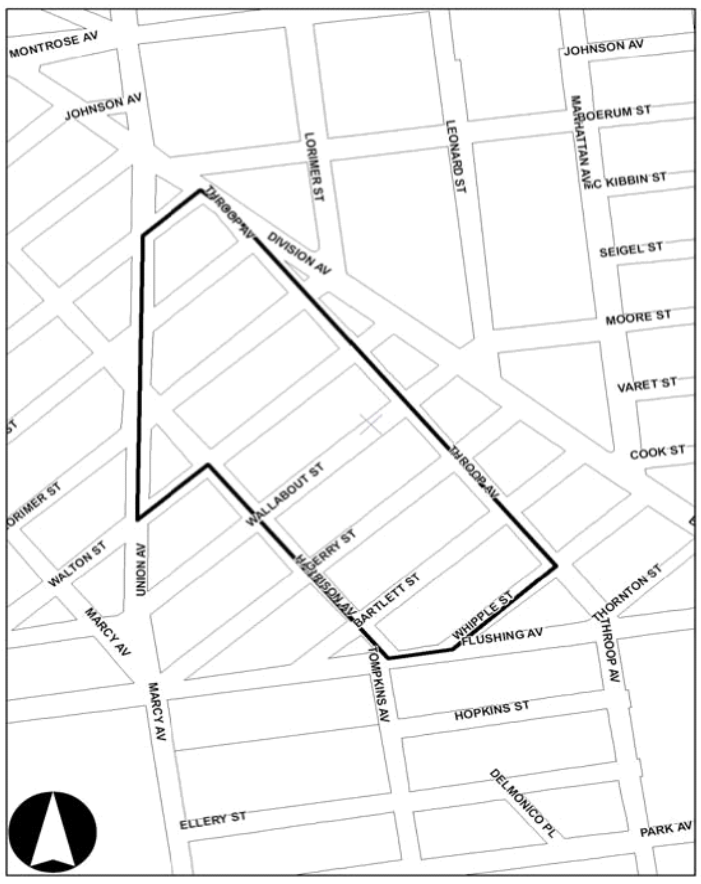
* * *

Brooklyn, Community District 1

In Waterfront Access Plan BK-1, as set forth in Section 62-352, and in the R6, R6A, R6B, R7A and R7-3 Districts within the areas shown on the following Maps 1, 2, ~~and 3~~ <u>and 4</u>:

* * *

PROPOSED NEW MAP <u>Map 4</u>



Portion of Community District 1 , Brooklyn

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1229 & Res. No. 2321

Report of the Committee on Land Use in favor of approving and adopting Uniform land use review procedure, application no. C 090415 HUK pursuant to §197-c and §197-d of the Charter of the City of New York and §505 of the General Municipal Law concerning the approval of an amendment to the Broadway Triangle Urban Renewal Plan, Borough of Brooklyn, Council District no. 33.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on September 30, 2009 (Minutes, page 5250) and originally reported to the Council on December 9, 2009 (Minutes, page 5982), respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 1 C 090415 HUK

City Planning Commission decision approving an application submitted by the Department of Housing Preservation and Development (HPD), pursuant to Section 505 of Article 15 of the General Municipal (Urban Renewal) Law of New York State and Section 197-c of the New York City Charter, for the First Amended Broadway Triangle Urban Renewal Plan for the Broadway Triangle Urban Renewal Area.

INTENT

To facilitate the development of six sites containing residential, commercial and community facility uses within the Broadway Triangle Urban Renewal Area.

Report Summary

COMMITTEE RECOMMENDATION

DATE: December 7, 2009

The Committee recommends that the Council approve the attached resolution and thereby make the findings required by Article 15 of the General Municipal Law and approve the decision of the City Planning Commission with a modification.

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modification was filed with the City Planning Commission on December 7, 2009. The City Planning Commission filed a letter dated December 14, 2009, with the Council indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2321

Resolution approving with a modification the First Amended Broadway Triangle Urban Renewal Plan for the Broadway Triangle Urban Renewal Area, approving the designation of the area and approving the decision of the City Planning Commission on ULURP No. C 090415 HUK (L.U. No. 1229).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision and report dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development ("HPD"), pursuant to Section 505 of Article 15 of the General Municipal Law of New York State and Section 197-c of the New York City Charter, regarding the proposed First Amended Broadway Triangle Urban Renewal Plan (the "Plan") for the Broadway Triangle Urban Renewal Area (the "Area"). The proposed plan would no longer include any industrial sites; modifies the boundary of the urban renewal area; renumbers existing sites to reflect de-designations and reconfigurations; creates a new urban renewal site, and updates the Plan's language to conform to current standards. The amendment, in conjunction with the related actions, will facilitate affordable housing, while permitting local commercial and community facility uses (ULURP No. C 090415 HUK), Community District 1, Borough of Brooklyn (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090413 ZMK (L.U. No. 1227), an amendment to the Zoning Map; N 090414 ZRK (L.U. No. 1228), an amendment to the Zoning Resolution; C 090416 HAK (L.U. No. 1230), an urban development action area project designation, project approval and disposition of city-owned property;

WHEREAS, the City Planning Commission has certified that the Plan for the Area complies with the provisions of Section 502 of the General Municipal Law, conforms to the comprehensive community plan for the development of the municipality as a whole and is consistent with local objectives, and that the Plan is in conformity with the findings and designation of the Area;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Area Designation is subject to review and action by the Council pursuant to Section 504 of the General Municipal Law;

WHEREAS, the Plan is subject to review and action by the Council pursuant to Section 505 of the General Municipal Law;

WHEREAS, the New York City Department of Housing Preservation and Development submitted to the Council its recommendations regarding the Application on November 10, 2009;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and the Plan on November 19, 2009;

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

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 09HPD019K) and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 7, 2009;

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) From among the reasonable alternatives thereto, the actions to be approved are one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigation measures that were identified as practicable.

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Section 504 of the General Municipal Law, the Council approves the Designation of the Area.

Pursuant to Section 505(4) of the General Municipal Law, the Council finds that:

1. The Area is a substandard or insanitary area or is in danger of becoming a substandard or insanitary area and tends to impair or arrest the sound growth and development of the municipality;

2. The financial aid to be provided to the municipality is necessary to enable the project to be undertaken in accordance with the Plan;

3. The Plan affords maximum opportunity to private enterprise, consistent with the sound needs of the municipality as a whole, for the undertaking of an urban renewal program;

4. The Plan conforms to a comprehensive community plan for the development of the municipality as a whole;

5. There is a feasible method for the relocation of families and individuals displaced from the Area into decent, safe and sanitary dwellings, which are or will be provided in the Area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities, at rents or prices within the financial means of such families or individuals, and reasonably accessible to their places of employment; and

6. The undertaking and carrying out of the urban renewal activities in stages is in the best public interest and will not cause any additional or increased hardship to the residents of the Area.

Pursuant to Section 505 of the General Municipal Law, the Council approves the First Amended Broadway Triangle Urban Renewal Plan for the Broadway Triangle Urban Renewal Area, dated February, 2009.

Pursuant to Section 197-d of the New York City Charter, and on the basis of the Decision and Application, the Council approves the Decision with the minor modification that:

Matter in <u>double-underline</u> is new, to be added by the City Council;
*** indicates where unchanged text appears in the Zoning Resolution.

1. Section C of the Plan shall be modified to read

C: <u>CONTROLS ON DEVELOPMENT</u>

* * *

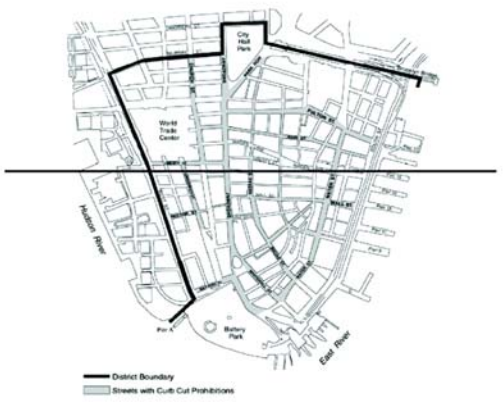
1. PROPOSED USES

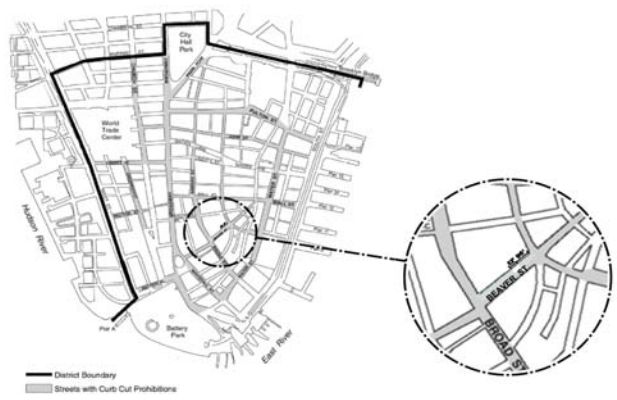
<u>Map 2</u> indicates the permitted use of each Acquisition Parcel following disposition by the City to a redeveloper. Each use indicated in <u>Map 2</u> will have the meaning set forth in this <u>Section C.2</u>.

a. <u>Residential</u>

Residential and other uses including, but not limited to, recreation, open space, community facilities, commercial uses and parking will be permitted in accordance with the Zoning Resolution. <u>The preference for the use on block 2272/Lots 11, 45 and 46 shall be open space.</u>

2. Exhibit A shall be modified to read that the Land Use for Site 4A is Residential with a preference for Open Space and in Land Use for Site 4B is Residential with a preference for Open Space for Old Lots 45 and 46.





On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1230 & Res. No. 2322

Report of the Committee on Land Use in favor of approving Uniform Land Use Review Procedure application no. C 090416 HAK, an Urban Development Action Area Designation and Project, located within the Broadway Triangle URA, and the disposition of such property, Borough Brooklyn, Council District no. 33. This matter is subject to Council Review and action pursuant to §197-c and §197-d of the New York City Charter and Article 16 of the General Municipal Law.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on September 30, 2009 (Minutes, page 5250) and originally reported to the Council on December 9, 2009 (Minutes, page 5984), respectfully

REPORTS:

<u>SUBJECT</u>

BROOKLYN CB - 1 **C 090416 HAK**

City Planning Commission decision approving 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 various properties 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.

INTENT

To facilitate the development of six sites, tentatively known as Broadway Triangle, with approximately 488 residential units, commercial and community facility uses Community District 1, Borough of Brooklyn.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 7, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the designation and the project, make the findings required by Article 16 of the General Municipal Law and approve the decision of the City Planning Commission with a modification.

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modification was filed with the City Planning Commission on December 7, 2009. The City Planning Commission filed a letter dated December 14, 2009, with the Council indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Members Katz and Garodnick offered the following resolution:

Res. No. 2322

Resolution approving with a modification the decision of the City Planning Commission on an application submitted by the New York City Department of Housing Preservation and Development, ULURP No. C 090416 HAK, approving the designation of the various properties, and approving the disposition of such property to a developer selected by the New York City Department of Housing Preservation and Development (L.U. No. 1230; C 090416 HAK).

By Council Members Katz and Garodnick.

WHEREAS, the City Planning Commission filed with the Council on October 19, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

a) the designation of property located at the following address:

BLOCK	LOT	ADDRESS (UR Site Number and Name)
2269	14	68 Gerry Street: p/o Site 4 (Broadway Triangle Urban Renewal Area)
2269	16	72 Gerry Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	17	74 Gerry Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	18	76 Gerry Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	19	78 Gerry Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	23	86 Gerry Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	24	88 Gerry Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	25	90-92 Gerry Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	27	84 Throop Avenue (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	28	86 Throop Avenue (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	29	88 Throop Avenue (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	30	90 Throop Avenue (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	31	92-94 Throop Avenue (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269 43 47 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 45 43-45 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 47 41 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 48 39 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 49 37 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 50 35 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2272 11 34-3 6 Bartlett Street (p/o Site 7A Broadway Triangle Urban Renewal Area) 2272 45 11 Whipple Street 2272 46 9 Whipple Street 2272 49 669 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area) 2272 51 667 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area) 2272 52 665 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area 2272 53 663 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area 2272 108 24 Bartlett Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area 2272 147 5 Whipple Street 2269	33	69 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	35	65 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	36	59-63 Bartlett Street(p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	39	57 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	40	55 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	41	53 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)

2269	42	51 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269 43 47 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 45 43-45 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 47 41 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 48 39 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 49 37 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2269 50 35 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area) 2272 11 34-3 6 Bartlett Street (p/o Site 7A Broadway Triangle Urban Renewal Area) 2272 45 11 Whipple Street 2272 46 9 Whipple Street 2272 49 669 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area) 2272 51 667 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area) 2272 52 665 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area 2272 53 663 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area 2272 108 24 Bartlett Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area 2272 147 5 Whipple Street 2269	43	47 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	45	43-45 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	47	41 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	48	39 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	49	37 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2269	50	35 Bartlett Street (p/o Site 4 Broadway Triangle Urban Renewal Area)
2272	11	34-36 Bartlett Street (p/o Site 7A Broadway Triangle Urban Renewal Area)
2272	45	11 Whipple Street
2272	46	9 Whipple Street
2272	49	669 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area)
2272	51	667 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area)
2272	52	665 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area)
2272	53	663 Flushing Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area)
2272	108	24 Bartlett Avenue (p/o Site 7B Broadway Triangle Urban Renewal Area)
2272	147	5 Whipple Street

as an Urban Development Action Area (the "Area");

b) an Urban Development Action Area Project for such area (the "Project"); and pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the Department of Housing Preservation and Development to facilitate the development of six sites, tentatively known as Broadway Triangle, with approximately 488 residential units, commercial and community facility uses (the "Disposition"), Community District 1, Borough of Brooklyn (ULURP No. C 090416 HAK) (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090413 ZMK (L.U. No. 1227), an amendment to the Zoning Map; N 090414 ZRK (L.U. No. 1228), an amendment to the Zoning Resolution; and C 090415 HUK (L.U. No. 1229), an amendment to the Broadway Triangle Urban Renewal Plan;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its recommendations regarding the Application on November 10, 2009;

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on November 19, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on October 7, 2009 (CEQR No. 09HPD019K);

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) From among the reasonable alternatives thereto, the actions to be approved are one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

(3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigation measures that were identified as practicable; and

(4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Section 197-d, the Council approves the decision of the City Planning Commission (C 090416 HAK).

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

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

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

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development with the following modification:

The preference for the use of the property located on Block 2272/Lots 11, 45 and 46 shall be open space.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1260 & Res. No. 2323

Report of the Committee on Land Use in favor of approving Application no C 090408 MMM. submitted by the Department of City Planning pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving a change in grade on West 33rd Street, between Eleventh and Twelfth Avenues.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5526) and originally reported to the Council on December 14, 2009 (Minutes, page 6089), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 **C 090408 MMM**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving a change in grade on West 33rd Street, between Eleventh and Twelfth avenues, in accordance with Map No. C.P.C. 090408 MMM (Acc. No. 30230), dated May 18, 2009, and signed by the Director of the Department of City Planning.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2323

Resolution approving the decision of the City Planning Commission on ULURP No. C 090408 MMM, an amendment to the City Map (L.U. No. 1260).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Department of City Planning, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving a change in grade on West 33rd Street, between Eleventh and Twelfth Avenues, in accordance with Map No. C.P.C. 090408 MMM (Acc. No. 30230), dated May 18, 2009, corrected June 17, 2009, and signed by the Director of City Planning (ULURP No. C 090408 MMM), Community District 4, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090430 ZMM (L.U. No. 1264), a Zoning Map Amendment establishing a C1-5 district within an existing R8 District; C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; C 090435 ZSM (L.U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(2) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M); and

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

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 199 of the New York City Charter, the Council approves the Decision.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1261 & Res. No. 2324

Report of the Committee on Land Use in favor of approving Application no. C 090422 HAM submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law of New York State for: the designation of property located at West 48th and West 49th streets, west of 10th Avenue (Block 1077, part of Lot 29), as an Urban Development Action Area; and an Urban Development Action Area Project for such area; and 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 development of a mixed-use building,

tentatively known as The Westside Rail Yards/DEP Site, with residential and retail space.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5526) and originally reported to the Council on December 14, 2009 (Minutes, page 6090), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 C 090422 HAM

City Planning Commission decision approving 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 West 48th and West 49th streets, west of 10th Avenue (Block 1077, part of Lot 29), 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.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2324

Resolution approving the decision of the City Planning Commission on an application submitted by the Department of Housing Preservation and Development, ULURP No. C 090422 HAM, approving the designation of property located at West 48th and West 49th Streets, west of 10th Avenue (Block 1077, part of Lot 29), Borough of Manhattan, as an Urban Development Action Area, approving the project for the area as an Urban Development Action Area Project, and approving the disposition of such property to a developer selected by the Department of Housing Preservation and Development (L.U. No. 1261; C 090422 HAM).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

a) the designation of property located at West 48th and West 49th Streets, west of 10th Avenue (Block 1077, part of Lot 29), as an Urban Development Action Area (the "Area");

b) an Urban Development Action Area Project for such area (the "Project"); and

pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the Department of Housing Preservation and Development to facilitate development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space (the "Disposition"), Community District 4, Borough of Manhattan (ULURP No. C 090422 HAM) (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090430 ZMM (L.U. No. 1264), a Zoning Map Amendment establishing a C1-5 district within an existing R8 District; C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; C 090435 ZSM (L. U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its recommendations regarding the Application on September 14, 2009;

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M); and

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Section 197-d, the Council approves the decision of the City Planning Commission (C 090422 HAM).

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

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

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

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1262 & Res. No. 2325

Report of the Committee on Land Use in favor of approving Application no. C 090423 HAM 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 806 Ninth Avenue (Block 1044, p/o Lot 3); as an Urban Development Action Area; and an Urban Development Action Area Project for such area; and 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 development of a mixed-use building, tentatively known as the Westside Rail Yard/MTA Site, with residential and commercial space.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5526) and originally reported to the Council on December 14, 2009 (Minutes, page 6092), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 C 090423 HAM

City Planning Commission decision approving 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 806 Ninth Avenue (Block 1044, part of Lot 3), as an Urban Development Action Area; and

a) 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.

INTENT

To facilitate the development of a mixed-use building, tentatively known as the Westside Rail Yard/MTA Site, with residential and commercial space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2325

Resolution approving the decision of the City Planning Commission on an application submitted by the Department of Housing Preservation and Development, ULURP No. C 090423 HAM, approving the designation of the property located at 806 Ninth Avenue (Block 1044, part of Lot 3), Borough of Manhattan, as an Urban Development Action Area, approving the project for the area as an Urban Development Action Area Project, and approving the disposition of such property to a developer selected by the Department of Housing Preservation and Development (L.U. No. 1262; C 090423 HAM).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Department of Housing Preservation and Development pursuant to Section 197-c of the New York City Charter and Article 16 of the General Municipal Law of New York State regarding:

a) the designation of property located at 806 Ninth Avenue (Block 1044, part of Lot 3), as an Urban Development Action Area (the "Area");

b) an Urban Development Action Area Project for such area (the "Project"); and

pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by the Department of Housing Preservation and Development to facilitate development of a mixed-use building, tentatively known as The Westside Rail Yard/MTA Site, with residential and commercial space (the "Disposition"), Community District 4, Borough of Manhattan (ULURP No. C 090423 HAM) (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090430 ZMM (L.U. No. 1264), a Zoning Map Amendment establishing a C1-5 district within an existing R8 District; C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; C 090435 ZSM (L. U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, the Application and Decision are subject to review and action by the Council pursuant to Article 16 of the General Municipal Law of New York State;

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its recommendations regarding the Application on September 14, 2009;

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M); and

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available ,

the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Section 197-d, the Council approves the decision of the City Planning Commission (C 090423 HAM).

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

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

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

The Council approves the disposition of such property to a developer selected by the Department of Housing Preservation and Development.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1263 & Res. No. 2326

Report of the Committee on Land Use in favor of approving Application no. N 090429 ZRM submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX Chapter 6 (Special Clinton District), Borough of Manhattan, Community District 4.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5527) and originally reported to the Council on December 14, 2009 (Minutes, page 6094), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 **N 090429 ZRM**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 6 (Special Clinton District), Community District 4, Borough of Manhattan.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2326

Resolution approving the decision of the City Planning Commission on Application No. N 090429 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 6 (Special Clinton District), Community District 4, Borough of Manhattan (L.U. No. 1263).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 6 (Special Clinton District) to facilitate the development of the Western Rail Yard Project in Manhattan's Community District 4 (Application No. N 090429 ZRM) (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; C 090435 ZSM (L. U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M).

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

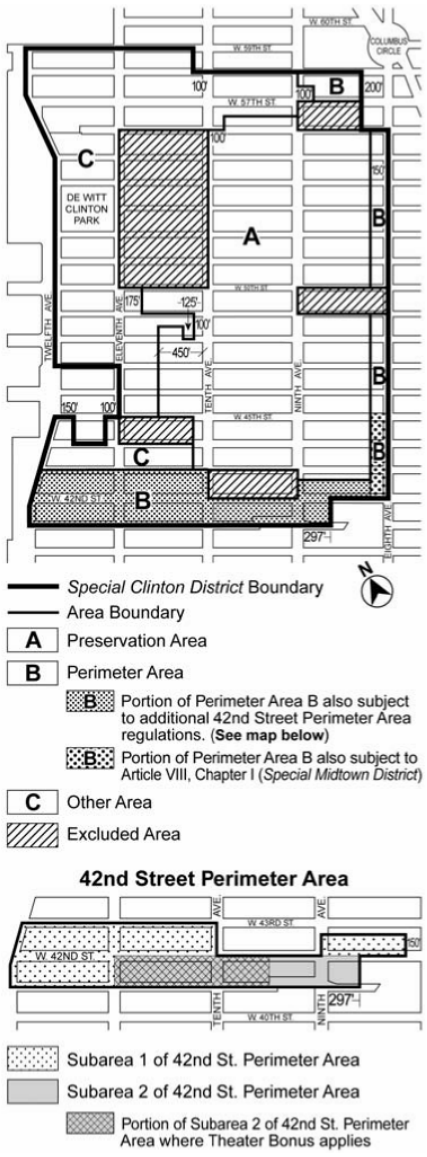
(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Appendix A

Special Clinton District Map



On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1264 & Res. No. 2327

Report of the Committee on Land Use in favor of approving Application no. C 090430 ZMM submitted by New York City Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8c: establishing within an existing R8 District a C1-5 District.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5527) and originally reported to the Council on December 14, 2009 (Minutes, page 6095), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 C 090430 ZMM

City Planning Commission decision approving an application submitted by the New York City Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8c: establishing within an existing R8 District a C1-5 District bounded by West 54th Street, a line 525 feet easterly of Ninth Avenue, a line midway between West 54th Street and West 53rd Street, and a line 100 feet easterly of Ninth Avenue, as shown on a diagram (for illustrative purposes only) dated May 18, 2009.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2327

Resolution approving the decision of the City Planning Commission on ULURP No. C 090430 ZMM, a Zoning Map amendment (L.U. No. 1264).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by the New York City Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map to facilitate development of the Western Rail Yard Project in Manhattan's Community District 4 (ULURP No. C 090430 ZMM), Borough of Manhattan (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; C 090435 ZSM (L. U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M); and

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 8c: establishing within an existing R8 District a C1-5 District bounded by West 54th Street, a line 525 feet easterly of Ninth Avenue, a line midway between West 54th Street and West 53rd Street, and a line 100 feet easterly of Ninth Avenue, as shown on a diagram (for illustrative purposes only) dated May 18, 2009.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1265 & Res. No. 2328

Report of the Committee on Land Use in favor of approving Application no. C 090433 ZMM submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8b changing from an M2-3 District to a C6-4 District.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5527) and originally reported to the Council on December 14, 2009 (Minutes, page 6096), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 C 090433 ZMM

City Planning Commission decision approving an application submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 8b, by changing from an M2-3 District to a C6-4 District and establishing a Special Hudson Yards District on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue, Borough of Manhattan Community District 4, as shown in a diagram (for illustrative purposes only) dated May 18, 2009.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission with modifications.

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on December 14, 2009. The City Planning Commission filed a letter dated December 16, 2009, with the Council indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2328

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 090433 ZMM, a Zoning Map amendment (L.U. No. 1265).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by RG WRY LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map to facilitate development of the Western Rail Yard Project in Manhattan's Community District 4 (ULURP No. C 090433 ZMM), Borough of Manhattan (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090430 ZMM (L.U. No. 1264), a Zoning Map Amendment establishing a C1-5 district within an existing R8 District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; C 090435 ZSM (L. U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS,, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M); and

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning

Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision the following modifications:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 8b, by changing from an M2-3 District to a C6-4 District and establishing a Special Hudson Yards District on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue, as shown in a diagram (for illustrative purposes only) dated May 18, 2009, Community District 4, Borough of Manhattan.

(EXHIBIT B)

RESTRICTIVE DECLARATION

Matter in ~~strikeout~~ is old, to be deleted by The City Council;
Matter in double-underline is new, to be added by The City Council;
*** indicates where text remains unchanged.

ARTICLE II
DEVELOPMENT OF THE SUBJECT PROPERTY

2.01 Affordable Housing.

(a) ~~No fewer than twenty percent (20%) of all~~Declarant shall include in rental buildings or condominiums within the Project, residential rental units ~~developed on the Subject Property shall be developed to~~that will be affordable to persons or families of low income who qualify for occupancy pursuant to the requirements of (a) the "80/20" ~~or comparable program, subject to: (i) the allocation of sufficient~~ program under Section 142 of the Code or (b) any program for the development of affordable rental units selected by the Declarant, including the Section 421-a "80/20" program as applied to a condominium building with affordable units (the "Affordable Housing Units"), subject to: (i) the provision to Declarant of sufficient tax-exempt bond financing including the allocation of private activity tax-exempt bond volume cap or other equivalent low-cost financing to ~~Declarant for each building with residential rental housing~~fund the full development costs of each rental building or condominium containing Affordable Housing Units ("Affordable Financing Programs") as and when required by the Declarant; and (ii) the availability to Declarant of ~~such other incentives, programs, exemptions, credits or abatements as are then generally available for the development of "80/20" housing in the City of New York.~~ Section 421-a tax abatements or equivalent tax abatements/exemptions/incentives as are available on the date hereof for rental buildings or condominiums containing Affordable Housing Units in the City of New York ("Tax Abatement Programs"), including without limitation a twenty year Section 421-a tax abatement for such rental buildings or condominiums. Subject to the caveats set forth in the preceding sentence, Declarant shall include a minimum of two hundred and sixty-five (265) Affordable Housing Units within the Project, and shall in addition include within the Project an adequate number of Affordable Housing Units on the Project site such that the total number of Affordable Housing Units on the Project site and the eastern portion of the Caemmerer Rail Yard collectively is not less than four hundred thirty-one (431).

(b) In the event that Declarant utilizes the floor area bonus available under Section 93-23 of the Zoning Resolution for the provision of permanent ~~affordable housing~~Affordable Housing Units (the "Affordable Housing Bonus"), Declarant covenants and agrees to maintain ~~all affordable units~~the affordability of all Affordable Housing Units required to generate the Affordable Housing Bonus ~~as affordable units~~ for so long as the bonus floor area is included within the Project. ~~In the event that~~ Declarant ~~does not pursue~~further covenants and agrees that, notwithstanding whether or not the Affordable Housing Bonus is utilized, upon the expiration of the benefits of the initial Tax Abatement Program, Declarant shall ~~have no obligation to maintain any residential units as affordable following the expiration of the term of the 80/20 program except pursuant to a future agreement with the City acceptable in all respects to Declarant. As an alternative to the provision of permanently affordable multi-family rental residential housing pursuant to the provisions of Sections 93-233 and 93-234~~maintain the Affordable Housing Units as permanent rentals affordable to persons or households having a maximum income not to exceed 125% of area median income, provided that there are incentives, programs, exemptions, credits, or abatements that will reduce the taxes for any of the rental buildings or condominiums containing such Affordable Housing Units to a level consistent with the real estate taxes paid prior to any phase out of the real estate tax abatement under the initial Section 421-a tax benefit or similar real property tax abatement or exemption program for such building or condominium unit. Notwithstanding Declarant's obligations under this Section 2.01 to provide Affordable Housing Units, Declarant agrees that any New Building containing Affordable Housing Units built with "public funding," as such term is defined in Section 23-91 of the Zoning Resolution, ~~Declarant may qualify residential buildings on the Subject Property as "generating sites" pursuant to the provisions~~shall not be used as a "generating site" for purposes of Section 23-90 *et. seq.* of the Zoning Resolution.

~~(c) Declarant shall seek and apply for the allocation of tax exempt bond cap or other equivalent low-cost financing and such other incentives, programs, exemptions, credits or abatements as are then generally available for the development of "80/20" or comparable housing in the City of New York for all rental housing that Declarant elects to develop or locate on the Subject Property. If Declarant is unable to obtain financing for the development of "80/20" housing for any residential rental units in any New Building, it shall similarly seek financing for the development of "80/20" housing for each subsequent New Building containing rental housing units. Nothing in this Section 2.01 shall be construed as preventing or precluding Declarant, at its option, from developing any New Building with other than rental housing units.~~

~~(d) In the event that any New Building includes rental residential housing without affordable units pursuant to Paragraph (a), Declarant shall prepare and submit a report to the Chair and to the Commissioner of HPD documenting the reasonable efforts made by Declarant to obtain financing for the development of "80/20" housing and shall set forth the reasons why such financing was not obtained, and DOB shall not issue, and Declarant shall not accept, a New Building Permit for the New Building until sixty (60) days following the date such report has been submitted to the Chair and to the Commissioner of HPD. Declarant shall meet with the Chair and the Commissioner of HPD within such sixty (60) day period at the request of either the Chair or the Commissioner of HPD to discuss the findings of the report.~~

(c) The Affordable Housing Units in 80/20 rental buildings shall be distributed throughout the rental portion of the New Building in a manner consistent with the following (i) no more than fifty percent (50%) of the residential units on any floor shall be Affordable Housing Units, and (ii) at least one Affordable Housing Unit shall be located on eighty percent (80%) of the floors that are part of the rental portion.

(d) For purposes of this Section 2.01 (i) "Code" means the Internal Revenue Code of 1986, as amended, and (ii) "Section 421-a" means Section 421-a of the New York Real Property Tax Law as applicable to the Project and any rules or regulations promulgated thereunder.

2.02 Public Access Areas.

Declarant shall construct, develop and maintain the Public Access Areas in accordance with the following:

(a) Public Access Areas Construction Phasing and Easement.

(i) Subject to compliance with the provisions of Section 93-78 of the Zoning Resolution, Declarant may construct the Public Access Areas on the Subject Property in such sequence as Declarant shall determine.

(ii) Subject to clause (v) hereof, Declarant covenants that, immediately upon certification by the Chair pursuant to Section 93-78(d) of the Zoning Resolution that a Public Access Area Phase is substantially complete, the City shall hereby enjoy, wield, and have the right to and the benefit of and be granted, conveyed and transferred a non-exclusive easement (the "Public Access Area Easement") in perpetuity, for the benefit of the general public, encompassing the area of the Public Access Area Phase, unobstructed from the surface thereof to the sky, for the purposes of: (aa) in the case of the Publicly Accessible Open Spaces (1) passive and active recreational use by the general public, and (2) pedestrian access over and through the area of the Public Accessible Open Spaces to and from other developed portions of the Subject Property and City streets; (bb) in the case of the Midblock Connection, the West 30th Street Corridor, and the Connector (1) pedestrian access over and through the Midblock Connection, the West 30th Street Corridor, and the Connector, as the case may be, to and from other developed portions of the Subject Property and City streets, and (2) access for fire, police and other emergency vehicles over the Connector; and (cc)

in the case of the West 31st Street Extension and the West 32nd Street Extension, (1) pedestrian access over and through sidewalks with respect to both the West 31st Street Extension and the West 32nd Street Extension and, in the case of the West 32nd Street Extension, the Allee, to and from other developed portions of the Subject Property and City streets, and (2) general vehicular and emergency vehicle ingress and egress through and over the West 32nd Street Extension and the West 31st Street Extension, subject in each case to all provisions of this Declaration applicable to the use of Public Access Areas.

(iii) The Declarant covenants that all liens, including but not limited to judgment liens, mortgage liens, mechanics' liens and vendees liens, and all burdens, covenants, encumbrances, leases, licenses, 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 related easements, shall be, at and after the time of vesting of the Public Access Area Easement in the City, subject and subordinate to the rights, claims, entitlements, interests and priorities created by the Public Access Area Easement.

(iv) The Public Access Area Easement shall commence for the benefit of and shall vest in the City commensurate with and on the date of substantial completion of each Public Access Area Phase and shall encompass all of the Public Access Area included in such Public Access Area Phase and all Public Access Areas completed in an earlier Public Access Area Phase, subject to clause (v) hereof. Declarant waives its rights to assert the rule against perpetuities as a defense in any proceeding to compel the conveyance of the Public Access Area Easement.

(v) Notwithstanding anything to the contrary in this Section 2.02(a), Declarant shall be entitled to and hereby reserves and retains the right to close to the public any portion of a Public Access Area Phase that has been built by Declarant to the extent and for the period of time that such closure is reasonably required to allow for the construction of a New Building in a safe, efficient, and reasonable manner, or to replace temporary features under a Temporary Public Access Area Plan certified pursuant to Section 93-782 of the Zoning Resolution with permanent features under the Site and Landscape Plan approved pursuant to Section 93-78 of the Zoning Resolution, or to build a subsequent Public Access Area Phase, and the easement granted pursuant to clause (ii) of this Section 2.02(a) is limited to such extent. Declarant shall notify the Chair of the need to close any portion of the Public Access Area Phase not less than sixty (60) days prior to such closure, and shall provide the Chair with a description of the need, extent and estimated period of time of closure reasonably required pursuant to this clause.

(b) Hours of Access and Closure.

(i) Declarant covenants that the Public Access Areas shall remain open and accessible to the public pursuant to the Public Access Easement as follows: (aa) Publicly Accessible Open Spaces shall be open each day between the hours of 6:00AM to 1:00AM, provided that the Northeast Plaza shall be open each day between the hours of 7:00 AM and 10:00 PM from April 15 to October 31 and from 7:00 AM to 8:00 PM from November 1 to April 14 or as otherwise provided in the Zoning Resolution; and (bb) the West 32nd Street Extension, the West 31st Street Extension and the West 30th Street Corridor shall be open and accessible to the public at all times

(ii) Notwithstanding clause (i) of this Section 2.02(b), Declarant may close the Public Access Areas or the most limited portions thereof as may be necessary in order: (aa) to accomplish maintenance, repairs or replacements; (bb) to make emergency repairs to mitigate hazardous site conditions; (cc) to address other emergency conditions; and (dd) to allow for public events approved by the Open Space Advisory Board under Section 2.02(e) hereof. In addition, (aa) Declarant shall be entitled to close all or any portion of the Public Access Areas not more than one (1) day of each calendar year in order to preserve Declarant's ownership interest therein, provided that any closure made for such purpose shall not occur on a weekend or public holiday; and (bb) Declarant shall be entitled to close the Central Open Space~~,~~ lawn area required under Section 93-752(c)(1) of the Zoning Resolution together with an access point thereto~~exclusive of the playground thereon~~, not more than four (4) times in any calendar year (and not more than one (1) such event shall occur within in any two (2) month period) for purposes of hosting a private event for the benefit of owners or occupants of any of the New Buildings. Such private events shall not take place on a public holiday and shall be for no more than six (6) hours. Declarant shall notify DCP of any such event not less than thirty (30) says prior to closure. "Emergency conditions" for which the Public Access Areas may be closed pursuant to this clause shall be limited to actual or imminent emergency situations, including but not limited to: security alerts, riots, casualties, disasters, hazardous or dangerous conditions or other events endangering public safety or property, provided that no such emergency closure shall continue for more than twelve (12) consecutive hours without Declarant having notified the NYPD or DOB, as appropriate, and having followed NYPD's or DOB's direction, if any, with regard to the emergency situation. Declarant shall promptly notify the Chair in writing of any closure which extends more than twelve (12) hours. Declarant shall close or permit to be closed only those portions of the Public Access Areas which must or should reasonably be closed to effect the maintenance, repairs or replacements to be undertaken, and will exercise due diligence in the performance of such repairs or mitigation in order that it is completed expeditiously and the temporarily closed areas (or any portions thereof) are re-opened to the public promptly.

(c) Maintenance and Repair of Public Access Areas.

Declarant shall, at Declarant's sole cost and expense, operate, maintain and repair the Public Access Areas in a sound and good condition in accordance with the requirements set forth in the Maintenance and Repair of Public Access Areas schedule annexed to this Declaration as Exhibit E (the "Public Access Area Maintenance and Repair Requirements"). Notwithstanding the foregoing, at such time and in the event that Declarant establishes a Property Owners' Association in accordance with Section 2.02(g) hereof, the Property Owners' Association shall be responsible for the operation, maintenance, and repair of the Public Access Areas in accordance with the terms of this Restrictive Declaration.

(d) Operating Rules for Publicly Accessible Open Spaces.

The activities, uses and conduct permitted within Publicly Accessible Open Spaces shall comply with all applicable laws and regulations of the City, in addition to being subject to the policies set forth in the schedule annexed hereto as Exhibit F. Declarant may modify the policies set forth in Exhibit F with the prior written approval of DCP, which shall not be unreasonably withheld, conditioned or delayed.

(e) Publicly Accessible Open Space Programming Management Advisory Board.

(i) Declarant shall have the right, at Declarant's election, to undertake and implement a program of public activities and events within the Publicly Accessible Open Spaces, subject to subclause (iii) hereof. Such public programming shall be limited to (aa) arts, music, theater or other cultural or similar events of a public character; and (bb) celebrations, participatory neighborhood events or similar activities of a public nature, all of which shall be open to the general public (the "Event Programming"). Any Event Programming shall be non-commercial in nature and shall not be conducted for profit, provided that in no event shall this provision be interpreted to prevent any sponsor or host of a public event from identifying such sponsorship or hosting as part of the public Event Programming, including in writing.

(ii) In order to develop any Event Programming, Declarant shall establish, at Declarant's sole cost and expense, a not-for-profit entity (the "Open Space Advisory Board" or "Board") to advise Declarant with regard to the possible programming of events in the Publicly Accessible Open Spaces. The Open Space Advisory Board shall be comprised of nine (9) members, five (5) of whom shall be appointed by the Declarant, and one (1) of whom shall be appointed by each of the Community Board, the local City Councilmember, the Manhattan Borough President, and ~~the President of the Hudson Yards Development Corporation or any successor entity thereto~~the Manhattan Borough Commissioner of DPR.

(iii) The Open Space Advisory Board shall meet on a quarterly ~~semi-annual~~ basis, and at such additional times as may be requested in writing by a majority of the members of the Board to consider any ~~additional~~ proposals for Event Programming allowed under clause (i) hereof that may occur from time to time. Any proposed Event Programming (whether considered at a regularly scheduled semi-annual meeting or at a special meeting convened for such purpose) that would result in the use of any one or more of the Publicly Accessible Open Spaces for a period in excess of four (4) hours in any day, or an aggregate of more than eight (8) hours in any seven (7) day period, shall be subject to the approval of a majority the members of the Open Space Advisory Board. With the exception of the right to approve such Event Programming, the Open Space Advisory Board's role with respect to programming of Events shall be advisory.

(f) Property Owners' Association.

(i) In order to perform the Public Access Area Maintenance and Repair Requirements, Declarant may form a property-owners association under the New York State Not-For-Profit Corporation Law or as an unincorporated association, or a cooperative corporation under the New York State Business Corporation Law (any of the entities in any combination thereof hereinafter referred to separately or collectively as the "Property Owners' Association"). The decision of whether or not to create a Property Owners' Association shall be at the sole option of Declarant, provided that until such

time as a Property Owners' Association is formed complying with the terms of this Paragraph (f) and such Association assumes the obligations of the Declarant with respect to the Open Space Maintenance and Repair Requirements as set forth in clause (ii) of this Section, Declarant shall be responsible in all respects for the Public Access Area Maintenance and Repair Requirements.

(ii) If a Property Owners' Association is formed, it shall assume all of the obligations of the Declarant relating to the Public Access Area Maintenance and Repair Requirements with respect to all of the Public Access Areas, commencing at such time as each Public Access Area is determined to be substantially complete in accordance with the requirements of Section 93-78 of the Zoning Resolution, and shall be organized with all of the powers that may be necessary and proper to allow the Property Owners' Association to carry out the duties, obligations and requirements of this Declaration with respect to the Open Space Maintenance and Repair Requirements. Notwithstanding the foregoing, Declarant at its option may exclude the Public Access Area Maintenance and Repair Requirements as they apply to the Northeast Plaza from the area governed by the Property Owners' Association, in which event the Public Access Area Maintenance and Repair Requirements as they apply to the Northeast Plaza shall be the obligation of the fee owners of the New Building located on Site 2 or, if such New Building is subjected to a declaration of condominium, the board of managers of such condominium.

(iii) In connection with its obligations under this Section, the Property Owners' Association shall comply with the following requirements:

(aa) Members. The members of the Property Owners' Association (the "Association Members") shall consist of (1) the fee owners of any portion of the Subject Property other than any fee owner of the High Line and other than any fee owner of an individual condominium unit within any New Building that is the subject of a declaration of condominium, and (2) the board of managers of any portion of the Subject Property that is subject to a declaration of condominium.

(bb) Powers. To the extent permitted by, law Declarant shall cause the Property Owners' Association to be established with the power, responsibility, and authority to:

(1) Undertake and be responsible for the Public Access Area Maintenance and Repair Requirements;

(2) Be subject to enforcement by DCP and the City in the event that it fails to comply with the Public Access Area Maintenance and Repair Requirements, including imposing liens therefor for the purposes of funding the Open Space Maintenance and Repair Requirements;

(3) In the event and at such time as Declarant existing as of the date of this Declaration no longer holds any interest in the Subject Property, allow for the Property Owners' Association to undertake the design and construction of the Public Access Areas in accordance with Section 93-78 of the Zoning Resolution and Section 2.02(a) of this Declaration (the "Open Space Construction Obligation");

(4) Impose fees or assessments against the Association Members through a formula to be determined by Declarant in Declarant's discretion, for the purpose of collecting funds reasonably necessary and sufficient to fund the Public Access Area Maintenance and Repair Requirements, and to the extent that the Property Owners' Association has assumed the Open Space Construction Obligation, the Open Space Construction Obligation;

(5) Collect, receive, administer, protect, invest, and dispose of funds;

(6) Bring and defend actions under this Declaration, and negotiate and settle claims to recover fees or assessments owed to the Property Owners' Association either directly under the formation documents, or indirectly pursuant to any declaration of condominium imposed against any New Building or portion thereof;

(7) To the extent permitted by law, impose liens, fines or assessments against individual lot or unit owners for the purpose of collecting funds reasonably necessary and sufficient to fund the Public Access Area Maintenance and Repair Requirements and, to the extent that the Property Owners' Association has assumed the Open Space Construction Obligation, the Open Space Construction Obligation; and

(8) Exercise any and all such powers as may be necessary or appropriate for purposes of this Declaration and as may be granted to the Property Owners' Association in furtherance of the Property Owners' Association's purposes hereunder.

(cc) By-Laws. The by-laws and charter or certificate of incorporation of the Property Owners' Association shall be consistent in all respects with the terms of this Declaration and shall not allow for amendments or changes that are not consistent with this Declaration.

(iv) For purposes of this Declaration, any Property Owners' Association shall be deemed a successor and assign of Declarant and shall succeed to the obligations of Declarant under Paragraph (c) of this Section with respect to the portions of the Development Site governed by the Property Owners' Association.

(v) Declarant shall cause the Property Owners' Association to be authorized to act on behalf of each party holding legal title to an affected lot or unit so that it shall not be necessary for each lot- or unit-owner to execute or waive the right to execute an application to modify, amend, cancel this Declaration in accordance with the provisions hereof or to approve the modified, amended or cancelled Declaration.

(g) High Line.

The provisions of Paragraphs (a), (b), (d) and (e) of this Section shall not apply to the High Line, and public access, hours of access and closure, operating rules, programming and other features relating to the operation of the High Line shall be as set forth in other agreements and understandings with respect thereto. Declarant's obligation to implement the provisions of Paragraph (c) of this Section with respect to the High Line, whether by Declarant or by means of a Property Owners' Association formed pursuant to Paragraph (f) of this Section, shall be only as set forth in such agreements and understandings as may be agreed to with respect maintenance and repair.

(h) High Line Access Points and Maintenance Facility.

(i) Declarant shall cooperate with the City with regard to the identification and provision of public pedestrian access to the High Line under a Site and Landscape Plan reviewed and approved pursuant to Section 93-78 of the Zoning Resolution. For that purpose, Declarant shall provide: (aa) a permanent public pedestrian access easement to and from the High Line consistent with Section 93-753 (General requirements for the Southwest Open Space) of the Zoning Resolution; and (bb) a permanent public pedestrian access easement to and from the High Line from the portion of Site 6 located at the corner of 11th Avenue and West 30th Street and/or the portion of the West 30th Street Corridor adjacent to the High Line at the corner of 11th Avenue and West 30th Street, consistent with Section 93-756(c) (Core Elements for the High Line) of the Zoning Resolution, if determined to be necessary by DCP and other relevant city agencies. Such pedestrian access easements shall accommodate one or more of a paved path, stairwell and elevator, as appropriate. The locations and dimensions of such easements shall be identified during preliminary planning for a Site and Landscape Plan for the High Line and easement agreements shall be delivered to the City upon approval thereof pursuant to Section 93-78 of the Zoning Resolution. Declarant acknowledges that the process of planning for and approval of a Site and Landscape Plan for the High Line pursuant to Section 93-78 may take place prior to Declarant's own design and construction of a New Building on Site 6 or development of a Site and Landscape Plan for the West 30th Street Corridor and that such shall not diminish Declarant's obligations under this clause. In the event that Declarant anticipates construction of a New Building on Site 6 and/or development of a Site and Landscape Plan for the West 30th Street Corridor prior to the City's own development of a Site and Landscape Plan for the High Line, it shall notify DCP at the earliest possible date and shall cooperate in good faith with DCP and other relevant city agencies to determine the location and dimensions of an access easement on Site 6 and/or the portion of the West 30th Street Corridor adjacent to the High Line at the corner of 11th Avenue and West 30th Street, if deemed necessary by DCP and such other agencies. As an alternative to provision of access to and from Site 6 and/or such portion of the West 30th Street Corridor, Declarant may propose to DCP and the other relevant city agencies for their consideration an access point from the Eastern Rail Yard proximate to the corner of 11th Avenue and West 30th Street. If an access easement on Site 6

and/or such portion of the West 30th Street Corridor is identified pursuant to such discussions, Declarant shall design the New Building on Site 6 and/or the West 30th Street Corridor to accommodate such easement and shall deliver the easement agreement to the City prior to accepting a New Building Permit for the New Building on Site 6 and/or commencing work on the West 30th Street Corridor.

(ii) Declarant shall, consistent with Section 93-756 (c) (Core Elements for the High Line) of the Zoning Resolution, consider in good faith (without any obligation with respect thereto) a request by DCP or other relevant city agency to locate space on the Subject Property for support facilities for the operation, maintenance and public enjoyment of the High Line, as determined by DCP and other relevant city agencies during the planning process for the Site and Landscape Plan for the High Line.

2.03 Garage.

(a) The Garage may be built by Declarant in one or more phases, at Declarant's sole option, provided that the occupancy of such shall be phased in accordance with this Section 2.03.

