

# MARCUS & POLLACK LLP

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March 21, 2016

**BY HAND**

Ms. Elaine Toribio  
Director, Tax Incentive Programs  
HPD  
100 Gold Street, 3rd Floor  
New York, New York 10038

Re: Section 421-a Application for Preliminary Certificate of Eligibility  
145 Clinton Street, TEO 11391  
Block 346, Lot 40 (f/k/a p.o. 40), Manhattan

Dear Ms. Toribio:

Enclosed please find a printout of the online §421-a application our office submitted electronically to HPD for a Preliminary Certification of Eligibility.

This application relates to the construction of a new 15-story multiple dwelling containing 211 residential rental units. The new multiple dwelling will be constructed on tax lots resulting from the subdivision of former tax lot 40 into new lots 1001-1005 and referred to by the project architect as "proposed Lot B" in Exhibit 8. As instructed by Pramila Louison, the application lists the Current Lot as "Lot 40" and the Tentative Lot as "Lot 40." The newly created condominium tax lots are 1001-1005 and explained in further detail in "Exhibit 10" of this application.

# MARCUS & POLLACK LLP

Construction commenced prior to the date of the Deed, however the Applicant has a License Agreement permitting construction on the site prior to the execution of the Deed (see "Exhibit 6").

This submission includes all supporting documentation including;

- Exhibit 1 Owner's Affidavit
- Exhibit 2 Opinion of Counsel
- Exhibit 3 Architect's Certification
- Exhibit 4 RP 602's (2)
- Exhibit 5 Deed
- Exhibit 6 New Building Permit & License Agreement
- Exhibit 7 Regulatory Agreement
- Exhibit 8 Site Eligibility Affidavit with Survey and Building Apartment List from HPD
- Exhibit 9 AVHS Lots 1001-1005 base year AV's
- Exhibit 10 "Exhibit B" from Condominium Declaration
- Exhibit 11 Most Recent Approved Building Plans, each page of which is sealed, initialed and dated.

Enclosed please find an email from HPD indicating that in section 7, test #5 all three buildings that existed on the project site on the operative date be listed within the same test. Please note that two of the three buildings were residential and one of the buildings was non-residential. The site eligibility test is further explained in detail by the project architects in "Exhibit 8" of the enclosed application.

Also enclosed, please find a certified check for \$100 payable to The City of New York Department of Finance representing the application fee.

Thank you for your attention to this matter.

Very truly yours,



Jessica Goldstein

Enclosures



NYC Department of Housing Preservation and Development Division of Housing Incentives

## Application for Preliminary Certificate of Eligibility for Partial Tax Exemption

Mail to: NYC Department of Housing Preservation and Development 421-a Partial Tax Exemption Program, 100 Gold Street, Room 8-C09, New York, NY 10038 (212) 863-8540 Fax (212) 863-5899

Instructions: Once you have completed filling out the application and have submitted it electronically to HPD, you must also print, sign and send a hard-copy to the 421-a Partial Tax Exemption Program at HPD along with all required affidavits and documentation. If construction commenced on or after December 28, 2007, each multiple dwelling must contain four (4) dwelling units or more (unless it is built with substantial government assistance). If construction commenced before December 28, 2007, three (3) or more dwelling units is sufficient.

### Section 1B: Entity Owner Information

Entity Type **Limited Liability Company (LLC)**  
Entity Name **Site 5 DSA Owner LLC**  
Name **Joseph Ferrara**  
Title **Authorized Signatory**  
House No **150** Street Name **Myrtle Avenue**  
PO Box/Suite/Floor **2** State **NY**  
City **Brooklyn** Zip code **11201**  
Country **USA** Fax **(718) 422-9960**  
Phone **(718) 422-9999**  
Email

2016 MAR 21 AM 2:30  
421-A PARTIAL  
TAX EXEMPTION PROGRAM

### Section 2: Filing Representative Information

Filing Representative Type **Entity** Company Name **Marcus & Pollack LLP**  
Name of Contact Person  
Name **Robert Pollack**  
House No **633** Street Name **Third Avenue**  
PO Box/Suite/Floor **9** State **NY**  
City **New York** Zip code **10017**  
Country **USA** Fax **(212) 599-3167**  
Phone **(212) 490-2900**  
Email **rpollack@marcuspollack.com**