(b) DOB shall not issue, and Declarant shall not accept, a TCO or PCO for the Garage or amended TCO or PCO for the Garage or any portion thereof allowing accessory parking spaces on the Subject Property: (i) equal to more than the sum of the following amounts: (aa) accessory parking to residential uses equal to a weighted average percentage, calculated by multiplying the number of market rate residential units located on the Subject Property from time to time by thirty percent (30%) and the number of affordable residential units located on the Subject Property from time to time by eight percent (8%); (bb) accessory parking to commercial office uses equal to the product of 0.16 and the amount of floor area used for commercial office space existing on the Subject Property from time to time divided by 1,000; and (cc) accessory parking to hotel uses equal to the lesser of (1) fifteen percent (15%) of all hotel rooms existing on the Subject Property from time to time, (2) 225, and (3) the product of 0.16 and the amount of floor area used for hotel space on the Subject Property from time to time divided by 1,000; (ii) which exceed in the aggregate 1,600 spaces accessory to residential and commercial uses; and (iii) which exceed 270 spaces for all parking accessory to commercial uses (office space and hotel) combined.

(c) Notwithstanding the provisions of Paragraph (b) of this Section, and subject to the provisions of Paragraph (d) of this Section, at the time of issuance of a TCO for a New Building, Declarant may seek and accept an amended TCO or PCO for the Garage or any portion thereof for a number of parking spaces that is not more than twenty-five (25) parking spaces greater than the number of parking spaces otherwise allowed under Paragraph (b), subject to the further limitations that, at no time can the number of parking spaces accessory to commercial uses exceed 270, and that at the time of issuance of a TCO for the last New Building which may be constructed on the Subject Property pursuant to the Zoning Resolution, Declarant shall not accept an amended TCO or PCO for the Garage or any portion thereof for a number of parking spaces any greater than is allowed under Paragraph (b).

(d) The number of accessory parking spaces allowed under Paragraph (b) of this Section shall be reduced by the number of Car Sharing Spaces required pursuant to Section 3.03(e) of this Declaration.

(e) All portions of the Garage located above the Platform shall be enclosed and shall either be located (i) behind occupiable commercial, community facility or residential floor area, or (ii) behind walls designed with materials and architectural or landscaping treatment to promote visual interest and be compatible with surrounding buildings. During design development of the Garage, and in any event no later than ninety (90) days prior to filing a Building Permit for the Garage or any portion thereof, Declarant shall provide DCP design drawings and other material demonstrating compliance with the provisions of this Section 2.03(e) and shall consider and respond to DCP comments and recommendations regarding its design approach with respect thereto.

2.04 Arts and Cultural Space.

(a) The Project shall include a minimum of sixteen ~~eight~~ thousand (16~~8~~,000) gross square feet of space to be made available for local cultural institutions or other local arts not-for-profits approved by Developer, in accordance with the terms of this Section 2.04 (the "Cultural Space Obligation"). At Declarant's sole option, the Cultural Space Obligation may be fulfilled in ~~a single facility~~not less than two (2) facilities within the Project or in more than two (2) ~~multiple~~ facilities within the Project, provided that ~~if Declarant elects to provide multiple facilities,~~ each such facility shall have a minimum size of 1,200 gross square feet (each such facility, a "Cultural Space," and all of such facilities, the "Cultural Spaces").

(b) The Cultural Spaces may be located in any New Building, at Developer's Option, and may be constructed in any phase of the Project as Developer sees fit, provided that any Cultural Space shall ~~either~~ be accessible ~~from the main lobby of the building or~~ directly from the outside ~~at Developer's option~~.

(c) The Cultural Spaces shall be leased to neighborhood theatrical, dance, arts or other similar local cultural organizations (each, a "Cultural Institution" and each such cultural use, a "Cultural Use") selected by Declarant in consultation with and based on the recommendation of the Community Board pursuant to a lease acceptable to Declarant and complying with the terms of Section 2.04(e) hereof (a "Cultural Facilities Lease"). Nothing herein shall be construed to require Declarant to accept a Cultural Institution as tenant if Declarant reasonably determines that such Cultural Institution does not have (or is reasonably likely in the future to not have) the financial wherewithal to fulfill, or is otherwise unable to comply (or is reasonably likely in the future to be unable to comply) with, any of its responsibilities under the Cultural Facilities Lease.

(d) Declarant shall be responsible at Declarant's sole cost and expense for constructing the core and shell of the Cultural Spaces, including the distribution of reasonable base building systems to the Cultural Spaces. Such distribution shall include:

(i) Heating, Ventilation and Air Conditioning (HVAC) equipment including access from base building condensers, chillers, fresh air intakes and exhaust louvers. Such equipment shall also be of a type that creates minimal noise to permit performances to be conducted; and

(ii) Electrical service shall include at least 1,000 amps to service theatrical lighting needs.

Declarant shall have no obligation to provide for the fit-out of any of the Cultural Spaces, including without limitation no obligation to provide: lighting; fixtures; distribution of utilities and mechanical systems within the Cultural Spaces; furniture; interior partitions; stage areas; or acoustical separation beyond that provided by the core and shell construction, all of which shall be the responsibility of the Cultural Institution, provided that at any Cultural Institution's request, Declarant agrees that it will enter into good faith discussions with such Cultural Institution to perform the fit-out work on the Cultural Institution's behalf and at the Cultural Institution's sole cost and expense.

(e) Each Cultural Facilities Lease shall have a term of not less than ten (10) years or such longer term as may be agreed to by Declarant in its sole discretion and shall include a rent of one dollar ($1.00) per year. Each Cultural Facilities Lease shall include terms reflecting the following:

(i) Providing that each Cultural Facilities Lease shall be triple net to the Cultural Institution, and shall require the Cultural Institution to pay for its proportional share of ~~taxes,~~ insurance, maintenance, and other operating costs applicable to the Subject Property;

(ii) Providing for review and approval rights by Declarant with respect to the design, construction, and construction logistics of the fit-out of the Cultural Spaces, and require that the Cultural Institution proceed with the fit-out in a timely, expeditious and first class manner without liability or loss to Developer;

(iii) Requiring Declarant approval, in consultation with the Community Board, of any ~~Requiring Declarant approval of any~~ assignment or sublease of any portion of the Cultural Spaces or other area covered by the Cultural Facilities Lease;

(iv) Requiring that the Cultural Institution maintain appropriate insurance covering the Cultural Space and the operations therein;

(v) Providing remedies for breach of the Cultural Facilities Lease by the Cultural Institution, including self-help remedies where appropriate; and

(vi) Providing other terms and conditions reasonably typical for a commercial tenant lease to allow for the fit-out, lease, and operation of the Cultural Space within a larger building.

(f) Notwithstanding anything to the contrary contained herein, in the event that (i) the Community Board has failed to identify an acceptable Cultural Institution within two (2) years from the date that ~~Developer~~ Declarant

notifies the Community Board in writing that a Cultural Space is expected to be completed in twelve (12) months time, (ii) an acceptable Cultural Institution has been identified by the Community Board but has failed to enter into a Cultural Facilities Lease with ~~Developer~~Declarant within twelve (12) months of the date such Cultural Institution was so identified, or (iii) a Cultural Facilities Lease has expired or otherwise been abandoned or terminated and the Community Board has failed to identify an acceptable alternate Cultural Institution within twelve (12) months of such termination or abandonment, then, in each case, ~~Developer~~ Declarant may, upon written notice to the Community Board, select a Cultural Institution to lease and occupy the Cultural Spaces without consultation with and solicitation of the recommendation of the Community Board pursuant to Paragraph (c) of this Section. In such event, in the event that Declarant is unable to identify an acceptable Cultural Institution after good faith efforts during an additional six (6) month period, Declarant may use up to 8,000 sf of such Cultural Space for another use at Declarant's Option.

~~(g) The Cultural Space Obligation is limited to reserving and making available eight thousand (8,000) gross square feet of space for a Cultural Use or Cultural Uses in accordance with Sections 2.04(a) to 2.04(e). Notwithstanding the foregoing, Declarant agrees to in good faith consider requests to provide an additional up to 8,000 gross square feet of space on the Subject Property for Cultural Uses acceptable to Declarant on such terms and conditions as may be agreed to by Declarant and such potential tenant.~~

ARTICLE III
PROJECT COMPONENTS RELATED TO THE ENVIRONMENT AND MITIGATION MEASURES

3.01 Project Components Related to the Environment for Construction.

Declarant shall implement and incorporate as part of its construction of New Buildings, as appropriate, the following PCREs:

(a) Construction Air Emissions Reduction Measures.

(i) Declarant shall: (a) prior to Construction Commencement and subject to DCP review pursuant to Section 3.09 of this Declaration, develop a plan for implementation of; and (b) thereafter implement, the following measures for all construction activities (including, but not limited to, demolition and excavation) related to the development of the Subject Property:

(aa) Non-road diesel vehicles and all equipment used in construction activities shall comply, at a minimum, with the United States Environmental Protection Agency ("EPA") Tier 3 Non-road Diesel Engine Emission Standard, and, once Tier 4-compliant equipment is widely available, with the Tier 4 standard, and in all cases shall comply with the Tier 2 standard.

(bb) Gasoline-powered non-road engines used in construction activities shall meet the latest emissions standards for newly manufactured engines in effect at the time they are first rented, purchased or otherwise put into use for construction at the Subject Property.

(cc) All non-road, diesel-powered construction equipment with engine power output rating 50 horsepower or greater (except with respect to a diesel-powered non-road vehicle that is used to satisfy the requirements of a specific construction contract lasting fewer than twenty (20) calendar days) shall utilize the best available tailpipe technology to reduce diesel particulate emissions. Construction contracts shall specify that all diesel non-road engines rated at 50 horsepower or greater shall utilize active or passive diesel particle filters (either original equipment manufacturer or retrofit technology) verified under either the EPA or California Air Resources Board verification programs.

(dd) All diesel-powered engines shall be operated exclusively with ultra-low sulfur diesel fuel.

(ee) Idling of all construction vehicles including non-road engines for longer than three minutes shall be prohibited on the Subject Property, and within 10 feet of the perimeter of the Subject Property, except for vehicles being used to operate a loading, unloading or processing device, or as required for engine maintenance and repair.

(ff) The use of diesel and gasoline engines, including generators, shall be minimized through the maximum practical use of electric engines operating on grid power, and lighting devices and illuminated traffic control signals and signs operating on either grid power, on-site renewable, or solar power. Construction contracts shall require the use of electric engines where practicable. Declarant shall ensure the distribution of power connections throughout the Subject Property as needed. Equipment that shall use grid power rather than diesel engine power shall include, but not be limited to, tower cranes, personnel/material hoists, dewatering pumps, welders, saws, and small compressors. All forklifts (not including skylifts) shall be powered either by electricity from the grid or by compressed natural gas or liquid petroleum gas.

(gg) Large emissions sources, such as concrete trucks and pumping operations, shall be located, to the extent practicable, away from operable windows, fresh air intakes, parks, and playgrounds.

(hh) All ready-mix concrete delivery trucks and concrete pumping trucks must be either retrofitted with a diesel particle filter as specified in (cc) above, or come equipped with an OEM emissions control package meeting 2007 or newer model year on-highway engine certification levels for particulate matter emissions of 0.01 g/bhp-hr (as per 40 CFR § 86.007-11).

(ii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Paragraph (a) as applicable with respect to such work.

(b) Fugitive Dust Control Plan.

(i) Declarant shall: (a) prior to Construction Commencement and subject to DCP review pursuant to Section 3.09 of this Declaration, develop; and (b) thereafter implement, a plan for control of fugitive dust during construction ("Fugitive Dust Control Plan") in compliance with applicable rules pertaining to the prevention of the emission of dust from construction related activities, containing the following measures:

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

(bb) Large piles of soil, rock or sediment shall be kept wet, coated with a non-hazardous, biodegradable dust suppressant and/or covered to prevent wind erosion and fugitive dust. Longer term stockpiles shall be covered with a tarp weighted down with sand bags.

(cc) Concrete and rock grinding, drilling and saw cutting operations shall be wet blade or misted if significant dust is being generated. Such operations, if occurring in an enclosed space, shall utilize vacuum collection or extraction fans.

(dd) All trucks hauling loose soil, rock, sediment, or similar material shall be equipped with tight fitting tailgates and covered prior to leaving construction areas.

(ee) Stabilized areas shall be established for washing dust off of the wheels of all trucks that exit construction areas. All vehicle wheels will be cleaned as necessary prior to leaving the construction sites in order to control tracking.

(ff) Truck routes and surfaces on which nonroad vehicles are operating within construction areas shall be watered as needed; or, in cases where such routes will remain in the same place for extended periods, the soil on such surfaces and roadways shall be stabilized with a biodegradable dust suppressant solution, covered with gravel, or temporarily paved to avoid the re-suspension of dust.

(gg) In addition to regular cleaning by the City, roads adjacent to construction areas shall also be cleaned by Declarant on a regular basis using wet sweeping to minimize fugitive dust emissions.

(hh) Materials and waste during demolition shall be brought to grade by hoist. Alternatively, chutes shall be used for material drops during demolition. If chutes are used, the bottom end of drop

chutes shall be inserted into covered trucks or bins in a sealed manner so as to ensure that dust is not released from the truck or bin.

(ii) A vehicular speed limit of 5 miles per hour shall be observed within construction areas.

(ii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Paragraph (b) consistent with such Fugitive Dust Control Plan as applicable with respect to such work.

(c) Construction Noise Reduction Measures.

(i) Declarant shall: (a) prior to Construction Commencement and subject to DCP review pursuant to Section 3.09 of this Declaration, develop a plan for implementation of; and (b) thereafter implement, the following measures for all construction activities (including demolition and excavation) related to the development of the Subject Property:

(aa) All construction activities shall comply with Chapter 2 of Title 24 of the New York City Administrative Code (the "City Noise Control Code"), and with the rules on Citywide Construction Noise Mitigation, Chapter 28 of Title 15 of the Rules of the City of New York.

(bb) Declarant shall develop and implement a plan for minimization of construction noise (the "Noise Mitigation Plan"). The Noise Mitigation Plan shall contain the following measures:

(1) Noise barriers shall be erected around the perimeter of areas where construction activities are taking place for the purpose of minimizing construction noise consistent with reasonable construction procedures and LIRR operating and safety requirements, provided this subclause shall not be construed as requiring sound barriers around construction work conducted more than twelve (12) feet above the height of the Platform.

(2) The noise emission levels of all construction equipment shall not exceed those found in the Federal Highway Administration Roadway Construction Noise Model (the "FHWA RCNM").

(3) Construction laborers shall be trained in quieter work methods.

(4) Declarant shall maintain a website or implement another program to inform the affected public about the construction work schedule.

(5) Quieter-type adjustable backup alarms shall be used on all construction equipment.

(6) For construction activities involving the use of pile drivers, hoe-rams, jackhammers, or blasting, additional noise mitigation measures chosen from a list of options to be set forth in the Noise Mitigation Plan shall be implemented where feasible.

(ii) If construction work will occur after 6:00 PM or before 7:00 AM, Declarant shall prepare an additional noise mitigation plan (the "Alternative Noise Mitigation Plan") in accordance with the City Noise Control Code prior to commencing such nighttime work.

(iii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Section 3.01(c) consistent with such Noise Mitigation Plan and, if applicable, Alternative Noise Mitigation Plan, as applicable with respect to such work.

(d) Construction Soil Erosion and Sediment Reduction Measures.

(i) Declarant shall: (a) prior to Construction Commencement and subject to DCP review pursuant to Section 3.09 of this Declaration, develop a plan for implementation of; and (b) thereafter implement, a plan for soil erosion and sediment control for all construction activities (including demolition and excavation) related to the development of the Subject Property, in conformance with the requirements of the New York State Standards and Specifications for Erosion and Sediment Control (the "Soil Erosion and Sediment Control Plan"), containing the following measures:

(aa) The wheels or treads of vehicles and equipment that could track soil from areas under construction shall be washed before leaving such areas. To reduce the use of potable water for this purpose, the wheel wash shall be supplied by collecting precipitation or using water collected during dewatering operations, where practicable.

(bb) Rinse water from the wheel wash shall be reabsorbed into the ground or pumped into tanks holding storm water or dewatering water. The wheel wash shall not be used for concrete trucks.

(cc) Concrete trucks shall be rinsed into watertight dedicated bins. The captured washout water shall be left to evaporate, be treated, or be returned to the concrete manufacturer.

(dd) Concrete from trucks, chutes, buckets and other equipment shall be removed and collected in dedicated waste bins prior to equipment rinsing. Concrete spillage on the Subject Property shall be collected in dedicated waste bins.

(ee) Disturbed areas shall be stabilized for the duration of construction activity or until construction work resumes on the inactive disturbed areas. All disturbed areas of construction, including exposed ground and subgrade surfaces, storage piles of fill, dirt and other bulk materials, which are not being actively utilized for construction purposes for a period of seven (7) calendar days or more, shall be stabilized using: water as a dust suppressant; chemical dust stabilizer or suppressant; physical barriers or covers; or vegetative ground cover.

(ii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Paragraph (d) consistent with such Soil Erosion and Sediment Control Plan, as applicable with respect to such work.

(e) Construction Dewatering Plan.

(i) Declarant shall: (a) prior to Construction Commencement and subject to DCP review pursuant to Section 3.09 of this Declaration, develop a plan for implementation of; and (b) thereafter implement a plan for dewatering during construction ("Dewatering Plan"), which shall set forth procedures for handling site runoff and groundwater encountered during construction activities (including excavation) related to the development of the Subject Property. Such plan shall:

(aa) Provide a description of the methods used to collect, store and dispose of water collected during dewatering activities.

(bb) Identify the necessary permits required from DEP and/or DEC to discharge dewatering water into the City's sewers or surface waters.

(cc) Require that dewatering water be pumped into sedimentation tanks for removal of sediments prior to reuse on the Subject Property or discharged into the City's sewer system or surface waters, require the water in such tanks to be tested periodically for pH, turbidity and contaminants, and if unacceptable levels of turbidity or contaminants are identified, require treatment prior to discharge off site in accordance with applicable DEP or DEC regulations.

(dd) Suitable drainage means shall be provided for the removal of surface runoff from the site and sludge which drains from the operation.

(ii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Paragraph (e) consistent with such Construction Dewatering Plan, as applicable with respect to such work.

(f) Construction Pest Management Plan.

(i) Declarant shall: (a) prior to Construction Commencement and subject to DCP review pursuant to Section 3.09 of this Declaration, develop a plan for implementation of; and (b) thereafter implement an integrated plan for construction pest management ("Construction Pest Management Plan") for all construction activities (including demolition and excavation) related to the development of the Subject Property, to control pests

(unwanted vermin, insects and weeds) in accordance with DOB requirements. Such plan shall contain the following requirements:

(aa) Food waste shall be segregated from construction waste and deposited in covered bins.

(bb) Vegetation fostering vermin shall be kept trimmed.

(cc) Construction trailers, dumpsters, and sheds shall be elevated off of the ground to discourage vermin from burrowing or hiding in them.

(dd) Standing water shall be pumped out before the water becomes septic.

(ii) Declarant shall include enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Paragraph (f) consistent with such Construction Pest Management Plan, as applicable with respect to such work.

(g) Hazardous Materials Remediation and Protection Measures.

(i) Prior to Construction Commencement, Declarant shall undertake a pre-demolition survey of any buildings to be demolished for asbestos containing materials ("ACM"), lead-based paint ("LBP") and equipment suspected to contain polychlorinated biphenyls ("PCBs"). If such materials are identified during the survey, Declarant shall develop and implement procedures for pre-demolition removal of such materials, as part of the Construction Health and Safety Plan ("CHASP") described in clause (ii) below.

(ii) Prior to Construction Commencement, Declarant shall prepare and submit to DEP a site-specific CHASP describing in detail precautionary measures and safety procedures to be followed to minimize pathways of exposure to contaminants. The CHASP shall include the following:

(aa) If determined necessary following the pre-demolition survey, the CHASP shall include an ACM management plan, which shall set forth procedures for handling, removal and disposal of ACM in conformance with federal, New York State, and New York City requirements. The ACM management plan shall provide for appropriate engineering controls (e.g., wetting and other dust control measures) to minimize asbestos exposure throughout demolition of existing buildings on the Subject Property.

(bb) If the pre-demolition survey finds that LBP-coated surfaces are present in any structures to be demolished on the Subject Property, the CHASP shall include an LBP management plan. This plan shall require that an exposure assessment be performed to determine whether lead exposure may occur during demolition activities. If the exposure assessment indicates the potential to generate airborne dust or fumes with lead levels exceeding health-based standards, a higher personal protection equipment standard shall be required to counteract the exposure. In all cases, appropriate methods to control dust and air monitoring, as required by the Occupational Health and Safety Administration**,** shall be required during demolition activities.

(cc) The CHASP shall require that suspected PCB-containing equipment that will be disturbed by construction activities on the Subject Property shall be removed and disposed of in accordance with applicable federal, State, and local regulations. Unless labeled "non-PCB", types of equipment usually suspected to contain PCBs (e.g., transformers, electrical feeder cables, hydraulic equipment, and fluorescent light ballasts) shall be tested or assumed to contain PCBs and disposed of at properly licensed facilities.

(dd) The CHASP shall include a Materials Handling Plan identifying specific protocols and procedures for stockpiling, testing, loading, transporting, and properly disposing of all excavated material, in accordance with applicable regulations.

(ee) The CHASP shall designate appropriate personnel to ensure the implementation of its requirements, including a Health and Safety Officer ("HSO") and an on-site Site Safety Officer ("SSO"). The HSO shall oversee the SSO and be responsible for coordinating and reporting all health and safety activities. The HSO must have completed a 40-hour Hazardous Waste Operations training course, supervisory training, and updated annual refresher courses pursuant to requirements codified in 29 CFR Part 1910, Occupational Safety and Health Standards. The SSO shall be a highly competent person who is responsible for the implementation of the CHASP. The SSO shall have the authority to stop work upon determination of an imminent safety hazard, emergency situation, or other potentially dangerous situation. If the HSO is to be absent from the construction area, the HSO shall designate a suitably qualified replacement who is familiar with the CHASP.

(ff) The CHASP shall impose training requirements for all construction personnel entering the Subject Property in the vicinity of areas where intrusive activities are being performed. Before entering the Subject Property at such times and at such locations, all construction personnel shall be required to attend a training meeting, conducted by the HSO, SSO, or other suitably trained individuals to: (1) make workers aware of the potential hazards they may encounter; (2) provide the knowledge and skills necessary for them to perform the work with minimal risk to health and safety; (3) make workers aware of the purpose and limitations of safety equipment; and (4) ensure that they can safely avoid or escape from emergencies. Others who enter the Subject Property during intrusive activities without having attended a training session shall be accompanied by a trained construction worker.

(gg) The CHASP shall provide that all excavation shall be continuously monitored for the presence of buried tanks, drums, or other containers; sludges; or soil that shows evidence of potential contamination, staining, or odors, and shall include contingency response plans to be implemented upon detection of any of these items.

(hh) The CHASP shall include an emergency response plan to be implemented in the event that monitoring data indicate a potential major hazard.

(ii) The CHASP shall define protocols for reporting spills or other concerns to relevant government agencies.

(jj) The CHASP shall set forth dust control measures to be implemented during all soil-disturbing activities, comprised of the measures set forth in Section 3.02(b).

(kk) The CHASP shall identify measures to be taken to address contaminated material that will remain on the Subject Property after construction is completed, including the use of impermeable barriers to achieve isolation from contaminants such as semi-volatile organic compounds.

(ll) DOB shall not issue, and Declarant shall not accept, any Building Permit for work at the Subject Property, until DCP shall have certified to the DOB Commissioner that: (1) a CHASP consistent with the provisions of this Paragraph (g) has been approved by DEP; and (2) Declarant has included enforceable contractual requirements with contractors and subcontractors to implement the provisions of this Paragraph (g) consistent with such CHASP, as applicable with respect to such work.

(iii) Declarant shall undertake investigations, as appropriate, to evaluate the extent of soil, groundwater, and soil vapor contamination present at the Subject Property in accordance with relevant regulatory protocols for site investigations and remediation.

(iv) Declarant shall have no responsibility for the remediation associated with the known petroleum spill at the Subject Property (DEC Spill No. 04-07411) to be completed in accordance with the existing DEC consent order, which remediation shall be the responsibility of the MTA.

(v) Soil Vapor Mitigation.

(aa) Declarant shall, if required by DEP, install appropriate soil vapor barrier measures to protect New Buildings constructed within the terra firma portion of the Subject Property.

(bb) Declarant shall have the opportunity to propose to DEP soil vapor mitigation measures it deems appropriate based on soil and/or groundwater testing, the proposed building parameters (e.g., building layout, foundation type, operation of HVAC systems, etc.), and environmental influencing factors (e.g., current soil and groundwater conditions, underground conduits, contaminant source location and concentration, etc.).

(cc) DOB shall not issue, and Declarant shall not accept, a New Building Permit for a New Building to be constructed within the terra firma portion of the Subject Property, until DCP shall have certified to the DOB Commissioner that DEP has either (1) approved in writing Declarant's proposal for soil vapor barrier measures for such New Building, or (2) determined that Declarant has demonstrated to DEP's satisfaction that no soil vapor mitigation measures are required for such New Building.

(dd) Any plans and drawings submitted by Declarant to DOB in connection with a New Building Permit application or amendment thereof shall reflect and be consistent with any soil vapor measures approved by DEP and Declarant shall construct the New Building in accordance with such plan.

(ee) Following issuance of a TCO or PCO for a New Building, Declarant shall not eliminate or modify a soil vapor mitigation measure without the approval of DEP.

(h) Historic Resource Protection Measures.

(i) Prior to commencing construction within ninety (90) feet of the High Line, Declarant shall develop a Construction Protection Plan ("CPP") in coordination with OPRHP and LPC to avoid any adverse physical, construction-related impacts to the High Line, such as those from ground-borne vibrations, falling objects, dewatering, flooding, subsidence, collapse, or damage from construction machinery and shall submit same to DCP.

(ii) DOB shall not issue, and Declarant shall not accept, a Building Permit allowing work within ninety (90) feet of the High Line until DCP shall have certified to the DOB Commissioner that both OPRHP and LPC have determined that the CPP is acceptable.

(iii) All construction activities (including demolition and excavation) within 90 feet of the High Line shall be undertaken in accordance with the CPP.

(iv) The CPP shall follow the guidelines set forth in LPC's *Guidelines for Construction Adjacent to a Historic Landmark* and *Protection Programs for Landmark Buildings* as appropriate, except as may be otherwise approved by LPC and OPRHP. The CPP shall also follow the requirements established in DOB's *Technical Policy and Procedure Notice #10/88*, in addition to the guidelines set forth in Section 523 of the *CEQR Technical Manual*.

(v) Construction procedures included in the CPP to protect the foundations and structures of the High Line shall be developed and monitored by structural and foundation engineers.

(vi) The CPP shall:

(aa) Describe in detail the demolition, excavation and construction procedures anticipated to occur.

(bb) Provide for the inspection and reporting of existing conditions.

(cc) Establish protection procedures, including the types and locations of barriers that will be used to protect the High Line during construction activities.

(dd) Establish a monitoring program to measure vertical and lateral movement and vibration.

(ee) Establish methods and materials to be used for any repairs.

(ff) Establish and monitor construction methods to limit vibrations. Specifically, the CPP shall establish vibration mitigation measures to be implemented should construction activities involve the use of certain equipment within specified distances from the High Line, as specified below:

Clam Shovel Drop	15 feet
Auger Drill Rig	16 feet
Jackhammer	6 feet
Mounted Hoe Ram	70 feet
Vibratory Pile Driver	120 feet
Impact Pile Driver	73 feet

(gg) Authorize the structural and foundation engineers to issue 'stop work' orders to prevent damage to the High Line and establish procedures for the recommencement of work following same.

(i) Construction Materials.

Declarant shall use locally purchased materials and recycled materials, including concrete made with slag or fly ash, to the extent practicable for construction on the Subject Property. For purposes of this Paragraph (i), "locally" shall mean within 500 miles of the Subject Property. As an alternative to slag or fly ash, ultra low-carbon cement or cement replacements (such as cement made from recycled materials or using a salt water and carbon dioxide process) may be considered. Following Commencement of Construction, Declarant shall provide DCP with an annual report, due January 31st of each year until issuance of a TCO for all of the floor area to be included in the New Buildings on the Subject Property, describing the amounts of locally purchased and recycled materials utilized in construction during the prior year and any proposed measures to increase such amounts in future construction.

(j) Maintenance and Protection of Traffic Plan.

(i) Prior to Construction Commencement, Declarant shall prepare a Maintenance and Protection of Traffic ("MPT") plan and submit it to DOT for review and approval, provided that completion of the MPT shall not be necessary for preliminary site work unless DOT determines that an MPT is required. Such plan shall provide diagrams of proposed temporary lane and sidewalk alterations, including the duration such alterations will be implemented, and the width and length of affected segments.

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

(iii) Subject to DOT's approval, the MPT plan shall include the following provisions:

(aa) At no time shall access to existing occupied buildings on the Subject Property be closed, and at no time shall access by LIRR personnel and equipment to any Caemmerer Rail Yard facilities be restricted without consent of the LIRR.

(bb) In areas where temporary sidewalk closure is required, either (1) the pedestrian path shall be relocated to the curb lane and a barrier shall be erected to separate motor vehicle traffic from pedestrian traffic; or (2) if access to the adjacent lot is not needed, pedestrians shall be routed to the opposite side of the street at the nearest crosswalk.

(cc) The width of any relocated or modified pedestrian path shall be at least five (5) feet.

(dd) Emergency access to fire hydrants, fire alarm boxes, and critical utility vaults and chambers shall be maintained.

3.02 Project Components Related to the Environment for Design and Operation of New Buildings.

Declarant shall implement and incorporate the following PCREs relating to design and operation of New Buildings:

(a) Operational Air Emissions Controls.

(i) Declarant shall: (a) prior to acceptance of a New Building Permit, submit plans for DCP review pursuant to Section 3.09 of this Declaration demonstrating compliance with; and (b) thereafter implement, the following controls relating to emissions from the heating systems of New Buildings ("HVAC Controls"):

(aa) For all New Buildings, the use of fuel oil shall be restricted to the four (4) winter months (December, January, February, and March). During other months, natural gas shall be used to power heating systems.

(bb) Boiler exhaust stacks on all New Buildings shall be a minimum of twenty (20) feet in height, except where a greater minimum height is specified below.

(cc) For New Building WC-1 (Site 2), there shall be one boiler exhaust stack located at the center of the roof. Air intake ducts on the south and west facades of this New Building shall be located at a minimum height of 400 feet. Air intake ducts on the east facade of this New Building shall be located at a minimum height of 650 feet.

(dd) For New Building WR-1 (Site 4), there shall be one boiler exhaust stack, which shall be located: (1) if the 'Maximum Commercial Scenario', as defined in the FEIS, is pursued, at the center of the roof; (2) if the 'Maximum Residential Scenario -- Office Option', as defined in the FEIS, is pursued, at the northern end of the roof; or (3) if the 'Maximum Residential Scenario -- Hotel Option', as defined in the FEIS, is pursued, at the northwest corner of the roof.

(ee) For New Building WR-2 (Site 6), there shall be one boiler exhaust stack, which shall be located at the southern end of the roof.

(ff) For New Building WR-3 (Site 6), there shall be one boiler exhaust stack, which shall be located: (1) if the 'Maximum Commercial Scenario', as defined in the FEIS, is pursued, at the center of the roof; or (2) if either of the 'Maximum Residential Scenarios', as defined in the FEIS, is pursued, at the southwest corner of the roof.

(gg) For New Building WR-4 (Site 5), there shall be one boiler exhaust stack, which shall be located at the center of the roof. If either of the 'Maximum Residential Scenarios', as defined in the FEIS, is pursued, the stack shall be a minimum of 40 feet in height.

(hh) For New Building WR-5 (Site 3), there shall be one boiler exhaust stack, which shall be located: (1) if the 'Maximum Commercial Scenario', as defined in the FEIS, is pursued, at the center of the roof; (2) if the 'Maximum Residential Scenario -- Office Option', as defined in the FEIS, is pursued, at the southwest corner of the roof; or (3) if the 'Maximum Residential Scenario -- Hotel Option', as defined in the FEIS, is pursued, at the southeast corner of the roof. If either of the 'Maximum Residential Scenarios', as defined in the FEIS, is pursued, the stack shall be a minimum of 40 feet in height.

(ii) For New Building WR-6 (Site 1), there shall be one boiler exhaust stack, which shall be located at the center of the roof.

(jj) For New Building WR-7 (Site 1), there shall be two boiler exhaust stacks, which shall be located at the western end of the roof.

(ii) In the event that the building height for a New Building differs from that shown in Table 19-9 of the FEIS, Declarant shall demonstrate to the satisfaction of DCP, that the HVAC Controls for such building set forth in clause (i) remain adequate. Alternatively, Declarant shall propose adjustments to the HVAC Controls which, upon review and approval by DCP, shall become the applicable HVAC Controls for that building. Notwithstanding the foregoing, Declarant shall be allowed to modify the location of stacks and the location of air intake vents if Declarant demonstrates to DCP, based on the technologies employed and the height and location of other New Buildings on the Subject Property, that the Project with such controls will not result in any significant adverse air quality impacts not identified in the FEIS.

(iii) Any plans and drawings submitted by Declarant to DOB in connection with a New Building Permit application or amendment thereof shall reflect and be consistent with such controls.

(iv) Following issuance of a TCO or PCO for a New Building, Declarant shall not eliminate or modify an HVAC Control unless Declarant shall have obtained the written approval of DCP authorizing such change, and DOB shall not issue, and Declarant shall not accept, a Demolition Permit or Alteration Permit from DOB which would result in elimination or modification of any such HVAC Control. In no event shall this clause (iv) be construed as prohibiting or preventing Declarant from undertaking any maintenance, repair or replacement of any portion of the HVAC system (including replacement of any element with a more efficient or cleaner system), provided same is consistent with the terms of this Section 3.02(a).

(b) New Building Noise Attenuation.

(i) Declarant shall: (a) prior to acceptance of a New Building Permit, submit plans for DCP review pursuant to Section 3.09 of this Declaration demonstrating compliance with; and (b) thereafter implement the following noise attenuation requirements for New Buildings:

(aa) New Building WR-1 (Site 4) shall have a closed window condition providing a minimum of (1) 35 dBA of window/wall attenuation on its northern and southern facades; (2) 30 dBA of window/wall attenuation on its western facade; and (3) 40 dBA of window/wall attenuation on its eastern facade.

(bb) New Building WR-2 (Site 6) shall have a closed window condition providing a minimum of (1) 30 dBA of window/wall attenuation on its northern facades and shorter western facade (at the northern end of the building); (2) 35 dBA of window/wall attenuation on its westernmost facade; and (3) 40 dBA of window/wall attenuation on its easternmost and southern facades.

(cc) New Building WR-3 (Site 6) shall have a closed window condition providing a minimum of (1) 30 dBA of window/wall attenuation on its northern and western facades; and (2) 35 dBA of window/wall attenuation on all of its other facades.

(dd) New Building WR-4 (Site 5) shall have a closed window condition providing a minimum of (1) 40 dBA of window/wall attenuation on its northwestern and southwestern facades; and (2) 30 dBA of window/wall attenuation on both of its other facades.

(ee) New Building WR-5 (Site 3) shall have a closed window condition providing a minimum of (1) 35 dBA of window/wall attenuation on its western and southern facades; and (2) 30 dBA of window/wall attenuation on both of its other facades.

(ff) New Building WR-6 (Site 1) shall have a closed window condition providing a minimum of (1) 35 dBA of window/wall attenuation on its western and northern facades; and (2) 30 dBA of window/wall attenuation on both of its other facades.

(gg) New Building WR-7 (Site 1) shall have a closed window condition providing a minimum of (1) 40 dBA of window/wall attenuation on its western facade; and (2) 35 dBA of window/wall attenuation on all of its other facades.

(hh) If either the 'Maximum Commercial Scenario' or the 'Maximum Residential Scenario -- Office Option', as defined in the FEIS, is pursued, New Building WC-1 (Site 2) shall have a closed window condition providing a minimum of (1) 35 dBA of window/wall attenuation on its eastern facade; (2) 25 dBA of window/wall attenuation on its westernmost facade; and (3) 30 dBA of window/wall attenuation on all of its other facades.

(ii) If the 'Maximum Residential Scenario -- Hotel Option', as defined in the FEIS, is pursued, New Building WC-1 (Site 2) shall have a closed window condition providing a minimum of (1) 35 dBA of window/wall attenuation on its eastern facade; (2) 25 dBA of window/wall attenuation on its westernmost facade; and (3) 30 dBA of window/wall attenuation on all of its other facades.

(jj) For all New Buildings, an alternative form of ventilation shall be provided.

(ii) Following issuance of a TCO or PCO for a New Building, Declarant shall not eliminate or modify a noise attenuation measure unless DCP has approved such modification or elimination in accordance with Section 3.06(b) hereof. DOB shall not issue, and Declarant shall not accept, a Demolition Permit or Alteration Permit from DOB which would result in elimination or modification of any such noise attenuation measure. In no event shall this clause (ii) be construed as prohibiting or preventing Declarant from undertaking any maintenance, repair or replacement of any portion of the Noise attenuation system, provided same is consistent with the terms of this Section 3.03(a).

(c) Pedestrian Wind Conditions.

(i) During architectural design development for a New Building and, in any event, prior to preparation of a final architectural design, Declarant shall cause a qualified consultant ("Wind Conditions Consultant") to undertake wind tunnel testing to assess the effect of the architectural design on pedestrian-level wind conditions. Where the results of wind tunnel testing indicate that implementation of the architectural design would have the potential to result in pedestrian-level wind conditions exceeding the performance criterion referenced in Appendix K to the FEIS (the "Appendix K Criteria"), Declarant shall incorporate design features into the final architectural design, which: (aa) are determined through further testing to be effective in reducing or eliminating such exceedance; (bb) are compatible with the overall architectural design and location of the New Building and are consistent with the bulk and urban design controls contained in the Zoning Resolution; and (cc) are feasible from a structural, engineering and cost standpoint (the "Wind-Reduction Design Modifications"). Wind tunnel testing pursuant to this Section 3.02(c) shall be conducted in accordance with a methodology and protocol acceptable to DCP.

(ii) No later than ninety (90) days prior to obtaining a New Building Permit from DOB, Declarant shall submit copies of a draft report to DCP describing: (aa) the results of wind tunnel testing and (bb) in the event such testing shows the potential for exceedance of the Appendix K Criteria based on the proposed design, an explanation and description of any Wind-Reduction Design Modifications which have been incorporated into the final architectural design (the "Wind Conditions Report"). In the event that Wind-Reduction Design Modifications have not been incorporated into the final architectural design, or have been incorporated but do not fully eliminate all exceedances of the Appendix K Criteria, then such report shall be accompanied by a written joint certification of the Wind Conditions Consultant and Declarant stating either that: (aa) no Wind-Reduction Design Modifications are required to cause the Project to meet the Appendix K Criteria; (bb) no Wind-Reduction Design Modifications or additional Wind-Reduction Design Modifications are available that would be effective in materially reducing or eliminating the potential for an exceedance of the Appendix K Criteria; or (cc) potential Wind-Reduction Design Modifications are not compatible with the overall architectural design and location of the New Building, do not comply with the bulk or urban design controls contained in the Zoning Resolution, or are not feasible from a structural, engineering or cost standpoint. DCP shall, from the date of receipt, have thirty (30) days to review the draft Wind Conditions Report and provide Declarant with written comments. Declarant shall thereafter cause the Wind Conditions Consultant to submit a final Wind Conditions Report to DCP, which shall incorporate responses to such comments. DOB shall not issue, and Declarant shall not accept, any New Building Permit for a New Building until DCP shall have certified in writing to DOB that a final Wind Conditions Report has been submitted in compliance with this clause (ii) and that such report reflects a reasonable application of the standards set forth herein. Declarant shall also provide copies of all final Wind Conditions Reports to Community Board 4, Manhattan, the local Councilmember, the Manhattan Borough President, and any Construction Consultation Process Committee established pursuant to Section 6.01 of this Declaration.

(iii) Implementation of any Wind-Reduction Design Modifications identified in a final Wind Conditions Report submitted in accordance with this Section 3.02(c) shall be deemed a requirement of this Declaration and any plans and drawings submitted by Declarant to DOB in connection with a New Building Permit application or amendment thereof shall reflect and be consistent with such Wind-Reduction Design Modifications.

(iv) Following issuance of a TCO or PCO for a New Building, Declarant shall not eliminate or modify a Wind-Reduction Design Modification identified in a final Wind Conditions Report submitted in accordance with this Section 3.02(c) except as set forth in this clause (iv) or pursuant to Section 3.06 hereof. DOB shall not issue, and Declarant shall not accept a Demolition or Alteration Permit which would result in elimination or modification of any such Wind-Reduction Design Modification unless and until the Chair shall have certified to the DOB Commissioner that Declarant has demonstrated to the satisfaction of DCP that such Wind-Reduction Design Modification is no longer required or that an alternate Wind-Reduction Design Modification will be incorporated that will result in equivalent or improved wind conditions on and around the Subject Property. In no event shall this clause (iv) be construed as prohibiting or preventing Declarant from undertaking any maintenance, repair, replacement of or improvement to any portion of a Wind Reduction Design Modification provided that the same is consistent with this Section 3.02(c).

(v) The provisions of clauses (i)-(iv) of this Paragraph (e) shall not apply to a New Building in the event that Declarant demonstrates to the satisfaction of the Chair, based on a report and analysis prepared by a consultant expert and experienced in the field of wind conditions analysis, that the New Building, by virtue of its size, location, massing or other features, does not have the potential to result in an exceedance of the Appendix K Criteria, such that wind tunnel testing of its architectural design as provided in this Section 3.02(c) is not required under the circumstances. In that event, the Chair shall certify to the DOB Commissioner that DOB may issue a New Building Permit. Such certification shall apply to the relevant New Building only and shall have no application to any other New Building on the Subject Property.

(d) Ventilation Fan Plants.

(i) Declarant shall ensure that exterior noise levels from the ventilation system for the Platform shall comply with the City Noise Control Code through implementation of the following measures ("Ventilation Noise Controls"):

(aa) Ventilation operations shall not increase the noise levels by 3 dBA or more over the levels identified in the FEIS as the Future No Build Noise Levels, and shall comply with all applicable provisions of the City Noise Control Code. Declarant shall meet these requirements by establishing appropriate noise-related specifications for the ventilation system, including ventilation duct work, airflow velocities, louvered openings in the ventilation plant exterior walls, fan type, fan size, pressure drop, and silencer characteristics.

(bb) Fan noise shall be controlled using a combination of in-duct splitter attenuators that can achieve between 20 to 30 dBA reductions in noise, sound absorptive plenums (large rooms enclosed by acoustic materials that can achieve between 10 and 15 dBA reductions), and acoustic louvers.

(cc) The ventilation plants shall be designed structurally to accommodate HVAC and mechanical equipment within the plants to minimize noise and ground-vibration impacts to adjacent sensitive uses and public areas.

(dd) Silencers and/or enclosures and anti-vibration mounts for fans and motors shall be used.

(ii) Following construction of the Platform, Declarant shall not eliminate or modify a Ventilation Noise Control except pursuant to Section 3.06 hereof and with such approval as may required by the LIRR. In no event shall this clause (ii) be construed as prohibiting or preventing Declarant from undertaking any maintenance, repair or replacement of any portion of the Ventilation Fan Plant (including replacement of any element with a more efficient and quieter system), provided same is consistent with the terms of this Section 3.03(d).

(e) Use of LIRR Outfall.

(i) Declarant shall install drainage mechanisms on the Subject Property that shall direct all stormwater runoff from Sites 5 and 6 to LIRR's existing 43" by 68" box culvert, which drains the Caemmerer Rail Yard directly into the Hudson River ("LIRR Outfall"). Additional Sites may use the LIRR Outfall based upon the DEP Approved Drainage Plan for the Subject Property.

(ii) Use of the LIRR Outfall, including any use of such outfall by Sites other than Sites 5 and 6, shall also be governed by an agreement between MTA/LIRR and Declarant.

(iii) Any plans and drawings submitted by Declarant to DOB in connection with a New Building Permit application or amendment thereof for construction on any of the Sites shall reflect and be consistent with the DEP Approved Drainage Plan.

(f) Tri-Generation Energy Supply System.

If Declarant chooses to install tri-generation energy supply systems in New Buildings (to generate electricity, heat and cooling), such systems shall use exclusively natural gas for fuel. In supplemental boilers installed in all New Buildings, the use of fuel oil shall be restricted to the four winter months (December, January, February, and March). During other months, natural gas shall be used to power the supplemental boilers. Declarant shall adhere to all HVAC Controls set forth in Section 3.02(a), and shall obtain and comply with all required DEP and DEC permits in connection with the operation of such tri-generation system.

3.03 Project Components Related to the Environment Relating to Sustainability.

Declarant shall implement and incorporate as part of its design and operation of New Buildings, the following PCREs relating to sustainability:

(a) Energy Efficiency.

(i) Declarant shall incorporate energy efficiency measures with respect to fuel consumption and energy use ("EEMs") in each New Building that will result in at least 14% less energy consumption in building systems and by building tenants than the standard set forth in the American Society of Heating, Refrigerating, and Air-Conditioning Engineers ("ASHRAE") standard 90.1-2007 in effect as of the date hereof (the "Minimum Energy Savings"). EEMs may include, but are not limited to, building design, high-performance glazing, increased insulation, high-efficiency lighting (occupancy sensors), higher efficiency HVAC equipment, variable frequency drives for pumps and fans, premium efficiency motors, improved temperature controls, and use of EnergyStar appliances.

(ii) Declarant shall cause to be prepared by a qualified building energy consultant (the "BEC"), a report identifying the EEMs for a New Building that will result in the Minimum Energy Savings (the "Energy Report"). The Energy Report shall demonstrate how such EEMs, once implemented, will achieve and maintain the Minimum Energy Savings. Nothing herein shall be deemed to preclude Declarant from achieving a greater amount of energy savings.

(iii) No later than ninety (90) days prior to submitting an application for a New Building Permit to DOB, Declarant shall cause the BEC to submit copies of a draft Energy Report to DCP, which shall, from the date of receipt, have thirty (30) days to review the draft Energy Report, based on consultation with the Energy Division of EDC, and to provide Declarant with written comments detailing any issues regarding the sufficiency of the proposed EEMs to achieve the Minimum Energy Savings. Declarant shall cause the BEC to submit to DCP a final Energy Report, which shall include responses to such comments. The final Energy Report shall be accompanied by a written certification of the BEC stating that, in its opinion, the EEMs described in the final Energy Report are sufficient to achieve and maintain the Minimum Energy Savings. DOB shall not issue, and Declarant shall not accept, any New Building Permit for a New Building until DCP shall have certified in writing to the DOB Commissioner that a final Energy Report has been submitted in accordance with the procedures of this clause (iii).

(iv) Implementation of the EEMs identified in the final Energy Report submitted in accordance with this Paragraph shall be deemed a requirement of this Declaration, provided that Declarant may modify the EEMs incorporated in any New Building as such New Building is being constructed provided that such alternate EEM is approved by DCP in accordance with Section 3.06 hereof.

(b) LEED Silver Certification.

(i) Except as otherwise provided in this Section 3.01(b), Declarant shall design and construct each New Building in accordance with the standards and criteria required to achieve a minimum of LEED Silver Certification, and shall apply for and use reasonable and good faith efforts to obtain LEED Silver Certification from the USGBC.

(ii) DOB shall not issue, and Declarant shall not accept, any New Building Permit for a New Building, until the Chair shall have certified to the DOB Commissioner that Declarant has submitted the following to DCP:

(aa) A LEED checklist for the New Building demonstrating that the number of points Declarant intends to pursue during LEED 'Construction Review' will make the New Building eligible to obtain LEED Silver Certification. Such checklist shall demonstrate that Declarant is providing a minimum of 32% of possible points in the GHG Credit Categories, as set forth in Exhibit D; and 50% of possible points in the Water Credit Categories, as set forth in Exhibit D (collectively, the "GHG and Water Credit Requirements"). New Buildings for which Declarant seeks LEED Silver Certification under future versions of the USGBC LEED rating system shall demonstrate performance at least equivalent to that which would have been required to meet the GHG and Water Credit Requirements under version 2009 of the USGBC LEED rating system.

(bb) A signed affirmation from a LEED-accredited professional stating that he or she has reviewed the plans and drawings submitted or to be submitted to the DOB for purposes of a New Building Permit and that such plans and drawings are consistent with the LEED checklist and meet the intent of the criteria for LEED Silver Certification of the New Building.

(iii) DOB shall not issue, and Declarant shall not accept, any TCO, until the Chair shall have certified to the DOB Commissioner that Declarant has submitted the following to DCP:

(aa) Documentation demonstrating that Declarant has completed LEED 'Design Review' and showing the number of points 'anticipated' as a result of the LEED 'Design Review'. In the event that USGBC has 'denied' any points applied for by Declarant in the LEED 'Design Review', Declarant shall provide a report describing the following: (1) the basis for the USGBC determinations, as well as any related technical advice provided by the USGBC review team; and (2) the steps taken by Declarant in response to the USGBC determinations, including appeals thereof.

(bb) A LEED checklist for the New Building, demonstrating that the number of points 'anticipated' by the USGBC during LEED 'Design Review', in combination with the number of points that Declarant intends to pursue during LEED 'Construction Review', will make the New Building eligible to obtain LEED Silver Certification. Such checklist shall demonstrate that the GHG and Water Credit Requirements will be met.

(iv) DOB shall not issue, and Declarant shall not accept, a PCO for a New Building, until the Chair shall have certified to the DOB Commissioner that Declarant has submitted the following to DCP:

(aa) If the New Building has received LEED Silver Certification:

(1) Documentation demonstrating that the New Building has received LEED Silver Certification, in the form of a USGBC 'Certificate of Recognition' or equivalent document.

(2) A LEED checklist for the New Building demonstrating the number of LEED points that the New Building was 'awarded' by the USGBC. Such checklist shall demonstrate that the GHG and Water Credit Requirements have been met.

(bb) If the application for LEED 'Construction Review' is still pending:

(1) Documentation demonstrating that the complete application for LEED 'Construction Review' was submitted to the USGBC within nine (9) months of receiving the Final TCO for the New Building and Declarant has thereafter diligently pursued its application for LEED Silver Certification.

(2) A LEED checklist for the New Building demonstrating that the number of points 'anticipated' by the USGBC during LEED 'Design Review', in combination with the number of points that Declarant has applied for in LEED 'Construction Review', will make the New Building eligible to obtain LEED Silver Certification. Such checklist shall demonstrate that the GHG and Water Credit Requirements are anticipated to be met.

(3) A signed affirmation from a LEED-accredited professional stating that he or she has reviewed the application submitted to USGBC for LEED 'Construction Review', and that the application is consistent with the checklist and meets the intent of the criteria for LEED Silver Certification of the New Building.

(cc) In the event that the New Building has failed to receive LEED Silver Certification after Declarant has accepted the final results of the LEED 'Construction Review', a report including the following:

(1) Documentation describing: (I) USGBC determinations which resulted in an inability to receive LEED Silver Certification, including a list of standards or criterion for which points were 'denied' during LEED 'Design Review' or LEED 'Construction Review'

("USGBC Denial Determination"), the basis for such determinations and any related technical advice provided by the USGBC review team; (II) the steps taken by Declarant in response to the USGBC Denial Determination, including appeals thereof; and (III) alternative elements proposed by Declarant to the USGBC in order to receive LEED Silver Certification, and USGBC determinations with respect thereto .

(2) Documentation demonstrating that Declarant has (I) designed and constructed the New Building according to the LEED Silver Certification standards or criteria then in effect, but without the standards or criterion which were subject to the USGBC Denial Determination; and (II) applied for and used reasonable good faith and efforts to obtain LEED Certification from the USGBC for the highest level of LEED Certification available in absence of such standards or criterion. The provisions of Section 3.02(b)(ii)(II) shall continue to apply with respect to the categories equivalent to the GHG Credit Categories and Water Credit Categories, except to the extent that the USGBC Denial Determination is applicable to such standard or criterion.

(v) In the event that, subsequent to October 19, 2009, any LEED Silver Certification standards or criterion change materially (including any new rating or guideline system as successor to the foregoing), and Declarant determines both that: (aa) implementation of the new standards or criterion would be impracticable from a design or engineering standpoint or would materially increase the costs of construction or operation of a New Building in and above any costs that are associated with implementation of the LEED Silver Certification standards or criterion in effect as of October 19, 2009 ("LEED 2009"); and (bb) as a result of such material change, it cannot otherwise qualify for LEED Silver Certification through alternative measures (the "LEED Silver Changed Criteria Determination"), it shall so notify DCP during the design development process for a New Building and, in any event, prior to filing an application for a New Building Permit for the New Building. In the event that, within sixty (60) days following receipt of such notice, DCP provides Declarant with a written determination disputing the LEED Silver Changed Criteria Determination, then such disagreement shall be resolved through a dispute resolution procedure mutually agreeable to the parties. For the purposes of this clause (v), any change in a standard or criteria that would result in an incremental cost (above the cost to construct in accordance with LEED 2009) to Declarant that Declarant has reasonably demonstrated will not be recovered within five (5) years from the first date of occupancy subsequent to receiving a TCO shall be deemed a material increase in the cost of construction or operation of a New Building. If it is found or determined through such dispute resolution procedure that the LEED Silver Changed Criteria Determination has a sound and reasonable basis, such that Declarant cannot otherwise qualify for LEED Silver Certification through alternative measures, then Declarant shall (aa) design and construct the New Building according to the LEED Silver Certification standards or criteria then in effect, but without the standard or criterion which was the subject of the LEED Silver Changed Criteria Determination, and shall document compliance therewith in a manner acceptable to DCP, as a condition for receipt of a PCO for the New Building; and (bb) apply for and use reasonable and good faith efforts to obtain LEED Certification from the USGBC for the highest level of LEED Certification then available in the absence of compliance with such standard or criterion, in accordance with the provisions of this Paragraph. The provisions of Section 3.02 (b)(ii)(bb) shall continue to apply with respect to the categories equivalent to the GHG Credit Categories and Water Credit Categories, except to the extent that the LEED Silver Changed Criteria Determination is applicable to such standards or criterion.

(vi) Within three (3) years of either (aa) LEED Silver certification for the New Building, or (bb) substantial occupancy of the New Building (the decision as to which point begins the three (3) year period to be at Declarant's discretion), Declarant shall provide DCP with a report summarizing the results of any measurement and verification and/or corrective action performed pursuant to the LEED 'Measurement and Verification Plan'. In addition, if not available prior to PCO, documentation demonstrating that the New Building has received LEED Silver Certification, in the form of a USGBC 'Certificate of Recognition' or equivalent document within three months of Declarant's receipt thereof.

(c) Stormwater Management Measures.

(i) Prior to Construction Commencement, Declarant shall prepare and submit to DEP a Stormwater Pollution Prevention Plan ("SWPPP") for construction activities and post-construction stormwater management. The SWPPP shall incorporate feasible measures to reduce runoff rates below baseline levels and shall implement stormwater management techniques to address water quality concerns associated with the uncontrolled discharge of stormwater runoff into the Hudson River, and shall provide for: (aa) the capture of stormwater from New Building roofs for beneficial reuse as cooling tower makeup and irrigation for site landscaping; (bb) incorporation of softscapes and features into the design of the Subject Property that shall serve to retain stormwater runoff; and (cc) green roofs on other selected buildings. The SWPPP shall be subject to review and approval by DEP, and by DEC to the extent required under applicable law or regulation.

(ii) DOB shall not issue, and Declarant shall not accept, a Building Permit for work at the Subject Property until DCP shall have certified to the DOB Commissioner that a SWPPP has been approved by DEP in accordance with applicable law and regulation and, to the extent required by applicable law or regulation, by DEC.

(iii) Any plans and drawings submitted by Declarant to DOB in connection with a Building Permit shall reflect and be consistent with the SWPPP.

(iv) Declarant shall have the right to modify and add to the SWPPP as development of the Project proceeds, as may be approved by DEP and to the extent required by law or regulation DEC, in order to address additional New Buildings on the Subject Property and new Public Access Areas on the Subject Property, provided that such revised SWPPP is consistent with the requirements of this Declaration.

(v) Prior to accepting a TCO for a New Building, Declarant shall certify to DCP that provisions of the SWPPP required for that New Building have been implemented.

(d) Water Conservation Measures.

(i) Dishwashers and clothes washers installed in all residential New Buildings shall be water-conserving models meeting at least EnergyStar standards for water-conservation.

(ii) Water-conserving toilets and faucets shall be installed in all New Buildings.

(iii) Prior to accepting a TCO for a New Building, Declarant shall certify to DCP that provisions of clauses (i) and (ii) of this Paragraph (d) have been implemented for such New Building.

(e) Car Sharing Spaces.

(i) Declarant shall, subject to the provisions of clause (iv) hereof, dedicate spaces in the Garage for parking of automobiles owned or operated as part of an automobile rental establishment use as listed in Section 32-17 (UG 8) of the Zoning Resolution in association with use of the Garage for accessory parking which: (aa) makes available to and permits customers to utilize its automobiles for hourly periods, or longer, in exchange for a fee seven days a week and for such hours as the Garage is open to other vehicles; and (bb) allows customers to reserve, pick up and return automobiles at the Subject Property through a self-service method (the "Car Sharing Service"), and shall cause the Car Sharing Service to be operated for so long as the Garage remains in service.

(ii) Declarant shall not accept a TCO or PCO for all or any portion of the Garage that would result in excess of 400 spaces accessory to the residential use on the Subject Property, unless and until Declarant has commenced the Car Sharing Service and has provided a minimum of twenty (20) spaces within the Garage for the exclusive use by the Car Sharing Service. Thereafter, Declarant shall not accept a TCO or PCO for all or any portion of the Garage that would allow for in excess of 800 spaces accessory to the residential use on the Subject Property, unless and until Declarant has provided an additional ten (10) spaces within the Garage for the exclusive use of the Car Sharing Service, and shall not accept a TCO or PCO for all or any portion of the Garage that would allow for in excess of 1,200 spaces accessory to the residential use on the Subject Property, unless and until Declarant has provided an additional ten (10) spaces within the Garage for the exclusive use of the Car Sharing Service (the foregoing spaces, the "Car Sharing Spaces").

(iii) The number of residential accessory parking spaces in the Garage allowed pursuant to Section 2.03 of this Declaration shall be reduced by the number of Car Sharing Spaces required to be provided under this Section 3.03(e).

(iv) Notwithstanding the foregoing, in the event that Declarant demonstrates to the reasonable satisfaction of the Chair that the Car Sharing

Service cannot generate lease rates comparable to those charged to residential occupants for accessory parking spaces, or that the number of Car Sharing Services required under this Declaration exceeds the demand by Car Sharing Service operators for spaces on the Subject Property, then Declarant may use spaces otherwise required under this Section 3.03(e) to be utilized as Car Sharing Spaces as residential accessory parking spaces, subject to the provisions of Section 2.03 of this Declaration.

(f) Electric Vehicle Battery-Charging Station.

(i) Declarant shall install one or more battery-charging stations within the Garage for use by residents and occupants of the Subject Property who own, lease or otherwise use electric-powered vehicles. In determining the number of battery-charging stations to be installed in the Garage, Declarant shall evaluate trends at the time of the construction of the Garage and anticipated future trends relating to use of electric-powered vehicles, practices regarding the installation of battery-charging stations in residential and commercial buildings, and any relevant technology, design or engineering considerations.

(ii) Not less than sixty (60) days prior to accepting a TCO or PCO for all or any portion of the Garage allowing for parking spaces for more than 400 accessory residential vehicles, the Declarant shall certify to DCP that provisions of clause (i) have been implemented and in connection therewith shall provide to DCP a written explanation of its determination as to the number of battery-charging stations to be included in the Garage. Installation of battery-charging stations may be phased in relation to increases in the number of parking spaces allowed at any given time pursuant to Section 2.03 of this Declaration.

(iii) Notwithstanding the provision of clauses (i) and (ii), Declarant shall not be required to install battery-charging stations in the Garage if Declarant determines, with the concurrence of the Chair, that battery-charging stations are not likely to be utilized on a frequent basis by residents or occupants of the New Buildings under existing or reasonably foreseeable future market conditions; or that there are technology, design or engineering considerations which make installation of a battery-charging station in the Garage infeasible or cost-prohibitive.

(g) Base Flood Elevation.

(i) All New Buildings on Sites 5 and 6 within the terra firma portion of the Subject Property: (aa) shall be consistent with the New York City Building Code requirement that residential buildings have a finished floor elevation at or above the base flood elevation for the 100-year flood; (bb) shall meet the minimum elevation requirements for the lowest floor relative to the design flood elevation as specified in Appendix G, "Flood Resistant Construction," of the New York City Building Code for the applicable building category (see Table 1604.5 of the New York City Building Code or Table 1-1 of Appendix G to the New York City Building Code); and (cc) in the case of a New Building to be located on Site 5, the elevation of the lowest floor shall be no less than one foot above the base flood elevation.

(ii) Declarant shall prior to acceptance of a New Building Permit for a New Building on Site 5, submit plans for DCP review pursuant to Section 3.09 of this Declaration demonstrating compliance with clause (i) of this Section 3.03(g).

3.04 Environmental Mitigation.

Declarant shall, in accordance with the FEIS, undertake the mitigation measures set forth therein (the "Mitigation Measures"), as follows:

(a) Public School.

(i) Declarant shall, subject to clause (iv) hereof, perform the following with respect to the Public School: (aa) engage in a collaborative design development process with SCA, which shall include collaboration on schematic design, design development and contract documentation; (bb) perform construction of 'School Base Building Work', as defined under the SCA Agreement; (cc) enter into a condominium regime with respect to the Public School and the remainder of the building, or other regime acceptable to SCA and Declarant, as a means of transferring the Public School to SCA; and (dd) transfer the Public School to SCA ((aa) to (dd) collectively, the "Public School Obligations"), the Public School Obligations to be performed pursuant to, in accordance with, and conditioned upon the terms and conditions of a School Design, Construction, Funding and Purchase Agreement with SCA (the "SCA Agreement") intended to be entered into pursuant to the October 16, 2009, Letter of Intent executed by the SCA and accepted and agreed to by Declarant, as amended on December __, 2009, attached to this Declaration as Exhibit G (the "SCA Letter of Intent").

(ii) Declarant shall perform the Public School Obligations in accordance with the following milestones:

(aa) Within three (3) months of the date of this Declaration, Declarant shall send written notice to SCA asking whether SCA is prepared to commence negotiations on the SCA Agreement in anticipation of the development of the Public School. If SCA responds in writing that it is prepared to commence negotiations, Declarant shall promptly commence negotiations with SCA on the SCA Agreement and shall diligently and in good faith pursue such negotiations with SCA in order to finalize and execute the SCA Agreement. If SCA responds in writing that it is not prepared to commence negotiations, or fails to respond within fifteen (15) days of the written notice from Declarant, Declarant shall have no obligation to commence discussions, but shall repeat such written notice and request every six (6) months thereafter until such time as SCA advises Declarant that SCA is prepared to commence negotiations on the SCA Agreement, at which time Declarant shall promptly commence negotiations with the SCA and thereafter diligently pursue the completion and execution of the SCA Agreement.

(bb) Not less than eighteen (18) months prior to the date Declarant anticipates filing for ~~either (I) a New Building Permit which, if granted, would permit in excess of 712 residential units in aggregate to be constructed on the Subject Property (the date of such anticipated filing, the "School Threshold Date"), or (II)~~ a New Building Permit for a New Building on Site 6 ~~regardless of the number of residential units that would be permitted to be constructed on the Subject Property as a result thereof~~, Declarant shall provide written notice to the SCA (the "School Election Notice") advising the SCA of the plan to file for such New Building Permit and offering the SCA a location within the base of such New Building for the Public School (the "Proposed School Site"). Declarant shall provide a copy of the School Election Notice to the district manager of Community Board 4 within ten (10) days of delivery thereof to the SCA. Following delivery of the School Election Notice:

(1) If SCA advises Declarant in writing within thirty (30) days of receipt of the School Election Notice that SCA accepts the Proposed School Site as the location for the Public School, intends to proceed with the Public School on the Proposed School Site, and has or anticipates receipt of the capital funding to complete the Public School in the manner set forth in the SCA Agreement, Declarant and the SCA shall promptly commence and thereafter diligently and expeditiously pursue the development of plans to incorporate the Public School into the New Building in accordance with the SCA Agreement. DOB shall not issue, and Declarant shall not file for or accept, a New Building Permit for a New Building including the Proposed School Site unless and until the SCA has approved the construction documents to be filed with the application for the New Building Permit insofar as such documents pertain to the core and shell of the Public School, as more particularly set forth in the SCA Agreement.

(2) In the event that the SCA advises Declarant in writing within thirty (30) days of receipt of the School Election Notice that SCA ~~(A)~~ does not accept the Proposed School Site as the location of the Public School, ~~(B) has not yet determined whether it intends proceed with the Public School on the Subject Property, or (C) does not have or does not reasonably anticipate having the capital funding to undertake and complete the Public School at the Proposed School Site,~~ and in any event if the SCA fails to respond to Declarant's notice within such thirty (30) day period, SCA shall be deemed to have rejected the Proposed School Site, and Declarant shall be permitted to construct the New Building identified in the School Election Notice without including a Public School in the New Building, and Declarant shall have no further obligation under this Section 3.04(a) ~~with regard to such New Building, but shall comply with the requirements of subclause (3) hereof with respect to any subsequent New Building Permit~~.

~~(3) In such event that SCA has rejected a Proposed School Site in accordance with subclause (2) hereof, Declarant shall issue a new School Election Notice prior to issuance of any subsequent New Building Permit for a New Building containing residential units in the same~~

~~manner as provided for the initial Public School Notice in this subclause (bb), and shall repeat such process until the earlier of (A) SCA accepting a Proposed School Site as the location of the Public School, and (B) receipt of New Building Permits in accordance with the provisions of this Section 3.04 (a) for construction of New Buildings on each of Sites 1, 4, and 6.~~

(~~3~~4) Declarant covenants to seek a New Building Permit for a New Building on Site 6 as one of the first three New Building Permits issued for New Buildings containing residential units~~, provided that if SCA has already accepted a Proposed School Site in a New Building on a Site other than Site 6 and Declarant has obtained a New Building Permit for such other New Building incorporating the Public School, this obligation shall not apply~~.

(cc) Provided that the SCA has accepted ~~a~~ the Proposed School Site and has agreed to proceed with the Public School in the manner set forth in subclause (bb) above and in the SCA Agreement, DOB shall not issue, and Declarant shall not accept, TCOs or PCOs for more than 712 residential units on the Subject Property (the Unit Threshold) until such time as (I) Declarant has completed the core and shell of the Public School, and (II) has delivered the core and shell to the SCA or otherwise made the Public School core and shell available for fit-out in the manner set forth in the SCA Agreement, provided that in no event shall this subclause (cc) be construed in any manner to preclude DOB from issuing or Declarant from accepting TCOs or PCOs for any residential unit located in a New Building constructed pursuant to a New Building Permit issued prior to the New Building Permit for the New Building containing the Public School. Notwithstanding the foregoing, in the event that Declarant's obligations under this Section 3.04(a) have terminated pursuant to subclause (ii)(bb)(2) hereof, Declarant may apply for and DOB may issue TCOs and PCOs for any and all residential units in the Project without regard to this subclause (ii)(cc).

~~(dd) Declarant shall have the additional right, at Declarant's sole option and without obligation, to offer SCA a location in a New Building on Site 2 as the Proposed School Site. In the event that SCA accepts Site 2 as the Proposed School Site, (I) DOB shall not issue, and Declarant shall not file for or accept, a New Building Permit for any New Building that would result in more than 712 residential units being located on the Subject Property, unless and until the SCA has approved the construction documents for the core and shell of the Public School and a New Building Permit has been filed for the core and shell of the Public School, and (II) DOB shall not issue, and Declarant shall not accept, TCOs or PCOs for more than 712 residential units on the Subject Property until such time as Declarant has completed the core and shell of the Public School, and has delivered the core and shell to the SCA or otherwise made the Public School core and shell available for fit-out in the manner set forth in the SCA Agreement.~~

(~~ee~~dd) The ~~School Threshold Date~~Unit Threshold set forth in this clause (ii) may be modified with the consent of Declarant, SCA, and DCP in the event that, as demonstrated to the satisfaction of DCP in a Technical Memorandum, such modification is warranted in relation to actual school utilization rates or residential growth in the study area identified in the FEIS.

(iii) For purposes of this Section 3.04(a), Uncontrollable Circumstances may include, in addition to the elements set forth in the definition thereof under Article I of this Declaration, a failure or delay by SCA resulting from the following: (aa) a failure or delay in approval of a site selection for the Public School pursuant to the New York State Public Authorities Law; (bb) a failure or delay in approval of the SCA Agreement; (cc) a failure or delay in securing funds for Public School pre-development and construction costs; (dd) a failure or delay in review of design submissions in accordance with time frames established under the SCA Agreement; (ee) a failure or delay in reimbursement of Declarant through progress payments in accordance with the SCA Agreement; and (ff) a failure or delay in change orders initiated or otherwise caused by SCA.

~~(iv) Notwithstanding anything to the contrary contained in this Section 3.04(a), in the event that, following the date hereof, the SCA, following consultation with the Chair, notifies the Chair and Declarant that it will not construct the Public School on the Subject Property, Declarant shall no longer be obligated to provide the Public School on the Subject Property or to perform any of the Public School Obligations, and shall have no further responsibilities under this Section 3.04(a).~~

(b) Open Space.

(i) DOB shall not issue, and Declarant shall not accept, a TCO for ~~any~~ the last residential unit in the second residential building on the Subject Property, ~~which together with any residential building for which a TCO has previously been issued, would result in the number of residential units on the Subject Property totaling five hundred (500) or more,~~until DCP shall have certified to DOB that Declarant has paid into an account (the "Open Space Fund") an amount that is equal to $~~500,000~~1,000,000, as increased 3% per annum from the Approval Date to the date of payment. Following such initial contribution to the Open Space Fund, DOB shall not issue, and Declarant shall not accept a TCO for the last residential unit in ~~any of the three successive~~the fourth residential ~~buildings~~ building constructed on the Subject Property, until DCP shall have certified to DOB that Declarant has contributed to the Open Space Fund, with respect to each such building, an amount that is equal to $~~500,000~~1,000,000, as increased 3% per annum from the Approval Date to the date of payment. Nothing herein shall be construed as limiting the ability of Declarant to deposit funds in the Open Space Fund at earlier dates than required under this Paragraph. Notwithstanding the foregoing, in the event that the number of residential units in the second residential building, together with the residential units in the first residential building, totals less than five hundred (500), the first contribution to the Open Space Fund provided for herein shall be a prerequisite to issuance of a TCO for the last residential unit in the third residential building on the Subject Property and the second contribution to the Open Space Fund provided for herein shall be a prerequisite to issuance of a TCO for the last residential unit in the fifth residential building on the Subject Property.

(ii) The Open Space Fund shall be solely for purposes of programs or improvements which would improve or increase capacity for active recreation within Community ~~Board~~ District 4, Manhattan, including, but not limited to: (aa) creation of new active open space; (bb) renovation or repairs to existing park facilities; (cc) expansion of hours of operation of existing facilities; and (dd) funding of active recreation programs at park facilities. The Open Space Fund shall not be used for any other purpose and the City shall not use the Open Space Fund to reduce its level of support for open space programs, facilities and activities within Community ~~Board~~ District 4. DPR shall identify its priorities for use of the Open Space Fund to Declarant, Community Board 4, Manhattan and the local Council Member, and shall consult with Community Board 4, Manhattan and the local Council Member with regard thereto, prior to any expenditure from the Open Space Fund.

(iii) Declarant's contribution to the Open Space Fund shall be made by check payable to DPR at its principal office or such other office within the City as DPR may from time to time designate, or by wire transfer to an account designated by DPR. Such funding shall be disbursed by Declarant to DPR pursuant to a funding agreement reasonably acceptable to Declarant, which funding agreement shall among other things provide that the Open Space Fund shall be dedicated for use within Community ~~Board~~ District 4 for the purposes set forth in clause (ii) hereof.

(c) Day Care.

(i) Following the issuance of a TCO or PCO for the first New Building containing residential rental units, Declarant shall ~~contact~~ notify ~~the~~ ACS at its Division of Child Care and Head Start and request a day-care needs assessment to determine if development of the Subject Property, both existing and anticipated, would have the potential to create a need for additional day care capacity within the study area boundary shown on Figure 5-3 to the FEIS. In the event ACS determines that such development would result in a need for additional day care capacity within such study area boundary, the Declarant shall offer ACS approximately 10,000 sf of ground floor space suitable for use as a child care center (including either a facility to be operated under contract with ACS or by a day care provider identified by ACS that accepts ACS vouchers), in a New Building or at another existing location within the study area boundary identified in the FEIS as the study boundary in Chapter 5 (Community Facilities), at a rate affordable to ACS providers (currently $10 psf) (the "Day Care Space Offer"). The ACS shall notify Declarant in writing ninety (90) days of receipt of Declarant's request, whether ~~such offer~~the Day Care Space Offer is accepted or declined, either for some or all of the 10,000 sf space, subject to all City requirements governing the leasing of property. ~~Alternatively, ACS may request Declarant to implement other measures within such study area boundary, or other proximate locations within Community District 4, Manhattan, which would result in program or physical improvements at existing child care centers to support additional capacity. Declarant shall consider any such request in good faith, but shall have no obligation under this Declaration to implement alternative measures.~~

(ii) In the event that ACS does not accept Declarant's Day Care Space Offer pursuant to clause (i) above, Declarant shall contact ACS in the manner provided in clause (i) following the issuance of a TCO or PCO for

each successive New Building containing residential rental units and, in the event ACS determines that development on the Subject Property would result in a need for additional day care capacity within the study area boundary, shall make a Day Care Space Offer in the manner provided in clause (i), provided that Declarant shall have no obligation to make a Day Care Space Offer for New Buildings other than for the New Buildings to be located on Sites 1, 2 , and 4.

(iii) DOB shall not issue, and Declarant shall not accept, a TCO or PCO for the next ~~second~~ New Building [containing residential rental units] constructed on the Subject Property subsequent to Declarant making a request under clauses (i) or (ii) above, until DCP notifies DOB that~~DCP has either~~: (aa) DCP has received a determination by ACS that the provisions of this Paragraph (c) have been complied with~~, or~~; (bb) ACS has declined a Day Care Space Offer made pursuant to clauses (i) or (ii) above; or (cc)~~that~~ ACS has failed to respond to Declarant's request made pursuant to clauses (i) or (ii) within ninety (90) days of receipt thereof ~~(in which case~~. In the event of any of the foregoing, Declarant shall not be precluded from obtaining a TCO or PCO with respect to such ~~second~~ New Building~~)~~.

(iv) Declarant shall have no further obligation or further responsibilities under clauses (i) and (ii) of this Paragraph (c) in the event that ACS: (aa) accepts a Day Care Space Offer in a New Building on the Subject Property or at another existing location within the FEIS study area boundary; (bb) determines in response to each of the requests made by Declarant pursuant to clauses (i) and (ii) that there is no need for additional day care capacity within the study area boundary; (cc) fails to respond to each of Declarant's request made pursuant to clauses (i) or (ii) above; or (dd) following the date hereof, after consultation with the Chair, notifies the Chair and Declarant that it does not intend to expand day care capacity within the study area boundary in conjunction with development on the Subject Property.

(v) As an alternative to the foregoing provisions with respect to Day Care Offers, ACS may request Declarant to implement other measures within the study area boundary, or other proximate locations within Community District 4, Manhattan, which would result in program or physical improvements at existing child care centers to support additional capacity. Declarant shall consider any such request in good faith, but shall have no obligation under this Declaration to implement alternative measures. In the event that Declarant agrees to implement such other measures as may be requested by ACS, Declarant's obligations under this Section 3.04(c) shall be deemed complete upon the performance of such other measures by or on behalf of Declarant.

(d) Traffic/Pedestrians.

(i) Declarant shall not accept a Building Permit for any work on the Subject Property, unless and until:

(aa) Declarant has sent written notice to the DOT (which notice shall include an anticipated construction schedule) no later than sixty (60) days prior to acceptance of such Building Permit, requesting that the DOT implement the construction period traffic and pedestrian mitigation measures set forth in the FEIS, or measures having comparable benefits as specified by DOT based on any determinations as of such date under the Hudson Yard Traffic and Pedestrian Monitoring and Management Program (the "HYTPMMP"), as may be identified by DOT as necessary to be implemented during construction of the stage of development being proposed on the Subject Property pursuant to such Building Permit; and

(bb) Declarant has notified DOT of its willingness to enter into an agreement, acceptable to DOT and consistent with DOT requirements, concerning the operational period traffic and pedestrian measures set forth in Exhibit H or measures having comparable benefits as specified by DOT based on any determinations as of such date under the HYTPMMP, identified by DOT as necessary to be implemented in connection with operation of the stage of development being proposed on the Subject Property which is facilitated by such Building Permit. To the extent that DOT deems unnecessary one or more of the traffic measures set forth in Exhibit H, and has not identified measures having comparable benefits based on the results of the HYTPMMP, Declarant shall have no further obligation under this subclause (bb).

(ii) Declarant shall not accept a TCO for any New Building on the Subject Property, unless and until:

(aa) Declarant has sent written notice to DOT no later than ninety (90) days prior to acceptance of such TCO, requesting that DOT implement the traffic and pedestrian mitigation measures set forth in Exhibit I, or measures having comparable benefits as specified by DOT based on any determinations as of such date under the HYTPMMP, which DOT may identify as necessary to be implemented in connection with operation of such New Building; and

(bb) Declarant has implemented the traffic and pedestrian measures set forth in the agreement entered into pursuant to subclause (bb) of clause (i) hereof, which DOT has identified as necessary to be implemented in connection with operation of such building, unless, as previously directed by DOT, Declarant has paid DOT/City of New York for the ordinary and customary costs, if any, of implementing such improvements (including but not limited to the reasonable costs of the design and construction of capital improvements). Declarant shall submit all of the required drawings/designs as per DOT specifications for DOT review and approval. To the extent that, prior to acceptance by Declarant of a TCO for such New Building DOT deems no longer necessary one or more of the traffic or pedestrian measures set forth in the agreement entered into pursuant to subclause (bb) of clause (i), Declarant shall have no further obligation under this subclause (bb).

(iii) Declarant shall not accept, a TCO for the Northern Garage, unless and until:

(aa) Declarant has sent written notice to the DOT requesting that the DOT implement a traffic signal at 12th Avenue and 33rd Street, or a measure having comparable benefits as may be specified by DOT based on any determinations as of such date under HYTPMMP.

(bb) Declarant has implemented such measures as directed by DOT, or, if directed by DOT, has paid DOT/City of New York for the ordinary and customary costs, if any, of implementing the traffic signal (including but not limited to the reasonable costs of the design and construction thereof). To the extent DOT deems unnecessary the traffic signal at 12th Avenue and 33rd Street, and has not identified a measure having comparable benefits based on determinations under the HYTPMMP, Declarant shall have no further obligation under this subclause (bb).

3.05 Inconsistencies with the FEIS.

If this Declaration inadvertently fails to include a PCRE or Mitigation Measure set forth in the FEIS, such PCRE or Mitigation Measure shall be deemed incorporated in this Declaration by reference. If there is any inconsistency between a PCRE or Mitigation Measure as set forth in the FEIS and as incorporated in this Declaration, the more restrictive provision shall apply.

3.06 Innovation; Alternatives; Modifications Based on Further Assessments.

(a) Innovation and Alternatives.

In complying with Sections 3.01, 3.02, 3.03 or 3.04 of this Declaration, Declarant may, at its election, implement innovations, technologies or alternatives that are or become available, including replacing any equipment, technology, material, operating system or other measure previously located on the Subject Property or used within the Project which Declarant demonstrates to the satisfaction of DCP would result in equal or better methods of achieving the relevant PCRE or Mitigation Measure, than those set forth in this Declaration.

(b) Modifications Based on Further Assessments.

In the event that Declarant believes, based on changed conditions, that a PCRE or Mitigation Measure required under Sections 3.01, 3.02, 3.03, or 3.04 should not apply or could be modified without diminishment of the environmental standards which would be achieved by implementation of the PCRE or Mitigation Measure, it shall set forth the basis for such belief in an analysis submitted to DCP. In the event that, based upon review of such analysis, DCP determines that the relevant PCRE or Mitigation Measure should not apply or could be modified, Declarant may eliminate or modify the PCRE or Mitigation consistent with the DCP determination, provided that Declarant records a notice of such change against the Subject Property in the office of the City Register.

3.07 Appointment and Role of Independent Monitor.

(a) Declarant shall, with the consent of DCP, appoint an independent third party (the "Monitor") reasonably acceptable to DCP to oversee, on behalf of DCP, the implementation and performance by Declarant of the construction period PCREs and Mitigation Measures required under Section 3.01 and Section 3.04(d)(i) of this Declaration (the "Construction Monitoring Measures" or "CMMs"). The Monitor shall be a person holding a professional engineering degree and with significant experience in environmental management and construction management (or a firm including such persons), including familiarity with the means and methods for implementation of the CMMs. In the event that the Declarant that is signatory to this Declaration shall have sold, leased transferred or conveyed to a third party (other than MTA) fee title to, or a ground or net lease of, one or more tax lots within the Subject Property, then such, third party shall be deemed a successor Declarant (a "Successor Declarant") with respect to such lots so sold, leased, transferred or conveyed to it, and, with the prior written approval of DCP, there may exist more than one Monitor with respect to multiple developments proceeding simultaneously on the Subject Property, pursuant to separate Monitor Agreements (hereafter defined).

(b) The scope of services described in any agreement between Declarant and the Monitor pursuant to which the Monitor is retained (the "Monitor Agreement") shall be subject to prior review by and approval of DCP, such approval not to be unreasonably withheld, conditioned or delayed. Such agreement shall include provisions in a form acceptable to DCP that, among others, shall: (i) ensure that the Monitor is independent of Declarant in all respects relating to the Monitor's responsibilities under this Declaration (provided that the Monitor shall be responsible to Declarant with regard to practices generally applicable to or expected of consultants and independent contractors of Declarant) and has a duty of loyalty to DCP; (ii) provide for appropriate DCP management and control of the performance of services by the Monitor; (iii) authorize DCP to direct the termination of services by the Monitor for unsatisfactory performance of its responsibilities under the Monitoring Agreement; (iv) allow for the retention by the Monitor of sub-consultants with expertise appropriate to assisting the Monitor in its performance of its obligations to the extent reasonably necessary to perform its obligations under this Declaration and the Monitor Agreement; and (v) allow for termination by Declarant for cause, but only with the express written concurrence of DCP, which concurrence will not be unreasonably withheld or delayed. If DCP shall fail to act upon a proposed Monitor Agreement within sixty (60) days after submission of a draft form of Monitor Agreement, the form of Monitor Agreement so submitted shall be deemed acceptable by DCP and may be executed by Declarant and the Monitor. The Monitor Agreement shall provide for the commencement of services by the Monitor at a point prior to Construction Commencement (the timing of such earlier point to be at the sole discretion of Declarant) and shall continue in effect at all times that construction activities are occurring on the Subject Property with respect to an identified stage(s) of development on the Subject Property including, with respect to New Buildings, until issuance of TCOs or PCOs therefor, unless the Declarant, with the prior consent of DCP or at the direction of DCP, shall have terminated a Monitor Agreement and substituted therefor another Monitor under a new Monitor Agreement, in accordance with all requirements of this Section 3.07. If the stage of development of the Subject Property identified in a Scope of Services under the Monitor Agreement is completed, Declarant shall not have any obligation to retain the Monitor for subsequent stage(s) of development of the Subject Property, provided that Declarant shall not recommence any construction until it shall have retained a new Monitor in compliance with the provisions of this Section.

(c) The Monitor shall: (i) assist and advise DCP with regard to review of plans and measures proposed by Declarant for purposes of satisfying CMMs in connection with determinations required under this Declaration as a prerequisite to Construction Commencement or the issuance or acceptance by Declarant of a Building Permit, TCO or PCO as the case may be; (ii) provide reports of Declarant's compliance with the CMMs during any period of construction on a schedule reasonably acceptable to DCP, but not more frequently than once per month; (iii) prepare a quarterly report summary of activities for distribution to any Construction Consultation Committee established under Section 6.01 of this Declaration; and (~~iii~~iv) liaise with any Construction Consultation Committee established under Section 6.01 of this Declaration, as directed by DCP. The Monitor may at any time also provide Declarant and DCP with notice of a determination that a CMM has not been implemented, accompanied by supporting documentation establishing the basis for such determination, provided that any such notice shall be delivered to both parties. The Monitor shall: (i) have full access to the Subject Site, subject to compliance with all generally applicable site safety requirements imposed by law, pursuant to construction contracts, or imposed as part of the site safety protocol in effect for the Subject Property; (ii) be provided with access to all books and records of Declarant either on or outside the Subject Property pertaining to the development of the Project which it reasonably deems necessary to carry out its duties, including the preparation of periodic reports; and (iii) be entitled to conduct any tests on the Subject Property that the Monitor reasonably deems necessary to verify Declarant's implementation and performance of the CMMs, subject to compliance with all generally applicable site safety requirements imposed by law, site operations, or pursuant to construction contracts in effect for the Subject Property and provided further that any such additional testing shall be coordinated with Declarant's construction activities and use of the Subject Property by the occupants of and visitors to any New Buildings and Public Access Areas then located on the Subject Property, and shall be conducted in a manner that will minimize any interference with the Project. The Monitor Agreement shall provide that Declarant shall have the right to require Monitor to secure insurance customary for such activity and may hold the Monitor liable for any damage or harm resulting from such testing activities.

(d) Declarant shall be responsible for payment of all fees and expenses due to the Monitor in accordance with the terms of the Monitoring Agreement and any consultants retained by the Monitor as may be necessary to determine Declarant's compliance with the CMMs, in accordance with the terms of the Monitor Agreement.

(e) If the Monitor determines, either in a monthly report or otherwise, that Declarant has failed to implement or to cause its contractors to implement a CMM, the Monitor shall notify DCP and Declarant of such alleged violation, and provide documentation establishing the basis for its determination. If DCP determines, based on consultation with the Monitor and others, as appropriate, that there is a basis for concluding that such a violation has occurred, DCP may thereupon give Declarant written notice of such alleged violation (each, a **"**CMM Default Notice**"**), transmitted by hand or via overnight courier service to the address for Notices for Declarant set forth in Section 6.07. Notwithstanding any provisions to the contrary contained in Section 5.01 of this Declaration, following receipt of a CMM Default Notice, Declarant shall: (i) effect a cure of the alleged violation within three (3) business days; (ii) seek to demonstrate to DCP in writing within two (2) business days of receipt of the CMM Default Notice why the alleged violation did not occur and does not then exist; or (iii) seek to demonstrate to DCP in writing within two (2) business days of receipt of the CMM Default Notice that a cure period greater than three (3) business days would not be harmful to the environment (such longer cure period, a **"**Proposed Cure Period**"**). If DCP accepts within one (1) business day of receipt of a writing from Declarant that the alleged violation did not occur and does not then exist, DCP shall withdraw the CMM Default Notice and Declarant shall have no obligation to cure. If DCP accepts a Proposed Cure Period in writing within one (1) business day of receipt of a writing from Declarant, then this shall become the applicable cure period for the alleged violation (the **"**New Cure Period**"**), provided that if DCP does not act with respect to a Proposed Cure Period within one (1) business day of after receipt of a writing from Declarant with respect thereto, the three (3) day cure period for the alleged violation shall be deemed to continue unless and until DCP so acts. If Declarant fails to: (i) effect a cure of the alleged violation; (ii) cure the alleged violation within a New Cure Period, if one has been established; or (iii) demonstrate to DCP's satisfaction that a violation has not occurred, then representatives of Declarant shall, promptly at DCP's request, and upon a time and date acceptable to DCP, convene a meeting at the Site with the Monitor and DCP representatives. If Declarant is unable reasonably to satisfy the DCP representatives that no violation exists or is continuing and the Declarant, the Monitor and DCP are unable to agree upon a method for curing the violation within a time period acceptable to DCP, DCP shall have the right to exercise any remedy available at law or in equity or by way of administrative enforcement, to obtain or compel Declarant's performance under this Declaration, including seeking an injunction to stop work on the Subject Property, as necessary, to ensure that the violation does not continue, until the Declarant demonstrates that it has cured the violation.

3.08 Uncontrollable Circumstances Involving a PCRE or Mitigation Measure.

(a) Notwithstanding any provision of Section 5.05 to the contrary, where the Obligation as to which an Uncontrollable Circumstance applies is a PCRE or Mitigation Measure set forth in this Article III of the Declaration, Declarant may not be excused from performing such PCRE or Mitigation Measure that is affected by Uncontrollable Circumstances unless and until the Chair, based on consultation with the Monitor designated under Section 3.07 of this Declaration has made a determination in his or her reasonable discretion that not implementing the PCRE or Mitigation Measure during the period of Uncontrollable Circumstances, or implementing an alternative proposed by Declarant, would not result in any new or different significant adverse environmental impact not addressed in the FEIS.

3.09 DCP Review.

(a) Not less than ninety (90) days prior to the date Declarant anticipates (i) to be the date of Construction Commencement, and (b) obtaining any Building Permit from DOB, Declarant shall send written notice to DCP, with a copy to the Monitor if DCP has previously requested in writing that Declarant copy the Monitor, advising of Declarant's intention to undertake Construction Commencement or obtain such Building Permit as the case

may be (each such notice, a "Permit Notice"). Any Permit Notice shall be accompanied by: (i) a summary of the provisions of this Declaration imposing conditions or criteria that must be satisfied as a condition to or in conjunction with Construction Commencement or issuance of the relevant Building Permit; (ii) materials or documentation demonstrating compliance with such requirements or criteria to the extent Declarant believes that compliance has been achieved by the date of the Permit Notice; and (iii) to the extent that Declarant believes that compliance with any condition or criteria has not been achieved by the date of the Permit Notice, an explanation of why compliance has not yet been achieved to date, the steps that are or will be taken prior to issuance of the Building Permit to achieve compliance and the method proposed by Declarant to assure DCP that the elements will be achieved in the future.

(b) Following the delivery of a Permit Notice to DCP in accordance with Paragraph (a) hereof, Declarant shall meet with DCP (and at DCP's option, the Monitor) to respond to any questions or comments on the Permit Notice and accompanying materials, and shall provide additional information as may reasonably be requested by DCP or the Monitor in writing in order to allow DCP to determine, acting in consultation with the Monitor and City agency personnel as necessary in relation to the subject matter of the Permit Notice, that the conditions and criteria for Construction Commencement or issuing the Building Permit have been or will be met in accordance with the requirements of this Declaration. Declarant shall not accept any Building Permit subject to review pursuant to this Section 3.09 until DCP has certified to Declarant and DOB that the conditions and criteria set forth in this Declaration for issuance of the Building Permit have been met. Notwithstanding the foregoing, (x) in the event that DCP has failed to respond in writing to Declarant within forty five (45) days of receipt of the Permit Notice, or (y) has failed to respond in writing to Declarant within fifteen (15) days of receipt of additional materials provided to DCP under this Paragraph (b), DCP shall be deemed to have accepted the Permit Notice and any subsequent materials related thereto under clause (iii) of this Paragraph (b) as demonstrating compliance with the requirements for issuance of the Building Permit and Declarant shall be entitled to Commence Construction or accept the Building Permit and to undertake any and all activities authorized thereunder.

(c) Not less than thirty (30) days prior to the date that Declarant anticipates obtaining the first TCO or PCO for any New Building on the Subject Property, Declarant shall send written notice to DCP, with a copy to the Monitor if DCP has previously requested in writing that Declarant copy the Monitor, advising of Declarant's intention to obtain such TCO or PCO (each such notice, a "CO Notice"). Within twenty (20) days of delivery of any CO Notice, DCP shall have the right to inspect the New Building and review construction plans and drawings, as necessary to confirm that the PCRE and/ or Mitigations Measures required to be incorporated into the New Building have been installed in accordance with the plans initially submitted as part of the New Building Permit. DOB shall not issue, and Declarant shall not accept, a TCO or PCO if DCP has provided written notice to Declarant, copied to DOB, within five (5) days following any such inspection advising that Declarant has failed to include a required PCRE and/or Mitigation Measure within the New Building, or has failed to fully satisfy the PCRE and/or Mitigation Measure, and specifying the nature of such omission or failure. In the event that DCP provides such notice, Declarant and DCP shall meet promptly to review the claimed omission or failure, develop any measures required to respond to such claim, and Declarant shall take all steps necessary to remedy such omission or failure, and upon the completion of such steps to the satisfaction of DCP, shall be entitled to obtain the TCO or PCO as the case may be.

(d) In the event of a continued disagreement between DCP or other City agency and Declarant under Paragraph (c) as to whether any PCRE and/or mitigation measure has been included or fully satisfied or will be included or fully satisfied by the measures proposed by Declarant, Declarant shall have the right to appeal such matter to the Deputy Mayor of Planning and Economic Development, or any successor Deputy Mayor, and to seek resolution within forty-five (45) days of Declarant's appeal thereto.

ARTICLE IV
EFFECTIVE DATE; CANCELLATION; AMENDMENT OR MODIFICATION OF THIS DECLARATION

4.01 Effectiveness of Declaration.

This Declaration and the provisions and covenants hereof shall become effective upon the Effective Date.

4.02 Recording.

Promptly, and no later than ten (10) business days after the Effective Date, Declarant shall file and record this Declaration and any related waivers executed by Mortgagees or other Parties-in-Interest, in the Office of the New York City Register for New York County (the "Register's Office"), indexing them against the Subject Property, and deliver to DCP within ten (10) days of the date of any such submission for recording, a copy of such documents as submitted for recording (the "Recording Documents"), together with an affidavit of submission for recordation, recording and endorsement cover pages for each document submitted for recording and recording payment receipts. Declarant shall deliver to DCP a copy of all Recording Documents, as recorded, certified by the Register's Office, promptly upon receipt of such documents. If Declarant fails to record the Recording Documents, then the City may record duplicate originals of the Recording Documents; however, all fees paid or payable for the purpose of recording the Recording Documents and obtaining certified copies thereof, whether undertaken by Declarant or by the City, shall be borne by Declarant.

4.03 Cancellation.

Notwithstanding anything to the contrary contained in this Declaration, if the Approvals are declared invalid or otherwise voided by a final judgment of any court of competent jurisdiction from which no appeal can be taken or for which no appeal has been taken within the applicable statutory period provided for such appeal, then, upon entry of said judgment or the expiration of the applicable statutory period for such appeal, this Declaration shall be cancelled and shall be of no further force or effect and an instrument discharging them may be recorded. Prior to the recordation of such instrument, Declarant shall notify the Chair of Declarant's intent to cancel and terminate this Declaration and request the Chair's approval, which approval shall be limited to insuring that such cancellation and termination is in proper form and that any provisions of this Declaration necessary to protect the environment with respect to any work performed as of the date of cancellation survive such termination. The Chair shall respond to such notice and request within thirty (30) days of receipt by the Chair of such notice, and the failure of the Chair to respond within such thirty (30) day period shall be deemed an approval by the Chair of the cancellation of the Declaration. Upon recordation of such instrument, Declarant shall provide a copy thereof certified by the Register's Office to the CPC. Notwithstanding the foregoing, the MTA may terminate this Declaration in accordance with Paragraph 4 of the consent attached as Exhibit C-1 to this Declaration.

4.04 Modification and Amendment.

(a) This Declaration may be amended or modified (other than pursuant to Section 4.04(b) hereof) only upon application by Declarant, with the express written approval of the CPC or an agency succeeding to the CPC's jurisdiction. No other approval or consent shall be required from any public body, private person or legal entity of any kind, including, without limitation, any other present Party-in-Interest or future Party-in-Interest who is not a Successor Declarant, except that: (i) Sections 6.04 and 6.08 (in the case of Section 6.08, insofar as such Section relates to the MTA) of this Declaration shall not be modified in any respect without the prior written consent of the MTA; and (ii) Sections 2.01, 2.02(a)-(e) and (h), 2.04, 3.04(a)-(c), 4.04(a) , and 6.01 shall not be modified so as to diminish or alter the obligations of Declarant thereunder in any respect without the approval of the City Council. In the event that at any time Declarant or a Successor Declarant does not have an interest in a portion of the Subject Property, this Declaration may be amended with respect to such portion of the Subject Property upon application by MTA, subject to the applicable provisions of this Section 4.04.