### Section 3A: Project Location Information Project Type : RENTAL

Commencement of construction date **06/09/2015**  
Estimated Year of Construction Completion **06/01/2018**  
Borough **MANHATTAN** Block **00346** Lot **0040** Tax Class **2**  
Base Year AV **\$2,117,170.00** GEA **Y** REMIC **N** NPP **N**  
Will the project involve any subdivision or merger of current lot(s)? **Y**

### Section 3B: Building Location Information

House Number **145** Street Name **Clinton Street** Zip Code Tentative Lot **40**

### Section 3C: Other Standards for Review

Are negotiable certificates being used to qualify a project located in a 421-a geographic exclusion area? **N**

Will this project or any part of this project be receiving tax exemption or tax abatement under any other provision of state or local law?	N
Was this project site mapped as a public park or utilized for 10 or more consecutive years as a private park immediately prior to October 1, 1971?	N
Will any part of this project be used as a hotel or for single room occupancy ?	N
Does this project contain more than 20 dwelling units?	Y
Were there Class A residential units on the site one month prior to the start of construction?	N
Does the new project contain at least 5 dwelling units for each Class A dwelling unit on the site one month prior to the new construction?	N/A

**Section 3D: Substantial Government Assistance and Affordability Restrictions**

Is the project being constructed with Substantial Governmental Assistance?	Y
Is the Substantial Governmental Assistance pursuant to a program for the development of affordable housing?	Y
Are at least 20% of the project's units subject to affordability restrictions?	Y
There is a requirement that at least 20% of the onsite units be affordable to Low and Moderate Income households, as defined in 28 RCNY § 6-01 (c).	Y
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 80% of Area Median Income(AMI).	N
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 60% of AMI.	Y
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI, and the average AMI does not exceed 90%.	N
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 120% of AMI.	N
There is a requirement that at least 20% of the onsite units be affordable to individuals and families at or below 125% of AMI.	N

**Section 4A: Building Cost Information      Lot No 0040**

Did you purchase the lot within two (2) years prior to the start of construction?	Y
Please enter purchase price:	<b>\$7,070,000.00</b>
Did you purchase the lot more than two (2) years prior to the start of construction?	N/A
Please enter appraised value at the start of construction:	N/A
Is the lot being performed under a ground lease?	N
Please indicate monthly rent payable during period of construction:	N/A
Please indicate length of a ground lease in months:	N/A

**Section 4B: Project Cost Information**

Total Construction Costs:	<b>\$88,554,483.00</b>
Total Builder's Fee/Developer's Profit:	<b>\$6,391,369.00</b>
Total Professional and Other Fees:	<b>\$17,540,220.00</b>
Total Marketing Expenses:	<b>\$4,134,657.00</b>
Total Financing and Other Charges:	<b>\$17,829,824.00</b>

Total Project Cost:

**\$141,520,553.00**

### Section 5A: Annual Costs

Labor (for 6 plus units only):	<b>\$328,853.00</b>
Contractor services:	<b>\$145,000.00</b>
Fuel:	<b>\$197,820.00</b>
Electricity:	<b>\$117,600.00</b>
Insurance:	<b>\$105,000.00</b>
Water and sewer:	<b>\$156,723.00</b>
Vacancy, management & administrative fees:	<b>\$906,354.00</b>
Parts and supplies:	<b>\$30,780.00</b>
Gas:	<b>\$32,970.00</b>
Real estate taxes:	<b>\$10,000.00</b>
Replacement reserve:	<b>\$52,500.00</b>
Other:	<b>\$30,069.77</b>
Total annual costs for entire project:	<b>\$2,113,669.77</b>

### Section 5B: Annual Income from Other Sources

Parking:	<b>\$0.00</b>
Commercial space:	<b>\$325,763.00</b>
Washing and vending machines:	<b>\$5,020.00</b>
Other income sources (a):	<b>\$28,363.00</b>
Descriptions:	
Other income sources (b):	<b>\$0.00</b>
Descriptions: Gym Membership	
Other income sources (c):	<b>\$0.00</b>
Descriptions:	
Total annual non-housing income:	<b>\$359,146.00</b>

**Section 6A: Building Specifications**

**145 Clinton Street**

**Tentative Lot: 40**

Did any portion of the building apply for the Industrial and Commercial Incentive or Abatement programs (ICIP or ICAP)?