(b) Notwithstanding the provisions of Section 4.04(a), any change to this Declaration that the Chair deems to be a minor modification may be approved administratively by the Chair and no other approval or consent shall be required from any public body, private person or legal entity of any kind (other than Declarant), including, without limitation, any present or future Party-in-Interest who is not a Successor Declarant, except that: (a) Sections 6.04 and 6.08 (in the case of Section 6.08, insofar as such Section relates to the MTA) of this Declaration shall not be modified in any respect without the prior written consent of the MTA; and (b) a modification to a PCRE or Mitigation Measure shall not be deemed a minor modification unless DCP determines that such modification may be made without diminishment of the environmental standards which would be achieved by implementation of the PCRE or Mitigation Measure. Minor modifications shall not be deemed amendments requiring the approval of the CPC.

(c) Any modification or amendment of this Declaration shall be executed and recorded in the same manner as this Declaration. Declarant shall record any such modification or amendment immediately after approval or consent has been granted pursuant to Section 4.04(a) or (b) above, as applicable, and provide an executed and certified true copy thereof to CPC and, upon Declarant's failure to so record, permit its recording by CPC at the cost and expense of Declarant.

(d) For so long as Declarant has an interest in the Subject Property or any portion thereof, all Parties-in-Interest (other than Declarant) and their heirs, successors, assigns and legal representatives hereby irrevocably (i) consent

to any modification, amendment, cancellation, revision or other change in this Declaration, (ii) waive any rights they may have to enter into an amended Declaration or other instrument modifying, cancelling, revising or otherwise changing this Declaration, and (iii) nominate, constitute and appoint Declarant their true and lawful attorney-in-fact, coupled with an interest, to execute any documents or instruments of any kind that may hereafter be required to modify, amend, cancel, revise or otherwise change this Declaration or to evidence such Party-in-Interest's consent or waiver of rights. Notwithstanding the foregoing, Sections 6.04 and 6.08 of this Declaration (in the case of Section 6.08, insofar as such Section relates to the MTA) shall not be modified in any respect without the prior written consent of the MTA.

ARTICLE V
COMPLIANCE; DEFAULTS; REMEDIES

5.01Default.

Except as otherwise provided in Sections 3.07 and 5.02 of this Declaration, if Declarant fails to observe any of the terms or conditions of this Declaration, the Chair shall give Declarant and any Mortgagees of whom the City has received notice in accordance with Section 6.07 hereof written notice of such alleged violation, and upon receipt of such notice Declarant shall within forty-five (45) days thereof either (i) effect a cure of such alleged violation, or commence a cure if the violation is not capable of cure within such forty-five (45) day period, or (ii) demonstrate to the City why the alleged violation has not occurred. If Declarant and/or Mortgagee commences to effect such cure within such forty-five (45) business day period (or if cure is not capable of being commenced within such forty-five (45) business day period, Declarant and/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 forty-five (45) day period (as such may be extended in accordance with the preceding clause) shall be extended for so long as Declarant and/or Mortgagee continues to proceed diligently with the effectuation of such cure. If more than one Declarant and Mortgagee exists at any time on the Subject Property, notice shall be provided to all Declarants and Mortgagees from whom the City has received notice in accordance with Section 6.07 hereof, and the right to cure shall apply equally to all Declarants and Mortgagees. If, after the notification procedures set forth above, Declarant and/or Mortgagee fails to cure such alleged violation of Declarant's obligations under this Declaration, the City shall have the right to exercise any remedy available at law or in equity or by way of administrative enforcement to obtain or compel Declarant's performance under this Declaration and may decline to approve and may disapprove any amendment, modification or cancellation of this Declaration on the sole ground that Declarant is in default under this Declaration. The time period for curing any violation by Declarant and/or Mortgagee shall be subject to extension for Uncontrollable Circumstances pursuant to Section 5.05 of this Declaration.

5.02Denial of Public Access.

Notwithstanding any provisions of Sections 5.01 of this Declaration to the contrary, in the event of a denial of public access to a Public Access Area of an on-going nature in violation of the Public Access Easement established under Section 2.02(a) of this Declaration, Declarant shall have the opportunity to effect a cure within twenty four (24) hours after receipt of notice thereof from the Chair. If such denial of access continues beyond such period, the City may thereupon exercise any and all of its rights hereunder, including seeking a mandatory injunction. In addition, if the City has reason to believe that the use and enjoyment of a Public Access Area by any member of the public has been denied by Declarant, the City may treat the denial of access as a violation of the Zoning Resolution and seek civil penalties at the Environmental Control Board for the violation relating to privately owned public space.

5.03Benefits to Subject Property and City.

Except to the extent otherwise explicitly provided herein, this Declaration is for the benefit of the City and Declarant only and creates no enforceable interest or rights in any third person or entity, other than the express rights granted herein to MTA. The City, acting through the agencies described in this Declaration, shall be deemed to be the only entity with standing to enforce the provisions of this Declaration against Declarant, and nothing herein contained shall be deemed to confer upon any other person or entity, public or private, any interest or right in enforcement of any provision of this Declaration against Declarant or any document or instrument executed or delivered in connection with the Applications, including any claim by any public or private landowner to be the beneficiary of any privileges of access appurtenant to lands adjoining the Subject Property which could or might be affected by enforcement of the provisions of this Declaration. Declarant acknowledges that the restrictions, covenants and obligations of this Declaration will protect the value and desirability of the Subject Property and benefit the City, and consents to enforcement by the City, administratively, at law or equity, of the covenants, obligations, conditions and restrictions contained herein.

5.04Indemnification of Certain City Expenses.

If Declarant is found by a court of competent jurisdiction to have been in default and such finding is upheld on final appeal, or the time for further review of such finding on appeal or by other proceeding has lapsed, Declarant shall indemnify and hold harmless the City from and against all of its reasonable legal and administrative expenses arising out of or in connection with the enforcement of such Obligation

5.05 Uncontrollable Circumstances.

(a) In the event that, as the result of Uncontrollable Circumstances, Declarant is unable to perform or complete any requirement of this Declaration (an "Obligation") (i) at the time or times required by this Declaration; (ii) at the date set forth in this Declaration for such action, if a specific date for such requirement is set forth herein; or (iii) prior to submitting an application for a New Building Permit or other permit or certificate of occupancy (TCO or PCO) which is tied to the completion of such requirement, where applicable, Declarant shall promptly after the occurrence of Uncontrollable Circumstances becomes apparent so notify the Chair in writing. Such notice (the "Delay Notice") shall include a description of the Uncontrollable Circumstances, and, if known to Declarant, their cause and probable duration. In the exercise of his or her reasonable judgment the Chair shall, within thirty (30) days of its receipt of the Delay Notice (i) certify in writing that the Uncontrollable Circumstances have occurred; or (ii) notify Declarant that it does not reasonably believe that the Uncontrollable Circumstances have occurred. Upon a certification that Uncontrollable Circumstances have occurred, the Chair may grant Declarant appropriate relief and, as a condition thereto, may require that Declarant post a bond, letter of credit or other reasonable security in a form reasonably acceptable to the City in order to ensure that the Obligation will be completed in accordance with the provisions of this Declaration.

(b) Any delay caused as the result of Uncontrollable Circumstances shall be deemed to continue only as long as the Uncontrollable Circumstances continue. Upon cessation of the Uncontrollable Circumstance causing such delay, Declarant shall promptly recommence the work or implement the measure needed to complete the Obligation, in accordance with any applicable directive of the Chair previously issued in connection with a grant of relief, unless an alternative has been specified and agreed to in accordance with this Section 5.05

ARTICLE VI
MISCELLANEOUS

6.01 Construction Consultation Process Committee and Liaison.

Declarant shall participate in a construction consultation process (the "CPP"), as described below, if the Borough President of the Borough of Manhattan and/or Community Board 4, Manhattan, shall hereafter elect to conduct such process. If such a CCP Committee (the "Committee") is hereafter established, the Declarant shall designate an individual as a liaison ("Liaison") to the Committee before Construction Commencement. Upon request of the Committee, and ~~during the course of construction at the Subject Property~~beginning at the time of issuance of the first Foundation Permit for a New Building on the Subject Property, the Liaison shall address, on a regular basis, the questions and concerns of the Committee about construction related issues**.** The Liaison and the Declarant shall, in good faith and promptly, work with the Committee and others, if necessary, to address such questions and concerns, as appropriate. Declarant's obligations hereunder shall expire when TCOs have been issued for all New Buildings on the Subject Property. The Committee shall in addition be provided with the quarterly reports prepared by the Independent Monitor appointed pursuant to Section 3.07 of this Declaration, and such Independent Monitor shall liaise with the Committee as specified therein.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1266 & Res. No. 2329

Report of the Committee on Land Use in favor of approving Application no. N 090434 ZRM submitted by RG WRY LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District, Community District 4, Borough of Manhattan.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5528) and originally reported to the Council on December 14, 2009 (Minutes, page 6097), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 **N 090434 ZRM**

City Planning Commission decision approving an application submitted by RG WRY LLC, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District, Community District 4, Borough of Manhattan.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission with a modification.

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modification was filed with the City Planning Commission on December 14, 2009. The City Planning Commission filed a letter dated December 16, 2009, with the Council indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2329

Resolution approving with modification the decision of the City Planning Commission on Application No. N 090434 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District), relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District, Community District 4, Borough of Manhattan).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by RG WRY LLC, for an amendment of the Zoning Resolution of the City of New York, concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District to facilitate the development of the Western Rail Yard Project in Manhattan's Community District 4 (Application No. N 090434 ZRM) (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090430 ZMM (L.U. No. 1264), a Zoning Map Amendment establishing a C1-5 district within an existing R8 District; C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; C 090435 ZSM (L. U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M).

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision with the following modification:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in underline is new, to be added;
Matter in strikeout is old, to be deleted;
Matter within # # is defined in Section 12-10;
* * * indicates where unchanged text appears in the Zoning Resolution;
Matter in **bold and double-underline** is new, to be added by City Council.

Article IX - Special Purpose Districts

Chapter 3
Special Hudson Yards District

* * *

93-00
General Purposes

The "Special Hudson Yards District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

* * *

(j) to provide flexibility of architectural design within limits established

to assure adequate access of light and air to the street, and thus to encourage more attractive and economic building forms;

(k) to provide a transition between the Hudson Yards District and the Hudson River to the west;

(l) to facilitate the restoration and reuse of the #High Line# elevated rail line as an accessible, public open space through special height and setback regulations; and

(m) (~~k~~) to promote the most desirable use of land and building development in accordance with the District Plan for the Hudson Yards and thus conserve the value of land and buildings and thereby protect the City's tax revenues.

93-01 Definitions

* * *

Hudson Yards Redevelopment Area

The "Hudson Yards Redevelopment Area" shall be the areas within the #Special Hudson Yards District#, Area P-2 of the #Special Garment Center District#, the 42nd Street Perimeter Area of the #Special Clinton District#, and the area bounded by the center line of Eleventh Avenue, the northern #street line# of West 43rd Street, the westerly prolongation of the northern #street line# of West 43rd Street to the U.S. Pierhead Line, the U.S. Pierhead Line, the westerly prolongation of the southern #street line# of West 29th Street to the U.S. Pierhead Line, and the southern #street line# of West 29th Street. However, the area bounded by the westerly side of Eleventh Avenue, the southerly side of West 43rd Street, the westerly side of Twelfth Avenue and the northerly side of West 30th Street West 33rd Street shall not be included in the #Hudson Yards Redevelopment Area#, except for any portion of such #blocks# containing a transit easement for subway-related use. Furthermore, the #Hudson Yards Redevelopment Area# shall not include any underground connections from a subway station to any #use# located on such excluded #blocks# or between any such #uses#.

* * *

Special Hudson Yards District (repeated from Section 12-10)

The "Special Hudson Yards District" is a Special Purpose District designated by the letters "HY" in which special regulations set forth in Article IX, Chapter 3, apply to all #developments#. The #Special Hudson Yards District# appears on the #zoning maps# superimposed on other districts and its regulations supplement and supersede those of the districts on which it is superimposed.

High Line

For the purposes of this Chapter, the "High Line" shall refer to the elevated rail line structure located between Gansevoort Street and West 34rd Street in the north-south direction, and between Washington Street and Twelfth Avenue in the east-west direction.

High Line Bed

The "High Line bed" is the highest level of the horizontal surface (platform) of such elevated rail line structure.

93-03
District Plan and Maps

The regulations of this Chapter are designed to implement the #Special Hudson Yards District Plan#.

The District Plan includes the following ~~four~~ nine maps:

Map 1 - Special Hudson Yards District, Subdistricts and Subareas

Map2- Mandatory Ground Floor Retail

Map3- Mandatory Street Wall Requirements

Map4- Mandatory Sidewalk Widenings

Map 5 - Transit Easements and Subway Entrances

Map 6 - Subdistrict F Site Plan

Map 7- Subdistrict F Public Access Area Plan

Map 8- Subdistrict F Mandatory Ground Floor Requirements

Map 9- Subdistrict F Mandatory Street Wall Requirements

The Maps are located within Appendix A of this Chapter and are hereby incorporated and made part of this Resolution. They are incorporated for the purpose of specifying locations where special regulations and requirements set forth in the text of this Chapter apply.

93-04
Subdistricts and Subareas

In order to carry out the provisions of this Chapter, six subdistricts are established, as follows: The

Large-Scale Plan Subdistrict A

Farley Corridor Subdistrict B

34th Street Corridor Subdistrict C

Hell's Kitchen Subdistrict D

South of Port Authority Subdistrict E

Western Rail Yard Subdistrict F

In each of these subdistricts, certain special regulations apply which do not apply within the remainder of the #Special Hudson Yards District#. Within certain subdistricts, subareas are established, as follows:

* * *

93-052
Applicability of Chapter 3 of Article I

#Public parking lots# authorized pursuant to Section 13-552 (Public parking lots) prior to January 19, 2005, and #accessory# off-street parking facilities for which a special permit has been granted pursuant to Section 13-561 prior to January 19, 2005, may be renewed subject to the terms of such authorization or special permit.

The provisions of Chapter 3 of Article I in its entirety shall be applied to Subdistrict F.

* * *

93-06
Declaration of Restrictions in Subdistrict F

No #building# permit shall be issued for any #development# or #enlargement# within Subdistrict F unless a declaration of restrictions in substantially the form reviewed by the City Planning Commission pursuant to CEQR No. 09DCP007M and referenced in and made an exhibit to the findings of the Commission pursuant to 6 NYCRR Section 617.11 in connection with its adoption of the regulations of this chapter applicable to Subdistrict F, and as modified by City Council, (as such declaration may be revised prior to filing and recordation in accordance with the provision thereof applicable to amendments made subsequent to filing and recordation) shall have been filed and duly recorded in the Borough Office of the City Register of the City of New York and indexed against all property interests in Subdistrict F proposed for #development# or #enlargement# pursuant to this Chapter.

93-10
USE REGULATIONS

The #use# regulations of the underlying districts are modified as set forth in this Section, inclusive.

The only permitted change of #use# for the #High Line# shall be to provide publicly accessible open space in accordance with the provisions of Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F).

* * *

93-13
Special Office Use Regulations

93-131
Certification for office use

The provisions of this Section shall apply to all #developments# or #enlargements# in the #Hudson Yards Redevelopment Area# with the exception of Subdistrict F.

(a) No temporary certificate of occupancy from the Department of Buildings may be issued for any portion of a #development# or #enlargement# in the #Hudson Yards Redevelopment Area# that includes Use Group 6B offices constructed after January 19, 2005, until the Chairperson of the Department of City Planning certifies to the Commissioner of Buildings that:

* * *

93-132
Authorization for office use

The provisions of this Section shall apply to all #developments# or #enlargements# in the #Hudson Yards Redevelopment Area# with the exception of Subdistrict F.

Where the amount of Use Group 6B office #floor area# in a #development# or #enlargement# will result in over 25 million square feet of such #use developed# or #enlarged# after January 19, 2005, within the #Hudson Yards Redevelopment Area#, and such #development# or #enlargement# utilizes increased #floor area# pursuant to Sections 23-90 (INCLUSIONARY HOUSING), 93-30 (SPECIAL FLOOR AREA REGULATIONS), inclusive, or 96-25 (Floor Area Bonus for New Legitimate Theater Use), such #development# or #enlargement# shall be permitted only upon authorization of the City Planning Commission that:

* * *

93-14
~~Retail Continuity Along Designated Streets~~ Ground Floor Level Requirements

The following provisions shall apply to all Subdistricts in the #Special Hudson Yards District#, except that the provisions of this Section shall not apply along the northern #street# frontage of West 35th through West 39th Streets within 100 feet of Eleventh Avenue, as shown on Map 2 (Mandatory Ground Floor Retail) in Appendix A of this Chapter. However, any #zoning lot# fronting on such #streets# and partially within 100 feet of Eleventh Avenue may, as an alternative, apply the provisions of this Section to the entire West 35th, West 36th, West 37th, West 38th or West 39th Street frontage of the #zoning lot#.

(a) Retail continuity along designated streets in Subdistricts A-E

Map 2 (Mandatory Ground Floor Retail) in Appendix A of this Chapter specifies locations where the special ground floor #use# and transparency requirements of this Section apply. Such regulations shall apply along either 100 percent or 50 percent of the building's #street# frontage, as indicated on Map 2.

#Uses# located on the ground floor level or within five feet of #curb level#, and within 50 feet of the #street line# shall be limited to #commercial uses# permitted by the underlying district, but not including #uses# listed in Use Groups 6B, 6E, 7C, 7D, 8C, 8D, 9B, 10B, 11 or 12D.

A building's #street# frontage shall be allocated exclusively to such #uses#, except for lobby space, entryways or entrances to subway stations. In no event shall the length of #street# frontage occupied by lobby space or entryways exceed, in total, 40 feet or 25 percent of the building's total #street# frontage, whichever is less, except that the width of a lobby need not be less than 20 feet.

For any new #development# or #enlargement# on such designated #streets# glazing shall be provided in accordance with the provisions set forth in paragraph (c) of this Section 93-14.

(b) Retail continuity along designated streets in Subdistrict F

Map 8 (Subdistrict F Mandatory Ground Floor Requirements) in Appendix A of this Chapter specifies locations where the special ground floor #use# and transparency requirements of this Section 93-14 apply. Such regulations shall apply along either 100 percent or 70 percent of the building's #street# frontage, as indicated on Map 8.

(1) Along Eleventh Avenue

The ground floor retail provisions established in paragraph (a) of this Section 93-14 shall apply to the ground floor #street# frontage of #buildings# along Eleventh Avenue. In addition if a #street# frontage is occupied by a 'Bank' as listed in Use Group 6, such a #street# frontage shall not exceed a #street wall# width, in total, of 25 feet.

(2) Along designated streets other than Eleventh Avenue

In addition to the #uses# listed in paragraph (a) of this Section 93-14, the following #community facility uses# from Use Groups 3 and 4 as well as the following #commercial use# from Use Group 6B shall be permitted on the ground floor level of a #building# or within five feet of #curb level# for frontages along designated #streets#, as shown in Map 8 (Subdistrict F Mandatory Ground Floor Requirements) other than Eleventh Avenue.

From Use Group 3:

Art galleries (Non-Commercial)

Libraries

Museums

Nursery, kindergarten, elementary or secondary #schools# (with no living or sleeping accommodations)

From Use Group 4:

Ambulatory diagnostic and treatment health care facilities

Community centers

Recreation centers, non-commercial

Houses of worship

From Use Group 6B:

Veterinary medicine, limited to small animals

A minimum of 70 percent of the #aggregate width of street wall# shall be occupied by #uses# permitted in this Section 93-14. A minimum of 50 percent of the #street# frontage of a #building# shall be allocated exclusively to #uses# listed in paragraph (a) of this Section and/or Use Group 3 #uses# listed in this subparagraph (b)(2). In addition, a maximum of 20 percent of the #street# frontage of a

#building# shall be permitted to provide the Use Group 4 and 6B #uses# listed in this subparagraph

(b)(2). However, if a #street# frontage is occupied by a 'Bank' as listed in Use Group 6, such a #street# frontage shall not exceed a #street wall# width, in total, of 25 feet.

The remaining portion of the #street wall# may be occupied by #uses# listed in this Section 93-14, or by lobby space, mechanical space or entrances to #accessory# parking garages, provided that:

(i) The maximum width of a single lobby frontage shall be 40 feet, or 25 percent of the #street wall#, whichever is less. A maximum of two such lobbies shall be permitted along a single #street wall# frontage, provided that the minimum distance between such lobbies shall not be less than 120 feet; and

(ii) The maximum width of a #street wall# occupied by an entrance to #accessory# parking spaces shall not exceed 35 feet.

For any new #development# or #enlargement# on such designated #streets# glazing shall be provided in accordance with the provisions set forth in paragraph (c) of this Section.

(c) Transparency requirements along designated streets in Subdistricts A-F

Each ground floor level #street wall# of a #commercial# or #community facility use#, as set forth in this Section 93-14, shall be glazed with materials which may include show windows, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of each such ground floor level #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk, or public access area, whichever is higher. Not less than 50 percent of the area of each such ground floor level #street wall#

shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

~~For any new #de v elopm ent# or #enlargem ent# on such designated #streets# , each ground floor #street wall# shall be glazed with materials which may include show windows, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of the area of each such ground floor #street wall#, measured to a height of 10 feet above the level of the adjoining sidewalk or public access area. Not less than 50 percent of such area shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.~~

For #developments# or #enlargements# fronting upon Hudson Boulevard that are adjacent to existing #buildings# located within the Hudson Boulevard #street# bed or #public park#, the Hudson Boulevard #street wall# of such new #development# or #enlargement# shall be designed in a manner that will enable the glazing requirements of this Section to be met upon demolition of the #buildings# within such #street# bed or #public park# and, within six months of such demolition, such glazing requirements shall be complied with.

(d) Non-transparent walls within Subdistrict F

Within Subdistrict F, any non-transparent area of a new or existing wall with a width in excess of 40 feet and a height in excess of five feet fronting upon a public sidewalk or publicly accessible open space shall be treated with a decorative element or material or shall be screened with planting so as to provide visual relief. Such screening or decorative treatment shall be required to a height of 15 feet above the level of the public sidewalk or publicly accessible open space, or the height of the wall, whichever is less.

~~The provisions of this Section shall not apply along the northern #street# frontage of West 35th through West 39th Streets within 100 feet of Eleventh Avenue, as shown on Map 2. However, any #zoning lot# fronting on such #streets# and partially within 100 feet of Eleventh Avenue may, as an alternative, apply the provisions of this Section to the entire West 3 5th, West 3 6th, West 37th, West 38th or West 39th Street frontage of the #zoning lot#.~~

93-141

Certification to modify ground floor level requirements in Subdistrict F

Within Subdistrict F, the Chairperson of the City Planning Commission may modify the ground floor level requirements of paragraphs (b), (c) and (d) of Section 93-14 (Ground Floor Level Requirements), provided that the Chairperson certifies to the Commissioner of Buildings that such a change is the minimum necessary to accommodate the ventilation requirements of the below-grade rail operations. Any application for such change shall include a Mechanical Plan that conveys the extent of the needs and required modifications, as well as a letter from the Metropolitan Transportation Authority describing the needs for such modifications.

* * *

93-17

Modification of Sign Regulations

(a) Subdistricts A, B, C, D, and E

Within Subdistricts A through E, the ~~The~~ underlying #sign# regulations shall apply, except that #flashing signs# shall not be allowed within 100 feet of Hudson Boulevard, its northerly prolongation to West 39th Street and its southerly prolongation to West 33rd Street. Furthermore, #flashing signs# shall not be allowed on any portion of a #building# fronting upon the outdoor plaza required in the Eastern Rail Yards Subarea A1, pursuant to Section 93-71.

(b) Subdistrict F

For the purposes of calculating the permitted #surface area of a #sign#, each Site set forth on Map 6 (Subdistrict F Site Plan) shall be considered a separate #zoning lot#.

(1) Along the #High Line#

The #sign# regulations of the underlying districts shall not apply to #signs# located within 50 feet of the #High Line#, except for #signs# located entirely below the level of the #High Line bed# In lieu thereof, the #sign# regulations of a C1 District shall apply, except that #accessory signs# located within the #High Line# frontage may have a maximum height of 20 feet above the level of the #High Line bed#.

No #signs# affixed to or resting upon the #High Line# shall be permitted, except as pursuant to a signage plan for the #High Line#, as authorized by the City Planning Commission, provided the Commission finds that such signage plan will:

(i) Enhance the use of the #High Line# by providing signage that is consistent with the use of the #High Line# as a public open space;

(ii) Provide, at a minimum, directional, informational and interpretive signage consistent with the use of the #High Line# as a public open space;

(iii) Be integrated with the design of the #High Line# open space; and

(iv) Not adversely affect #development# adjacent to the #High Line# and in the surrounding neighborhood.

(2) Other locations

Within Subdistrict F, the underlying #sign# regulations shall apply for #signs# located beyond 50 feet of the #High Line#, and for portions of #signs# located entirely below the level of the #High Line bed# along West 30th Street. However, #flashing signs# shall not be permitted in Subdistrict F, except along frontages within 200 feet of the intersection of the West 33rd Street and 11th Avenue #street line#.

* * *

93-20

FLOOR AREA REGULATIONS

* * *

93-22

Floor Area Regulations in Subdistricts B, C, D, and E and F

(a) Subdistricts B, C, D, and E

In Subdistricts B, C, D, E the basic maximum #floor area ratio# is determined by the subdistrict and, where applicable, subarea, as specified in the table in this Section. The basic maximum #floor area ratios# for non-#residential buildings# are set forth in Row A, and the basic maximum #floor area ratios# for #buildings# containing #residences# are set forth in Row B. Such basic maximum #floor area ratios# may be increased to the amount specified in Row C only pursuant to Section 93-31 (District Improvement Fund Bonus) or as otherwise specified in Sections 93-22 1 through 93-224.

Notwithstanding the provisions of this Section, the basic maximum permitted #floor area ratio# may be increased on an "adjacent lot" pursuant to Section 74-79 (Transfer of Development Rights from Landmark Sites), provided that the maximum #floor area# transferred from the landmark lot does not exceed the basic maximum permitted #floor area ratio# less the total #floor area# of all #buildings# on the landmark lot.

* * *

(b) Subdistrict F

In Subdistrict F, the #floor area ratio# provisions of Section 93-225 (Floor area regulations in Subdistrict F) shall apply.

* * *

93-225

Floor area regulations in Subdistrict F

In Subdistrict F, the maximum #floor area ratio# for #residential#, #community facility# and #commercial use# shall be as follows:

(a) The maximum #floor area ratio# for #residential uses# shall be 8.0;

(b) The maximum #floor area ratio# for #community facility uses# shall be 2.0. However, any floor space occupied by a public #school# constructed in whole or in part pursuant to agreement with the New York City School Construction Authority and subject to the jurisdiction of the New York City Department of Education shall be exempted from the definition of #floor area# for the purposes of calculating the permitted #floor area ratio# for #community facility uses# and the total maximum #floor area ratio# of the #zoning lot#;

(c) The maximum #floor area ratio# for #commercial uses# shall be 8.0; and

(d) The total maximum #floor area ratio# shall be 10.0, except as modified pursuant to Section 93-23 (Modifications of Inclusionary Housing Program).

93-23

Modifications of Inclusionary Housing Program

Subdistrict C (34th Street Corridor) and Subareas D1 and D2 of Subdistrict D (Hell's Kitchen) of the #Special Hudson Yards District# and Area P2 of the #Special Garment Center District#, shall be #Inclusionary Housing designated areas#, pursuant to Section 12-10 (DEFINITIONS) for the purpose of making the Inclusionary Housing Program regulations of Section 23-90 (INCLUSIONARY HOUSING), inclusive, applicable as modified within the Special Districts. The underlying provisions of Section 23-90 shall only be applicable in Subdistrict F as modified by Section 93-233 (Floor area increase for affordable housing in Subdistrict F).

* * *

93-232

Floor area increase in Subdistricts B, C, D, and E, and Preservation Area P2

The provisions of Section 23-952 (Floor area compensation in Inclusionary Housing designated areas) shall not apply. In lieu thereof, the #floor area# compensation provisions of this Section shall apply. In accordance with the provisions set forth in Section 93-22 (Floor Area Regulations in Subdistricts B, C, D , and E, and F) or 121-3 1 (Maximum Permitted Floor Area), the maximum permitted #residential floor area ratio# for #developments# or #enlargements# that provide #affordable housing# pursuant to the Inclusionary Housing Program may be increased, as follows:

* * *

93-233

Floor area increase for affordable housing in Subdistrict F

The #floor area# of any #building# containing #residences# in Subdistrict F may be increased by up to five percent, and such increase may be in excess of the maximum #floor area ratio# of 8.0 for #residential use#, and the total maximum #floor area ratio# of 10.0 provided that:

(a) At least 20 percent of the #residential# units in such #building#, inclusive of any #floor area increase# permitted by this Section, shall be occupied by #lower income households#, as defined in Section 23-911 (General definitions);

(b) Such #building# shall comply with the provisions of:

(i) Section 23-954 (Additional requirements for compensated developments), paragraphs (b) and (c);

(ii) Section 23-96 (Requirements for Generating Sites), paragraphs (b) through (i); and

(iii) Section 23-96 1 (Additional requirements for rental affordable housing), paragraphs (a) through (d); and

(c) The sum of all #floor area# increases permitted pursuant to this Section does not exceed 0.4 times the total #lot area# of Subdistrict F.

* * *

93-30

SPECIAL FLOOR AREA REGULATIONS

93-31

District Improvement Fund Bonus

Except in Subdistrict F, I in the #Special Hudson Yards District# and Area P-2 of the #Special Garment Center District#, the Chairperson of the City Planning Commission shall allow, by certification, the applicable basic maximum #floor area ratio# to be increased up to the maximum amount specified in Sections 93-21, 93-22 or 121-3 1, as applicable, provided that instruments in a form acceptable to the City are executed and recorded and that, thereafter, a contribution has been deposited in the #Hudson Yards District Improvement Fund#. The execution and recording of such instruments and the payment of such non-refundable contribution shall be a precondition to the filing for or issuing of any building permit allowing more than the basic maximum #floor area# for such #development# or #enlargement#.

* * *

93-40

HEIGHT AND SETBACK REGULATIONS

93-41

Rooftop Regulations

(a) Permitted obstructions

(1) Subdistricts A through E

The provisions of Section 3 3-42 (Permitted Obstructions) shall apply to all #buildings# within Subdistricts A through E , except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c) of Section 23-62 1 (Permitted obstructions in certain districts).

(2) Subdistrict F

In Subdistrict F, the provisions of paragraph (c) of Section 3 3-42 (Permitted Obstructions) shall not apply. In lieu thereof, the following shall apply:

(i) #Building# bases and transition heights

For all #building# bases and transition heights, rooftop mechanical structures, including, but not limited to, elevator or stair bulkheads,

roof water tanks, cooling towers or other mechanical equipment, and their required enclosures, may penetrate a maximum height limit, provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet.

(ii) Towers

For all towers, rooftop mechanical equipment, including, but not limited to, elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment, and their required enclosures, may penetrate a maximum height limit. For towers above a height of 350 feet, such rooftop mechanical structures shall comply with the tower top articulation provisions set forth in Section 93-569 (Tower top articulation).

(b) Screening requirements for mechanical equipment

For all #developments# and #enlargements#, all mechanical equipment located on any roof of a #building or other structure# shall be fully enclosed, except that openings in such enclosure shall be permitted only to the extent necessary for ventilation and exhaust.

* * *

93-42

Height and Setback in Subdistricts A through ~~E~~ F

~~In Su bdistricts A through E F, the underlying height and setback regulations shall not apply, except as set forth in Section 9 3 542 (Height and setback in Subareas D4 and D5). In lieu thereof, the provisions of this Section shall apply. These regulations are further modified in certain locations as set forth in Section 93 50 (SPECIAL HEIGHT AND SETBACK REGULATIONS IN SUBDISTRICTS A THROUGH E). The rooftop regulations set forth in Section 93 41 shall apply. The height of all #buildings or other structures# shall be measured from #curb level#.~~

In Subareas D4 and D5 of the Hell's Kitchen Subdistrict D, the underlying height and setback regulations shall apply as set forth in Section 93-542 (Height and setback in Subareas D4 and D5), as modified by Section 93-41 (Rooftop Regulations).

In Subdistricts A, B, and C, Subareas D1, D2 and D3 of the Hell's Kitchen Subdistrict D, and Subdistrict E, the underlying height and setback regulations shall not apply. In lieu thereof, the provisions of Section 93-4 1 (Rooftop Regulations) and paragraphs (a) through (d) of this Section shall apply. These regulations are further modified in certain locations as set forth in Section 93- 50 (SPECIAL HEIGHT AND SETBACK REGULATIONS). The height of all #buildings or other structures# shall be measured from #curb level#.

In Subdistrict F, the underlying height and setback regulations shall not apply. In lieu thereof, the provisions of Section 93-41 (Rooftop Regulations) and Section 93-56 (Special Height and Setback Regulations in Subdistrict F) shall apply.

* * *

93-50

SPECIAL HEIGHT AND SETBACK REGULATIONS ~~IN SUBDISTRICTS A THROUGH E~~

In Subdistricts A ~~through E~~, B, and C, and Subareas D1, D2 and D3 of the Hell's Kitchen Subdistrict D, and Subdistrict E, the height and setback regulations set forth in paragraphs (a) through (d) of Section 93-42 (Height and Setback in Subdistricts A through F) shall apply, except that such regulations are modified in certain locations as set forth in this Section. Such modifications include the establishment of #street wall# location regulations, minimum base heights and maximum length of building walls for towers, and modifications of maximum base heights, depths of required setbacks, and tower #lot coverage#. Special provisions for recesses and sidewalk widenings are as follows:

* * *

(b) Sidewalk Widenings

Where a #street wall# is required to extend along the entire #street# frontage of a #zoning lot#, and such #street# is intersected by a #street# with a mandatory sidewalk widening, no #street wall# shall be required within such sidewalk widening. Where corner articulation rules apply, the inner boundary of any required sidewalk widening may be considered to be the #street line#. The mandatory #street wall# requirements are illustrated on Map 3 (Mandatory Street Wall Requirements) in Appendix A of this Chapter. Where sidewalk widening lines are specified, such lines shall be parallel to and five or ten feet from the #street line#, as required pursuant to Section 93-6 1 and illustrated on Map 4 (Mandatory Sidewalk Widenings) in Appendix A.

In Subdistrict F, the provisions of Section 93-41 (Rooftop Regulations) and Section 93-56 (Special Height and Setback Regulations in Subdistrict F) shall apply.

* * *

93-512

Subareas A3, A4 and A5 of the Large-Scale Plan Subdistrict A

(a) Hudson Boulevard

For the purposes of this paragraph, (a), Hudson Boulevard shall be considered to be a #wide street#. The #street wall# of the #development# or #enlargement# shall be located on the Hudson Boulevard sidewalk widening line and extend along at least 70 percent of the length of the Hudson Boulevard frontage of the #zoning lot#, and shall rise without setback to a minimum base height of 90 feet and a maximum base height of 120 feet. On #corner lots#, the maximum base height may apply along intersecting #narrow street lines# for a distance of 100 feet from its intersection with Hudson Boulevard. Above a height of 120 feet, a setback at least 25 feet in depth is required from the Hudson Boulevard #street line#, and setbacks from intersecting #narrow streets# shall comply with the provisions of paragraph (b) of Section 93-42 (Height and Setback in Subdistricts A through EF).

* * *

93-56

~~Special Permit for Modification of Height and Setback Regulations~~ Special Height and Setback Regulations in Subdistrict F

The height and setback regulations set forth in this Section 93-56, inclusive, shall apply to specific sites identified as Sites 1 through 6 on Map 6 (Subdistrict F Site Plan) in Appendix A of this Chapter. All #developments# or #enlargements# of a #building or other structure# within Subdistrict F, with the exception of those approved as part of a public access area pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F), shall occur within these designated site locations. However, portions of a #building# located entirely below grade, and exempt from the definition of #floor area# shall be permitted to extend beyond such designated site locations. Furthermore, the boundary of Site 6 may be extended in a westerly direction, by up to 40 feet to accommodate a public #school# in accordance with the provisions of paragraph (b) of Section 93-568 (Site 6).

Map 4 (Mandatory Sidewalk Widenings) in Appendix A of this Chapter identifies the location of a sidewalk widening required along Eleventh Avenue that is referenced in this Section 93-56, inclusive. Regulations governing the design of this sidewalk widening are set forth in Section 93- 61 (Sidewalk Widenings).

Public access areas in Subdistrict F shall be comprised of publicly accessible open spaces, private streets and pedestrian ways. Map 7 (Subdistrict F Public Access Area Plan) in Appendix A of this Chapter, identifies the location of publicly accessible open spaces, private streets, and pedestrian ways which are referenced in this Section 93-56.

Publicly accessible open spaces are comprised of the 'Western Open Space', the 'Central Open Space', the 'Southwest Open Space', the 'Northeast Plaza', the 'Midblock Connection', and the '#High Line#'. General rules governing such publicly accessible open spaces are set forth in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F).

Publicly accessible private streets are comprised of the 'West 32nd Street Extension' (including the allee) and the 'West 31st Street Extension'. Publicly accessible pedestrian ways are comprised of the 'West 30th Street Corridor', and the 'Connector'. General rules governing such private streets and pedestrian ways are set forth in Section 93-76 (Publicly Accessible Private Streets and Pedestrian Ways in Subdistrict F).

93-561

General rules for Subdistrict F

The following regulations shall apply to all #buildings or other structures#

within Sites 1 through 6:

(a) #Street wall# location

For the purposes of applying the height and setback regulations of this Section 93-56, inclusive, wherever a #building# fronts upon any publicly accessible open space, private street, or pedestrian way as shown on Map 7 (Subdistrict F Public Access Area Plan), the boundary of such publicly accessible open spaces, private streets, pedestrian ways shall be considered to be a #street line#. Furthermore, for the purposes of applying such height and setback regulations, the sidewalk widening line required along Eleventh Avenue shall be considered the Eleventh Avenue #street line#.

Wherever a #building# on Sites 1, 5 or 6 faces the #High Line#, the #street wall# shall not be located closer than five feet to the edge of the #High Line#, as shown on Map 7. Such five foot separation shall remain unobstructed, from the level of finished grade adjacent a #building# to the sky, except:

(1) As permitted for that portion of a #building# on Site 5 located above a height of 50 feet as measured from the #High Line bed# pursuant to Section 93-567 (Site 5);

(2) As permitted for that portion of a #building# on Site 6 located below the #High Line# pursuant to Section 93-568 (Site 6); and

(3) As permitted pursuant to paragraph (d) of Section 93-756 (General requirements for the #High Line#).

(b) Measurement of #building# heights

(1) Measurement of #building# base and transition heights

For portions of a #building# that front upon a publicly accessible sidewalk, the maximum #building# base height, and, where applicable, maximum transition height of a #street wall# shall be measured from the mean level of the public sidewalk that such #street wall# fronts upon. For portions of a #building# that front upon publicly accessible open spaces in which no sidewalks are provided adjacent to a #street wall#, the maximum #building# base height, or, where applicable, maximum transition height of a #street wall# shall be measured from the mean level of the final grade of the open space that such #street wall# fronts upon. However, the following #street wall# heights shall be measured from the #High Line bed#:

(i) On Site 6, the portion of a #street wall# above the #High Line bed# facing the #High Line# beyond 60 feet of Eleventh Avenue; and

(ii) On Site 6 along the Southwest Open Space within 60 feet of the #High Line#.

(2) Measurement of tower heights

The height of a tower shall be measured from the highest level of the public sidewalk or finished grade located nearest such tower, to the ceiling of the highest #story# of the tower where #floor area# occupies more than 75 percent of the gross area of such #story#. However, on Site 5, the height of the tower shall be measured from the #High Line bed#.

Where minimum height differences are required between towers, such heights, for each tower, shall be measured from the Manhattan Datum, which is 2.75 feet above Sea Level.

(c) Towers

Criteria for towers on Sites 1 through 6 are set forth in this Section 93-56, inclusive. The minimum distance between all such towers shall be 60 feet.

93-562

Street wall regulations for certain streets

The locations of all #street walls# identified in this Section 93-562 are shown on Map 9 (Subdistrict F Mandatory Street Wall Requirements) in Appendix A of this Chapter.

(a) Applicability

The provisions of this Section 93-562 shall apply to:

(1) All #street walls# of #buildings# on Site 1:

(i) That front along the West 32nd Street Extension;

(ii) That front along the Western Open Space within 60 feet of the West 32nd Street Extension; and

(iii) That front along the Midblock Connection within 60 feet of the West 32nd Street Extension.

(2) All #street walls# of #buildings# on Site 2:

(i) That front along Eleventh Avenue south of the Northeast Plaza;

(ii) That front along the West 32nd Street Extension; and

(iii) That front along the Midblock Connection within 60 feet of the West 32nd Street Extension.

(3) All #street walls# of a #building# on Site 4:

(i) That front along Eleventh Avenue;

(ii) That front along the West 32nd Street Extension within 50 feet of Eleventh Avenue; and

(iii) That front along the West 31st Street Extension within 50 feet of Eleventh Avenue.

(4) All #street walls# of a #building# on Site 6:

(i) That front along Eleventh Avenue five feet north of the #High Line#;

(ii) That front along the West 31st Street Extension;

(iii) That front along the #High Line#, completely above the #High Line bed#;

(iv) That front along the Southwest Open Space within 60 feet of the #High Line#; and

(v) That front along the Southwest Open Space within 60 feet of the West 31st Street Extension.

(b) #Street wall# location

All #street walls# of #developments# or #enlargements# identified in paragraph (a) of this Section shall be located on the #street line#.

All such #street walls# shall extend along the entire #street# frontage of the site, or required portion identified in paragraph (a) of this Section. However, such #street wall# location rules may be modified in accordance with the recess provisions of paragraph (c) of this Section.

(c) Recesses

(1) Ground floor recesses up to three feet deep shall be permitted for access to #building# entrances;

(2) To allow for corner articulation, the required #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such lines;

(3) To ensure variation in the required #street wall#, a #building# shall provide recesses or ground floor level setbacks in accordance with the following provisions.

(i) A minimum of 20 percent of the #aggregate

width of street walls# shall

provide a minimum recess of three feet from the #street wall# above the level of the second #story#, except for the portion of Site 6 which fronts along the High Line, such recess shall be provided above the level of the first #story. However, no portion of such recess shall be located within 30 feet of the intersection of two #street lines#, except where corner articulation is provided in accordance with subparagraph (2) of this paragraph (c).

(ii) A maximum of 30 percent (or 50 percent for Site 4) of the #aggregate width of street walls# may provide a recess of up to 15 feet at any level, which may extend to the height of the building base, and, may allow for portions of towers to rise without setback from the ground floor level. However, no such setbacks shall be permitted within 30 feet of the intersection of two #street lines#, except where corner articulation is provided in accordance with subparagraph (2) of this paragraph (c).

93-563

Site 1

In addition to the applicable requirements set forth in Section 93-562 (Street wall regulations for certain streets) the provisions of this Section 93-563 shall apply to #buildings# on Site 1.

(a) Building base

(1) Facing West 33rd Street

The #street wall# of the #development# or #enlargement# facing West 33rd Street may rise without setback to a maximum base height of 120 feet before a setback is required. However, no setbacks shall be required within 150 feet of Twelfth Avenue.

(2) Facing the West 32nd Street Extension

The provisions of this subparagraph (a)(2) shall apply to #street walls# facing the West 32nd Street Extension, the Western Open Space and the Midblock Connection within 60 feet of the West 32nd Street Extension. Such #street walls# shall rise without setback to a minimum base height of 60 feet and a maximum base height of 90 feet.

(3) Facing the Western Open Space

The provisions of this subparagraph (a)(3) shall apply to #street walls# facing the Western Open Space beyond 60 feet of its intersection with the West 32nd Street Extension. The #street wall# of the #development# or #enlargement# may rise without setback to a maximum base height of 90 feet before a setback is required. However, no setbacks shall be required within 150 feet of Twelfth Avenue.

(b) Transition height

All portions of a #building# that exceed the applicable maximum base height specified in paragraph (a) of this Section shall be set back in accordance within the provisions of this paragraph (b), except that where towers are provided directly above a portion of the transition height, such a portion of transition height located directly below a tower shall provide setbacks in accordance with the tower provisions of paragraph (c) of this Section.

Portions of a transition height facing West 33rd Street shall be set back from the West 33rd Street #street line# a minimum of 20 feet. Portions of a transition height facing the Western Open Space that exceed the maximum base height shall be set back from the #street wall# of a #building# facing the Western Open Space a minimum of 30 feet. However, in both cases, no such setback shall be required within 150 feet of Twelfth Avenue.

Above the maximum base height a #street wall# may rise to a maximum transition height equal to one-half the height of the #street wall# of the #building# base facing the Western Open Space. Such a transition height shall not exceed a maximum height of 135 feet.

All portions of a #building# that exceed the maximum transition height shall comply with the tower provisions of paragraph (c) of this Section.

(c) Towers

All #stories# of a #development# or #enlargement# located partially or wholly above the

maximum transition height shall be considered a 'tower' and shall comply with the provisions of this paragraph.

(1) Required setbacks

All towers, or portions of a transition height located beneath a tower, shall be set back at least 15 feet from the #street line# of West 33rd Street and from the #street walls# of the #building# facing the West 32nd Street Extension, except that the depth of such set back distance may include the depth of any permitted recesses. However, no setbacks shall be required within 150 feet of Twelfth Avenue, along the Western Open Space, or along the Midblock Connection to allow portions of towers that comply with the provisions of subparagraphs (2) and (3) of this paragraph (c) to rise without setback.

(2) Maximum floor plate

If more than one tower is provided on Site 1, the aggregate gross area of any such tower #stories#, measured at any height, shall not exceed 25,000 square feet.

(3) Maximum length and height

The outermost walls of all #stories# of a tower, when viewed from above, shall be inscribed within a rectangle where the east-west dimension shall not exceed a length of 110 feet and the north-south dimension shall not exceed a length of 160 feet. Where more than one tower is located on Site 1, each tower shall comply independently with such maximum dimensions.

If more than one tower is located on Site 1, the height of the easternmost tower shall be a minimum of 100 feet greater than the height of the westernmost tower.

All towers that exceed a height of 350 feet shall provide articulation in accordance with Section 93-569 (Tower top articulation).

93-564

Site 2

In addition to the applicable requirements set forth in Section 93-562 (Street wall regulations for certain streets), the provisions of this Section 93-564 shall apply to #buildings# on Site 2.

(a) Building base

(1) Facing Eleventh Avenue

The provisions of this subparagraph (a)(1) shall apply to #street walls# facing Eleventh Avenue (exclusive of #street walls# facing the Northeast Plaza, which need not setback), and the West 32nd Street Extension within 60 feet of Eleventh Avenue. Such #street walls# shall rise without setback to a minimum height of 120 feet and a maximum height of 150 feet. Above a height of 150 feet, all portions of such #building# shall be set back from the #street wall# of the #building# at least 15 feet, except such set back distance may include the depth of any permitted recesses. These building base provisions may apply along the West 32nd Street Extension #street line# beyond 60 feet of Eleventh Avenue, up to a maximum distance of 100 feet from Eleventh Avenue.