**N**

Does the building include new residential construction and the concurrent conversion, alteration or improvement of a pre-existing building or structure?

**N**

Commencement of construction date

**06/09/2015**

DOB/BIS Job Number

**121186938**

Building Permit Type

**New Building Permit**

Floor	Residential A.F.A.	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	# of Dwelling Units	# Rooms	Non-Residential A.F.A. and Ineligible Residential A.F.A.
15	9,295.00	1	3	4	2	0	0	0	0	0	10.00	42.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
14	9,295.00	1	3	4	2	0	0	0	0	0	10.00	42.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
13	9,295.00	1	3	4	2	0	0	0	0	0	10.00	42.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
12	9,295.00	1	3	4	2	0	0	0	0	0	10.00	42.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
11	16,252.00	6	4	6	2	0	0	0	0	0	18.00	67.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
10	16,252.00	6	4	6	2	0	0	0	0	0	18.00	67.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
9	16,252.00	7	3	6	2	0	0	0	0	0	18.00	66.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
8	16,252.00	7	4	4	3	0	0	0	0	0	18.00	66.00	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
7	16,292.00	7	5	7	1	0	0	0	0	0	20.00	72.00	130.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description storage													
6	16,292.00	7	5	7	1	0	0	0	0	0	20.00	72.00	130.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description storage													
5	16,292.00	7	5	7	1	0	0	0	0	0	20.00	72.00	130.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description storage													
4	16,292.00	7	5	7	1	0	0	0	0	0	20.00	72.00	130.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description storage													
3	16,514.00	5	7	5	2	0	0	0	0	0	19.00	70.50	0.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description													
2	389.00	0	0	0	0	0	0	0	0	0	0.00	0.00	25,050.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description Retail, Fitness Center													

1	3,237.00	0	0	0	0	0	0	0	0	0	0.00	0.00	23,563.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						Retail, Lounge, Storage							
C	0.00	0	0	0	0	0	0	0	0	0	0.00	0.00	31,372.00
Non-Residential A.F.A. and Ineligible Residential A.F.A. Description						Retail							

**Parking Questions**

- 1. Will there be parking associated with this building? N
- 2. Is the parking applying for 421-a benefits? N/A
- 3. Is the parking applying for 421-a benefits accessory to the residential portion of the building? N/A
- 4. Is the parking applying for 421-a benefits inside the subject building? N/A
- 5. Is the parking applying for 421-a benefits located off-street? N/A
- 6. Is the parking applying for 421-a benefits accessory to the commercial portion of the building? N/A
- 7. Will this project contain parking or other spaces that will be subdivided into individual tax lots? Y

7a. Please provide tax lot numbers and their use(e.g. Retail, lot 1001; Commercial Parking, lot 1002; Roof Cabanas, lots 1003 - 1012; Residential, lots 1013 – 1020; Storage, 1021 -1025, etc.).

Residential (affordable) Lot 1001; Residential (moderate) Lot 1002; Residential (market rate) Lot 1003; Commercial Unit 1 Lot 1004; Commercial Unit 2 Lot 1005.

**Section 6B: Project Summary**

Address: 145 Clinton Street											Tentative Lot: 40		
Floor	#0 BR	#1 BR	#2 BR	#3 BR	#4 BR	#5 BR	#6 BR	#7 BR	#8 BR	#Rooms	Residential A.F.A.	Non-Residential A.F.A. and Ineligible Residential	
1	0	0	0	0	0	0	0	0	0	0.00	3,237.00	23,563.00	
10	6	4	6	2	0	0	0	0	0	67.00	16,252.00	0.00	
11	6	4	6	2	0	0	0	0	0	67.00	16,252.00	0.00	
12	1	3	4	2	0	0	0	0	0	42.00	9,295.00	0.00	
13	1	3	4	2	0	0	0	0	0	42.00	9,295.00	0.00	
14	1	3	4	2	0	0	0	0	0	42.00	9,295.00	0.00	
15	1	3	4	2	0	0	0	0	0	42.00	9,295.00	0.00	
2	0	0	0	0	0	0	0	0	0	0.00	389.00	25,050.00	
3	5	7	5	2	0	0	0	0	0	70.50	16,514.00	0.00	
4	7	5	7	1	0	0	0	0	0	72.00	16,292.00	130.00	
5	7	5	7	1	0	0	0	0	0	72.00	16,292.00	130.00	

6	7	5	7	1	0	0	0	0	0	72.00	16,292.00	130.00	
7	7	5	7	1	0	0	0	0	0	72.00	16,292.00	130.00	
8	7	4	4	3	0	0	0	0	0	66.00	16,252.00	0.00	
9	7	3	6	2	0	0	0	0	0	66.00	16,252.00	0.00	
C	0	0	0	0	0	0	0	0	0	0.00	0.00	31,372.00	
<hr/>													
Totals:	16	63	54	71	23	0	0	0	0	0	792.50	187,496.00	80,505.00

# Dwelling Units: 211  
# Rooms: 792.50

Commercial, etc. area in excess of 12% 18.04%

The Commercial, etc area is in excess of 12% and therefore this Project is subject to diminution of tax benefits.

### Section 6C: Project Specifications

Total Square Feet of Finished Space	277,162.00
Total Square Feet of Balcony Space	7,756.00
Total Square Feet of Unfinished Space	11,999.00
Average Square Feet Per Dwelling Unit	
Total Net SF of Dwelling Units	

### Section 6D: Schedule of Initial Rent 145 Clinton Street

No	Apt. No	Rent
1	10A	\$ 10,764.00
2	10B	\$ 1,123.00
3	10C	\$ 2,094.00
4	10D	\$ 4,956.00
5	10E	\$ 3,424.00
6	10F	\$ 7,176.00
7	10G	\$ 2,094.00
8	10H	\$ 867.00
9	10I	\$ 1,123.00
10	10J	\$ 10,716.00
11	10K	\$ 1,292.00
12	10L	\$ 6,240.00
13	10M	\$ 5,208.00
14	10N	\$ 5,220.00
15	10O	\$ 2,470.00
16	10P	\$ 1,967.00

17	10Q	\$ 1,967.00
18	10R	\$ 882.00
19	11A	\$ 10,764.00
20	11B	\$ 1,123.00
21	11C	\$ 2,094.00
22	11D	\$ 4,956.00
23	11E	\$ 2,414.00
24	11F	\$ 7,176.00
25	11G	\$ 2,968.00
26	11H	\$ 867.00
27	11I	\$ 1,123.00
28	11J	\$ 10,716.00
29	11K	\$ 13,296.00
30	11L	\$ 6,240.00
31	11M	\$ 5,208.00
32	11N	\$ 5,208.00
33	11O	\$ 2,470.00
34	11P	\$ 1,967.00
35	11Q	\$ 1,967.00
36	11R	\$ 1,741.00
37	12A	\$ 10,764.00
38	12B	\$ 2,094.00
39	12C	\$ 15,432.00
40	12D	\$ 14,196.00
41	12E	\$ 8,220.00
42	12F	\$ 6,624.00
43	12G	\$ 4,250.00
44	12H	\$ 7,428.00
45	12I	\$ 2,968.00
46	12J	\$ 10,716.00
47	14A	\$ 10,764.00
48	14B	\$ 2,968.00
49	14C	\$ 15,372.00
50	14D	\$ 15,024.00
51	14E	\$ 8,220.00
52	14F	\$ 6,624.00
53	14G	\$ 5,100.00
54	14H	\$ 7,428.00

55	14I	\$ 2,968.00
56	14J	\$ 10,716.00
57	15A	\$ 10,764.00
58	15B	\$ 2,968.00
59	15C	\$ 15,372.00
60	15D	\$ 15,024.00
61	15E	\$ 8,220.00
62	15F	\$ 6,624.00
63	15G	\$ 5,100.00
64	15H	\$ 7,356.00
65	15I	\$ 2,968.00
66	15J	\$ 10,716.00
67	16A	\$ 10,764.00
68	16B	\$ 2,968.00
69	16C	\$ 15,372.00
70	16D	\$ 15,024.00
71	16E	\$ 8,220.00
72	16F	\$ 6,624.00
73	16G	\$ 5,100.00
74	16H	\$ 7,428.00
75	16I	\$ 2,968.00
76	16J	\$ 10,716.00
77	3A	\$ 12,876.00
78	3B	\$ 7,644.00
79	3C	\$ 2,968.00
80	3D	\$ 5,004.00
81	3E	\$ 7,644.00
82	3F	\$ 7,176.00
83	3G	\$ 2,968.00
84	3H	\$ 5,748.00
85	3I	\$ 7,968.00
86	3J	\$ 10,716.00
87	3K	\$ 13,656.00
88	3L	\$ 14,904.00
89	3M	\$ 565.00
90	3N	\$ 7,860.00
91	3O	\$ 867.00
92	3P	\$ 867.00