(2) Facing the West 32nd Street Extension

The provisions of this subparagraph (a)(2) shall apply to #street walls# facing the West 32nd Street Extension beyond 60 feet of Eleventh Avenue (or beyond 100 feet if the optional building base provisions of subparagraph (1) of this

paragraph (a) are applied along the West 32nd Street Extension), and the Midblock Connection within 60 feet of the West 32nd Street Extension. Such #street walls# shall rise without setback to a minimum height of 90 feet and a maximum height of 120 feet. Above a height of 120 feet, all portions of such #buildings# facing the West 32nd Street Extension shall be set back from the #street wall# of the #building# at least 15 feet, except such set back distance may include the depth of any permitted recesses. Portions of #street walls# along the Midblock Connection within 60 feet of the West 32nd Street Extension need not setback after the maximum base height to allow tower portions that comply with the provisions of paragraph (b) of this Section to rise without setback.

(3) Facing West 33rd Street

#Street walls# facing West 33rd Street (exclusive of the Northeast Plaza) may rise without setback to a maximum base height of 150 feet. Above a height of 150 feet, setbacks shall be required as follows:

(i) Portions of a #building# facing West 33rd Street within 150 feet of the Eleventh Avenue #street line# shall provide a 15 foot setback from the #street line# of West 33rd Street;

(ii) Portions of a #building# beyond 150 feet of Eleventh Avenue that do not exceed an #aggregate width of street wall# of 150 feet, as measured along the West 33rd Street #street line# shall be permitted to rise without setback; and

(iii) Portions of a #building# located beyond 150 feet of Eleventh Avenue, which exceed the #aggregate width of street wall# of 150 feet as measured along the West 33rd Street #street line# shall be set back a minimum of 15 feet from the #street line# of West 33rd Street.

All portions of a #building# that exceed a height of 150 feet shall comply with the tower provisions of paragraph (b) of this Section.

(b) Towers

All #stories# of a #development# or #enlargement# located partially or wholly above a height of 150 feet shall be considered a 'tower' and shall comply with the provisions of this paragraph (b). Not more than one tower shall be allowed on Site 2.

(1) Maximum floor plate

The gross area of any tower #story# shall not exceed 40,000 square feet.

(2) Maximum length and height

The outermost walls of all #stories# of a tower, when viewed from above, shall be inscribed within a rectangle where the east-west dimension shall not exceed a length of 250 feet.

All towers that exceed a height of 350 feet shall provide articulation in accordance with Section 93-569 (Tower top articulation).

93-565

Site 3

The regulations of this Section 93-565 shall apply to all #buildings# within Site 3.

All #stories# of a #development# or #enlargement# located wholly or partially above the highest level of the adjoining public sidewalk or finished grade on Site 3 shall be considered a 'tower' and shall comply with the provisions of this Section 93-565. Not more than one tower shall be permitted on Site 3.

(a) Ground floor

A maximum of 6,000 square feet of the ground floor shall be permitted to provide #residential uses#. The remaining portion of the ground floor shall provide an area that is accessible to the surrounding publicly accessible open spaces listed in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F). Such space may provide ground floor #uses# pursuant to Section 93-14 (Ground Floor Level Requirements), or may be considered part of the Central Open Space and comply with the regulation set for in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F).

If such remaining ground floor level space provides ground floor #uses# pursuant to the requirements of subparagraph (b)(2) of Section 93-14 (Ground Floor Level Requirements), such #uses# shall adjoin a minimum of 70 percent of the perimeter of the outermost walls of the ground floor of the #building# to a minimum depth of 30 feet. In addition, such outermost wall shall be at least 70 percent glazed with transparent material to a height of 40 feet.

If such remaining ground floor level space is considered part of the Central Open Space, such space may be open or enclosed. An open space provided pursuant to this paragraph (a) shall have a clear height of at least 40 feet measured from the level of an adjoining finished grade or sidewalk. An enclosed publicly accessible space provided pursuant to this paragraph (a) shall adjoin a minimum of 70 percent of the perimeter of the outermost walls of the ground floor of the #building# to a minimum depth of 30 feet. In addition, such outermost wall shall be at least 70 percent glazed with transparent material to a height of 40 feet.

(b) Maximum floor plate

The gross area of any #story# of a tower on Site 3 shall not exceed 12,000 square feet.

(c) Maximum length and height

The maximum horizontal dimension of a tower, measured in any direction, shall not exceed 145 feet. However, if the angle of the tower's maximum horizontal dimension is aligned within 15 degrees of a 45 degree line constructed from either the southwest or northeast corner of the Site 3 rectangle in plan, as shown on Map 6 (Subdistrict F Site Plan), then such maximum horizontal dimension measured in this direction may be increased to 160 feet, provided that the maximum dimension measured perpendicular to such increased dimension does not exceed a length of 120 feet.

The maximum height of a tower within Site 3 shall be a minimum of 100 feet taller than the tower height of Site 5.

All towers that exceed a height of 350 feet shall provide articulation in accordance with Section 93-569 (Tower top articulation).

93-566

Site 4

In addition to the applicable requirements set forth in Section 93-562 (Street wall regulations for certain streets), the provisions of this Section 93-566 shall apply to #buildings# on Site 4.

(a) Street wall location along West 31st and West 32nd Street Extensions

Any portion of a #street wall# facing the West 32nd Street Extension within 100 feet of Eleventh Avenue shall be set back at least 15 feet from the West 32nd Street Extension #street line#, which shall coincide with the northern edge of the Site 4 boundary. Any portion of a #street wall# facing the West 32nd Street Extension that extends beyond 100 feet of Eleventh Avenue as measured along the West 32nd Street Extension #street line# shall be set back at least 30 feet from the West 32nd Street Extension #street line#. Any portion of a #street wall# facing the West 31st Street Extension that extends beyond 100 feet of Eleventh Avenue as measured along the West 31st Street Extension #street line# shall be set back at least 15 feet from the West 31st Street Extension #street line#.

(b) Building base facing Eleventh Avenue

The provisions of this paragraph (b) shall apply to #street walls# below a height of 120 feet facing Eleventh Avenue and the West 31st and West 32nd Street Extensions within 50 feet of Eleventh Avenue. Such #street walls# shall rise without setback to a minimum height of 90 feet and a maximum height of 120 feet. Above a height of 120 feet,

all portions of a #building# facing Eleventh Avenue shall be set back from the #street wall# of the #building# at least 15 feet, except such set back distance may include the depth of any permitted recesses. Portions of #street walls# along the West 31st and West 32nd Street Extensions within 50 of Eleventh Avenue need not setback after the maximum base height to allow tower portions that comply with the provisions of paragraph (c) below to rise without setback.

All portions of a #building# that exceed the maximum base height of 120 feet shall comply with the tower provisions of paragraph (c) of this Section.

(c) Towers

All #stories# of a #development# or #enlargement# located partially or wholly above the maximum base height of 120 feet shall be considered a 'tower' and shall comply with the provisions of this paragraph. Not more than one tower shall be permitted on Site 4.

(1) Maximum floor plate

The gross area of any such #story# shall not exceed 12,000 square feet.

(2) Maximum length and height

For any portion of a tower above 120 feet, the maximum horizontal dimension, measured in any direction, shall not exceed 145 feet. However, if the angle of the tower's maximum horizontal dimension is aligned within 15 degrees of a 45 degree line constructed from either the southwest or northeast corner of the Site 4 rectangle in plan, as shown on Map 6 (Subdistrict F Site Plan), then such maximum horizontal dimension measured in this direction may be increased to 160 feet, provided that the maximum dimension measured perpendicular to such increased dimension does not exceed a length of 120 feet.

The maximum height of a tower on Site 4 shall be a minimum of 100 feet taller than any tower located on Site 3.

All towers that exceed a height of 350 feet shall provide articulation in accordance with Section 93-569 (Tower top articulation).

93-567

Site 5

All #stories# of a #development# or #enlargement# located wholly or partially above finished grade on Site 5 shall be considered a 'tower' and shall comply with the provisions of this Section 93-567.

On Site 5, a #building or other structure# may be located adjacent to and above the #High Line#, provided no portion of such #building# or an associated structural column is located within five feet of the edge of the #High Line# from the level of finished grade to a level of 50 feet above the level of the #High Line bed#, as shown on Map 7 (Subdistrict F Public Access Area Plan).

(a) Maximum floor plate

The gross area of any #story# within that portion of a #building or other structure# located east of the #High Line# and wholly or partially above the finished grade to a height of 50 feet above the #High Line bed# shall not exceed 5,000 square feet.

The aggregate gross area of any portion of a #building or other structure# located west of the #High Line# and wholly or partially above the finished grade to a height of 50 feet above the #High Line bed# shall not exceed 700 square feet, and the maximum aggregate horizontal dimension of such portions, individually measured in their longest dimension, shall not exceed 30 feet.

The gross area of any #story# within that portion of a tower located above a height of 50 feet above the #High Line bed# shall not exceed 12,000 square feet.

(b) Maximum length and height

At or below a height of 50 feet above the #High Line bed#, if a #building or other structure# is #developed# with portions on both sides of the #High Line#, the minimum horizontal dimension, measured in any direction between such portions shall be 60 feet.

For that portion of a tower located above a height of 50 feet above the #High Line bed#, the maximum horizontal dimension, measured in any direction, shall not exceed 145 feet. However, if the angle of the tower's maximum horizontal dimension is aligned within 15 degrees of a 45 degree line constructed from either the southwest or northeast corner of the Site 5 rectangle in plan, as shown on Map 6 (Subdistrict F Site Plan), then such maximum horizontal dimension measured in this direction may be increased to 160 feet, provided that the maximum dimension measured perpendicular to such increased dimension does not exceed a length of 120 feet. Furthermore, the maximum horizontal dimension for that portion of a tower which spans over the #High Line#, measured in any direction, shall not exceed 120 feet.

The maximum height of a tower on Site 5 shall be 350 feet.

93-568

Site 6

In addition to the applicable requirements set forth in Section 93-562 (Street wall regulations for certain streets), the provisions of this Section 93-568 shall apply to #buildings# on Site 6.

(a) Height and setback regulations

(1) Street wall facing West 30th Street, beneath the #High Line#,

The provisions of this paragraph (a) shall apply to #street walls# on Site 6 beneath the #High Line# that face West 30th Street, Eleventh Avenue and the Southwest Open Space.

All such #street walls# shall extend along the entire #street# frontage of the site, except that along West 30th Street, the #street wall# shall be no closer to the northerly #street line# of West 30th Street than the northerly edge of the southern row of structural columns of the #High Line#, and along the Southwest Open Space and Eleventh Avenue, the #street wall# shall extend to a point five feet north of the #High Line#. Ground floor recesses up to three feet deep shall be permitted for access to #building# entrances.

All such #street walls# shall rise without setback to a maximum height of the underside of the #High Line bed#.

(2) Building base

(i) Facing Eleventh Avenue and the West 31st Street Extension, north of the #High Line#

The provisions of this subparagraph (a)(2)(i) shall apply north of the #High Line# to #street walls# facing Eleventh Avenue, the West 31st Street Extension, portions of #street walls# facing the #High Line# within 60 feet of Eleventh Avenue, and portions of #street walls# facing the Southwest Open Space within 60 feet of the West 31st Street Extension. Such #street walls# shall rise without setback to a minimum height of 60 feet and a maximum height of 90 feet. Above a height of 90 feet, all portions of a tower, or portions of a transition height located beneath a tower facing Eleventh Avenue, the #High Line# and the West 31st Street Extension shall be set back from the #street wall# of the #building# at least 15 feet, except such set back distance may include the depth of any permitted recesses. Portions of #street walls# along the Southwest Open Space within 60 feet of the West 31st Street Extension need not set back after the maximum base height to allow portions of towers, or portions of a transition height located beneath a tower that comply with the provisions of subparagraph (4) and subparagraph (3), respectively, of this paragraph (a) to rise without setback. These building base provisions may apply along the #High Line# beyond 60 feet of Eleventh Avenue, up to a maximum distance of 100 feet from Eleventh Avenue.

(ii) Facing West 30th Street, north of the #High Line#,

The provisions of this subparagraph (a)(2)(ii) shall apply to #street walls# above the #High Line bed#, facing the #High Line# beyond 60 feet of Eleventh Avenue, and to those portions of #street walls# facing the Southwest Open Space that are within 60 feet of the #High Line#. Such #street walls# shall rise without setback to a minimum height of 50 feet as measured above the level of the #High Line bed#, and a maximum height of 60 feet as measured above the level of the #High Line bed#. Above a height of 60 feet, all portions of a tower, or portions of a transition height located beneath a tower facing the #High Line# shall be set back from the #street wall# of the #building# at least 15 feet, except such set back distance may include the depth of any permitted recesses. Portions of #street walls# along the Southwest Open Space within 60 feet of the #High Line# need not setback after the maximum base height to allow portions of a tower, or portions of a transition height located beneath a tower that comply with the provisions of subparagraph (4) and subparagraph (3), respectively, of this paragraph (a) to rise without setback.

All portions of a #building# that exceed the maximum base height of 90 feet or shall comply with the tower provisions of subparagraph (4) of this paragraph (a), with the exception of a #building# which provides a transition height in accordance with the provisions of subparagraph (3) of this paragraph (a).

(3) Transition height

If the outermost walls of all #stories# of any tower provided in accordance with the tower provisions of subparagraph (4) of this paragraph (a) are individually inscribed within a rectangle where the east-west dimension does not exceed a length of 110 feet, a transition height may be provided above the #building# base in accordance with the provisions of this subparagraph (3).

Above the maximum base height a #street wall# may rise to a maximum transition height equal to two-thirds the height of the #street wall# of the #building# base facing the West 31st Street Extension. Such a transition height shall not exceed a maximum height of 150 feet as measured above the West 31st Street Extension #street line#.

All portions of a transition height shall be set back 30 feet from the #street wall# of the #building# base along the West 31st Street Extension and the #High Line#, except that where towers are provided directly above a portion of the transition height, such a portion of transition height located directly below a tower shall provide setbacks in accordance with the #building# base provisions of subparagraph (2) of this paragraph (a).

All portions of a #building# that exceed the maximum transition height shall comply with the tower provisions of subparagraph (4) of this paragraph (a).

(4) Towers

All #stories# of a #development# or #enlargement# located partially or wholly above a height of 90 feet, or 150 feet if a transition height is provided in accordance with the provisions of subparagraph (3) of this paragraph (a), shall be considered a 'tower' and shall comply with the provisions of this subparagraph (4) .

(i) Maximum floor plate

If more than one tower is provided on Site 6, the aggregate gross area of any such tower #stories#, measured at any height, shall not exceed 25,000 square feet.

(ii) Maximum length and height

The outermost walls of all #stories# of a tower, when viewed from above, shall be inscribed within a rectangle where the east-west dimension shall not exceed a length of 160 feet and the north-south dimension shall not exceed a length of 110 feet. Where more than one tower is located on Site 6, each tower shall comply independently with such maximum dimensions.

The #aggregate width of street walls# of all #stories# of a tower facing the West 31st Street Extension or the #High Line# shall not exceed 220 feet within 40 feet of the #street wall# of the #building# base.

If more than one tower is provided on Site 6, such towers shall either be equal in height, or the easternmost tower shall have a height greater than the height of the westernmost tower.

All towers that exceed a height of 350 feet shall provide articulation in accordance with Section 93-569 (Tower top articulation).

(b) Certification to expand Site 6

The area of Site 6, as shown on Map 6 (Subdistrict F Site Plan), may be extended westward by up to 40 feet in order to accommodate a public #school# upon certification of the Chairperson of the City Planning Commission that:

(1) The Chairperson of the City Planning Commission is in receipt of a letter from the School Construction Authority that describes the need for the additional area;

(2) The Site and Landscape Plans for the Southwest Open Space have been approved by the Chairperson of the City Planning Commission, pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F);

(3) No portion of a tower located on Site 6 extends beyond 395 feet west of the Eleventh Avenue #street line#; and

(4) Any portion of a #building# located beyond 395 feet from the Eleventh Avenue #street line# affects southwesterly view corridors from the Central Open Space towards the Hudson River to the minimum extent necessary to accommodate a public #school#.

93-569
Tower top articulation

All towers that exceed a height of 350 feet shall provide articulation in accordance with this Section.

For the purposes of this Section, a minimum of the uppermost 15 percent of the height of a #building or other structure#, including all rooftop mechanical structures and their required enclosures pursuant to the regulations of paragraph (b) of Section 93-4 1 (Rooftop Regulations), shall henceforth be referred to as the 'Tower Top Zone'. However, chimneys, antennae or decorative spires shall not be considered part of the Tower Top Zone, provided no such structures contain #floor area#.

The height of such #building or other structure# shall be measured from the highest level of the public sidewalk or finished grade located nearest such #building or other structure#.

The Tower Top Zone shall contain an 'Upper Zone' and a 'Lower Zone'. The Lower Zone shall be a minimum of 50 percent of the height of the Tower Top Zone and shall contain tower #stories#. The Upper Zone shall contain the highest tower #story# where #floor area# occupies more than 75 percent of the gross area of such #story#, and any enclosed rooftop mechanical equipment.

For the purposed of this Section 93-569, each tower of a #building or other structure# shall be comprised of four separate tower top elevation views which shall be used to measure compliance with the regulations of this Section. Each elevation view shall have an angle of 90 degrees from another such view.

Each tower top shall provide the following forms of articulation: (a) Change in the #building or other structure# profile

(1) Constructing the profile change boundary

To comply with the provisions of this subparagraph (a)(1), a rectilinear

boundary within the Tower Top Zone shall be created in each elevation view to determine the required amount of profile change. In order to construct such boundary, two datum lines shall first be drawn in each elevation view. Such datum lines shall begin at the average outermost edges of those portions of tower floor plates above a height of 350 feet containing #floor area# below the Tower Top Zone, and shall extend upward for the entirety of the height of the #building or other structure#. The rectilinear profile change boundary shall include the portion of these two datum lines within the Tower Top Zone, as well as their intersection with two datum lines indicating the uppermost elevation and the lowermost elevation of the Tower Top Zone. In addition, a datum line shall indicate the boundary between the Upper and Lower Zone, creating a boundary for both the Upper Zone and Lower Zone.

(2) Required profile change

A minimum of 10 percent of the area of the profile change boundary within the Lower Zone shall remain open to the sky in each required elevation view. Such profile change shall begin upward at the lowermost datum line of the Tower Top Zone. In addition, a minimum of 20 percent of the area of the profile change boundary within the Upper Zone shall remain open to the sky in each required elevation view.

However, for portions of a #building or other structure# providing enclosed rooftop mechanical equipment within the Upper Zone, the width (as viewed in elevation) of the lowermost portion of enclosed rooftop mechanical space at that point in elevation which coincides with the uppermost portion of the highest tower #story# shall in no event be reduced beyond 50 percent of the width of such highest tower #story#. Upwards of such a point in elevation, no restriction on maximum width reduction for enclosed rooftops mechanical spaces shall apply.

(b) Change in the #building or other structure lot coverage#

For portions of a #building or other structure# within the Lower Zone, the average #lot coverage # for all tower #stories# within such zone shall not exceed 80 percent of the #lot coverage# of the tower #story# with the largest #lot coverage# below the Tower Top Zone and above a height of 350 feet.

(c) Material continuity

A minimum of ten percent of the surface area of the exterior portion of the facade of the #building or other structure# within the Tower Top Zone, as viewed in elevation, shall be composed of a single material. Such material shall be continuously visible (in each elevation view) from the lowermost datum line of the Tower Top Zone to the uppermost datum line of the Tower Top Zone. However, within each #story# of the Lower Zone, a break in the vertical continuity of the material shall be permitted, provided that the vertical break does not exceed twelve inches.

93-57
Special Permit for Modification of Height and Setback Regulations

Within the #Special Hudson Yards District#, except within C1-7A Districts or C2-5 Districts mapped within R8A Districts, for #developments# or #enlargements# on #zoning lots# with at least 20,000 square feet of #lot area# or #developments# or #enlargements# on any size #zoning lot# that occupy the entire #block# front along a #wide street#, the City Planning Commission may modify the regulations set forth in Sections 93-40 (HEIGHT AND SETBACK REGULATIONS), inclusive, and 93-50 (SPECIAL HEIGHT AND SETBACK REGULATIONS IN SUBDISTRICTS A THROUGH E), inclusive, provided the Commission finds that:

* * *

93-60
MANDATORY IMPROVEMENTS

93-61
Sidewalk Widenings

Map 4 (Mandatory Sidewalk Widenings) in Appendix A of this Chapter specifies locations of mandatory sidewalk widenings. The depth of such sidewalk widenings shall be as indicated on Map 4 in Appendix A and shall be measured perpendicular to the #street line#. All sidewalk widenings shall be improved as sidewalks to Department of Transportation standards, at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times.

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93-70
PUBLIC ACCESS REQUIREMENTS FOR SPECIAL SITES

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93-71
Public Access Areas in the Eastern Rail Yards Subarea A1

* * *

(b) Outdoor plaza

* * *

Building walls fronting upon the western boundary of the outdoor plaza shall extend along at least 70 percent of the length of the southerly prolongation of the western sidewalk widening line of Hudson Boulevard West and shall rise to a minimum height of 90 feet and a maximum height of 120 feet. Above a height of 120 feet, a setback at least 20 feet in depth is required from such prolongation line. However, such building wall may rise without setback at such prolongation line, provided the aggregate width of such building wall does not exceed 50 percent of the width of such line and provided all other portions of the #building# that exceed a height of 120 feet are set back at least 20 feet from such prolongation line at a height not lower than 90 feet.

The retail and glazing requirements of Section 93-14 (~~Retail Continuity Along Designated Streets~~ Ground Floor Level Requirements) shall apply to at least 70 percent of the length of all building walls facing each side of the outdoor plaza, except that such retail requirements shall not apply to any #building# containing only #uses# in Use Group 3 or 4 located west of the southerly prolongation of the eastern sidewalk widening line of Hudson Boulevard East and within 220 feet of West 30th Street.

93-75
Publicly Accessible Open Spaces in Subdistrict F

Public access areas in Subdistrict F shall be comprised of publicly accessible open spaces, private streets and pedestrian ways.

Publicly accessible open spaces are listed in this Section 93-75, inclusive. Such publicly accessible open spaces shall be comprised of the Western Open Space, the Central Open Space, the Southwest Open Space, the Northeast Plaza, the Midblock Connection, and the #High Line# as described within this Section 93-75, inclusive. Map 7 (Subdistrict F Public Access Area Plan) in Appendix A of this Chapter identifies the location of publicly accessible open spaces.

General requirements for each publicly accessible open space are set forth within this Section. Design requirements for each publicly accessible open space are set forth in Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F). The phasing and approval process for each publicly accessible open space is set forth in Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F).

All publicly accessible open spaces listed in this section shall be accessible to the public from the hours of 6:00 am to 1:00 am with the exception of the #High Line#, and the Northeast Plaza. The Northeast Plaza shall provide hours of access pursuant to Section 37-727 (Hours of access).

93-751
General requirements for the Western Open Space

A publicly accessible open space, (henceforth referred to as the 'Western Open Space'), shall be provided in Subdistrict F. Such a space shall be open to the sky, except that amenities that are provided in accordance with this Section 93-75, and Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F) shall be permitted to cover a portion of the Western Open Space.

(a) General purpose

The Western Open Space is intended to serve the following purposes:

(1) To provide a major open space that joins the northern portion of the #High Line# open space network on its west to the open space networks leading to the Hudson Park and Boulevard on its east;

(2) To provide a large open lawn area overlooking the Hudson River for public use and enjoyment; and

(3) To provide transition areas that offer shade, supplemental space between the open lawn and surrounding buildings, and connections between surrounding publicly accessible open spaces.

(b) Location and minimum dimensions

The Western Open Space shall be located east of the #High Line#, and encompass the area between Sites 1 and 5 as shown on Map 7 (Subdistrict F Public Access Area Plan). The Western Open Space shall have a minimum easterly boundary of 225 feet as measured from the easterly #street line# of Twelfth Avenue.

(c) Core elements

The Western Open Space shall provide the following core elements:

(1) Lawn area

An accessible lawn area shall be provided with a minimum area of one acre. Any lawn area located within 40 feet of a #building# wall on Sites 1 or 5 shall not contribute towards this one acre requirement. The required lawn area shall be comprised of the following amenities:

(i) A continuous lawn area shall be provided over a minimum of 75 percent of the required one acre. Such area shall have a maximum slope of three degrees and unobstructed visual access toward the Hudson River.

(ii) A transitional lawn area may be provided for a maximum of 25 percent of the required one acre of lawn area. Such area need not be continuous, and shall have a maximum slope of 15 degrees. Trees and other plantings shall be permitted in such area.

(2) #High Line# connection

Access to the #High Line# shall be provided along a minimum of 75 feet and a maximum of 150 feet of #High Line# frontage length. Such frontage need not be continuous, however, in order to qualify as unobstructed access that contributes to the minimum 75 foot requirement set forth in this subparagraph (c)(2), a minimum frontage width of five feet is required. Such access need not be opened to the public until the #High Line# is reconstructed as public open space in accordance with the provisions of Section 93-756 (General requirements for the High Line).

(3) Supplemental area

Any space provided in the Western Open Space which does not meet the criteria for lawn area set forth in subparagraph (c)(1) of this Section or the criteria for the #High Line# connection set forth in subparagraph (c)(2) of this Section shall be designated as supplemental area and shall comply with the requirements set forth in this subparagraph (c)(3).

A minimum of 50 percent of the supplemental area shall be landscaped with soft ground cover, and the remaining 50 percent may be paved. At least one tree shall be provided for every 2,000 square feet of supplemental area. Such trees may be distributed anywhere within the supplemental area.

A minimum of two unimpeded paved pedestrian accesses, each with a minimum width of 12 feet, shall be provided in the supplemental area. One such pedestrian access shall link the West 32nd Street Extension's allee to the #High Line#, and the second such pedestrian access shall link the West 31st Street Extension to the #High Line#.

A minimum of one linear foot of seating shall be provided for every 75 square feet of supplemental area. At least 50 percent of such required seating shall provide seatbacks. Such seating may be distributed anywhere within the supplemental area.

Permanent structures such as food or information kiosks, pavilions or public restrooms, may be placed within the supplemental area provided the height of such structures does not exceed 20 feet. The maximum #lot coverage# that all such permanent structures may occupy shall be 400 square feet, and shall be exempt from the definition of #floor area#.

(d) Transparency

For portions of #buildings# on Site 1 and Site 5 fronting upon the Western Open Space, a minimum of 50 percent of the surface area of the ground floor #street wall# fronting upon the open space shall be treated with clear, un-tinted transparent material.

(e) Permitted encroachments from private streets and pedestrian ways

The Connector and the terminus of the West 32nd Street Extension shall be permitted to encroach upon the supplemental area of the Western Open Space, provided that the Site and Landscape Plans incorporating the private street or pedestrian way are approved in conjunction with the Western Open Space pursuant to Section 93-7 8 (Site and Landscape Plans for Public Access Areas in Subdistrict F).

93-752
General requirements for the Central Open Space

A publicly accessible open space, (henceforth referred to as the 'Central Open Space'), shall be provided in Subdistrict F. Such a space shall be open to the sky, except that portions of a #building# on Site 3 and amenities that are provided in accordance with this Section 93-75, and Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F), shall be permitted to cover a portion of the Central Open Space.

(a) General purpose

The Central Open Space is intended to serve the following purposes:

(1) To serve as a neighborhood open space;

(2) To provide amenities for area residents, workers, and the general public; and

(3) To provide areas that offer varied programs, supplemental spaces between amenities and surrounding #buildings# and connections between surrounding publicly accessible open spaces.

(b) Location and dimensions

The Central Open Space shall be located within the area bounded by the West 32nd Street Extension, the West 31st Street Extension, the Connector and Eleventh Avenue, and shall also be comprised of any portion of Sites 3 and 4 which are not covered by #buildings# at the ground level as shown on Map 7 (Subdistrict F Public Access Area Plan).

The Central Open Space shall have a minimum dimension in the north-south direction as measured from the southerly #street line# of the West 32nd Street Extension to the northerly #street line# of the West 31st Street Extension of 175 feet. In addition, the minimum dimension of the Central Open Space in the north-south direction between the northern boundary of Site 3 and the southerly #street line# of the West 32nd Street Extension shall be 55 feet.

The Central Open Space shall have a minimum dimension in the east-west direction as measured from the easterly #street line# of the Connector to the westerly #street line# of Eleventh Avenue of 545 feet. In addition, the minimum dimension of the open space in the east-west direction between the eastern boundary of Site 3 and the western boundary of Site 4 shall be 265 feet.

Within 350 feet of the Eleventh Avenue #street line#, the maximum height of the finished grade of the Central Open Space shall be 45 feet above the Manhattan Datum, which is 2.75 feet above Sea Level. Beyond 350 feet of Eleventh Avenue, the maximum height of the finished grade shall be 47 feet above the Manhattan Datum.

(c) Core elements

The Central Open Space shall provide the following core elements:

(1) Lawn area

An accessible lawn area shall be provided with a minimum aggregate area of 10,000 square feet and a maximum slope of three degrees. Such area need not be continuous.

Any lawn area located within 12 feet of a #building# wall on Sites 3 or 4 shall not contribute towards such minimum gross area.

(2) Playground

A playground shall be provided with a minimum area of 10,000 square feet.

(3) Supplemental area

Any space in the Central Open Space other than the required lawn area set forth in subparagraph (c)(1) of this Section or the required playground space set forth in subparagraph (c)(2) of this Section, shall be designated as supplemental area and shall comply with the requirements set forth in this Section.

A minimum of 50 percent of the supplemental area shall be landscaped with soft ground cover, and the remaining 50 percent may be paved. At least one tree shall be provided for every 1,500 square feet of the supplemental area. Such trees may be distributed anywhere within the supplemental area.

A minimum of two unimpeded paved pedestrian accesses, each with a minimum width of 12 feet, shall be provided in the supplemental area. Such pedestrian access shall link the West 31st and West 32nd Street Extensions and be no closer than 150 feet to one another at any point.

A minimum of one linear foot of seating shall be provided for every 75 square feet of supplemental area. At least 50 percent of such required seating shall provide seatbacks. Such seating may be distributed anywhere within the supplemental area.

Within 15 feet of a required sidewalk or pedestrian access, the slope of the supplemental area shall not exceed 7.5 degrees, or a maximum height of two feet. Beyond 15 feet of a

required sidewalk or pedestrian access, the slope of the supplemental area shall not exceed 15 degrees.

(d) Permanent structures

Permanent structures, such as food or information kiosks, pavilions or public restrooms may be placed within the Central Open Space, provided the height of such structures does not exceed 20 feet. The maximum #lot coverage# that all such permanent structures may occupy shall be 400 square feet and shall be exempt from the definition of #floor area#.

(e) Transparency

For portions of #buildings# in Site 4 fronting upon the Central Open Space, a minimum of 50 percent of the surface area of the ground floor #street wall# fronting upon the open space shall be treated with clear, un-tinted transparent material.

(f) Permitted encroachments from private streets and pedestrian ways

The Connector and the terminus of the West 31st Street Extension shall be permitted to encroach upon the supplemental area of the Central Open Space, provided that the Site and Landscape Plans incorporating the private street or pedestrian way are approved in conjunction with the Central Open Space pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F).

93-753

General requirements for the Southwest Open Space

A publicly accessible open space, (henceforth referred to as the 'Southwest Open Space'), shall be provided in Subdistrict F. Such accessible open space shall be open to the sky, except that portions of a #building or other structure# on Site 5, the #High Line# and amenities that are provided in accordance with this Section 93-75, and Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F) shall be permitted to cover a portion of the Southwest Open Space.

(a) General purpose

The Southwest Open Space is intended to serve the following purposes:

(1) To serve as an inviting pedestrian gateway to the Western Rail Yard from open space networks along the Hudson River;

(2) To provide pedestrian amenities and connections between surrounding public spaces both on and adjacent to the Western Rail Yard; and

(3) To offer a unique open space experience for pedestrians through the negotiation of the area's grade changes.

(b) Location and minimum dimensions

The Southwest Open Space shall be located within the area bounded by Twelfth Avenue, the Western Open Space, the West 31st Street Extension, Site 6, and West 30th Street, and shall also be comprised of any portion of Site 5 which is not covered by a #building or other structure# at the ground level as shown on Map 7 (Subdistrict F Public Access Area Plan).

The Southwest Open Space shall have a minimum dimension in the east-west direction as measured from the easterly #street line# of Twelfth Avenue to the western boundary of Site 6 of 400 feet. However, if the length of Site 6 is extended to accommodate a public #school# in accordance with the provisions of paragraph (b) of Section 93-568 (Site 6), the minimum dimension of the Southwest Open Space shall be 360 feet.

The Southwest Open Space shall have a minimum dimension in the north-south direction as measured from the northerly #street line# of West 30th Street to the southern boundary of the Western Open Space of 180 feet and a maximum dimension of 200 feet.

(c) Core elements

The Southwest Open Space shall have the following core elements. For the purpose of determining the amount of an amenity to provide in relation to the area of the Southwest Open Space in this paragraph (c) , the area of the Southwest Open Space shall exclude the area occupied by a #building or other structure# on Site 5 and the #High Line#.

A minimum of 50 percent of the area of the Southwest Open Space shall be landscaped with soft ground cover, and the remaining 50 percent of the Southwest Open Space may be paved. At least one tree shall be provided for every 1,500 square feet of Southwest Open Space.

An unimpeded paved pedestrian access with a minimum width of 12 feet shall link either Twelfth Avenue or West 30th Street and the West 31st Street Extension. If such pedestrian access contains 'switchbacks' comprised of a series of ascending pedestrian ways, the minimum distance between midpoints of each way, as measured in plan from the northerly edge of one way to the southerly edge of the next ascending way shall be 15 feet.

A second unimpeded paved pedestrian access with a minimum width of 12 feet shall link either Twelfth Avenue or West 30th Street and the #High Line bed# or with an elevator located adjacent to the #High Line# that provides public access to the #High Line bed#. Such access need not be opened to the public until the #High Line# is reconstructed as public open space in accordance with the provisions of Section 93-756.

A minimum of one linear foot of seating shall be provided for every 75 square feet of soft ground cover provided within the Southwest Open Space. At least 50 percent of such required seating shall provide seatbacks.

Permanent structures, such as food or information kiosks, pavilions or public restrooms shall be permitted within the Southwest Open Space provided the height of such structures does not exceed 20 feet. The maximum area #lot coverage# that all such permanent structures may occupy shall be 1,000 square feet, provided that such structures are located entirely west of the #High Line#. Such permanent structures shall be exempt from the definition of #floor area#.

(d) Permitted encroachments from private streets

The terminus of the West 31st Street Extension shall be permitted to encroach upon the Southwestern Open Space, provided that the Site and Landscape Plans for the West 31st Street Extension are approved in conjunction with the Southwestern Open Space pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F).

93-754

General requirements for the Northeast Plaza

A publicly accessible open space, (henceforth referred to as the 'Northeast Plaza'), shall be provided at the intersection of West 33rd Street and Eleventh Avenue, as shown on Map 7 (Subdistrict F Public Access Area Plan). The area of

such space shall be at least 2,600 square feet, and shall have a minimum #street# frontage of 40 feet along each #street#. The Northeast Plaza shall be #developed# in accordance with the standards of a #public plaza# as set forth in Section 37-70 (PUBLIC PLAZAS), exclusive of the area dimensions set forth in Section 37-7 12.

93-755

General requirements for the Midblock Connection

A pedestrian way (henceforth referred to as the 'Midblock Connection'), shall be provided between West 33rd Street and the West 32nd Street Extension, (as shown on Map 7 (Subdistrict F Public Access Area Plan).

(a) General purpose

The Midblock Connection is intended to serve the following purposes:

(1) To provide pedestrian access between West 33rd Street and the Western Rail Yard Subdistrict F; and

(2) To provide amenities similar to a through block public plaza.

(b) Location and dimensions

The entirety of the Midblock Connection shall be located between 335 feet and 455 feet west of the westerly Eleventh Avenue #street line#.

The minimum width of the Midblock Connection, measured in the east-west direction, shall be 60 feet.

(c) Core elements

The Midblock Connection shall provide the following core elements:

(1) A minimum of one unimpeded pedestrian access, with a minimum width of 12 feet, shall be provided to connect the West 32nd Street Extension with West 33rd Street;

(2) A minimum of one linear foot of seating shall be provided for every 75 square feet of the Midblock Connection. A minimum of 50 percent of the required seating shall provide seatbacks; and

(3) A minimum of 20 percent of the gross area of the Midblock Connection shall be landscaped with soft ground cover, and shall provide a minimum of one tree per every 1,500 square feet.

93-756

General requirements for the High Line

For the portion of the #High Line# which is located within the boundary of Subdistrict F, the following provisions shall apply.

(a) General purpose

The #High Line# is intended to serve the following purposes:

(1) To serve as a continuation of the #High Line# public open space to the east and to the south of West 30th Street;

(2) To offer a pedestrian and passive open space experience similar to the #High Line# open space south of West 30th Street, through planting, materials and amenities, while taking into account the nature and character of the Western Rail Yard Subdistrict F; and

(3) To allow for connections to other public areas on the Western Rail Yard Subdistrict F.

(b) Permitted #uses#

Any permitted change of #use# for the #High Line# shall be made pursuant to the provisions of Section 93-10 (USE REGULATIONS).

(c) Core Elements

The #High Line# open space shall provide amenities including, but not limited to, planting, seating, and lighting designed so as to complement and be integrated with portions of the #High Line# south of West 30th Street in a manner that provides both visual and pedestrian continuity along the #High Line# open space network. The #High Line# open space shall not be subject to the design criteria for public access areas in Subdistrict F set forth in Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F).

The Site and Landscape Plans for the High Line approved pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F) shall make provision for access points to and from the High Line Open Space, including the public access provided in the Southwest Open Space pursuant to Section 93-753 (General requirements for the Southwest Open Space) and, subject to agreement, shall include support facilities necessary for the operation, maintenance, and public enjoyment of the #High Line# open space located in Subdistrict F, or at other locations north of West 30th Street.

(d) Certification to modify requirements adjacent to the #High Line#

The Chairperson of the City Planning Commission may modify certain regulations on adjacent #development# sites provided that the Chairperson certifies to the Commissioner of Buildings that such a change is necessary in order to provide access to the #High Line# open space, or to accommodate facilities for the #High Line# open space, and that such change is compatible with the character of #developed# portions of the #High Line# south of West 30th Street.

The following regulations may be modified:

(1) The ground floor level requirements set forth in Section 93-14 (Ground Floor Level Requirements), where applicable;

(2) The unobstructed five foot separation between the #High Line# and a #street wall# on Sites 1, 5 and 6 required pursuant to paragraph (a) of Section 93-561 (General rules for Subdistrict F) in order to accommodate a pedestrian access way, open to the sky, between the #High Line# and such #building# sites. However, the required five foot #street wall# separation from the edge of the #High Line# shall not be modified;

(3) The #street wall# requirements for Site 6 set forth in Section 93-562 (Street wall regulations for certain streets), only as necessary to accommodate pedestrian access onto the #High Line#;

(4) The general requirements for the Western Open Space and the Southwest Open Space set forth in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F); and

(5) The general requirements for the 30th Street Corridor set forth in Section 93-76 (Publicly Accessible Private Streets and Pedestrian Ways in Subdistrict F).

Any application for such change shall be included in the application for the Site and Landscape Plans submitted pursuant to the provisions of Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F) for the #High Line# open space.

93-76

Publicly Accessible Private Streets and Pedestrian Ways in Subdistrict F

Public access areas in Subdistrict F shall be comprised of publicly accessible open spaces, private streets and pedestrian ways.

Publicly accessible private streets and pedestrian ways shall be provided in Subdistrict F in addition to the publicly accessible open spaces required in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F). Such private streets and pedestrian ways shall be comprised of the West 31st and West 32nd Street Extensions, the West 30th Street Corridor and the Connector. Map 7 (Subdistrict F Public Access Area Plan) in Appendix A of this Chapter identifies the location of these publicly accessible private streets and pedestrian ways.

General requirements for each publicly accessible private street and pedestrian way are set forth within this Section. Design requirements for each publicly accessible private street and pedestrian way are set forth in Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F). The phasing and approval process for each publicly accessible private street and pedestrian way are set forth in Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F).

Publicly accessible private streets and pedestrian ways listed in this section shall be accessible to the public at all times.

93-761

General requirements for the West 32nd Street Extension

A private street, (henceforth referred to as the 'West 32nd Street Extension'),

shall be provided south of and parallel to West 33rd Street.

(a) General purpose

The West 32nd Street Extension is intended to serve the following purposes:

(1) To serve as the primary publicly accessible pedestrian and vehicular connection to the Western Rail Yard from Eleventh Avenue;

(2) To provide an experience substantially similar to active public #streets# in other high- density, mixed-use districts;

(3) To provide a unique urban park-like experience for an active public street by connecting the Western Open Space and the Eastern Rail Yard plaza with a pedestrian allee; and

(4) To provide a private street with core elements which are substantially similar to the surrounding public #streets#.

(b) Location and Dimensions

The West 32nd Street Extension shall have its northerly edge located a minimum of 180 feet and a maximum of 200 feet south of the West 33rd Street #street line#, as shown on Map 7 (Subdistrict F Public Access Area Plan), except that a terminus to the West 32nd Street Extension, located west of the Connector shall be permitted to expand beyond the maximum dimensions, provided that such a terminus extends to provide a #building# entrance drive along Site 1, and complies with the provisions set forth in paragraph (e) of Section 93-75 1 (General requirements for the Western Open Space).

(c) Core Elements

The West 32nd Street Extension shall provide the following core elements:

(1) Streets and sidewalk requirements

The West 32nd Street Extension shall be a private street constructed to minimum Department of Transportation and Fire Department standards for public #streets#. Such private street shall consist of a road bed, paved with asphalt, with a minimum width pursuant to the requirements set forth by the Fire Department; a 20 foot minimum sidewalk along its entire northern curb; and a 25 foot minimum sidewalk along its entire southern curb.

(2) Planting and seating requirements for the southern sidewalk and allee

Two trees shall be planted for every 20 feet of southern curb length of the West 32nd Street Extension between Eleventh Avenue and the Connector. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one tree. Such trees shall be planted at approximately equal intervals along the entire curb length of the West 32nd Street Extension.

Along the southern sidewalk trees shall be planted within five feet of the curb and the southern edge of the sidewalk. One row of trees shall be planted within five feet of the curb and a second row of trees shall be planted within five feet of the southern edge of the sidewalk. This double row of tree planting along the southern sidewalk of the West 32nd Street Extension between Eleventh Avenue and the Connector shall henceforth be referred to as the 'allee', as shown on Map 7 (Subdistrict F Public Access Area Plan). No #development# shall be permitted within 15 feet of the southern edge of the allee.

The allee shall provide a minimum of one linear foot of seating for every 75 square feet of the allee. A minimum of 50 percent of the required seating shall provide seatbacks.

(3) Planting requirements for the northern sidewalk

One tree shall be planted for every 25 feet of curb length of the West 32nd Street Extension along its northern curb between Eleventh Avenue and the Connector. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one tree. Such trees shall be planted at approximately equal intervals along the entire curb length of the West 32nd Street Extension, until the Connector. Along the northern sidewalk, trees shall be planted within five feet of the curb.

(4) Curb cuts

No curb cuts shall be permitted along the West 32nd Street Extension, except for access to the Connector if required by the Fire Department.

93-762
General requirements for the West 31st Street Extension

A private street, (henceforth referred to as the 'West 31st Street Extension'), shall be provided north of and parallel to West 30th Street.

(a) General purpose

The West 31st Street Extension is intended to serve the following purposes:

(1) To serve as a publicly accessible pedestrian and vehicular connection to the Western Rail Yard from Eleventh Avenue;

(2) To provide an experience substantially similar to active public #streets# in other high- density, mixed-use districts; and

(3) To provide a private street with core elements which are substantially similar to the surrounding public #streets#.

(b) Location and Dimensions

The West 31st Street Extension shall have its southerly edge located a minimum of 180 feet and a maximum of 200 feet north of the West 30th Street #street line#, as shown on Map 7 (Subdistrict F Public Access Area Plan), except that a terminus to the West 31st Street Extension, located west of the Connector, shall be permitted to expand beyond the maximum dimensions, provided that such a terminus extends to provide a #building# entrance drive along Site 5, and complies with the provisions set forth in paragraph (d) of Section 93-753 (General requirements for the Southwest Open Space), and/ or paragraph (f) of Section 93-754 (General requirements for the Northeast Plaza) as applicable.

(c) Core Elements

The West 31st Street Extension shall provide the following core elements:

(1) Street and sidewalk requirements

The West 31st Street Extension shall be a private street constructed to minimum Department of Transportation and Fire Department standards for public #streets#. Such private street shall consist of a road bed, paved with asphalt, with a minimum width pursuant to requirements set forth by the Fire Department; a 15 foot minimum sidewalk along its entire northern curb; and a 20 foot minimum sidewalk along its entire southern curb.

(2) Planting requirements for sidewalks

One tree shall be planted for every 25 feet of curb length of the West 31st Street Extension between Eleventh Avenue and the Connector. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one tree. Such trees shall be planted at approximately equal intervals along the entire length of the curb of the private street between Eleventh Avenue and the Connector.

(3) Curb cuts

One curb cut shall be permitted along each side of the West 31st Street Extension. The maximum width of such curb cut shall be 30 feet. A third curb cut accessing the Connector shall be permitted if required by the Fire Department.

93-763
General requirements for the West 30th Street Corridor

A pedestrian way (henceforth referred to as the 'West 30th Street Corridor'), shall be provided along the northerly sidewalk of West 30th Street adjacent to the area below the #High Line#.

(a) General purpose

The West 30th Street Corridor is intended to serve the following purposes:

(1) To serve as a transition space between the #High Line# and the West 30th Street sidewalk;

(2) To allow for active frontages with publicly-accessible open areas for establishments below the #High Line#; and

(3) To provide an overall streetscape design that compliments and provides views of the #High Line# along West 30th Street.

(b) Location and Dimensions

The West 30th Street Corridor shall be located in the area bounded by the #High Line#, Eleventh Avenue, West 30th Street, and the eastern edge of the Southwest Open Space, as shown on Map 7 (Subdistrict F Public Access Area Plan).

In the north-south direction, the West 30th Street Corridor shall extend from the #street wall# of #buildings# beneath the #High Line# facing West 30th Street (which shall coincide with the northerly edge of the southern row of structural columns of the #High Line#) to the northerly #street line# of West 30th Street .

(c) Core Elements

The West 30th Street Corridor shall have the following provisions for its core elements:

(1) A pedestrian access area at least 10 feet in width shall be provided along the entire length of the West 30th Street Corridor, linking Eleventh Avenue with the sidewalk adjacent to the Southwest Open Space. Such area shall be located a minimum of five feet beyond the northerly curb line of West 30th Street, and shall be free of obstructions;

(2) Portions between the required pedestrian access area and the #High Line# may be paved or landscaped; and

(3) Street trees shall be planted within five feet of the northern curb of West 30th Street. One tree shall be planted for every 25 feet of curb length. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one tree. Such trees shall be planted at approximately equal intervals along the entire curb length of the West 30th Street.

93-764

General requirements for the Connector

A publicly accessible connection (henceforth referred to as the 'Connector'), shall be provided between the West 32nd Street Extension and the West 31st Street Extension.

(a) General purpose

The Connector is intended to serve the following purposes:

(1) To serve as a connection between the West 32nd Street Extension and the West 31st Street Extension;

(2) To provide a space that compliments the surrounding publicly accessible open spaces; and

(3) To provide an emergency egress connector pursuant to Fire Department standards.

(b) Location and Dimensions

The western #street line# of the Connector shall be located a minimum of 225 feet east of the easterly #street line# of Twelfth Avenue, as shown on Map 7 (Subdistrict F Public Access Area Plan).

(c) Core Elements

The Connector shall provide the following core elements:

(1) The Connector shall be constructed to minimum Fire Department standards for an emergency egress connection between the West 32nd Street Extension and the West 31st Street Extension, including, but not limited to, the width and materials of paved area, and permitted obstructions within such area; and

(2) The Connector shall not be located within 15 feet of a #building#.

93-77

Design Criteria for Public Access Areas in Subdistrict F

Public access areas in Subdistrict F shall be comprised of publicly accessible open spaces, private streets and pedestrian ways.