93	3Q	\$ 931.00
94	3R	\$ 11,892.00
95	3S	\$ 12,372.00
96	4A	\$ 8,970.00
97	4B	\$ 735.00
98	4C	\$ 2,094.00
99	4D	\$ 5,088.00
100	4E	\$ 7,572.00
101	4F	\$ 867.00
102	4G	\$ 2,968.00
103	4H	\$ 867.00
104	4I	\$ 1,123.00
105	4J	\$ 1,123.00
106	4K	\$ 13,632.00
107	4L	\$ 14,904.00
108	4M	\$ 867.00
109	4N	\$ 7,944.00
110	4O	\$ 867.00
111	4P	\$ 867.00
112	4Q	\$ 931.00
113	4R	\$ 931.00
114	4S	\$ 867.00
115	4T	\$ 9,288.00
116	5A	\$ 10,764.00
117	5B	\$ 735.00
118	5C	\$ 1,123.00
119	5D	\$ 5,004.00
120	5E	\$ 7,644.00
121	5F	\$ 867.00
122	5G	\$ 1,123.00
123	5H	\$ 565.00
124	5I	\$ 1,123.00
125	5J	\$ 10,716.00
126	5K	\$ 13,632.00
127	5L	\$ 14,904.00
128	5M	\$ 867.00
129	5N	\$ 7,824.00
130	5O	\$ 867.00

131	5P	\$ 867.00
132	5Q	\$ 931.00
133	5R	\$ 607.00
134	5S	\$ 867.00
135	5T	\$ 9,324.00
136	6A	\$ 10,764.00
137	6B	\$ 1,123.00
138	6C	\$ 1,123.00
139	6D	\$ 4,860.00
140	6E	\$ 7,788.00
141	6F	\$ 867.00
142	6G	\$ 1,123.00
143	6H	\$ 867.00
144	6I	\$ 1,123.00
145	6J	\$ 10,716.00
146	6K	\$ 13,632.00
147	6L	\$ 14,904.00
148	6M	\$ 1,384.00
149	6N	\$ 7,860.00
150	6O	\$ 1,384.00
151	6P	\$ 1,384.00
152	6Q	\$ 931.00
153	6R	\$ 931.00
154	6S	\$ 867.00
155	6T	\$ 9,324.00
156	7A	\$ 10,764.00
157	7B	\$ 1,123.00
158	7C	\$ 1,123.00
159	7D	\$ 5,064.00
160	7E	\$ 7,572.00
161	7F	\$ 1,384.00
162	7G	\$ 1,123.00
163	7H	\$ 867.00
164	7I	\$ 1,123.00
165	7J	\$ 10,716.00
166	7K	\$ 13,632.00
167	7L	\$ 14,904.00
168	7M	\$ 1,384.00

169	7N	\$ 7,944.00
170	7O	\$ 1,967.00
171	7P	\$ 1,384.00
172	7Q	\$ 931.00
173	7R	\$ 931.00
174	7S	\$ 1,967.00
175	7T	\$ 9,324.00
176	8A	\$ 12,744.00
177	8B	\$ 931.00
178	8C	\$ 2,094.00
179	8D	\$ 4,956.00
180	8E	\$ 13,632.00
181	8F	\$ 1,967.00
182	8G	\$ 2,094.00
183	8H	\$ 867.00
184	8I	\$ 1,123.00
185	8J	\$ 10,716.00
186	8K	\$ 13,176.00
187	8L	\$ 6,336.00
188	8M	\$ 5,268.00
189	8N	\$ 5,220.00
190	8O	\$ 8,232.00
191	8P	\$ 1,967.00
192	8Q	\$ 1,967.00
193	8R	\$ 931.00
194	9A	\$ 10,764.00
195	9B	\$ 1,123.00
196	9C	\$ 1,123.00
197	9D	\$ 4,956.00
198	9E	\$ 843.00
199	9F	\$ 7,188.00
200	9G	\$ 2,094.00
201	9H	\$ 867.00
202	9I	\$ 1,123.00
203	9J	\$ 10,716.00
204	9K	\$ 1,292.00
205	9L	\$ 6,180.00
206	9M	\$ 5,256.00

207	9N	\$ 5,220.00
208	9O	\$ 2,470.00
209	9P	\$ 1,967.00
210	9Q	\$ 1,967.00
211	9R	\$ 1,741.00

Your submitted summary of proposed initial rents reflecting an average per room per month of **\$1,447.11** is approved. You may set your individual apartment rents to suit your marketing needs, but the maximum gross monthly rental for your apartment may not exceed **\$1,146,831.00**.