(a) Design Criteria

Where publicly accessible open spaces, with the exception of the #High Line#, private streets and pedestrian ways provide elements listed in this Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F), such elements shall comply with the applicable minimum design standards set forth below as a minimum design standard.

(1) Seating

Seating shall meet the minimum and maximum dimensional standards set forth in paragraphs (1-7) of Section 37-741 (Seating), inclusive.

(2) Planting and trees

Where planting areas are provided, they shall meet the planting bed requirements, and irrigation requirements of Section 37-742 (Planting and trees).

Where trees are provided, they shall meet the applicable minimum tree caliper standards, soil requirements, and irrigation standards set forth in Section 3 7-742 (Planting and trees), except that within the Western Open Space, the Central Open Space, and the Southwest Open Space, the soil requirements for tree planting shall not apply. In lieu thereof, all trees in the Central and Western Open Spaces shall be planted in areas with soil depth of at least five feet. In the Southwest Open Space, all trees shall be planted in continuous planted areas that have a minimum depth of five feet and a minimum area of 500 square feet of soil.

(3) Paving

Paving, exclusive of the required asphalt paving of the West 31st and West 32nd Street

Extension roadbeds shall meet the minimum standards set forth in Section 37-718 (Paving).

(4) Steps

Steps shall meet the minimum dimensional standards set forth in Section 37-725 (Steps).

(5) Kiosks and open air cafes

Kiosks or open air cafés shall meet the operational and service requirements listed in paragraphs (a) and (b) of Section 37-73 (Kiosks and Open Air Cafes). Seating provided as part of an open air café shall not count towards meeting the seating requirements of a public access area listed in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F).

(6) Standards of accessibility for persons with disabilities

All publicly accessible open spaces, private streets and pedestrian ways shall be designed pursuant to the standards of accessibility for persons with disabilities set forth in Section 37-728 (Standards of accessibility for persons with disabilities).

(7) Lighting and electrical power

All publicly accessible open spaces, private streets and pedestrian ways shall provide lighting and electrical power pursuant to the standards set forth in Section 37-743 (Lighting and electrical power).

(8) Litter receptacles

All publicly accessible open spaces, private streets and pedestrian ways shall provide litter receptacles pursuant to the standards set forth in Section 37-744 (Litter receptacles).

(9) Bicycle parking

Bicycle racks sufficient to accommodate at least 25 bicycle parking spaces shall be provided in the Southwest Open Space. Bicycle racks sufficient to accommodate at least 30 bicycle parking spaces shall be provided in the Central Open Space, and bicycle racks sufficient to accommodate at least 33 bicycle parking spaces shall be provided in the Western Open Space. Such racks shall be located adjacent to a paved circulation path within the open space or in public sidewalks adjacent to the open space.

(10) Playgrounds and additional amenities

Where playgrounds and additional amenities are provided in publicly accessible open spaces, such amenities shall be designed pursuant to the standards set forth in Section 37-748 (Additional amenities).

11) Signs

All open spaces within the publicly accessible open spaces shall provide open space signage pursuant to the standards set forth in Section 37-75 1 (Public space signage systems).

(11) Canopies, awnings and marquees

Where #buildings# front onto publicly accessible open spaces, private streets and pedestrian ways, canopies, awnings and marquees shall be permitted pursuant to the
standards set forth in paragraph (c) of Section 37-726 (Permitted obstructions).

(12) Gates and fences

Gates, fences or other barriers shall be permitted at the perimeter of any playgrounds, tot lots, or dog runs provided as part of a publicly accessible open space or pedestrian way. Additional gates, fences or other barriers shall be permitted in the Midblock Connection, the Southwest Open Space and the #High Line# only as approved as part of the Site and Landscape Plans submitted pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F).

Such gates, fences or other barriers shall have a maximum height of 48 inches as measured from the adjoining grade level, and shall be at least 70 percent open. However, where gates, fences or other barriers are mounted on a solid curb, such minimum transparency shall not include the surface area of the curb, provided that the height of such curb does not exceed six inches.

Chain link fencing or barbed or razor wire shall not be permitted.

(13) Public restrooms

At least one public restroom shall be provided to serve either the Central Open Space or the Western Open Space, whichever is #developed# first pursuant to the provisions of Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F). Such public restroom shall provide separate restroom spaces for each gender, and may be located in either the publicly accessible open space or within the ground floor of any adjacent #building#.

(b) Maintenance

The owner of each of Sites 1 through 6 in Subdistrict F shall be responsible for the maintenance of the all publicly accessible open spaces, private streets and pedestrian ways, including, but not limited to, litter control, management of pigeons and rodents, maintenance of required lighting levels, and the care and replacement of furnishings and vegetation within the portion of the Subdistrict associated with such Site in the phased #development# provided in the Site and Landscape Plans required pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F). Notwithstanding the foregoing, maintenance of the #High Line# shall be governed by such agreements as are entered into with respect thereto.

(c) Interim #use#

Open #uses# listed in Use Group 4B, with the exception of 'Cemeteries' and 'Golf courses' shall be permitted as interim #uses# within the designated boundary of any public access area described in Sections 93-75 (Publicly Accessible Open Spaces in Subdistrict F) or 93-76 (Publicly Accessible Private Streets and Pedestrian Ways in Subdistrict F) with the exception of the #High Line# open space, or within the designated boundary of any #building# site described in Section 93-56 (Special Height and Setback Regulations for Subdistrict F). Such interim #uses# may be #developed# prior to the approval of the Site and Landscape Plans for the public access area in which it is located, and may continue until such time as #development# commences on such public access area pursuant to the approved Site and Landscape Plans. Any such interim #uses# shall be open to and usable by the public,

and may include temporary structures, provided that all associated #floor area# is appurtenant to the interim #use#.

93-78

Site and Landscape Plans for Public Access Areas in Subdistrict F

Public access areas in Subdistrict F shall be comprised of publicly accessible open spaces, private streets and pedestrian ways.

All publicly accessible open spaces, or portions thereof listed in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F), and private streets and pedestrian ways, or portions thereof listed in Section 93-76 (Publicly Accessible Private Streets and Pedestrian Ways in Subdistrict F), shall comply with the following provisions:

(a) No #building# permit shall be issued for any #development# or #enlargement# within Subdistrict F unless the Chairperson of the City Planning Commission has certified to the Commissioner of Buildings that the Site and Landscape Plans for the Subdistrict F Public Access Area have been approved by the Chairperson pursuant to the provisions of this Section 93-78. Notwithstanding the foregoing, the Chairperson shall allow for the phased #development# of public access areas or portions thereof upon certification to the Commissioner of Buildings that Site and Landscape Plans have been submitted that provide for the completion of public access areas in association with the #development# or #enlargement# of a #building# or #buildings# within each phase. (b) An application under this section shall be filed with the Chairperson of the City Planning Commission and such application shall include:

(1) A Site Plan indicating the area and dimensions of the public access area or portions thereof and the location of all proposed #buildings# in the phase subject to the application;

(2) A Landscape Plan, prepared by a registered landscape architect for the public access area or portions thereof in the phase subject to the application; and

(3) A report to the Chairperson demonstrating:

(i) That the Site and Landscape Plans have been presented by the applicant to the affected Community Board, City Council Member and Borough President and the Community Board, City Council Member and Borough President have had at least 60 days to review; and

(ii) That any comments and recommendations of the affected Community Board, City Council Member and Borough President have been considered by the applicant, as set forth in a written response to such comments or recommendations. Where design modifications have been made in response to such recommendations, the report shall identify how the design has been modified.

(c) The Chairperson of the City Planning Commission shall approve the Site and LandscapePlans within 45 days following filing provided that the following provisions are met:

(1) That the Site and Landscape Plans provide for the improvement of the public access area or portions thereof which, taking into account relevant considerations relating to platform construction and engineering:

(i) Are of sufficient size to provide a valuable public amenity and promote site access for the benefit of residents and/ or workers in the #buildings# in the phase to which they relate as well as for the general public; and

(ii) Are appropriately sited and located in suitable proximity to the #building# locations in the phase to which they relate.

(2) That the Site and Landscape Plans are consistent with the general purposes and contain the core elements listed in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F) and Section 93-76 (Publicly Accessible Private Streets and Pedestrian Ways in Subdistrict F), inclusive;

(3) That all elements in the Site and Landscape Plans comply with the design criteria as set forth in Section 93-77 (Design Criteria for Open Spaces in Subdistrict F), or, in the case of the #High Line#, that the elements in the Landscape Plan comply with the criteria set forth in paragraph (c) of Section 93-756 (General requirements for the #High Line#);

(4) That the Site and Landscape Plans are consistent and appropriate in relation to any previously approved Landscape Plan for other phases and in relation to conceptual plans for future phases, as applicable;

(5) That the level of public amenity provided in the Landscape Plan is equal to or better than the level of public amenity provided in #public plazas developed# under the standards of Section 37-70 (PUBLIC PLAZAS), or, in the case of the #High Line#, than the level of public amenity provided on #developed# portions of the #High Line# south of West 30th Street. All public amenities that are provided in the Landscape Plan shall take into account the nature and character of the Subdistrict F public access areas; and

(6) That a maintenance plan including any necessary maintenance facilities for the public access area or portions thereof in the phase has been established that will ensure compliance with the provisions of paragraph (b) of Section 93-77 (Design Criteria for Public Access Areas in Subdistrict F).

Approved Site and Landscape Plans shall be set forth in an instrument in a form acceptable to the City, including such provisions as are necessary to ensure compliance with the provisions of this Section. Such instrument shall be filed and duly recorded in the Borough Office of the City Register of the City of New York and indexed against the property. Such filing and recording of the instrument shall be a precondition for the Chairperson's certification to the Department of Buildings under this Section. The recording information shall be included on the certificate of occupancy for any #building#, or portion thereof, on the #zoning lot# issued after the recording date.

(d) No temporary certificate of occupancy from the Department of Buildings may be issued for any portion of a #development# or #enlargement# within a phase until the Chairperson of the City Planning Commission certifies to the Department of Buildings that the public access area, or portions thereof associated with such phase, is substantially complete and in accordance with the Site and Landscape Plans, and that such public access area, or portions thereof are open to and useable by the public. No permanent certificate of occupancy from the Department of Buildings may be issued for any portion of such #development# or #enlargement# until the Chairperson certifies to the Department of Buildings that the public access areas, or portions thereof are fully complete, and that all requirements of this Section 93-78 have been met in accordance with the Site and Landscape Plans for the public access area, or portions thereof associated with such phase. Notwithstanding the foregoing, in the event that a Temporary Public Access Area Plan is approved pursuant to Section 93-782 (Certification to temporarily modify public access areas for construction staging), no temporary certificate of occupancy from the Department of Buildings may be issued for any portion of a #development# or #enlargement# within the phase until the Chairperson certifies to the Department of Buildings that the public access area, or portions thereof associated with such phase, is substantially complete and in accordance with such Temporary Public Access Area Plan, and the public access area or portions thereof are open and useable by the public. No permanent certificate of occupancy from the Department of Buildings may be issued for any portion of such #development# or #enlargement# until the Chairperson certifies to the Department of Buildings that the public access area, or portions thereof associated with the phase previously improved pursuant to the Temporary Public Access Area Plan has been fully completed in accordance with the Site and Landscape Plans therefor, and that the public access area or portions thereof are open to and useable by the public.

(e) Where a phase of #development# results in all #building# sites in Subdistrict F, as shown on Map 6 (Subdistrict F Site Plan), having been #developed# in whole or in part pursuant to the provisions of Section 93-56 (Special Height and Setback Regulations in Subdistrict F), the Department of Buildings shall not issue a certificate of occupancy for the last #building# ofsuch phase unless and until the Chairperson certifies to the Commissioner of Buildings that all public access areas within Subdistrict F are substantially complete, and are open to anduseable by the public. However, in the event that the Site and Landscape Plans for the #HighLine# open space have not been approved pursuant to paragraph (c) of this Section 93-78 atthe time such last #building# is eligible for a certificate of occupancy, the Department ofBuildings shall issue such certificate of occupancy upon certification of the Chairperson thatall public access areas other than the #High Line# open space are substantially complete.

93-781

Certification to modify general requirements of public access areas for ventilation demands

The Chairperson of the City Planning Commission may modify the general requirements of the publicly accessible open spaces listed in Section 93-75 (Publicly Accessible Open Spaces in Subdistrict F), and private streets and pedestrian ways listed in Section 93-76 (Publicly Accessible Private Streets and Pedestrian Ways in Subdistrict F) provided that the Chairperson certifies to the Commissioner of Buildings that such a change is necessary to accommodate unforeseen ventilation demands within the Western Rail Yard. In addition to the Site and Landscape Plans required pursuant to Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F), a Mechanical Plan shall be provided demonstrating the need to modify such general requirements.

93-782

Certification to temporarily modify public access areas for construction staging

In the event that the applicant demonstrates to the satisfaction of the Chairperson of the City Planning Commission that a public access area will be required for construction staging or similar activities in a future phase of #development# or #enlargement#, the application for the Site and Landscape Plans may be accompanied by a request for approval of a Temporary Public Access Area Plan for the public access area which may include fewer than all core elements required as part of a phase of #development# or #enlargement# of such public access area pursuant to subparagraph (c)(2) of Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F), as necessary to accommodate such future construction staging or similar activities. Such Temporary Public Access Area Plan shall be subject to review and approval in the same manner as the Site and Landscape Plans pursuant Section 93-78 (Site and Landscape Plans for Public Access Areas in Subdistrict F), and if approved pursuant thereto, shall be implemented and remain in effect only for the period necessary to accommodate the need for use of the public access area for construction staging or similar activities in a future phase of #development# or #enlargement#. Following the expiration of such period, the Site and Landscape Plans including all core elements for such public access area shall be implemented.

93-80

OFF-STREET PARKING REGULATIONS

In Subdistricts A-E, the The regulations governing permitted and required #accessory# off-street parking spaces of Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a Portion of Community Districts 1 and 2 in the Borough of Queens) and Article II, Chapter 5; Article III, Chapter 6; and Article IV, Chapter 4 (Accessory Off-Street Parking and Loading Regulations) shall not apply except as set forth in this Section. In lieu thereof, the provisions of this Section, inclusive, shall apply.

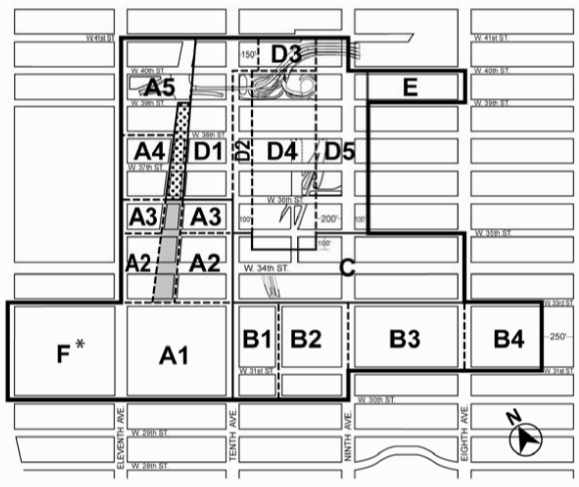
In Subdistrict F, the regulations of Article I, Chapter 3 shall apply.

* * *

In Subdistrict F, the regulations of Article I, Chapter 3 shall apply.

* * *

Map 1 Special Hudson Yards District, Subdistricts and Subareas



Special Hudson Yards District
Subdistricts
Subareas within subdistricts
Phase 1 Hudson Boulevard and Park
Phase 2 Hudson Boulevard and Park

Large-Scale Plan Subdistrict A
Eastern Rail Yards Subarea A1
Four Corners Subarea A2
Subareas A3 through A5

Farley Corridor Subdistrict B
Western Blocks Subarea B1
Central Blocks Subarea B2
Farley Post Office Subarea B3
Pennsylvania Station Subarea B4

34th Street Corridor Subdistrict C

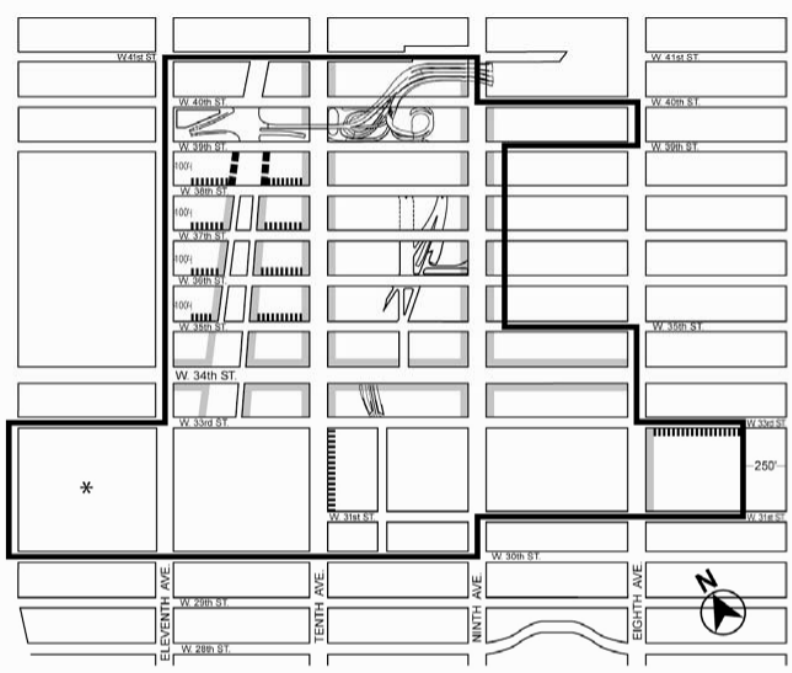
Hell's Kitchen Subdistrict D
Subareas D1 through D5

South of Port Authority Subdistrict E

Western Rail Yard Subdistrict F

*For Site locations and permitted dimensions within Subdistrict F See Map 6

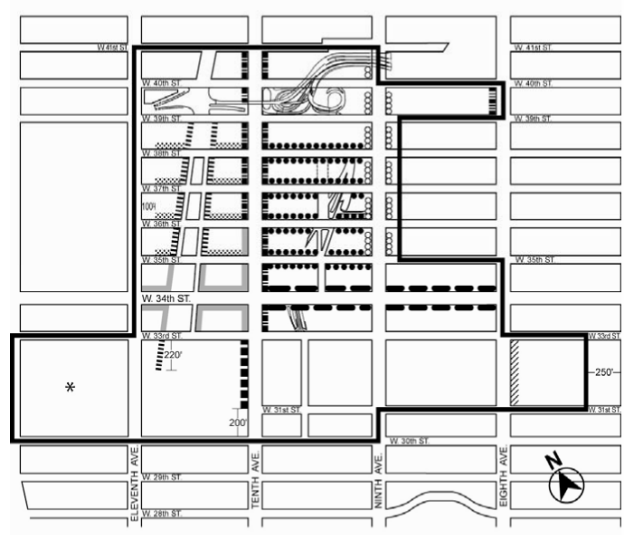
Map 2 Mandatory Ground Floor Retail



Special Hudson Yards District
100% Retail and Glazing Requirement
50% Retail and Glazing Requirement
Glazing Requirement Only

*For Mandatory Ground Floor requirements of Subdistrict F See Map 8

Map 3 Mandatory Street Wall Requirements

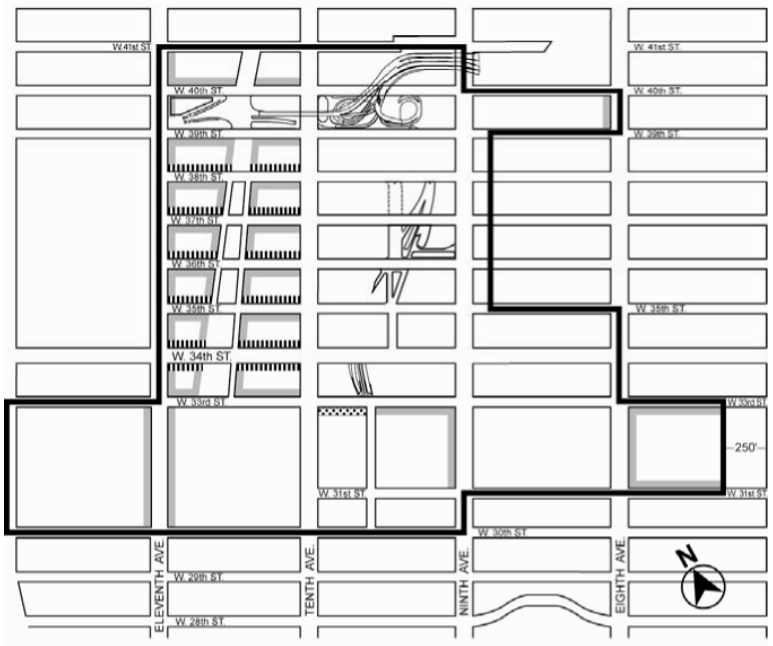


Special Hudson Yards District

	Minimum Base Height	Maximum Base Height	Percentage of zoning lot street frontage that must be occupied by a street wall
	60'	85'	100%
	60'	85'	None
	60'	120'	50%
	90'	120'	70%
	60'	150'	70%
	90'	120'	100%
	90'	150'	100%
	90'	150'	70%
	90'	150'	35%
	120'	150'	100%

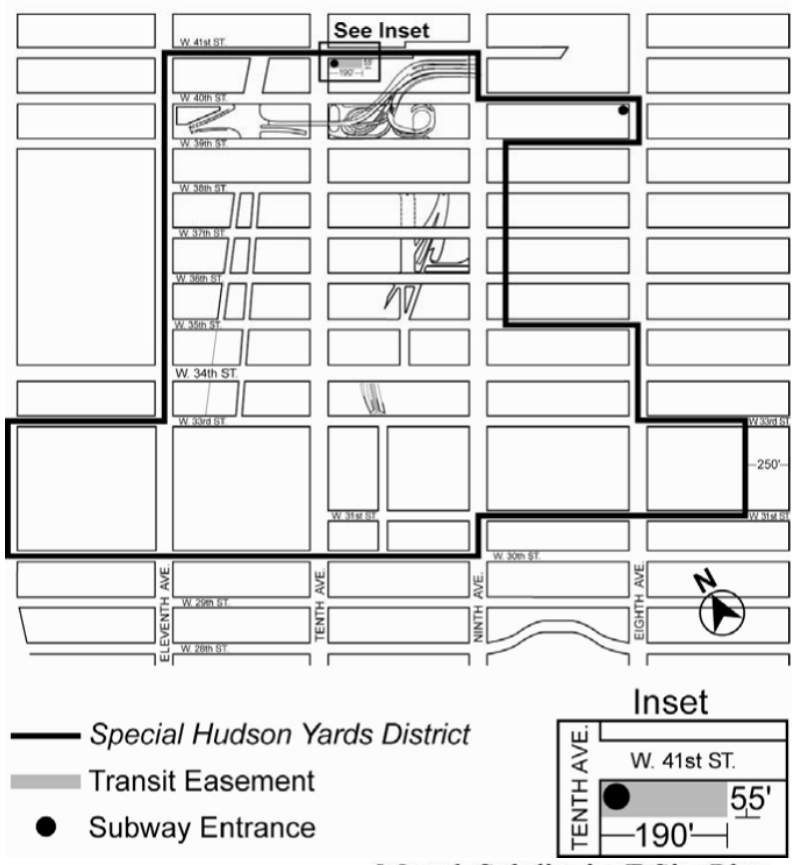
*For Street Wall requirements of Subdistrict F See Map 9

Map 4 Mandatory Sidewalk Widenings

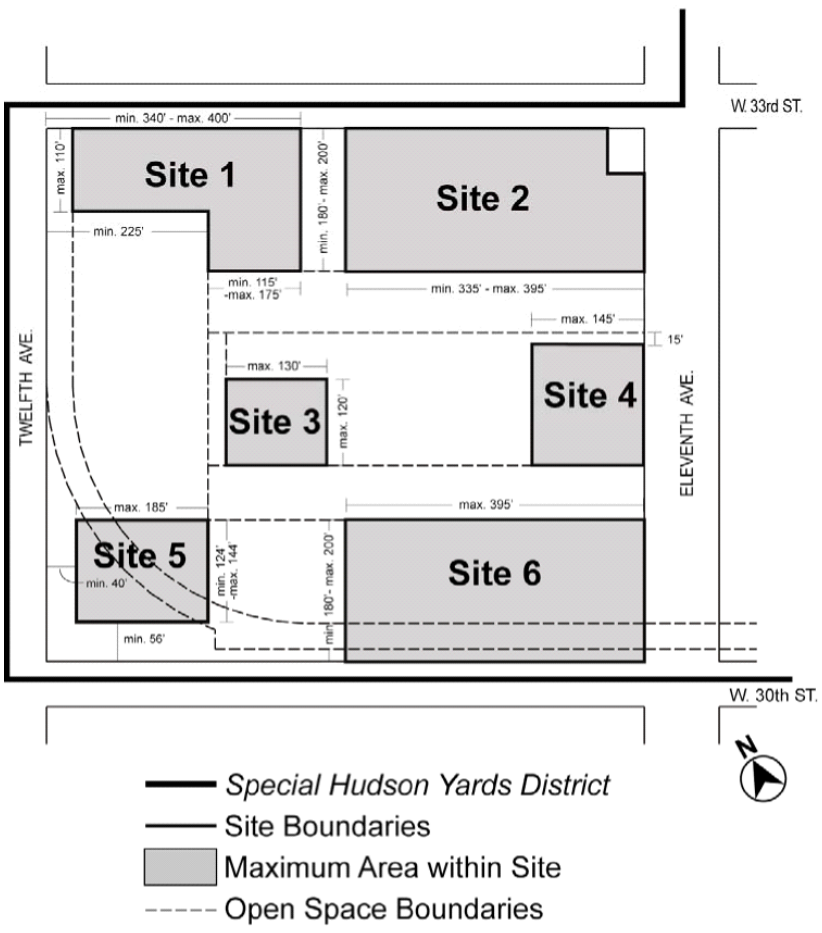


Special Hudson Yards District
10' Sidewalk widening
5' Sidewalk widening
5' Sidewalk widening required if more than 75% of the total floor area existing on the zoning lot on January 19, 2005 is demolished

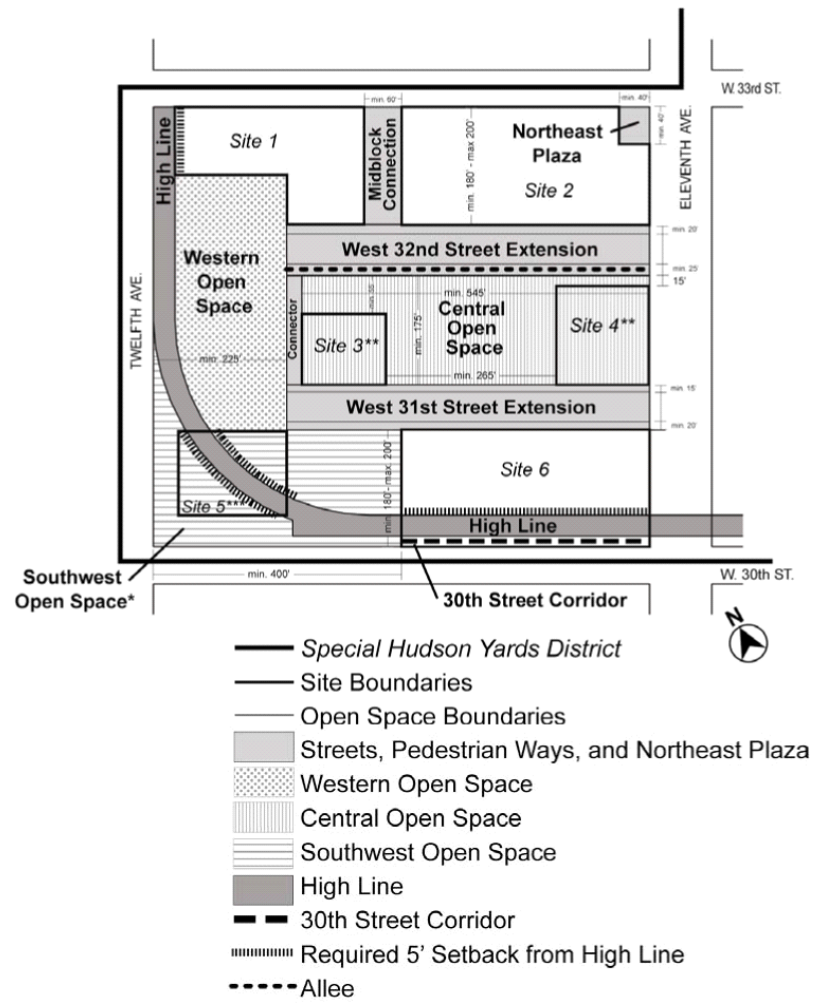
Map 5 Transit Easements and Subway Entrances



Map 6 Subdistrict F Site Plan

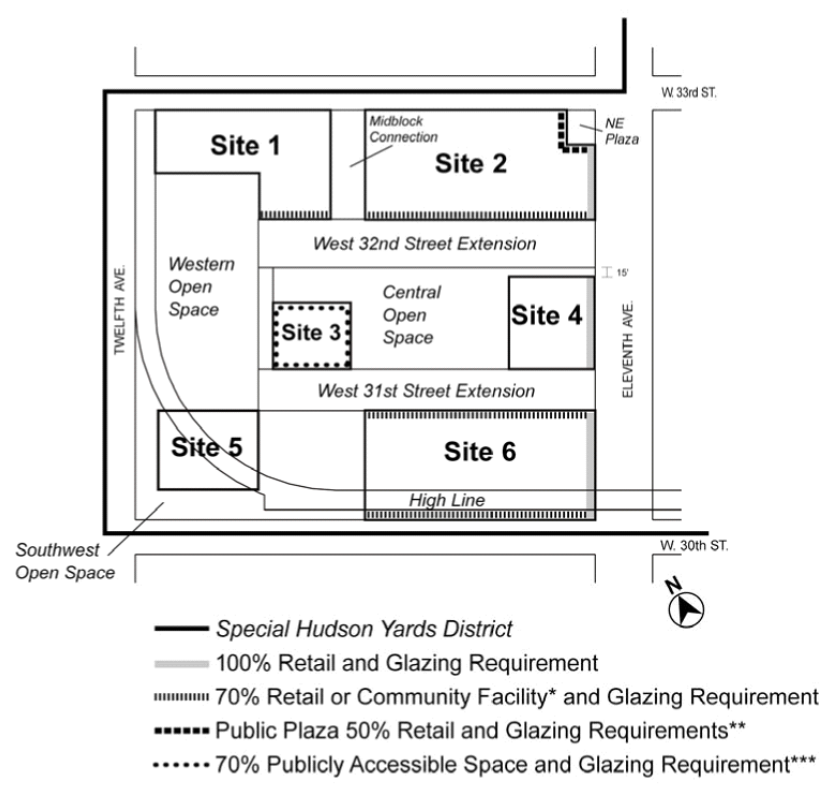


Map 7 Subdistrict F Public Access Area Plan



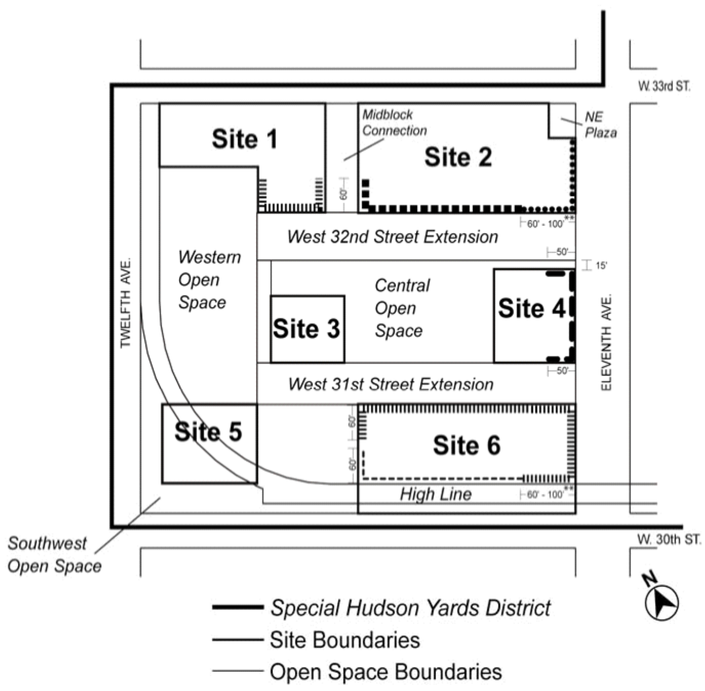
* The Southwest Open Space connects beneath the High Line.
** The area of Site 3 and Site 4 which is not part of a building is part of the Central Open Space.
***The area of Site 5 which is not part of a building is part of the Southwest Open Space.

Map 8 Subdistrict F Mandatory Ground Floor Requirements



*Additional uses permitted pursuant to paragraph (b)(2) of Section 93-14.
**Retail and glazing requirements pursuant to Section 37-76.
***Publicly accessible space and glazing requirements pursuant to paragraph (a) of Section 93-565.

Map 9 Subdistrict F Mandatory Street Wall Requirements



	Minimum Base Height	Maximum Base Height	Percentage of frontage that must be occupied by a street wall	Percentage of street wall which must recess	Max. percentage of street wall which may set back
-----------	50'*	60'*	100%	20%	30%
IIIIIIIIIIIIIIII	60'	90'	100%	20%	30%
▬ ▬ ▬ ▬	90'	120'	100%	20%	50%
■■■■■■■■■	90'	120'	100%	20%	30%
•••••••••••••	120'	150'	100%	20%	30%

*As measured above the High Line bed.
**Street wall must continue within 60 feet of 11th Ave., but may continue to within 100 feet of 11th Ave.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1267 & Res. No. 2330

Report of the Committee on Land Use in favor of approving Application no. C 090435 ZSM submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052* and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1100 spaces on portions of the ground floor and plaza level of a proposed mixed-use development (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5528) and originally reported to the Council on December 14, 2009 (Minutes, page 6099), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 C 090435 ZSM

City Planning Commission decision approving an application submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93- 052 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1100 spaces on portions of the ground floor and plaza level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2330

Resolution approving the decision of the City Planning Commission on ULURP No. C 090435 ZSM (L.U. No. 1267), for the grant of a special permit pursuant to Sections 93- 052 and 13-561 of the Zoning Resolution of the City of New York to allow an attended accessory parking garage (North Parking Garage) on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District Borough of Manhattan.

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by RG WRY LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Sections 93- 052 and 13-561 of the Zoning Resolution of the City of New York to allow an attended accessory parking garage (North Parking Garage) with a maximum capacity of 1,100 spaces on portions of the ground floor and plaza level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District (ULURP No. C 090435 ZSM), Community District 4, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090430 ZMM (L.U. No. 1264), a Zoning Map Amendment establishing a C1-5 district within an existing R8 District; C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; and C 090436 ZSM (L.U. No. 1268), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(2) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section13-561 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M); and

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1268 & Res. No. 2331

Report of the Committee on Land Use in favor of approving Application no. C 090436 ZSM submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93-052* and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (South Parking Garage) with a maximum capacity of 800 (Block 676, Lot 3), in a C6-4 District within the Special Hudson Yards District.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on October 28, 2009 (Minutes, page 5528) and originally reported to the Council on December 14, 2009 (Minutes, page 6100), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 4 **C 090436 ZSM**

City Planning Commission decision approving an application submitted by RG WRY LLC pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 93- 052 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage (South Parking Garage) with a maximum capacity of 800 spaces on portions of the plaza level, mezzanine 1 level, mezzanine 2 level and cellar level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District.

INTENT

To facilitate the development of a mixed-use building, tentatively known as The Westside Rail Yard/DEP Site, with residential and retail space.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: December 14, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2331

Resolution approving the decision of the City Planning Commission on ULURP No. C 090436 ZSM (L.U. No. 1268), for the grant of a special permit pursuant to Sections 93- 052 and 13-561 of the Zoning Resolution of the City of New York to allow an attended accessory parking garage (South Parking Garage) on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District, Borough of Manhattan.

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on October 23, 2009 its decision dated October 19, 2009 (the "Decision"), on the application submitted by RG WRY LLC, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Sections 93- 052 and 13-561 of the Zoning Resolution of the City of New York to allow an attended accessory parking garage (South Parking Garage) with a maximum capacity of 800 spaces on portions of the plaza level, mezzanine 1 level, mezzanine 2 level and cellar level of a proposed mixed-use development on property bounded by West 33rd Street, Eleventh Avenue, West 30th Street, and Twelfth Avenue (Block 676, Lot 3), in a C6-4 District, within the Special Hudson Yards District (ULURP No. C 090436 ZSM), Community District 4, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to Applications Numbers C 090408 MMM (L.U. No. 1260), an amendment to the City Map involving a change in grade to West 33rd Street, between Eleventh Avenue and Twelfth Avenue; C 090422 HAM (L.U. No. 1261), an urban development action area project designation, project approval and disposition of City-owned property; C 090423 HAM (L.U. No. 1262), an urban development action area project designation, project approval and disposition of City-owned property; N 090429 ZRM (L.U. No. 1263), a Zoning Text Amendment concerning Article IX, Chapter 6 (Special Clinton District); C 090430 ZMM (L.U. No. 1264), a Zoning Map Amendment establishing a C1-5 district within an existing R8 District; C 090433 ZMM (L.U. No. 1265), a Zoning Map Amendment from an M2-3 zoning district to a C6-4 district and the establishment of a Special Hudson Yards District; N 090434 ZRM (L.U. No. 1266), a Zoning Text Amendment concerning Article IX, Chapter 3 (Special Hudson Yards District) relating to the addition of Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District; and C 090435 ZSM (L. U. No. 1267), a special permit pursuant to Sections 93-052 as amended and 13-561 for an attended accessory parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(2) of the City Charter;

WHEREAS, the City Planning Commission has made the findings required pursuant to Section13-561 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on October 9, 2009 and the Technical Memorandum dated October 19, 2009 (CEQR No. 09DCP007M); and

RESOLVED:

Having considered the FEIS and the Technical Memorandum dated October 19, 2009, with respect to the Application, the Council finds that:

(1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;

(2) Consistent with social, economic and other essential considerations from among the reasonable alternatives available , the action , as modified herein, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and

(3) Adverse environmental impacts identified in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable, by means of, inter alia, the filing and recordation of restrictive declarations substantially in the forms set forth in Exhibit B and C of the City Planning Commission's Report (C 090433 ZMM) in

accordance with the provisions of Section 93-06 of the Zoning Resolution.

(4) The Decision and the FEIS and the Technical Memorandum dated October 19, 2009 constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, the Council approves the Decision.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Report for L.U. No. 1273 & Res. No. 2332

Report of the Committee on Land Use in favor of approving Application no. N 090293 ZRM by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York concerning the Special Lower Manhattan District (Article IX, Chapter 1), Appendix A, Map 5, relating to curb cut prohibitions, Community Board 1, Borough of Manhattan.

The Committee on Land Use, to which the annexed Land Use item (with coupled resolution), was referred on November 16, 2009 (Minutes, page 5764) and originally reported to the Council on November 30, 2009 (Minutes, page 5844), respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 1 N 090293 ZRM

City Planning Commission decision approving an application submitted by SDS 15 William Street, LLC, pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York, concerning the Special Lower Manhattan District (Article IX, Chapter 1), Appendix A, Map 5, relating to curb cut prohibitions in Community District 1, Borough of Manhattan.

INTENT

To allow an additional curbcut to an existing parking garage at 15 Williams Street in Lower Manhattan.

Report Summary

COMMITTEE RECOMMENDATION AND ACTION

DATE: November 24, 2009

The Committee recommends that the Council approve the attached resolution and thereby approve the decision of the City Planning Commission with a modification.

FILING OF MODIFICATION WITH THE CITY PLANNING COMMISSION

The Committee's proposed modification was filed with the City Planning Commission on December 7, 2009. The City Planning Commission filed a letter dated December 14, 2009, with the Council indicating that the proposed modification is not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

In connection herewith, Council Member Avella offered the following resolution:

Res. No. 2332

Resolution approving with modification the decision of the City Planning Commission on Application No. N 090293 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning the Special Lower Manhattan District (Article IX, Chapter 1), Appendix A, Map 5, relating to curb cut prohibitions in Community District 1, Borough of Manhattan (L.U. No. 1273).

By Council Member Avella.

WHEREAS, the City Planning Commission filed with the Council on November 2, 2009 its decision dated November 2, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, concerning the Special Lower Manhattan District (Article IX, Chapter 1), Appendix A, Map 5, relating to curb cut prohibitions in Community District 1, Borough of Manhattan, (Application No. N 090293 ZRM), (the "Application");

WHEREAS, the Application is related to ULURP Application Number C 090294 ZSM - a special permit pursuant to 74-52 for a 195 space public parking garage;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on November 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Revised Negative Declaration issued on November 2, 2009 (CEQR No. 09DCP037M);

RESOLVED:

The Council finds that the action described herein will have no significant impact on the environment.

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision with the following modification:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Section 91-52 of the Zoning Resolution provides that curb cuts are prohibited on streets indicated on Map 5 in Appendix A.

Map 5 is hereby modified to remove the portion of the northern side of Beaver Street running from William Street to Broad Street from the streets with a curb cut prohibition as shown on the map attached hereto as Exhibit I.

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

Resolution approving various persons Commissioners of Deeds

By the Presiding Officer –

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

Name	Address	District #

Jonathan Cioschi	194 East 2nd Street #5B New York, NY 10009	2
Pamela M. Gilbert	2111 Southern Blvd #4C Bronx, NY 10460	15
Natalia Gulik	2626 Homecrest Ave #6M Brooklyn, NY 11235	48
Nathalie Roc	666 56th St Brooklyn, NY 11220	38

Approved New Applicants and Reapplicants

Name	Address	District #
Rina Amato	9 Zephyr Avenue Staten Island, NY 10312	51
Geraldine Kiefer	19 Glover Street Staten Island, NY 10308	51
Frances B. Mosier	542 Edgegrove Avenue Staten Island, NY 10312	51
Jacqueline Asencio	241-38 86th Avenue Bellerose, NY 11426	23
Paul Bader	84 Woodhull Street Brooklyn, NY 11231	39
Nilda Cruz-Pruna	398 4th Street #3 Brooklyn, NY 11215	39
Rena Broome	599 Morris Avenue Bronx, NY 10451	17
Patricia A. Chabla	76-36 113th Street #6U Queens, NY 11375	29
Augusto L. DePass	2-10 27th Avenue #2D Astoria, NY 11102	22
Pilar Hernandez	18-33 26th Avenue Queens, NY 11102	22
Michael S. Fox	3920 Quentin Road Brooklyn, NY 11234	46
Kristel Lynn Simmonds-Cobb	3845 Shore Parkway #2E Brooklyn, NY 11235	46
Rita B. Gaeta	520 Oakland Avenue Staten Islan, NY 10310	49
Diana Kearney	775 Concourse Village East #3C Bronx, NY 10451	16
Jean Michelle Rodriguez	11 West 172nd Street Bronx, NY 10452	16
Yakov King	1232 East 31st Street Brooklyn, NY 11210	45
Stephanie Meyer	1373 Brooklyn Avenue Brooklyn, NY 11203	45
Terril Lesane	145 Lincoln Road #5G Brooklyn, NY 11225	40
Iris Morales	615 47th Street #1 Brooklyn, Ny 11220	38
Susan Perez	310 West 143rd Street New York, NY 10030	7
Florina Phipps	140 De Kruif Place Bronx, NY 10475	12
Katihurca A. Santana	64-04 60th Place #2 Ridgewood, NY 11385	30
Marilyn E. Thomas-Dow	55 West 26th Street New York, NY 10010	3
Seth Ullman	450 Clinton Ave D4 Brooklyn, NY 11238	35
Delores A. White	170-10 130th Avenue Queens, NY 11434	28

On motion of the Speaker (Council Member Quinn), and adopted, the foregoing matter was coupled as a General Order for the day (see ROLL CALL ON GENERAL ORDERS FOR THE DAY).

ROLL CALL ON GENERAL ORDERS FOR THE DAY

(Items Coupled on General Order Calendar)

(1) M 1688 -- Mayors veto and disapproval message of Introductory Number 662-A. **(Coupled to be Filed.)**

(2) M 1689 -- Mayors veto and disapproval message of Introductory Number 907. **(Coupled to be Filed.)**

(3) M 1692 -- Mayors veto and disapproval message of Resolution Number 2295. **(Coupled to be Filed.)**

(4) M 1693 -- Mayors veto and disapproval message of Resolution Number 2296. **(Coupled to be Filed.)**

(5) M 1694 -- Mayors veto and disapproval message of Resolution Number 2297. **(Coupled to be Filed.)**

(6) M 1695 -- Mayors veto and disapproval message of Resolution Number 2298. **(Coupled to be Filed.)**

(7) Int 240-A -- Penalties associated with the sale of toy guns.

(8) Int 662-A -- Clergy parking permits. **(Coupled for Override vote requiring affirmative vote of at least two-thirds of the Council for passage)**

(9) Int 907 -- Establishing a grace period for certain parking violations. **(Coupled for Override vote requiring affirmative vote of at least two-thirds of the Council for passage)**

(10) Int 853-A -- Amusement devices.

(11) Int 1014-A -- Regionally significant projects and empire zones.

(12) Int 1063-A -- Notice of major transportation projects.

(13) Int 1083-A -- Requiring local representation on park conservancies.

(14) Int 1103-A -- Naming of 70 thoroughfares and public places.

(15) Int 1106 -- Authorizing an increase in the amount to be expended in eight business improvement districts.

(16) Int 1110 -- Date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings. **(with Message of Necessity requiring affirmative vote of at least two-thirds of the Council for passage)**

(17) Res 2303 -- Approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2009 and fiscal 2010 Expense Budget.

(18) Res 2304 -- Setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1014-A.

(19) L.U. 1227 & Res 2319 -- ULURP, app. **C 090413 ZMK** zoning map, Section No.13b, Borough of Brooklyn, Council District no. 33.

(20) L.U. 1228 & Res 2320 -- App. **N 090414 ZRK**, Zoning Resolution, relating to Article II, Chapter 3, Sections 23-90, inclusive.

(21) L.U. 1229 & Res 2321 -- ULURP, app. **C 090415 HUK** Broadway Triangle Urban Renewal Plan, Borough of Brooklyn, Council District no. 33.

(22) L.U. 1230 & Res 2322 -- ULURP, app. **C 090416 HAK**, UDAADP, Broadway Triangle URA, and the disposition of such property, Brooklyn, CD 33.

(23) L.U. 1256 & Res 2295 -- App. **C 090236 MMX** Related Retail Armory, for an amendment to the City Map. **(Coupled for Disapproval; Override vote for disapproval requires affirmative vote of at least two-thirds of the Council for disapproval)**

(24) L.U. 1257 & Res 2296 -- App. **C 090237 MMX** New York City Administrative Code, for an amendment to the City Map. **(Coupled for Disapproval; Override vote for disapproval requires affirmative vote of at least two-thirds of the Council for disapproval)**

(25) L.U. 1258 & Res 2297 -- App**. C 090437 ZMX** Related Retail Armory, LLC amendment of the Zoning Map, Section No. 3c. App. **C 090438 PPX** disposition of one city-owned property located at 29 West

Kingsbridge Road. **(Coupled for Disapproval; Override vote for disapproval requires affirmative vote of at least two-thirds of the Council for disapproval)**

(26) L.U. 1259 & Res 2298 -- App. **C 090438 PPX** disposition of one city-owned property located at 29 West Kingsbridge Road. **(Coupled for Disapproval; Override vote for disapproval requires affirmative vote of at least two-thirds of the Council for disapproval)**

(27) L.U. 1260 & Res 2323-- App **C 090408 MMM**. City Map involving a change in grade on West 33rd Street, Eleventh and Twelfth Avenues.

(28) L.U. 1261 & Res 2324-- App. **C 090422 HAM** The Westside Rail Yards/DEP Site, with residential and retail space.

(29) L.U. 1262 & Res 2325-- App. **C 090423 HAM** Westside Rail Yard/MTA Site, with residential and commercial space.

(30) L.U. 1263 & Res 2326-- App. **N 090429 ZRM** (Special Clinton District), Borough of Manhattan, Community District 4.

(31) L.U. 1264 & Res 2327-- App. **C 090430 ZMM** Zoning Map, Section No. 8c: establishing within an existing R8 District a C1-5 District.

(32) L.U. 1265 & Res 2328-- App**. C 090433 ZMM** Zoning Map, Section No. 8b changing from an M2-3 District to a C6-4 District.

(33) L.U. 1266 & Res 2329-- App. **N 090434 ZRM** Western Rail Yard Subdistrict F and the expansion of the Special Hudson Yards District, Manhattan.

(34) L.U. 1267 & Res 2330-- App. **C 090435 ZSM** parking garage (North Parking Garage) with a maximum capacity of 1100 spaces.

(35) L.U. 1268 & Res 2331-- App. **C 090436 ZSM** parking garage (South Parking Garage) with a maximum capacity of 800.

(36) L.U. 1271 & Res 2308 -- App. **20105209 HAQ**, UDAAP, 89-06 138th Street and 107-05 Sutphin Boulevard, Council Districts no. 24 and 28, Queens.

(37) L.U. 1273 & Res 2332 -- App. **N 090293 ZRM** relating to curb cut prohibitions, Community Board 1, Borough of Manhattan.

(38) L.U. 1282 & Res 2309 -- App. **20105211 GFY**, franchises for the installation of public pay telephones and associated equipment

(39) L.U. 1283 & Res 2310 -- App. **20095681 TCX** unenclosed sidewalk café 5693 Riverdale Avenue, Borough of the Bronx, Council District no. 11.

(40) L.U. 1284 & Res 2311 -- App. **N 090509 ZRM** Delury Square Park) in the Special Lower Manhattan District.

(41) L.U. 1285 & Res 2312 -- App. **N 080396 NPK**, Brooklyn Community Board 7 197-a Plan for Sunset Park in Council District no. 38.

(42) L.U. 1286 & Res 2313 -- App. **20105193 TCM**, unenclosed sidewalk café located at 800 Seventh Avenue, Manhattan, Council District no. 3.

(43) L.U. 1287 & Res 2314 -- App. **20105215 PPK**, 250 Baltic Street for state-owned property located at 338 Forbell Street, Brooklyn, CD 39 and 37.

(44) L.U. 1288 & Res 2315 -- ULURP, app. **C 100067 HAK**, UDAADP, 1612 Park Place and 404A, 408, 414 and 416 Hopkinson Avenue, Council District no. 41.

(45) L.U. 1292 & Res 2316 -- App. **20105203 HKQ** Herman A. Schleicher Mansion, 11-41 123rd Street as an historic landmark, Council District no. 19.

(46) L.U. 1294 & Res 2305 -- Southeast Grand Street Guild HDFC, Block 341, Lot 1, Manhattan, Council District No. 1.

(47) L.U. 1295 & Res 2306 -- Grand Street Guild East HDFC, Block 341, Lot 70, Manhattan, Council District No. 1.

(48) L.U. 1296 & Res 2307 -- Grand Street Guild HDFC, Block 341, Lot 58, Manhattan, Council District No. 1.

(49) L.U. 1297 & Res 2317 -- App. 612-seat primary/intermediate school facility, P.S./I.S. 281-Manhattan, Community School District No. 2. (**20105219 SCM**)

(50) L.U. 1298 & Res 2318 -- App. 924 and 928 Madison Street and 1023, 1013, 1007, 1052 and 1054 Putnam Avenue, Brooklyn, CD 41. (**20105220 HAK)**

(51) Resolution approving various persons Commissioners of Deeds.

The President Pro Tempore (Council Member Rivera) put the question whether the Council would agree with and adopt such reports which were decided in the **affirmative** by the following vote:

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **50**.

The General Order vote recorded for this Stated Meeting was 50-0-0 as shown above with the exception of the votes for the following legislative items:

(Included in the above 50-0-0 General Order vote above is the override vote for Int No. 662-A which was passed by the Council notwithstanding the objection of the Mayor and was thereby enacted into law)

The following was the vote recorded for **Int No. 853**:

Affirmative – Arroyo, Avella, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **49**.

Negative – Barron – **1**.

The following was the override vote recorded for **Int No. 907:**

Affirmative – Arroyo, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48**.

Negative – Avella and Garodnick – **2**.

With this 48-2-0 vote shown above, Int No. 907 was passed by the Council notwithstanding the objection of the Mayor and was thereby enacted into law.

The following was the vote recorded for **Int No. 1014-A**:

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **49**.

Abstention – Sanders **– 1.**

The following was the vote recorded for **Int No. 1103-A:**

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, de Blasio, Dickens, Dilan, Eugene, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gerson, Gioia, Gonzalez, Jackson, James, Katz, Koppell, Liu, Mark-Viverito, Mealy, Mendez, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Vacca, Vann, Weprin, White, Yassky, Rivera, and the Speaker (Council Member Quinn) – **41**.

Negative – Crowley, Felder, Ignizio, Mitchell, Ulrich, Vallone, Jr. and Oddo – **7**.

Abstention – Gentile and Lappin – **2**.

The following was the vote recorded for **LU No. 1227 & Res No. 2319, LU No. 1228 & Res No. 2320, LU No. 1229 & Res No. 2321, LU No. 1230 & Res No. 2322:**

Affirmative – Arroyo, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Garodnick, Gennaro, Gentile, Gerson, Gonzalez, James, Koppell, Lappin, Mealy, Mitchell, Nelson, Recchia, Rodriguez, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) **– 36.**

Negative - Avella, Barron, Foster, Ignizio, Liu, Mark-Viverito, Mendez, Palma, Reyna, and Sanders **– 10.**

Abstention – Brewer, Gioia, Jackson, and Katz – **4.**

The following was the override disapproval vote recorded for **LU No. 1256 & Res No. 2295, LU No. 1257 & Res No. 2296, LU No. 1258 & Res No. 2297, and LU No. 1259 & Res No. 2298:**

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48**.

Negative – Sears **– 1.**

Abstention – Katz **– 1.**

With this 48-1-1 override disapproval vote shown above, LU No. 1256 & Res No. 2295, LU No. 1257 & Res No. 2296, LU No. 1258 & Res No. 2297, and LU 1259 & Res No. 2298 were passed notwithstanding the objection of the Mayor.

The following was the vote recorded for **LU No. 1260 & Res No. 2323, LU No. 1261 & Res No. 2324, LU No. 1262 & Res No. 2325, LU No. 1263 & Res No. 2326, LU No. 1264 & Res 2327, LU No. 1265 & Res No. 2328, LU No. 1266 & Res No. 2329, LU No. 1267 & Res No. 2330, and LU No. 1268 & Res No. 2331:**

Affirmative – Arroyo, Avella, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Jackson, James, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **47**.

Negative – Barron and Ignizio – **2**.

Abstention – Katz **– 1.**

The following was the vote recorded for **LU No. 1273 & Res No. 2332:**

Affirmative – Arroyo, Avella, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48**.

Negative – Barron **– 1.**

Abstention – Katz **– 1.**

The following was the vote recorded for **LU No. 1282 & Res No. 2309:**

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **49**.

Abstention — Liu **-1.**

The following was the vote recorded for **LU No. 1292 & Res No. 2316:**

Affirmative – Arroyo, Avella, Barron, Brewer, Comrie, Crowley, de Blasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Jackson, James, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Rodriguez, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **49**.

Negative – Ignizio **– 1.**

The following Introductions were sent to the Mayor for his consideration and approval: Int Nos.290-A, 853-A, 1014-A, 1063-A, 1083-A, 1103-A, 1106, 1110 (passed under a Message of Necessity from the Mayor).

For **Introduction and Reading of Bills**, see the material following the **Resolutions** section below:

RESOLUTIONS

Presented for voice-vote

The following are the respective Committee Reports for each of the Resolutions referred to the Council for a voice-vote pursuant to Rule 8.50 of the Council:

Report for voice-vote Res. No. 190-A

Report of the Committee on Civil Rights in favor of approving and adopting, as amended, a Resolution calling on the New York State Legislature to amend the Election Law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detained.

The Committee on Civil Rights, to which the annexed amended resolution was referred on March 22, 2006 (Minutes, page 1121), respectfully

REPORTS:

Introduction

On Monday, December 21, 2009, the Committee on Civil Rights, chaired by Council Member Larry B. Seabrook, will hold its second hearing on Proposed Resolution Number 190-A ("Proposed Res. 190-A") and Resolution Number 2261 ("Res. 2261"). Proposed Res. 190-A calls on the New York State Legislature to amend the Election Law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detailed. Res. 2261 calls on the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution to insure that resources for the general welfare of all citizens are equitably and appropriately distributed. The Council first heard these resolutions on November 19, 2009.

Background

Article I, Section 2 of the United States Constitution, requires that the Census take place every ten years.[1] Data gathered is used to redraw congressional and state legislative district lines; allocate funds for government programs; determine areas in need of schools, roads and other infrastructural necessities; and identify demographic trends, which can be used to predict future community-specific needs.[2] The census, to be completed by every household in the United States and its territories, collects such demographic information as a person's marital status, age, gender, date of birth, race and property ownership.[3] The 2010 Census is expected to be the most expensive and expansive count undertaken in the country's history costing $15 billion and employing over 140,000 workers who will be visiting over 140 million residences.[4]

New Yorkers in Prison

According to the U.S. Census, there were 71,466 New Yorkers living in state prisons in the year 2000.[5] From the perspective of the U.S. Census Bureau, these individuals are included in the census tract of the prison in which they reside as

opposed to their pre-incarceration residence.[6] The New York State Constitution, however, articulates that a person's residence does not change just because he or she is in prison.[7] Specifically, Article II, Section 4 of the New York State Constitution states that "…no person shall be deemed to have gained or lost a residence, by reason of his or her presence or absence…while confined in any public prison." Despite the state's definition of residence and the transient nature of the prison population, fifteen counties in New York State (including the five boroughs) include inmates in their population count when they reapportion their district lines every decade.[8] Because population data compiled by the census is used to establish district sizes, allocate government resources and determine legislative representation, including a prison population in a prison's census tract can disproportionately favor a prison's home county at the expense of its prisoners' pre-incarceration residences.[9] As most correctional facilities in New York are located in rural upstate counties, this fact has a meaningful impact on the city, which supplies approximately two-thirds of the state's prison population.[10] When upstate communities benefit at the expense of the city in this manner, it can have a devastating effect on communities of color, who make up 80 percent of the prison population in New York State.[11] An inaccurate census count can deprive communities of resources and representation that they badly need.

Proposed Resolutions

a. Proposed Res. 190-A

Proposed Res. 190-A calls upon the New York State Legislature to amend the election law so that prisoners are counted as residents of the county in which they resided prior to incarceration, rather than as residents of the county in which they are detained. The Census Bureau's current policy of counting prisoners in their county of incarceration unfairly augments the voting power of the prison's census tract and dilutes that of the prisoner's pre-incarceration census tract, many of which are urban areas and predominantly communities of color. Two state bills, S1633 and A5946 would require prisons to collect each prisoner's residential data and report it to the state Board of Elections, which would disseminate population counts that would be adjusted to recognize the prisoner's residence to be his or her pre-incarceration address. This corrected census data would be used for the state's redistricting purposes

b. Res. 2261

Res. 2261 calls upon the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution, to insure that resources for the welfare of all citizens are equitably and appropriately distributed. The Supreme Court ruled in the 1960s that the Equal Protection Clause of the Fourteenth Amendment requires that the legislative districts of each state contain similarly-sized populations. Given that the vast majority of prisons in the United States are located in non-metropolitan areas, the continued inclusion of incarcerated individuals in their prisons' census tracts compromises fair and accurate representation of urban areas. Because many of our state's prisoners originate from already underserved urban areas Res. 2261 calls for a change in the way the census is conducted on the ground that further underrepresentation will only serve to exacerbate existing inequities.

[1] U.S. Census Bureau, *Decennial Census, at* http://factfinder.census.gov/jsp/saff/SAFFInfo.jsp?_pageId=sp4_decennial&_submenuId= (last visited Nov. 18, 2009).
[2] *Id.*
[3] *Id.*
[4] James Janega, *2010 U.S. census will be the biggest, most expensive to date*, Chicago Tribune, May 25, 2009, *available at* http://archives.chicagotribune.com/2009/may/25/local/chi-census-18-may25.
[5] Peter Wagner, *Importing Constituents: Prisoners and Political Clout in New York*, The Prison Policy Initiative, Apr. 22, 2002, *available at* http://www.prisonpolicy.org/importing/importing.html (accessed on November 16, 2009).
[6] Peter Wagner, Meghan Rudy, Ellie Happel & Will Goldberg, *Phantom constituents in the Empire State: How outdated Census Bureau methodology burdens New York counties*, The Prison Policy Initiative, Jul. 18, 2007, at 1.
[7] *Id.*
[8] Sam Roberts, *Inmates Have Political Pull in Some New York Counties*, New York Times, Aug. 7, 2007, *available at* http://www.nytimes.com/2007/08/07/nyregion/07inmates.html.
[9] Andrea Senteno & Jay Cerrato, *Counting Convicts*, Gotham Gazette, October 31, 2007, *available at* http://www.gothamgazette.com/print/2335 (accessed on Nov. 16, 2009).
[10] Wagner, *supra* note 5.
[11] *Id.*

Accordingly, Your Committee recommends the adoption of Res No. 190-A and Res No. 2261.

(for text of Res No. 2261, please see the Report of the Committee for Res No. 2261 printed in this voice-vote Resolutions section of the Minutes; for text of Res No. 190-A, please see below:)

Res. No. 190-A

Resolution calling on the New York State Legislature to amend the Election Law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detained.

By Council Members Jackson, Barron, Comrie, Dickens, Foster, James, Koppell, Mark-Viverito, Palma, Sanders, Vann, Weprin, White, Mealy, Ferreras, Seabrook, Liu, Dilan, Garodnick and Arroyo.

Whereas, Obtaining an accurate count of the population is so vital to representative democracy that the framers of the United States Constitution addressed the issue of the census and apportionment in the opening paragraphs of this governing document; and

Whereas, The right to vote and the right to representation is a fundamental civic right; and

Whereas, The Census Bureau applies the 'usual residence' rule when it tabulates where people reside, which means that the Census Bureau generally counts people according to where they live and sleep most of the time; and

Whereas, Prisoners are therefore tabulated as residents of the counties of their incarceration rather than residents of the counties in which they resided prior to incarceration, locations where they likely have significant ties and interests; and

Whereas, The 'usual residence' method of tabulation therefore results in a population shift to locations where prisons are situated; and

Whereas, This population shift is in direct contravention to the democratic principle of "one person, one vote;" and

Whereas, Minority communities and other traditionally disenfranchised groups suffer especially high rates of incarceration; and

Whereas, Prisons in New York state are overwhelmingly located in rural counties, yet the majority of prisoners in New York reside in urban counties prior to incarceration; and

Whereas, Therefore the uneven rates of incarceration in New York state result in a population shift of minorities from urban counties, where they are counted as members of substantial voting blocks and in which they have an interest, to rural counties where they do not enjoy civic participation; and

Whereas, During the 1990's, 30% of new residents of upstate New York were brought there as prisoners; and

Whereas, Current census practices thereby deprive urban areas of the benefits that accrue to a jurisdiction as a result of population size, such as voting and funding; and

Whereas, Such population distortions affect U.S. Congressional Districts, but have an even greater impact on state legislative districts; and

Whereas, Bill S1633, sponsored by State Senator Eric Schneiderman and Bill A5946, sponsored by State Assemblymember Adriano Espaillat, address this problem by requiring incarceration facilities to collect accurate demographic and geographic information and report it to the state Board of Elections so that prisoners are counted as residents of the county in which they resided prior to incarceration; and

Whereas, Under these bills, the state Board of Elections would then disseminate adjusted population counts for each geographic unit included in the census counts; and

Whereas, Such new procedures are certain to more accurately reflect demographic patterns and thus correct the distortions created by the current law; now, therefore, be it

Resolved, That the Council of the city of New York calls on the New York State Legislature to amend the Election Law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in which they are detained.

LARRY B. SEABROOK, Chairperson; DARLENE MEALY, MATHIEU EUGENE, JULISSA FERRERAS, Committee on Civil Rights, December 21, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 190-A** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 1087-A

Report of the Committee on Immigration in favor of approving and adopting, as amended, a Resolution urging the United States Congress to pass the Development, Relief, and Education for Alien Minors Act of 2009, which would provide a path to citizenship for aspiring immigrant youth who were brought to the United States as young children.

The Committee on Immigration, to which the annexed amended resolution was referred on October 17, 2007 (Minutes, page 4430), respectfully

REPORTS:

I. INTRODUCTION

On Monday, December 21, 2009, the Committee on Immigration, chaired by Council Member Kendall Stewart, will hold a hearing on Proposed Resolution Number 1087-A (Res. No. 1087-A), a resolution urging the United States Congress to pass the Development, Relief, and Education for Alien Minors Act of 2009 (the DREAM Act). The Committee previously held a hearing on Resolution Number 1087 on October 24, 2007.

II. BACKGROUND ON THE LACK OF ACCESS TO HIGHER EDUCATION FOR UNDOCUMENTED STUDENTS

Although undocumented youths can legally enroll in most colleges and universities, their immigration status makes it impossible for them to work legally in the United States and limits their eligibility for most forms of financial aid. As a result, these young people are often discouraged from applying to college. Children account for 1.8 million, or 15 percent, of the approximately 12 million undocumented immigrants living in the United States.[1] Of these undocumented children, about 65,000 who have lived in the United States for five years or longer graduate from high school each year.[2] These children, born abroad yet brought by their parents at an early age to live in the United States, may have some association with their countries of origin, but their primary connection is with the United States.[3] Many of them have resided in the United States nearly their entire lives and have received most of their education from kindergarten through twelfth grade in this country.[4] These undocumented youths include honor roll students, student leaders, talented athletes, gifted artists, and aspiring professionals who are unable to attend college and advance professionally because of the numerous legal and financial obstacles confronting them.[5] Although undocumented children can legally enroll in most colleges, they are not eligible for most forms of financial aid and they cannot work legally in order to support themselves in school.[6] Given the numerous barriers to their continued education and their exclusion from the legal workforce, many undocumented students are discouraged from applying to college.[7] It is estimated that only between 5 and 10 percent of undocumented high school graduates go to college.[8]

III. TREATMENT OF UNDOCUMENTED STUDENTS IN THE UNITED STATES

Treatment of undocumented students in the United States varies depending on the level of education at issue as well as the state in which the individual resides. The Supreme Court has held that local school districts cannot deny enrollment to undocumented children. In 1982, the Court found a Texas statute that authorized local school districts to deny enrollment to undocumented children to be unconstitutional.[9] The Court's decision in Plyler v. Doe, 457 U.S. 202 (1982), only applied to undocumented children enrolled in kindergarten through 12th grade and left open the discussion of education of undocumented children beyond 12th grade.[10] Under section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) undocumented immigrants are not eligible for any post secondary education benefit based on residence unless a United States citizen is eligible for the same benefit, regardless of that citizen's residence.[11] Despite the fact that section 505 of the IIRIRA has not been interpreted as an explicit prohibition against states offering undocumented students at institutions of higher education in-state tuition, few states have chosen not to apply this section to in-state tuition rates.[12]

Currently, there are ten states that have laws permitting certain undocumented students to pay in-state tuition at public institutions of higher education.[13] The ten states are Texas, California, Utah, Washington, Illinois, Oklahoma, New York, Kansas, Nebraska, and New Mexico.[14] These states generally require undocumented immigrant applicants to establish residency by (i) attending a local high school for two to four years, (ii) graduating or earning a high school equivalency in that state, and (iii) signing an affidavit stating that they have either applied to legalize their status or will do so when eligible.[15] For example, all schools within the City University of New York (CUNY) system allow undocumented immigrant students to pay the same in-state tuition as documented students.[16] Under the CUNY system, in-state tuition is available to any applicant, regardless of immigration status, if the student:

- Was enrolled in CUNY for the Fall 2001 semester and qualified for in-state tuition at that time; or
- Attended a New York State high school for two or more years and graduated; or
- Attended a New York State approved General Educational Development (GED) program and received GED certification; and
- Applied to attend a CUNY institution within five years of receiving a New York State diploma or GED certification; or
- If an undocumented immigrant files an affidavit stating that they have applied to legalize their status or that they will apply to do so as soon as they are eligible.[17]

Since 2001, legislators and advocates have worked on federal legislation that would allow for consistent treatment of undocumented students throughout the nation through various versions of the DREAM Act in an effort to create a viable pathway to legal status for them.

IV. THE DREAM ACT OF 2009

Senator Richard Durbin, a Democrat from Illinois, and Senator Richard Lugar, a Republican from Indiana, introduced the DREAM Act of 2009 (S. 729), on March 26, 2009.[18] As of December 16, 2009, the bill had 32 cosponsors.[19] The DREAM Act would not only repeal section 505 of the IIRIRA,[20] it would also provide immigration relief to undocumented students brought to the United States at a young age, by allowing an adjustment in status to lawful permanent resident if certain requirements are met.

In order to be deemed eligible for relief under the DREAM Act of 2009, an applicant must demonstrate the following:

- Physical presence in the United States for a continuous period of at least five years and not yet reached the age of 16 at the time of initial entry;
- Proof of good moral character;
- Admission to an institution of higher education in the United States, or graduation from a high school in the United States, or completion of a General Education Development certificate program;
- That he or she has never been under a final order of exclusion, deportation or removal, unless the order was received before reaching the age of 16; and
- Proof that he or she has not reached the age of 35 on the date of the bill's enactment.[21]

Anyone who has been deemed inadmissible or deportable as a result of involvement in certain crimes, such as those involving moral turpitude as outlined in the Immigration and Nationality Act, would not qualify for benefits under the DREAM Act.[22] An applicant who meets the aforementioned requirements would be eligible for conditional permanent resident status in the United States for six years. Within the six years, the student would have to acquire a degree from an institution of higher education, such as an associate's degree; complete two years in a program for a bachelor's degree or higher degree; or, serve in the uniformed services for at least two years.[23] Students that are eligible for conditional permanent resident status would remain ineligible for some federal academic aid, including Pell Grants and other forms of federal financial aid grants. However, DREAM Act students would be able to seek work- study, federal student loans, and any other forms of financial aid.[24] At the end of this conditional period, an applicant would be eligible to apply for lawful permanent resident status.[25] In order for an applicant to receive an adjustment from conditional status to lawful permanent resident status, the Secretary of the Department of Homeland Security would have to determine that the applicant has met the following requirements:

- Demonstrated good moral character;
- Is not inadmissible or deportable from the United States;
- Has not abandoned his or her residence in the United States;
- Has acquired a degree from an institution of higher education, completed two years in a program for a bachelor's degree or higher degree or, served in the uniformed services for at least two years; and
- Has provided a list of each secondary school that he or she has attended in the United States.[26]

V. CONCLUSION

The DREAM Act offers undocumented immigrant youths, brought to the United States at a young age, the opportunity to apply for legal status and continue their education in order to contribute to and live in the country where they have spent significant portions of their lives. However, the Act's various incarnations have faced opposition since its original introduction in 2001. Despite this resistance, the principles of the DREAM Act have garnered support across party lines. If enacted, the DREAM Act will give a significant population of United States residents the opportunity to legally live in the United States and allow them to become meaningful and productive members of society.

VI. PROPOSED RESOLUTION NUMBER 1087-A

Proposed Resolution Number 1087-A urges the United States Congress to pass the Development, Relief, and Education for Alien Minors Act of 2009, which would facilitate access to college for immigrant students in the United States, and provide a path to permanent residence for aspiring immigrant youth who were brought to the United States as young children and who want to pursue higher education, but face unique obstacles to attaining higher education, who are unable to legally work here, and who live in constant fear of detection by immigration authorities. Thousands of DREAM Act eligible students will continue to graduate from high school without meaningful opportunities for advancement, but the enactment of this legislation would provide undocumented students with the prospect of further progress.

Accordingly, Your Committee recommends its adoption, as amended.

[1] Immigration Policy Center (IPC), *Dreams Deferred: The Costs of Ignoring Undocumented Students*, September 25, 2007, http://www.ailf.org/ipc/policybrief/policybrief_2007_dream.pdf.
[2] *Id.*
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] Roberto G. Gonzales., *Wasted Talent and Broken Dreams: The Lost Potential of Undocumented Students*, Immigration Policy in Focus, Vol. 5 (13), October 2007, http://www.ailf.org/ipc/infocus/WastedTalent.pdf, at 1; Dawn Konet, *Unauthorized Youths and Higher Education: The Ongoing Debate*, Migration Policy Institute (Sept. 2007) at http://www.migrationinformation.org/Feature/display.cfm?ID=642.
[7] *Id.* at 3.
[8] *Id.*
[9] See generally, *Plyler v. Doe*, 457 U.S. 202 (1982); Konet, *supra* note 7.

[10] *Id.*
[11] Konet, *supra* note 7.
[12]Konet, *supra* note 7; National Immigration Law Center (NILC), *Basic Facts about In-State Tuition for Undocumented Immigrant Students*, (Feb. 2009).
[13]NILC, *supra* note 13.
[14]*Id.*
[15]*Id.*; Konet, *supra* note 7.
[16]City University of New York (CUNY), *CUNY In State Tuition/Financial Assistance, available at* http://web.cuny.edu/about/citizenship/info4undocumented/tuition.html (last visited Dec. 16, 2009).
[17]*Id.*
[18]See generally, Development, Relief, and Education for Alien Minors Act of 2009, S. 729, 111th Cong. (2009) *available at* http://thomas.loc.gov/.
[19]*Id.*
[20]*Supra* note 19 *at* §3(a) (2009).
[21]*Id.* at §4(a)(1).
[22]*Id.* at §4(a)(1)(C).
[23]Id. at §5(d)(1)(D).
[24]Id. at §11; The National Immigration Law Center (NILC), *DREAM Act: Summary* (updated March 2009) *available at* http://www.nilc.org/immlawpolicy/DREAM/dream_act_06_summary_2006-04.pdf.
[25]*Supra* note 19 at §5(c).
[26]*Id.* at §5(d).

(The following is the text of Res. No. 1087-A:)

Res. No. 1087-A

Resolution urging the United States Congress to pass the Development, Relief, and Education for Alien Minors Act of 2009, which would provide a path to citizenship for aspiring immigrant youth who were brought to the United States as young children.

By Council Members Stewart, Brewer, James, Palma, Mark-Viverito, Barron, Arroyo, Eugene, Mealy, Jackson, Liu and Weprin.

Whereas, Children account for 1.8 million, or 15 percent, of the approximately 12 million undocumented immigrants living in the United States; of these undocumented children, about 65,000 who have lived in the United States for five years or longer graduate from high school each year; and

Whereas, These children, born abroad, yet brought at an early age to live in the United States by their parents, have some association with their countries of origin, but their primary identification is with the United States; many of them have been in this country nearly their entire lives and have received most of their education from kindergarten through twelfth grade here; and

Whereas, Undocumented immigrant high school graduates, who have grown up in New York, include honor roll students, student leaders, talented athletes, gifted artists, and aspiring professionals; and

Whereas, Nevertheless, because of the numerous legal and financial obstacles confronting undocumented students, many are unable to afford to attend college because they are ineligible for federal higher education financial assistance programs; and

Whereas, It is estimated that only between 5 and 10 percent of undocumented high school graduates go on to college; and

Whereas, Despite the fact that many undocumented immigrant children are raised in the United States, attend local schools, and identify with American culture, existing immigration laws provide no legal avenues for these children to rectify their status; although many of these children were brought to the United States at a young age, they face unique barriers to higher education, they are unable to legally work here, and they live in constant fear of detection by immigration authorities; and

Whereas, Immigrant children should be afforded the opportunity to apply for legal status and to continue their education; they should be able to contribute and live in the country where they have spent significant portions of their lives; by encouraging these children to pursue higher education and gain legal status, the United States will both strengthen its economic foundation by creating a more educated workforce and introduce justice and fairness to our immigration system; and

Whereas, The Development, Relief, and Education for Alien Minors ("DREAM") Act was first introduced in on March 6, 2007, as S. 774, by Senator Richard Durbin, a Democrat from Illinois; on September 19, 2007, Senator Durbin introduced the DREAM Act of 2007 as an amendment, S.A. 2919, to the defense authorization bill, H.R. 1585; on March 26, 2009, Senator Durbin introduced the DREAM Act of 2009 as S. 729; and

Whereas, Among other provisions, the DREAM Act provides a six-year path to permanent resident status following high school graduation for individuals who were brought to the United States as children and have lived in the United States for more than five years; to qualify for permanent residency and obtain a green card, individuals would have to demonstrate good moral character and within the six-year period graduate obtain a degree from an institution of higher education, complete two years towards a bachelor's degree or higher degree, or serve at least two years in the United States military; and

Whereas, The comprehensive immigration reform debate has largely ignored the plight of undocumented children who predominantly have grown up and received much of their primary and secondary education in this country; without a mechanism for legalization, these children are seldom able to continue their education beyond high school due to the cost of higher education, cannot work legally in the United States, and therefore cannot effectively apply the education attained thus far; and

Whereas, In the absence of comprehensive immigration reform, young people should not be required to put their lives on hold while Congress debates the issues of what such reform should entail; and

Whereas, If enacted, the DREAM Act would allow thousands of eligible undocumented students to graduate from high school with meaningful opportunities for advancement; now, therefore, be it

Resolved, That the Council of the City of New York urges the United States Congress to pass the Development, Relief, and Education for Alien Minors Act of 2009, which would provide a path to citizenship for aspiring immigrant youth who were brought to the United States as young children.

KENDALL STEWART, Chairperson; CHARLES BARRON, ANNABEL PALMA, MELISSA MARK-VIVERITO, DARLENE MEALY, MATHIEU EUGENE, JULISSA FERRERAS, Committee on Immigration, December 21, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing those in favor, the President Pro Tempore (Council Member Rivera) declared **Res. No. 1087-A** to be adopted.

The following five Council Members formally **objected** to the passage of this item:

Council Members Felder, Gentile, Ignizio, Vallone, Jr., and Oddo.

Adopted by the Council by voice vote.

Report for voice-vote Res. No. 1924-A

Report of the Committee on Civil Service and Labor in favor of approving and adopting, as amended, a Resolution commending the bi-partisan efforts of the New York State congressional delegation and acknowledging the support of New Jersey Senators Menendez and Lautenberg, calling upon Congress to amend the bill to reduce the City of New York's contribution level currently allocated and pass the James Zadroga 9/11 Health and Compensation Act of 2009 as soon as possible and send it to President Obama for signature; and calling on Congress to strongly consider adding the health conditions identified in section 2(36) of the Retirement and Social Security Law of the State of New York, including relevant cancers, as qualifying health conditions approved for treatment in the Act.

The Committee on Civil Service and Labor, to which the annexed amended resolution was referred on April 22, 2009 (Minutes, page 1684), respectfully

REPORTS:

INTRODUCTION

On December 18, 2009, the Committee on Civil Service and Labor, chaired by Council Member Nelson, will hold a hearing on Proposed Res. No. 1924-A, a resolution calling on Congress to amend and pass the James Zadroga 9/11 Health and Compensation Act. The committee held an earlier hearing on the resolution on May 21, 2009. This resolution commends the New York and New Jersey congressional delegation for their work on the bill and calls on Congress to amend the bill to lower New York City's contribution level for treatment and monitoring costs and to strongly consider including certain cancers as covered illnesses.

BACKGROUND & ANALYSIS

The "James Zadroga 9/11 Health and Compensation Act," ("the Zadroga Bill") H.R. 847, sponsored by United States Representative Carolyn Maloney (D-NY) was first introduced in the House in February of 2009.[1] Since then a similar version of the bill sponsored by Kristen Gillibrand (D-NY) has been introduced in the Senate (S.1334)[2] This bill would provide many persons exposed to the toxins of Ground Zero a right to be medically monitored and confers upon many who are sick as a result of such exposure a right to treatment. The legislation would build on the expertise of the Centers of Excellence; expand care to the whole exposed community, including residents, area workers and students, and to the thousands of people who came from across the country to respond to the 9/11 attacks; and provide compensation for economic damages and losses by reopening the 9/11 Victim Compensation Fund. The Act would further provide a process for additional health conditions to be added to the current list of enumerated conditions, or for someone to receive treatment at a Center of Excellence who has a condition not covered as an enumerated condition should certain thresholds be met.

At the May 21st hearing, the Council heard testimony in support of federal funding for the maintenance and expansion of WTC-related monitoring and

treatment programs. There was also testimony given regarding the need for certain types of cancers to be included for coverage under the Zadroga Bill.

Although the New York City Council is in favor of many aspects of the Zadroga Bill, Res. No. 1924-A urges Congress to amend H.R. 847 to reduce the City's contribution level. Currently under H.R. 847, the City would be required to fund 10% of the entire treatment and monitoring costs for those eligible, regardless of whether they are New York City residents, with a maximum of $500 million over ten years, with the City maintaining no oversight over this expense. This resolution would call for the House version of the bill to be amended in accordance with the Senate version, which would cut the City's responsibility of funding under the Act from a maximum of $500 million to a maximum of $250 million.

This resolution would also call upon Congress to strongly consider amending the list of covered illnesses. There is increasing evidence of causal relationship between time spent at or near the World Trade Center site by both emergency responders and local workers and residents and the onset of certain cancers. In recognition of this link there exists a presumption under state law that certain cancers are causally related to 9/11 exposure for purposes of workers receiving state benefits.[3] The resolution would cite evidence tending to show a causal connection between cancers and exposure to 9/11 toxins, and would call on Congress to strongly consider adding cancer as an enumerated condition under the Act. By adopting this resolution, the Council also urges parity in the medical treatment for all affected first responders, workers and residents.

[1] H.R. 847,111th Cong. (2009)
[2] S. 1334, 111th Cong. (2009)
[3] NY CLS Retire & SS §507-c

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1924-A:)

Res. No. 1924-A

Resolution commending the bi-partisan efforts of the New York State congressional delegation and acknowledging the support of New Jersey Senators Menendez and Lautenberg, calling upon Congress to amend the bill to reduce the City of New York's contribution level currently allocated and pass the James Zadroga 9/11 Health and Compensation Act of 2009 as soon as possible and send it to President Obama for signature; and calling on Congress to strongly consider adding the health conditions identified in section 2(36) of the Retirement and Social Security Law of the State of New York, including relevant cancers, as qualifying health conditions approved for treatment in the Act.

By The Speaker (Council Member Quinn) and Council Members Gerson, Brewer, Comrie, Dickens, Fidler, Gentile, Gonzalez, James, Mealy, Palma, Recchia, Stewart, Weprin, White, Lappin, Nelson, Liu, Arroyo, Seabrook, Gennaro, Barron, Jackson and Rodriguez.

Whereas, A significant number of workers and volunteers participated in rescue, recovery and clean-up after the terrorist attacks on the World Trade Center of September 11, 2001; and

Whereas, Those who participated in the rescue and recovery effort at the World Trade Center and those who lived, worked, attended school or were otherwise present in the area around the World Trade Center on or after September 11 were exposed to a variety of environmental toxins; and

Whereas, A significant number of people continue to suffer the physical and psychological effects of the attacks, may develop additional or more severe illnesses in the future; and

Whereas,, The WTC Centers of Excellence in the City of New York that screen and treat those affected by the 9/11 attacks have struggled to maintain and improve their services without a steady stream of federal funding; and

Whereas, The James Zadroga 9/11 Health and Compensation Act (H.R. 847 "the Act") was introduced in the U.S. House of Representatives by Representatives Maloney, Nadler, King and McMahon, and later in the United States Senate as S. 1334 by Senators Gillibrand, Schumer, Menendez and Lautenberg to provide medical monitoring and treatment for first responders, area residents, workers, students, and others affected by the 9/11 terrorist attacks; and

Whereas, The Act would establish the World Trade Center Health Programs within the National Institute for Occupational Safety and Health (NIOSH) to provide care to those affected by the 9/11 terrorist attacks; and

Whereas, The WTC Program Administrator will establish a nationwide network of providers to serve eligible first responders living outside of the New York area; and

Whereas, Additional research into health conditions related to the World Trade Center would be conducted under the Act; and

Whereas, presently, the City of New York is involved in litigating claims brought by first responders and others who have become ill after 9/11; and

Whereas, The James Zadroga 9/11 Health and Compensation Act would also reopen the September 11 Victims Compensation Fund to provide compensation for damages incurred by first responders and others who did not file a claim before or became ill after the Fund was closed; and

Whereas, Re-opening the Victims Compensation Fund is necessary to provide compensation for those who are sick and will become sick in the future as a result of their exposure to World Trade Center toxins; and

Whereas, Due to the economic downturn, many programs that benefit those sickened as a result of their work related to 9/11 within the City of New York may need to be scaled back or eliminated due to the dire economic climate without ongoing federal assistance; and

Whereas, Under H.R..847, the City would be required to fund 10% of the entire treatment and monitoring costs for those eligible, regardless of whether they are New York City residents, equaling as much as $500 million over ten years according to the Congressional Budget Office, and the City maintains no oversight over this expense, while under S. 1334, the City would be required to fund 20% of the entire treatment and monitoring costs for those eligible in the community program, though the maximum the City is required to pay is reduced to $250 million over ten years; and

Whereas, As a result of the weak economy, the City has already had to make cuts in services that New Yorkers depend on and is likely to make more such cuts; and

Whereas, It is unfair that the City bears such a large burden of the costs of WTC health programs; and

Whereas, Both City employees and residents who were at the WTC sites on 9/11 or shortly thereafter were exposed to and inhaled cancer-causing toxins such as benzene, dioxin, asbestos and polycyclic aromatic hydrocarbons during the rescue, recovery and clean-up efforts; and

Whereas, a Case Series on Multiple Myeloma in the World Trade Center Responders was published in the Journal of Occupational and Environmental Medicine which ultimately confirmed at least 16 cases of Multiple Myeloma, a cancer of the white blood cells, out of approximately 28,000 responders when there are on average less than 7 cases a year expected for every 100,000 people in the United States; and

Whereas, Multiple Myeloma is expected to occur in less than 2 people out of 100,000 under the age of 45 and there were 6 cases of Multiple Myeloma out of the approximately 28,000 responders who were diagnosed with this cancer and were under the age of 45; and

Whereas, the annual number of cancers cases approved for disability by the Police pension board has more than tripled since 2005 from approximately 6 cases a year to 20 cases a year; and

Whereas, on October 13, 2009 New York City Police Commissioner, Raymond W. Kelly, added the names of ten uniformed members of the New York Police Department that died of cancer to the Police Wall of Remembrance, declaring that their mission to aid in the recovery effort resulted in them becoming casualties; and

Whereas, The New York State Legislature and Governor approved Section 13-252.1 of the NYC Administrative Code, known as the World Trade Center Presumption Bill in 2005, which amended the Retirement and Social Security Law of the State of New York and the NYC Administrative Code, creating a presumption that certain future onset health conditions or impairments, including cancer, suffered by police officers and other public employees who participated in the rescue, recovery and clean-up of the WTC sites, are presumed to have been caused by WYC-related exposure that occurred in the performance of duty, thereby entitling affected employees to an accident disability pension; now, therefore, be it

Resolved, That the Council of the City of New York commends the bi-partisan efforts of the New York State congressional delegation and acknowledging the support of New Jersey Senators Menendez and Lautenberg and calls upon Congress to amend the bill to reduce the City of New York's contribution level currently allocated, and to pass the James Zadroga 9/11 Health and Compensation Act of 2009 as soon as possible and send it to President Obama for signature; and be it further

Resolved, The Council calls on Congress to strongly consider adding the health conditions identified in section 2(36) of the Retirement and Social Security Law of the State of New York, including relevant cancers, as qualifying health conditions approved for treatment in the Act.

MICHAEL C. NELSON, JAMES F. GENNARO, LARRY B. SEABROOK, MELISSA MARK-VIVERITO, YDANIS RODRIGUEZ, Committee on Civil Service and Labor, December 18, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 1924-A** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 1930

Report of the Committee on Juvenile Justice in favor of approving a Resolution calling on the United States Senate to pass legislation reauthorizing and enhancing the Juvenile Justice and Delinquency Prevention Act.

The Committee on Juvenile Justice, to which the annexed resolution was referred on April 22, 2009 (Minutes, page 1704), respectfully

REPORTS:

I. INTRODUCTION

On June 8, 2009, the Committee on Juvenile Justice, chaired by Sara M. Gonzalez, held its first hearing on Resolution 1930. The Committee heard testimony from The Legal Aid Society, The Children's Defense Fund, and other advocates who expressed their support for Resolution 1930. On December 17, 2009, the Committee will conduct its second hearing and hold a vote on Resolution 1930 calling on the United States Senate to pass legislation reauthorizing and enhancing the Juvenile Justice and Delinquency Prevention Act of 1974 ("JJDPA").

II. RESOLUTION No. 1930

The JJDPA has been a significant source of federal funding for many states' juvenile justice systems. The guiding principle of the JJDPA is that juvenile offenders should be treated differently than adult offenders, given their disposition as children and potential for rehabilitation. As such, the JJDPA proscribes that:

- Juveniles should be segregated from adult populations in correctional facilities.[1]
- Status offenders should not be detained except for exceptional circumstances.[2]
- Efforts should be made regarding minority youth overrepresentation in the system.[3]

In order for states to receive federal funding in connection with the JJDPA, states must implement policies that are guided by the aforementioned principles, establish a State Advisory Group, and submit a Three-year State Plan for carrying out the purposes of the JJDPA. This policy has been integral in decreasing the number of incarcerated youth, has helped reduce the rate of recidivism, and has been a key resource for rehabilitative and educational services at correction facilities across the United States.

By reauthorizing the JJDPA (S.678), which has received bipartisan support for the past 30 years, state and local juvenile and criminal justice systems would receive an increase in much-needed funding, including through the availability of incentive grants for such improvements like increasing the use of evidence based prevention programs or for the recruitment, selection, training and retention of professional personnel.[4] The bill before the Senate also would enact the "Cardin Amendment," which phases out over three years the statutory exemption to the JJDPA enacted in 1980 that currently allows states to hold status offenders charged with non-criminal offenses in jail or secured confinement; and it would include the "Kennedy Amendment," which provides for early mental health assessment, referral, and treatment of youth who come in contact with the juvenile justice system who have mental health needs and disorders.

Accordingly, Your Committee recommends its adoption.

[1] Building Blocks for Youth, "Juvenile Justice Delinquency Prevention Act Fact Sheet" at http://www.buildingblocksforyouth.org/issues/jjdpa/factsheet.html.
[2] *Id.*
[3] *Id.*
[4] http://leahy.senate.gov/press/200903/032409b.html

(The following is the text of Res. No. 1930:)

Res. No. 1930

Resolution calling on the United States Senate to pass legislation reauthorizing and enhancing the Juvenile Justice and Delinquency Prevention Act.

By Council Members Gonzalez, Comrie, Dickens, Fidler, Foster, James, Palma, Sanders, Liu, Gerson, Stewart, Jackson, Mark-Viverito, de Blasio, Arroyo, Barron, Mealy, Rodriguez and Weprin.

Whereas, The United States' juvenile justice system is responsible for detained and incarcerated youth as well as administering programs designed to protect youth and reduce future juvenile crime; and

Whereas, A continuum of funding is needed to provide these necessary services to youth who come into contact with the juvenile justice system; and

Whereas, The Juvenile Justice and Delinquency Prevention Act ("JJDPA") of 1974 is a major source of federal funding to improve states' juvenile justice systems; and

Whereas, The JJDPA is based on the principle that children should not have contact with adults in jails and other institutional settings; and

Whereas, Congress initially passed the JJDPA in 1974 to keep children from having direct contact with adults in jails and prisons and to establish rules under which juvenile offenders could be detained; and

Whereas, Under the JJDPA and its subsequent re-authorizations, states are required to maintain core protective services for juveniles; and

Whereas, According to the Campaign for Youth Justice, an average of 7,500 juveniles are incarcerated in adult jails every day because the JJDPA does not apply to children who are being tried as adults; and

Whereas, Studies have shown that the majority of youth in detention centers across the country are African American or Latino, even though the JJDPA was amended during a previous reauthorization in 1994 to require states to find out why disproportionate numbers of minority juveniles are detained; and

Whereas, S.678, a bill to reauthorize and enhance the JJDPA currently pending in the United States Senate, would increase federal funding for key services including prevention, intervention, and treatment programs designed to reduce the incidence of juvenile crime; and

Whereas, S.678 would also authorize funding for mental health and drug treatment for juvenile offenders, and encourage states to address the overrepresentation of minorities in the juvenile justice system; and

Whereas, According to studies conducted by The Centers for Disease Control and Prevention, children who are incarcerated in adult prisons commit more crimes, when they are released, than children with similar histories who are kept in juvenile facilities; and

Whereas, S.678 would enhance the JJDPA by encouraging states to move away from keeping youth in adult jails by promoting plans for alternatives to detaining youth; and

Whereas, S. 678 would provide federal funding for programs that prevent delinquency as well as programs that reduce crime and recidivism among youth; and

Whereas, Reauthorizing the JJDPA would push forward new ways to help youth move out of the criminal justice system, return to school, and become responsible, hard-working members of our communities; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Senate to pass legislation reauthorizing and enhancing the Juvenile Justice and Delinquency Prevention Act.

SARA M. GONZALEZ, Chairperson; JAMES SANDERS JR., DARLENE MEALY, KENNETH C. MITCHELL, Committee on Juvenile Justice, December 17, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 1930** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 2256-A

Report of the Committee on Veterans in favor of approving, as amended, a Resolution calling upon the New York State Legislature to pass, and the Governor to approve, legislation revising the priority occupancy clauses of the Mitchell-Lama housing program to give priority admission to veterans of the Iraq, Afghanistan and Gulf Wars and to their widows and widowers and to widowers of Vietnam War-era veterans.

The Committee on Veterans, to which the annexed amended resolution was referred on November 16, 2009 (Minutes, page 5741), respectfully

REPORTS:

Background

On Thursday December 17, 2009, the Committee on Veterans, chaired by Council Member James Sanders Jr., will conduct a hearing on Proposed Resolution 2256-A, a resolution calling upon the New York State Legislature to pass, and the Governor to approve, legislation revising the priority occupancy clauses of the Mitchell-Lama housing program to give priority admission to veterans of the Iraq, Afghanistan and Gulf Wars and to their widows and widowers and to widowers of Vietnam War-era veterans.

A copy of the Resolution is attached.

Proposed Res. No 2256-A

Proposed Res. 2256-A would note that according to statistics from the United States Department of Veterans Affairs (VA) based on the 2000 Census, New York City was home to approximately 348,722 veterans at that time. The Proposed Resolution would point out although statistical calculations by the VA estimate that

in 2009 the number of veterans in NYC is approximately 225,270, many veterans groups disagree with that estimate believing the methodology is flawed and cite numbers much closer to 300,000. The Proposed Resolution would state that returning veterans often confront an array of problems during their transition to civilian life including the lack of affordable housing options.

Proposed Resolution 2256-A would point out that according to an updated 2008 New York City Housing and Vacancy Survey (HVS), the Citywide vacancy rate for rental apartments was only 2.91 percent. The Proposed Resolution would note that this low vacancy rate is an indication of the City's affordable housing crisis.

The Proposed Resolution would note that some veterans of the wars in Iraq and Afghanistan have faced extended tours of duty which may have created financial hardships for many of them and their families since military pay is more often than not substantially less than the amount such individuals earned in civilian employment. The Proposed Resolution would point out that veterans are disproportionally represented in the homeless population with the VA estimating that one-third of the nation's homeless population has served in the military. The Proposed Resolution would further state that an already difficult transition to civilian life can be exacerbated by New York City's scarcity of affordable rental apartments which may add to the risk of veteran homelessness.

Proposed Resolution 2256-A would indicate that in enacting the Mitchell-Lama program the New York State Legislature attempted to remedy a serious shortage of decent housing by providing affordable housing for individuals and families whose incomes were too high for public housing, but not high enough to afford housing developed through private enterprise. The Proposed Resolution would also state that the financial welfare of New York State residents serving in the military and their families would be advanced by the enactment of laws designed to ease transition from military to civilian life.

The Proposed Resolution would note that the Mitchell-Lama program could help ease a veteran's financial hardship by providing safe, decent and affordable housing. Proposed Resolution 2256-A would note that veterans who served from January 1, 1963 through May 7, 1975, the official end of the Vietnam War, and their widows, receive a preference in a Mitchell-Lama development if the veteran served at least six months (unless that time was shortened because of injury or death) and received a discharge other than a dishonorable discharge, but widowers of Vietnam War-era veterans do not receive such a preference.

Proposed Resolution 2256-A would also note that currently veterans of the Iraq, Afghanistan and Gulf Wars receive no priority admission or preference to a Mitchell-Lama development under any existing statues. The Proposed Resolution would further state that at this time of a general economic downturn, it is more crucial than ever that assistance be provided to grant veterans and widows and widowers of veterans priority access to affordable housing, such as the Mitchell-Lama program, so that returning veterans, as well as veterans who served in recent prior conflicts, may avoid financial hardship.

The Proposed Resolution would state that the men and women who sacrifice so much for this nation should be afforded every opportunity to receive access to affordable housing. Finally, the Resolution would call upon the New York State Legislature to pass, and the Governor to approve, legislation revising the priority occupancy clauses of the Mitchell-Lama housing program to give priority admission to veterans of the Iraq, Afghanistan and Gulf Wars and their widows and widowers and to widowers of Vietnam War-era veterans.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Res. No. 2256-A:)

Res. No. 2256-A

Resolution calling upon the New York State Legislature to pass, and the Governor to approve, legislation revising the priority occupancy clauses of the Mitchell-Lama housing program to give priority admission to veterans of the Iraq, Afghanistan and Gulf Wars and to their widows and widowers and to widowers of Vietnam War-era veterans.

By Council Members Brewer, Sanders, Mark-Viverito, The Speaker (Council Member Quinn), Comrie, Fidler, Foster, Gentile, Gonzalez, Jackson, James, Koppell, Liu, Recchia, Vann, Weprin, Lappin, Nelson Arroyo, Barron, Mealy and Rodriguez.

Whereas, According to statistics from the United States Department of Veterans Affairs (VA), based on the 2000 Census, New York City was home to approximately 348,722 veterans at that time; and

Whereas, Although statistical calculations by the VA estimate that in 2009 the number of veterans in NYC is approximately 225,270, many veterans groups disagree with that estimate believing the methodology is flawed, and cite numbers much closer to 300,000; and

Whereas, Returning veterans often confront an array of problems during their transition to civilian life including the lack of affordable housing options; and

Whereas, According to an updated 2008 New York City Housing and Vacancy Survey (HVS), the Citywide vacancy rate for rental apartments was only 2.91 percent; and

Whereas, This low vacancy rate is an indication of the City's affordable housing crisis; and

Whereas, Some veterans of the wars in Iraq and Afghanistan have faced extended tours of duty which may have created financial hardships for many of them and their families, since military pay is more often than not substantially less than the amount such individuals earned in civilian employment; and

Whereas, Veterans are disproportionately represented in the homeless population with the VA estimating that one-third of the nation's homeless population has served in the military; and

Whereas, An already difficult transition to civilian life can be exacerbated by New York City's scarcity of affordable rental apartments, which may add to the risk of veteran homelessness; and

Whereas, In enacting the Mitchell-Lama program the New York State Legislature attempted to remedy a serious shortage of decent housing by providing affordable housing for individuals and families whose incomes were too high for public housing, but not high enough to afford housing developed through private enterprise; and

Whereas, The financial welfare of New York State residents serving in the military and their families would be advanced by the enactment of laws designed to ease the transition from military to civilian life; and

Whereas, The Mitchell-Lama program could help ease a veteran's financial hardship by providing safe, decent and affordable housing; and

Whereas, Veterans who served from January 1, 1963 through May 7, 1975, the official end of the Vietnam War, and their widows, receive a preference in a Mitchell-Lama development if the veteran served for at least six months (unless that time was shortened because of injury or death) and received a discharge other than a dishonorable discharge, but widowers of Vietnam War-era veterans do not receive such a preference; and

Whereas, Currently veterans of the Iraq, Afghanistan and Gulf Wars receive no priority admission or preference to a Mitchell-Lama development under any existing statues; and

Whereas, , At this time of a general economic downturn, it is more crucial than ever that assistance be provided to grant veterans and widows and widowers of veterans priority access to affordable housing, such as the Mitchell-Lama program, so that returning veterans, as well as veterans who served in recent prior conflicts, may avoid financial hardship; and

Whereas, The men and women who sacrifice so much for this nation should be afforded every opportunity to receive access to affordable housing; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to approve, legislation revising the priority occupancy clauses of the Mitchell-Lama housing program to give priority admission to veterans of the Iraq, Afghanistan and Gulf Wars and their widows and widowers and to widowers of Vietnam War-era veterans.

JAMES SANDERS, JR., Chairperson; MICHAEL C. NELSON, TONY AVELLA, LEWIS A. FIDLER, LETITIA JAMES, Committee on Veterans, December 17, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 2256-A** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 2261

Report of the Committee on Civil Rights in favor of approving a Resolution calling upon the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution, to insure that resources for the general welfare of all citizens are equitably and appropriately distributed.

The Committee on Civil Rights, to which the annexed resolution was referred on November 16, 2009 (Minutes, page 5757), respectfully

REPORTS:

Introduction

On Monday, December 21, 2009, the Committee on Civil Rights, chaired by Council Member Larry B. Seabrook, will hold its second hearing on Proposed Resolution Number 190-A ("Proposed Res. 190-A") and Resolution Number 2261 ("Res. 2261"). Proposed Res. 190-A calls on the New York State Legislature to amend the Election Law so that prisoners are counted as residents of the county in which they reside prior to incarceration, rather than as residents of the county in

which they are detailed. Res. 2261 calls on the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution to insure that resources for the general welfare of all citizens are equitably and appropriately distributed. The Council first heard these resolutions on November 19, 2009.

Background

Article I, Section 2 of the United States Constitution, requires that the Census take place every ten years.[1] Data gathered is used to redraw congressional and state legislative district lines; allocate funds for government programs; determine areas in need of schools, roads and other infrastructural necessities; and identify demographic trends, which can be used to predict future community-specific needs.[2] The census, to be completed by every household in the United States and its territories, collects such demographic information as a person's marital status, age, gender, date of birth, race and property ownership.[3] The 2010 Census is expected to be the most expensive and expansive count undertaken in the country's history costing $15 billion and employing over 140,000 workers who will be visiting over 140 million residences.[4]

New Yorkers in Prison

According to the U.S. Census, there were 71,466 New Yorkers living in state prisons in the year 2000.[5] From the perspective of the U.S. Census Bureau, these individuals are included in the census tract of the prison in which they reside as opposed to their pre-incarceration residence.[6] The New York State Constitution, however, articulates that a person's residence does not change just because he or she is in prison.[7] Specifically, Article II, Section 4 of the New York State Constitution states that "…no person shall be deemed to have gained or lost a residence, by reason of his or her presence or absence…while confined in any public prison." Despite the state's definition of residence and the transient nature of the prison population, fifteen counties in New York State (including the five boroughs) include inmates in their population count when they reapportion their district lines every decade.[8] Because population data compiled by the census is used to establish district sizes, allocate government resources and determine legislative representation, including a prison population in a prison's census tract can disproportionately favor a prison's home county at the expense of its prisoners' pre-incarceration residences.[9] As most correctional facilities in New York are located in rural upstate counties, this fact has a meaningful impact on the city, which supplies approximately two-thirds of the state's prison population.[10] When upstate communities benefit at the expense of the city in this manner, it can have a devastating effect on communities of color, who make up 80 percent of the prison population in New York State.[11] An inaccurate census count can deprive communities of resources and representation that they badly need.

Proposed Resolutions

a. Proposed Res. 190-A

Proposed Res. 190-A calls upon the New York State Legislature to amend the election law so that prisoners are counted as residents of the county in which they resided prior to incarceration, rather than as residents of the county in which they are detained. The Census Bureau's current policy of counting prisoners in their county of incarceration unfairly augments the voting power of the prison's census tract and dilutes that of the prisoner's pre-incarceration census tract, many of which are urban areas and predominantly communities of color. Two state bills, S1633 and A5946 would require prisons to collect each prisoner's residential data and report it to the state Board of Elections, which would disseminate population counts that would be adjusted to recognize the prisoner's residence to be his or her pre-incarceration address. This corrected census data would be used for the state's redistricting purposes

b. Res. 2261

Res. 2261 calls upon the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution, to insure that resources for the welfare of all citizens are equitably and appropriately distributed. The Supreme Court ruled in the 1960s that the Equal Protection Clause of the Fourteenth Amendment requires that the legislative districts of each state contain similarly-sized populations. Given that the vast majority of prisons in the United States are located in non-metropolitan areas, the continued inclusion of incarcerated individuals in their prisons' census tracts compromises fair and accurate representation of urban areas. Because many of our state's prisoners originate from already underserved urban areas Res. 2261 calls for a change in the way the census is conducted on the ground that further underrepresentation will only serve to exacerbate existing inequities.

Accordingly, Your Committee recommends its adoption.

[1] U.S. Census Bureau, *Decennial Census, at* http://factfinder.census.gov/jsp/saff/SAFFInfo.jsp?_pageId=sp4_decennial&_submenuId= (last visited Nov. 18, 2009).
[2] *Id.*
[3] *Id.*
[4] James Janega, *2010 U.S. census will be the biggest, most expensive to date,* Chicago Tribune, May 25, 2009, *available at* http://archives.chicagotribune.com/2009/may/25/local/chi-census-18-may25.
[5] Peter Wagner, *Importing Constituents: Prisoners and Political Clout in New York,* The Prison Policy Initiative, Apr. 22, 2002, *available at* http://www.prisonpolicy.org/importing/importing.html (accessed on November 16, 2009).
[6] Peter Wagner, Meghan Rudy, Ellie Happel & Will Goldberg, *Phantom constituents in the Empire State: How outdated Census Bureau methodology burdens New York counties,* The Prison Policy Initiative, Jul. 18, 2007, at 1.
[7] *Id.*
[8] Sam Roberts, *Inmates Have Political Pull in Some New York Counties,* New York Times, Aug. 7, 2007, *available at* http://www.nytimes.com/2007/08/07/nyregion/07inmates.html.
[9] Andrea Senteno & Jay Cerrato, *Counting Convicts,* Gotham Gazette, October 31, 2007, *available at* http://www.gothamgazette.com/print/2335 (accessed on Nov. 16, 2009).
[10] Wagner, *supra* note 5.
[11] *Id.*

(The following is the text of Res. No. 2261:)

Res. No. 2261

Resolution calling upon the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution, to insure that resources for the general welfare of all citizens are equitably and appropriately distributed.

By Council Members Seabrook, Barron, Comrie, Fidler, Foster, Jackson, James, Koppell, Mealy, Vann, Palma, Arroyo, Liu and Rodriguez.

Whereas, On January 10, 1867, the State of New York ratified the Fourteenth Amendment to the United States Constitution, which repealed the three-fifths compromise, a relic of the pre-abolition period that counted only sixty percent of the enslaved population for the purposes of apportionment in the House of Representatives; and

Whereas, The Fourteenth Amendment also broadened the definition of citizenship to include former slaves and their descendents, and guaranteed all citizens the rights to due process and equal protection by the government; and

Whereas, In the 1960s, the Supreme Court determined that the Equal Protection Clause of the Fourteenth Amendment supported the rule of "one person, one vote," which sought to avoid lopsided representation in government by requiring that in each state the legislative districts contain similarly-sized populations; and

Whereas, The United States Census currently counts incarcerated individuals as residents of the census tract in which they are imprisoned; and

Whereas, Over two million people are currently serving time in correctional facilities throughout the United States; and

Whereas, Most correctional facilities in the United States are not located in or close to the prisoners' pre-incarceration census tracts; and

Whereas, Despite being home to just one-fifth of the country's population, non-metropolitan areas account for three-fifths of new prison construction; and

Whereas, Only two states permit incarcerated individuals to vote in elections, and both states require that the person vote via absentee ballot from their pre-incarceration address; and

Whereas, Including non-voting prison populations in a correctional facility's census tract artificially strengthens the voting power of that tract's non-prisoner population at the expense of the residents of the prisoners' pre-incarceration census tract; and

Whereas, Inaccurate census data further disadvantages certain communities by reducing their share of government resources that are distributed on the basis of population size; and

Whereas, Excluding prisoners from their pre-incarceration census tract disproportionately harms Black and Latino communities, who experience higher rates of incarceration than other racial groups; and

Whereas, Including prisoners in a correctional facility's census tract also compromises the accuracy of the data since nearly 800,000 people in local jails are either awaiting trials or serving short sentences; and

Whereas, The New York State Constitution explicitly states that no person shall be deemed to have gained or lost a residence, by reason of his or her presence or absence while confined in any public prison; and

Whereas, The inclusion of incarcerated individuals in a correctional facility's census tract results in disproportionality, malapportionment and urban underrepresentation in the United States House of Representatives and the New York State Legislature; and

Whereas, This practice is a nullification of the principles of "one person, one vote," of the equal protection clause and of the inherent voter protections found in the Fourteenth Amendment, Fifteenth Amendment, Nineteenth Amendment, Twenty-Fourth Amendment and all subsequent voter rights resolutions adopted by the United States Congress; and

Whereas, Congressman Edolphus Towns, in his capacity as the Chair of the Committee on Oversight and Government Reform, and Congressman William Clay, in his capacity as the Chair of the Sub-Committee on the Census, have the ability to initiate procedures within the Congress that would lead to a house resolution enforcing a fair decennial Census enumeration policy; and

Whereas, For the sake of our city's most disenfranchised communities, it is imperative that incarcerated juveniles and adults be counted in the census tract of their pre-incarceration residence; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Census Bureau to enforce a decennial census enumeration policy in which incarcerated juveniles and adults are counted in keeping with the "one person, one vote" principle inherent in the Fourteenth Amendment of the Constitution, to insure that resources for the general welfare of all citizens are equitably and appropriately distributed.

LARRY B. SEABROOK, Chairperson; DARLENE MEALY, MATHIEU EUGENE, JULISSA FERRERAS, Committee on Civil Rights, December 21, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 2261** to be adopted.

Adopted unanimously by the Council by voice vote.

INTRODUCTION AND READING OF BILLS

Res. No. 2299

Resolution calling on the City of New York to display the "Missing in Attack On Our Nation" flag at City Hall for a period of 30 days or such longer period as the Mayor and the City Council jointly deem appropriate commencing each September 11th in honor of the victims of the terrorist attacks of September 11, 2001 and as a public statement against terrorism.

By Council Member Avella, Gentile, James and Liu.

Whereas, The Missing in Attack On Our Nation ("MIA-OON") flag was designed in the aftermath of the September 11th attacks to serve as a constant reminder of those who died that day and as a tribute to victims of terrorist attacks around the world; and

Whereas, The MIA-OON flag contains the color yellow, which symbolizes hope that those captured by terrorists will be safely returned, and black, which honors those who have died in a terrorist attack; and

Whereas, The center of the flag depicts the silhouette of a mother holding hands with a small child, symbolizing that terrorist attacks target the most vulnerable members of society; and

Whereas, The flag was flown at United States army base Camp Arifjan in Kuwait, and is currently displayed at Ground Zero as well as in Afghanistan by the Army's 10th Mountain Division; and

Whereas, Flying the MIA-OON flag at City Hall every September 11th to honor the 2,976 killed and thousands more injured in the 2001 attacks would be especially meaningful because of City Hall's close proximity to Ground Zero; and

Whereas, As the United States prepares to send an additional 30,000 soldiers to fight the War on Terror in Afghanistan, it is critical that the home front show support for the troops and never forget the victims of September 11th and other terrorist attacks around the world; now, therefore, be it

Resolved, That the Council of the City of New York calls on the City of New York to display the "Missing in Attack On Our Nation" flag at City Hall for a period of 30 days or such longer period as the Mayor and the City Council jointly deem appropriate commencing each September 11th in honor of the victims of the terrorist attacks of September 11, 2001 and as a public statement against terrorism.

Referred to the Committee on Governmental Operations.

Res. No. 2300

Resolution calling upon the New York City Department of Education to amend Chancellor's Regulation A-812, in order to repeal the City's ban on the sale of baked goods, cookies, and other "non-health" food items from schools, school yards, or school fundraisers.

By Council Member Brewer, Barron, Fidler, Gentile, Jackson, James and Liu.

Whereas, A Department of Education (DOE) regulation, Chancellor's Regulation A-812, approved in June 2009 states that only food and beverages approved by the Office of School Food and purchased through central contracts may be offered for sale to students through vending machines, school stores, student fundraising, and/or other school fundraising activities *during prescribed times* from the beginning of the school day until 6 PM; and

Whereas, The regulation further states that the rule respecting the sale of non-approved food items may only be lifted to permit Parent Associations and Parent-Teacher Associations (PA/PTA) to raise funds using food sales once per month, as long as their sale of any non-approved food items does not occur between the beginning of the school day and the last lunch period; and

Whereas, The *New York Times* noted in an October 3, 2009 article that bake sales have consistently been lucrative fundraising tools for school clubs and teams, and serve to help finance many extracurricular functions and charitable contributions as well; and

Whereas, The *Village Voice* commented on October 27, 2009 that the Beacon School in Manhattan and several other schools, use the profits from bake sales to fund scholarships for selected or needy students each year; and

Whereas, *Gotham Schools,* an online periodical that chronicles the New York City public school system, reported on November 13, 2009 that students from high schools citywide staged a protest of the DOE regulation at City Hall in early November, arguing that enforcing the ban detracts attention from much more disparaging problems in the city's schools; and,

Whereas, Public schools in New York City have already had to absorb budget cuts of approximately 4% in FY10, forcing the elimination of some staff positions and many extracurricular programs; and

Whereas, Both the Mayor and Governor are projecting additional education cuts due to the ongoing fiscal crisis; and

Whereas, Student extracurricular activities are often among the first programs to be cut in response to school budget reductions, thereby contributing to the need for students to raise funds to support such activities; and

Whereas, A diabetes researcher at the Albert Einstein College of Medicine stated in an article in the *Village Voice* on October 27, 2009 that increased physical education programs would contribute much more to the health and well-being of students than the bake sale ban, and that the ban will be ineffective in solving the issues of childhood obesity; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to amend Chancellor's Regulation A-812, in order to repeal the City's ban on the sale of baked goods, cookies, and other "non-health" food items from schools, school yards, or school fundraisers.

Referred to the Committee on Education.

Int. No. 1107

By Council Member Gerson, Barron, Gentile, James, Lappin, Liu and Nelson.

A Local Law to amend the administrative code of the city of New York, in relation to the acceptance of residential fat, oil and grease by commercial establishments for collection and reuse as biodiesel fuel.

Be it enacted by the Council as follows:

Section 1. Title 24 of the administrative code of the city of New York is amended by adding a new section 528 to read as follows:

§24-528 a. Definitions. When used in this section the following terms shall have the following meanings:

1. "Biodiesel fuel" shall mean a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural and other plant oils or animal fats and that meets American Society for Testing and Materials specification D6751-08 for Biodiesel Fuel Blend Stock for Distillate Fuels.

2. "Residential fat, oil and grease" shall mean a material in either liquid or solid form composed primarily of fat, oil or grease from animal or vegetable sources generated by the occupants of a dwelling unit.

3. "Commercial establishment" shall mean any commercial establishment that utilizes a grease interceptor on its premises pursuant to title 15 of the rules of the city of New York.

b. Department establishment and administration of program. 1. The department shall establish a program for the acceptance by commercial establishments of residential fat, oil and grease at no fee to residents, and shall establish registration requirements and enforcement consistent with the requirements of this section.

2. Within six months of the effective date of this section, the department shall, in conjunction with the department of health and mental hygiene, conduct outreach to food service establishments and other commercial establishments that are required to or actually utilize a grease interceptor to apprise them of the existence of the residential fat, oil and grease collection program established by this section.

3. Within twelve months of the effective date of this section, the department shall make available on its website a list of all registered commercial establishments. Any such list shall include the address of each registered commercial establishment, and the time of day and day of the week when each registered commercial establishment will accept residential fat, oil and grease for collection. The department shall update such list every thirty days.

c. Registration of commercial establishments. 1. Within six months of the effective date of this section, the department shall begin accepting applications for registration for participation in the residential fat, oil and grease collection program established by this section.

2. A registered commercial establishment shall accept for collection residential fat, oil and grease delivered to its premises, at no fee, during such days and hours as is determined by such registered commercial establishment.

3. In addition to any information or material required by the department, a commercial establishment applying to register for the residential fat, oil and grease collection program, shall provide to the department valid proof, as shall be determined by the department by rule, that the materials captured by such commercial establishment's grease interceptor are collected by, or delivered to, a company or other entity that uses such contents to produce biodiesel fuel.

4. A registration issued pursuant to this section shall expire one year from the date on which it is issued. A registered commercial establishment may renew its registration by submitting valid proof consistent with the provisions of paragraphs two and three of this subdivision, in addition to any other information or material required by the department.

d. Enforcement. 1. Any registered commercial establishment that violates any provision of paragraph two of subdivision c of this section shall be liable for a civil penalty in the amount of five hundred dollars. Any registered commercial establishment that commits a second or subsequent violation of the provisions of paragraph two of subdivision c of this section shall be liable for a civil penalty in the amount of one thousand dollars and shall have its registration revoked.

2. Any person or entity who knowingly submits an application for registration on behalf of a commercial establishment pursuant to paragraph three of subdivision c of this section which contains a false or misleading statement as to a material fact or omits to state any material fact shall be liable for a civil penalty of five hundred dollars. Any such application filed on behalf of a commercial establishment shall be denied and any registration issued to such a commercial establishment pursuant to this section shall be revoked where the false or misleading nature of a material statement was discovered after the issuance of such registration. It shall be an affirmative defense that a person or entity neither knew nor should have known that a statement of material fact was false or misleading, or that a material fact was omitted.

§ 2. This local law shall take effect ninety days from enactment except that the commissioner shall take such steps as are necessary for the implementation of this local law including the promulgation of rules, prior to such effective date.

Referred to the Committee on Sanitation and Solid Waste Management.

Int. No. 1108

By Council Member Gerson, Barron, Gentile, James, Liu and Nelson.

A Local Law to amend the administrative code of the city of New York, in relation to designation of "heavy use" thoroughfares, placement of street level air quality monitors at designated "heavy use" thoroughfares and other locations by the Department of Transportation and in relation to requiring annual reporting of the air quality monitoring results.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that there is ample evidence that poor air quality is associated with adverse health impacts. Documented adverse health impacts include increased risk of mortality from lung cancer, from cardiovascular diseases, and respiratory diseases. Recent studies also show that children are particularly susceptible to exposure to air pollution which is known to lower IQ scores even before birth[18] and can leave children more susceptible to respiratory diseases later in life. Prenatal exposure to air pollution is linked with genetic abnormalities at birth and developmental delays by age three. Among obese children[19], more pronounced deficits in lung function have been observed in response to air pollution than among children of normal weight. Similarly, air pollution can have devastating impacts on people with compromised immune systems, the elderly and individuals with respiratory diseases.

The Council further finds that pollution from mobile sources represents a significant threat to children because one in three public schools in the United States is located within four hundred meters of a major highway[20] which usually serve as routes for trucks and other traffic. The location of schools and school playgrounds in proximity to major highways and to mobile sources pollution generated by vehicles affects children more than adults because children spend more than thirty percent of their day on school grounds, in classrooms and, after school, involved in extracurricular activities at school. Finally, the Council finds that the Environmental Protection Agency is proposing a new and more stringent national standard for nitrogen dioxide ("NO_2"), caused by emissions from cars, trucks, buses, power plants and industrial facilities. The new proposed standard is based upon current scientific evidence linking short-term NO_2 exposures to respiratory effects in people with asthma and other respiratory diseases and at-risk populations such as children and the elderly. The proposed NO_2 standard would add NO_2 monitoring within fifty meters of major roads but would not require any NO_2 monitoring near schools, parks or playgrounds.

Therefore the Council finds that it is in the best interests of the City to designate heavy traffic thoroughfares and to require that air monitors be placed at designated heavy use thoroughfares and outside of parks, playgrounds, ball fields and school playgrounds that adjoin designated heavy use thoroughfares and to require annual reports on the results of the ambient air quality monitoring.

§ 2. Section 24-108 of the administrative code of the city of New York is amended by adding new subdivisions g, h, i, and j to read as follows*:*

(g) *For purposes of this section the following terms shall have the following meanings:*

(1) "Heavy use thoroughfares" shall mean any highway, roadway or other traffic corridor that has traffic volume greater than the fiftieth percentile of the average New York city roadway corridors or have traffic in excess of 100,000 vehicles on an annual basis. Designation of heavu use thoroughfares shall be based upon verifiable usage and traffic volume data obtained from transportation planning agencies including, but not limited to, the New York metropolitan transportation council, the New York city department of transportation and the New York state department of transportation.

(2) "Recreational area" shall mean any park, playground, ball field and school playground that abuts a heavy use thoroughfare..

(3)"Regulated air contaminant" shall mean oxides of nitrogen, volatile organic compounds, sulfur dioxide, particulate matter, carbon monoxide, carbon dioxide, polycyclic aromatic hydrocarbons or any other air contaminant for which a national ambient air quality standard has been promulgated; or any air contaminant that is regulated under section 42 USC 7412 of the Clean Air Act.

(4) "At risk populations" shall mean infants and young children, pregnant women, older adults, and people with weakened immune systems.

(h)Designation of heavy use thoroughfares. The department shall, no later than June 30 2010, designate heavy use thoroughfares in every borough.

(i).Placement of air monitors. The department shall install street level air monitors at a minimum at two major intersections on every designated heavy use thoroughfare and at every recreational area, by December 30,,2010. Commencing on December 30, 2011 and every December 30 thereafter, the department shall issue a report containing the results of the air quality monitoring of designated heavy use thoroughfares.

i. Where the results of the air quality monitoring on and adjoining heavy use thoroughfares indicate that levels of any regulated air contaminant constitute a violation of an existing standard for any regulated air contaminant or contribute to an actual or potential danger to public health or the environment or present a health risk to at-risk populations such as children under the age of sixteen or the elderly as defined by federal law, based upon the most recent research available, the department of environmental protection along with the departments of transportation and of education shall collaboratively identify and require the implementation of corrective mitigation measures that significantly reduce or eliminate short-term and long term exposure risks.

§3. This local law shall take effect ninety days after enactment, except that the commissioner of environmental protection shall take such measures, as are necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Environmental Protection.

Int. No. 1109

By Council Member Gerson, Barron, Fidler, Gentile, Jackson, James, Lappin, Liu and Weprin.

A Local Law to amend the administrative code of the city of New York, in relation to the creation of guidelines for requiring owners and operators of exterior lights to shield the lights when they create undue glare.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that technological advances have led to the production of brighter light sources, often resulting in excessive lighting, energy waste, and light pollution when lighting is not designed to direct the light toward the intended target. Over time, the nighttime environment has become impacted by the effects of light pollution which include glare, light trespass, and skyglow, all of which affect our quality of life. Light pollution makes it harder to observe the night sky, and scientific studies have demonstrated negative and destructive effects of altered nocturnal environments on species and ecosystems. Recent research indicates that exposure to light at night can upset normal human circadian rhythms, thereby disrupting hormone secretions and weakening the body's immune system. Excessive and improperly shielded lighting burdens society with the economic and environmental costs of wasted energy. The Council further finds that good outdoor lighting at night benefits everyone as it increases safety due to reduced glare, promotes good health of our environment and citizenry, and preserves the ability to view the stars against a dark night sky.

for the Lower Ma———————————

[18] Frederica P. Perera, DrPh, Zhigang Li, MPS, Robin Whyatt, DrPH, Lori Hoepner MPH, Shuang Wang PhD, David Camann MS and Virginia Rauh, Scd, Prenatal Airborne Polyclclic Aromatic Hydrocarbon Exposure and Child IQ at Age 5 Years, Pediatrics Published online July 20, 2009 (doi:10.1542/10.154/peds.2008-3506).

[19] Luttmann-Gibson H, Dockery DW. Short-term effects of air pollution on lung function: Are obese children at higher risk? Paper presented at: annual meeting of the American Thoracic Society; May 23, 2004; Orlando.

[20] Sergey Grinshpun, Many U.S. Public Schools in Air Pollution Danger Zone, Journal of Environmental Planning and Management, September 2008.

Therefore the Council finds that it is in the best interests of the residents of the city to require owners and operators of exterior lights to prevent nighttime glare and light trespass from excessive lights and high powered light fixtures.

Section 1. Article 17 of subchapter 7 of chapter 1 of title 27 of the administrative code of the city of New York is amended by adding a new section 27-505.2 to read as follows:

§27-505.2 Requirement that existing exterior lighting has fully shielded light fixtures. a. For purposes of this section, the following terms shall have the following meanings:

1. "Existing exterior light fixture" shall mean light generated from an existing indoor or outdoor source that provides illumination to a surface, building, structure, device, or other outdoor feature.

2. "Fully shielded" shall mean a fixture designed, constructed and installed in a fixed position in such a manner that all light emitted is projected below the horizontal plane through the fixture's lowest light emitting part.

3. "Lighting" shall mean equipment and effects of lighting produced by artificial means.

4. "Lumens" shall mean the unit of measurement used to quantify the amount of light produced by a light bulb or emitted from a fixture.

b. Existing exterior light fixtures shall minimize glare and light trespass to the greatest extent possible. Unless otherwise provided for in this section, all existing exterior light fixtures that are rated to emit 1800 lumens or greater shall be maintained as fully shielded light fixtures so as to avoid illuminating areas not intended to be illuminated by such fixture.

c. Where such light fixture cannot be shielded as required by this section, such light fixtures shall be replaced at the end of its useful life. Its useful life shall be determined in accordance with any schedule for the amortization of the cost of such light fixture set forth in the internal revenue code or regulations or state law, whichever would provide for earlier replacement.

d. This section shall not apply to the following:

1. Residential type fixtures that are UL-rated to be lamped at wattages not to exceed 60 watts with lamps rated no greater than 900 lumens.

2. Low light output "landscape lighting" if the lighting was not set up to operate continuously from dusk to dawn.

e. Any person who receives notice from the department of a violation has ninety days to cure such violation.

f. Any person who fails to correct the violation within ninety days after such notice shall be liable for a civil penalty of not less than two hundred dollars nor more than one thousand dollars for each day that such violation exists.

§2. This local law shall take effect ninety days after enactment, except that the commissioner of buildings shall take such measures, including the promulgation of rules, as are necessary for its implementation prior to such effective date.

Referred to the Committee on Housing and Buildings.

Res. No. 2301

Resolution calling on New York City to rename the Manhattan Detention Complex located at 125 White Street after Benjamin Ward, the City's first black Police Commissioner.

By Council Member Gerson, Avella, Barron, Fidler, Jackson, James and Weprin.

Whereas, The Manhattan Detention Complex was previously named the Bernard B. Kerik Complex, in honor of the man who served as Commissioner of the New York City Police Department ("NYPD") from 2000 to 2001; and

Whereas, On June 30, 2006, after an eighteen month investigation conducted by the Bronx District Attorney's Office, Mr. Kerik pled guilty to two ethics violations and was ordered to pay a $221,000 fine; and

Whereas, The naming of the detention center after a distinguished public servant is a worthwhile idea; and

Whereas, In contrast to the actions of the former Police Commissioner which make it inappropriate to name an institution of justice after him, Benjamin Ward's distinguished record as Commissioner of the New York City Department of Corrections and Commissioner of the NYPD make him an ideal candidate for such an honor; and

Whereas, Mr. Ward's personal story is inspirational, as he came from humble roots to earn a position with the 80th Precinct in Crown Heights, Brooklyn in 1951, then an all-white neighborhood where he was the first black police officer; and

Whereas, Mr. Ward quickly rose through the ranks through hard work and brilliance, evidenced by the top honors he received from Brooklyn College and Brooklyn Law School; and

Whereas, In 1975, Mr. Ward was appointed state commissioner for correctional services, where he successfully addressed many of the problems that he believed had caused the Attica state prison revolt four years earlier, particularly the issue of racism among correction officers; and

Whereas, In 1979, Mayor Koch appointed Mr. Ward police commissioner, and he served for more than five years, facing challenges including a crack epidemic that brought with it a huge surge in addiction, homelessness, murder, theft, robbery, and gang warfare; and

Whereas, Mr. Ward achieved national visibility by becoming one of the nation's first promoters of community policing; and

Whereas, Under his leadership, the NYPD increased the number of African American officers by 17 percent, Latino officers by 60 percent and female officers by an astonishing 85 percent, without the mandate of legislation or affirmative action policies; and

Whereas, Mr. Ward earned a reputation for uprightness and candor, in part by accepting responsibility for police brutality when officers tried to impose a curfew in Tompkins Square Park in 1988; and

Whereas, The City of New York would do well to honor one of its most distinguished and pioneering public servants who, through his dedication to fairness and justice, transformed the city's landscape in terms of crime, race relations, and the increased opportunity for an increasingly diverse police force to serve the community; now, therefore, be it

Resolved, That the Council of the City of New York calls on New York City to rename the Manhattan Detention Complex located at 125 White Street after Benjamin Ward, the City's first black Police Commissioner.

Referred to the Committee on Fire and Criminal Justice Services.

Res. No. 2302

Resolution calling on the New York City Department of Small Business Services to develop marketplaces that would enable general vendors who are unable to obtain vending licenses to exhibit and sell their goods.

By Council Member Gerson, Barron, James and Nelson.

Whereas, There are more than 10,000 street vendors operating on the streets of New York; and

Whereas, The City of New York has a longstanding policy of encouraging the development of small business; and

Whereas, Many of the individuals seeking permits and places in which to operate are immigrants who, for a variety of reasons, have few job opportunities outside of street vending; and

Whereas, Law-abiding vendors contribute to the economy and the character of this great city; and

Whereas, General vendors, who sell apparel, toys, flowers, and other non-food-related items, often have a difficult time obtaining a license to vend; and

Whereas, General vendor licenses are currently capped at 853 vendors and have a waiting list over 3,000 individuals long; and

Whereas, Vendors need a place to sell their goods where there will be minimal interference with vehicular or pedestrian traffic; and

Whereas, Enclosed marketplaces have been operating successfully in New York City for many years; and

Whereas, One such marketplace, GreenFlea, Inc., has operated a highly successful vendors' market in and around Middle School 44 on the Upper West Side since 1985, allowing vendors to have a viable place to sell their products while also raising money for the school through the lease of the space; and

Whereas, Providing an enclosed space for vendors who lack general vending licenses would give entrepreneurial New Yorkers an alternative to illegal vending; and

Whereas, Creating a centrally-located marketplace would also provide vendors with greater exposure and publicity while easing crowding on sidewalks often populated with general vendors; and

Whereas, In these challenging economic times, it is imperative that the City make every effort possible to increase job opportunities in our city; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Small Business Services to develop marketplaces that would enable general vendors who are unable to obtain vending licenses to exhibit and sell their goods.

Referred to the Committee on Small Business.

Int. No. 1110

By Council Member Weprin and Fidler (by request of the Mayor).

A Local Law in relation to the date of submission by the mayor of a preliminary management report and the date prior to which the council shall conduct public hearings and the date by which the council shall submit a report or reports pertaining thereto, the date of submission by the

mayor of the preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects, the date of submission by the mayor of the preliminary budget, the date of publication by the director of the independent budget office of a report on revenues and expenditures, the date of submission by the community boards of statements in regard to the preliminary budget, the date of submission by the commissioner of finance of an estimate of the assessed valuation of real property and statement of real property taxes due, expected to be received, and uncollected, the date of submission by the mayor of a tax benefit report, the date of submission by the borough boards of statements on budget priorities, the date of submission by the council of estimates of the financial needs of the council, the date of submission by the borough presidents of proposed modifications of the preliminary budget, the date of publication by the director of the independent budget office of a report analyzing the preliminary budget, the date by which the council shall hold hearings and submit recommendations in regard to the preliminary budget, and the date of submission by the campaign finance board of estimates of the financial needs of the campaign finance board, relating to the fiscal year two thousand eleven.

Be it enacted by the Council as follows:

Section 1. During the calendar year 2010 and in relation to the 2011 fiscal year:

1. Notwithstanding any inconsistent provisions of section 12 of the New York city charter, as amended by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a preliminary management report as therein described not later than February 11, 2010, and the council shall conduct public hearings on such report prior to April 20, 2010 and submit to the mayor and make public not later than April 20, 2010, a report or reports of findings and recommendations.

2. Notwithstanding any inconsistent provisions of section 235 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit and publish a preliminary certificate regarding debt and reserves and appropriations and expenditures for capital projects as therein described not later than January 28, 2010.

3. Notwithstanding any inconsistent provisions of section 236 of the New York city charter, as amended by local law number 25 for the year 1998, the mayor shall pursuant to such section submit a preliminary budget as therein described not later than January 28, 2010.

4. Notwithstanding any inconsistent provisions of section 237 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the independent budget office shall publish a report on revenues and expenditures as therein described on or before February 11, 2010.

5. Notwithstanding any inconsistent provisions of section 238 of the New York city charter, as added by vote of the electors on November 7, 1989, each community board shall pursuant to such section submit a statement and recommendations in regard to the preliminary budget as therein described not later than February 25, 2010.

6. Notwithstanding any inconsistent provisions of section 239 of the New York city charter, as added by vote of the electors on November 7, 1989, the commissioner of finance shall pursuant to such section submit an estimate of the assessed valuation of real property and a certified statement of all real property taxes due as therein described not later than February 25, 2010.

7. Notwithstanding any inconsistent provisions of section 240 of the New York city charter, as added by vote of the electors on November 7, 1989, the mayor shall pursuant to such section submit a tax benefit report as therein described not later than February 25, 2010.

8. Notwithstanding any inconsistent provisions of section 241 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough board shall pursuant to such section submit a statement of budget priorities as therein described not later than March 8, 2010.

9. Notwithstanding any inconsistent provisions of section 243 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section approve and submit estimates of the financial needs of the council as therein described not later than March 31, 2010.

10. Notwithstanding any inconsistent provisions of section 245 of the New York city charter, as added by vote of the electors on November 7, 1989, each borough president shall pursuant to such section submit any proposed modifications of the preliminary budget as therein described not later than March 22, 2010.

11. Notwithstanding any inconsistent provisions of section 246 of the New York city charter, as added by vote of the electors on November 7, 1989, the director of the independent budget office shall pursuant to such section publish a report analyzing the preliminary budget as therein described on or before March 26, 2010.

12. Notwithstanding any inconsistent provisions of section 247 of the New York city charter, as added by vote of the electors on November 7, 1989, the council shall pursuant to such section hold hearings and submit recommendations as therein described not later than April 8, 2010.

13. Notwithstanding any inconsistent provisions of subdivision c of section 1052 of the New York city charter, as added by vote of the electors on November 3, 1998, the campaign finance board shall pursuant to such subdivision submit estimates of the financial needs of the campaign finance board as therein described not later than March 22, 2010.

§ 2. This local law shall take effect immediately, except that if it shall have become a law after January 16, 2010, it shall be retroactive to and deemed to have been in full force and effect as of January 16, 2010.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

Res. No. 2303

Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2009 and Fiscal 2010 Expense Budgets.

By Council Member Weprin.

Whereas, On June 19, 2009 the Council of the City of New York (the "City Council") adopted the expense budget for fiscal year 2010 with various programs and initiatives (the "Fiscal 2010 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted Fiscal 2010 Budget by approving the new Purpose of Funds for the Greenwich Village-Chelsea Chamber of Commerce ("GVCCC") within the budget of the Department of Small Business Services; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted 2010 Budget by approving the new Purpose of Funds for the Brooklyn Ballet within the budget of the Department of Youth and Community Development; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted 2010 Budget by approving the new Purpose of Funds for the Homecrest Community Services within the budget of the Department of Youth and Community Development; and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted Fiscal 2010 Budget by approving the new designation and changes in the designation of certain organizations receiving local, aging and youth discretionary funding, and by approving the new designation and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in accordance therewith; and

Whereas, On June 29, 2008, the City Council adopted the expense budget for fiscal year 2009 with various programs and initiatives (the "Fiscal 2009 Expense Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Fiscal 2009 Expense Budget by approving the new designation and changes in the designation of certain organizations receiving local and youth discretionary funding; now, therefore, be it

Resolved, That the City Council approves the new Purpose of Funds for the Greenwich Village-Chelsea Chamber of Commerce ("GVCCC") within the budget of the Department of Small Business Services to read: "The Greenwich Village-Chelsea Chamber of Commerce requests funding for the ***web*** publication of a map and guide. This Member Directory will feature expanded business listings and full-color street, bus and subway maps, making it easier for tourists and residents, alike, to find our members."; and be it further

Resolved, That the City Council approves the new Purpose of Funds for the Brooklyn Ballet within the budget of the Department of Youth and Community Development to read: "Funds will help to provide youth programming to local school children"; and be it further

Resolved, That the City Council approves the new Purpose of Funds for the Homecrest Community Services within the budget of the Department of Youth and Community Development to read: "Provide community development including services to the aging population."; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding as set forth in Chart 1, attached hereto as Exhibit A; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving aging discretionary funding as set forth in Chart 2, attached hereto as Exhibit B; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving youth discretionary funding as set forth in Chart 3, attached hereto as Exhibit C; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Cultural After School Adventure Initiative, as set forth in Chart 4, attached hereto as Exhibit D; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Immigrant Opportunity Initiative, as set forth in Chart 5 attached hereto as Exhibit E; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Food Pantries Initiative, as set forth in Chart 6 attached hereto as Exhibit F; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Space Costs for Seniors Initiative, as set forth in Chart 7 attached hereto as Exhibit G; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Senior Center PEG Restoration Initiative, as set forth in Chart 8 attached hereto as Exhibit H; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Infant Mortality Reduction Initiative, as set forth in Chart 9 attached hereto as Exhibit I; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to an Initiative Fund Transfer, as set forth in Chart 10 attached hereto as Exhibit J; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving funding pursuant to the Children Under Five Initiative, as set forth in Chart 11 attached hereto as Exhibit K; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Primary Care Initiative, as set forth in Chart 12 attached hereto as Exhibit L; and be it further

Resolved, That the City Council approves the new designation of certain organizations receiving funding pursuant to the Legal Services/Anti-Eviction Initiative, as set forth in Chart 13 attached hereto as Exhibit M; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of an organization receiving local discretionary funding in accordance with the Fiscal 2009 Expense Budget, as set forth in Chart 14, attached hereto as Exhibit N; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of an organization receiving youth discretionary funding in accordance with the Fiscal 2009 Expense Budget, as set forth in Chart 15, attached hereto as Exhibit O.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for text of attachment to resolution, please see the Report of the Committee on Finance for Res No. 2303 printed in these Minutes).

Res. No. 2304

Resolution pursuant to the New York State Environmental Quality Review Act setting forth findings of the Council concerning the environmental review conducted for Proposed Int. No. 1014-A.

By Council Members White, Mealy and Weprin.

Whereas, The enactment of Proposed Int. No. 1014-A is an "action" as defined in section 617.2(b) of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York; and

Whereas, The Economic Development Corporation has prepared on behalf of the Office of the Mayor, a co-lead agency pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, an Environmental Assessment Statement, pursuant to Article 8 of the New York State Environmental Conservation Law, section 617.7 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review an Environmental Assessment Statement; and

Whereas, The Council, as a co-lead agency pursuant to section 5-03(d) of the Rules of Procedure for City Environmental Quality Review, has considered the relevant environmental issues as documented in the Environmental Assessment Statement attendant to such enactment and in making its findings and determinations under the Rules of Procedure for City Environmental Quality Review and the State Environmental Quality Review Act, the Council has relied on that Environmental Assessment Statement; and

Whereas, After such consideration and examination, the Council has determined that a Negative Declaration should be issued: and

Whereas, The Council has examined, considered and endorsed the Negative Declaration that was prepared; now, therefore, be it

Resolved, That the Council of the City of New York, having considered the Negative Declaration, hereby finds that:

(1) the requirements of The State Environmental Quality Review Act, Part 617 of Title 6 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, and the Rules of Procedure for City Environmental Quality Review have been met; and

(2) as documented in the annexed Environmental Assessment Statement, the proposed action is one which will not result in any significant adverse environmental impacts; and

(3) the annexed Negative Declaration constitutes the written statement of facts and conclusions that form the basis of this determination.

Adopted by the Council (preconsidered and approved by the Committee on Economic Development).

L.U. No. 1294

By Council Member Weprin:

Southeast Grand Street Guild HDFC, Block 341, Lot 1, Manhattan, Council District No. 1, Section 577 of Private Housing Finance Law.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 1295

By Council Member Weprin:

Grand Street Guild East HDFC, Block 341, Lot 70, Manhattan, Council District No. 1, Section 577 of the Private Housing Finance Law.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 1296

By Council Member Weprin:

Grand Street Guild HDFC, Block 341, Lot 58, Manhattan, Council District No. 1, Section 577 of the Private Housing Finance Law.

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 1297

By Council Member Katz:

Application no. 20105219 SCM, a proposed site for a new, approximately 612 seat Primary/Intermediate School Facility, known as P.S/I.S. 281, to be located on the East Side of First Avenue between East 35th and East 36th Streets (Block 967, Lot 1 in portion), Council District No. 4, Borough of Manhattan. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.

Adopted by the Council (preconsidered and approved by the Committee on Landmarks, Public Siting and Maritime Uses).

L.U. No. 1298

By Council Member Katz:

Application submitted by the New York City Department of Housing Preservation and Development for Council approval, pursuant to Article

16 of the General Municipal Law, for a modification to a previously approved Urban Development Action Area Project and 924 and 928 Madison Street and 1023, 1013, 1007, 1052 and 1054 Putnam Avenue, Borough of Brooklyn, Council District no. 41. (20105220 HAK).

Adopted by the Council (preconsidered and approved by the Committee on Planning, Dispositions and Concessions).

L.U. No. 1299

By Council Member Katz:

Application no. C 090383 ZSR submitted by Northrop Grumman Information Technology Inc., pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 107-73 of the Zoning Resolution to modify the height and setback regulations of Section 107-43 to allow a 120 foot-high NYC WiN telecommunications tower in connection with a proposed wireless communications facility on property located at 645 Rossville Avenue (Block 6145, Lots 40 and 300), in an R3X/C1-2 District.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

The Next Stated Council Meeting

Will be

The Charter Meeting

On Wednesday, January 6, 2010

12:00 Noon

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) adjourned these proceedings to meet again for the Charter Meeting on Wednesday, January 6, 2010.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

***Editor's Local Law Note**: Int Nos.662-A and 907, both adopted by the Council at the November 16, 2009 Stated Council Meeting and vetoed by the Mayor on December 8, 2009, were both enacted into law upon the override of the Mayor's veto by the Council at this December 21, 2009 Stated Council Meeting. Int Nos. 662-A and 907 were subsequently assigned the local law numbers, respectively, of 81 and 82 of 2009.*

Int No. 240-A (adopted by the Council at the December 21, 2009 Stated Council Meeting) , Int Nos. 476-A, 564-A (both adopted by the Council at the December 9, 2009 Stated Council Meeting), Int No.853-A (adopted by the Council at the December 21, 2009 Stated Council Meeting), Int Nos. 967-A and 973-A (adopted by the Council at the December 9, 2009 Stated Council Meeting), Int Nos. 1014-A, 1063-A, 1083-A,1103-A, 1106, and 1110 (adopted by the Council at the December 21, 2009 Stated Council Meeting) were all signed by the Mayor into law on December 28, 2009 as, respectively, Local Law Nos. 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, and 94 of 2009.

***Editor's Note**: This Stated Meeting marks the final proceedings of the New York City Council 2006-2009 legislative session; all items still in committee and without a final action are deemed to have died on December 31, 2009 and are considered Filed ("Sine Die" - End of Session) - M.D.*