Prior to the completion of your project, events may occur necessitating an increase in your initial rent schedule. This office must be advised of these changes, and documentation must be submitted in advance in support of such changes. Initial rents may not be increased after the issuance of a final certificate of eligibility except as the law permits.

In the case of rental properties, the first rent becomes the base rent for all future increases approved by the New York City Rent Guidelines Board. A copy of the HPD approved rent schedule must be attached to all initial leases. All rental multiple dwellings receiving 421-a benefits must register with the NYS Division of Housing and Community Renewal (DHCR) to enjoy the benefits of the 421-a program. The initial and each successive owner must maintain DHCR registration of the property for the entire period the property is receiving 421-a benefits.

**Section 6E, F & G: Project Specification Summary 145, Clinton Street**

No	Apt. #	Rent or Sales Price	# of BRs	Is Unit Affordable Unit	Income Restriction	Floor Area
1	3A	\$12,876.00	3 Bdrm	No		1073
2	3C	\$2,968.00	2 Bdrm	No		881
3	3D	\$5,004.00	0 Bdrm	No		417
4	3E	\$7,644.00	1 Bdrm	No		637
5	3F	\$7,176.00	1 Bdrm	No		598
6	3G	\$2,968.00	2 Bdrm	No		865
7	3H	\$5,748.00	0 Bdrm	No		479
8	3I	\$7,968.00	1 Bdrm	No		664
9	3J	\$10,716.00	1 Bdrm	No		893
10	3K	\$13,656.00	2 Bdrm	No		1138
11	3L	\$14,904.00	3 Bdrm	No		1242
12	3M	\$565.00	0 Bdrm	Yes	60% AMI	478
13	3N	\$7,860.00	1 Bdrm	No		655
14	3O	\$867.00	0 Bdrm	Yes	60% AMI	522
15	3P	\$867.00	0 Bdrm	Yes	60% AMI	505
16	3Q	\$931.00	1 Bdrm	Yes	60% AMI	722
17	3R	\$11,892.00	2 Bdrm	No		991
18	3S	\$12,372.00	2 Bdrm	No		1031
19	4A	\$8,970.00	2 Bdrm	No		897
20	4B	\$735.00	2 Bdrm	Yes	60% AMI	812
21	4C	\$2,094.00	2 Bdrm	Yes	120% AMI	879
22	4D	\$5,088.00	0 Bdrm	No		424
23	4E	\$7,572.00	1 Bdrm	No		631
24	4F	\$867.00	0 Bdrm	Yes	60% AMI	599
25	4G	\$2,968.00	2 Bdrm	No		861
26	4H	\$867.00	0 Bdrm	Yes	60% AMI	446
27	4J	\$1,123.00	2 Bdrm	Yes	60% AMI	893

28	4K	\$13,632.00	2 Bdrm	No		1136
29	4L	\$14,904.00	3 Bdrm	No		1242
30	4M	\$867.00	0 Bdrm	Yes	60% AMI	471
31	4N	\$7,944.00	1 Bdrm	No		662
32	4O	\$867.00	0 Bdrm	Yes	60% AMI	522
33	4P	\$867.00	0 Bdrm	Yes	60% AMI	505
34	4Q	\$931.00	1 Bdrm	Yes	60% AMI	717
35	4R	\$931.00	1 Bdrm	Yes	60% AMI	730
36	4S	\$867.00	0 Bdrm	Yes	60% AMI	524
37	4T	\$9,288.00	1 Bdrm	No		774
38	5A	\$10,764.00	2 Bdrm	No		897
39	5B	\$735.00	2 Bdrm	Yes	60% AMI	812
40	5C	\$1,123.00	2 Bdrm	Yes	60% AMI	881
41	5D	\$5,004.00	0 Bdrm	No		417
42	5E	\$7,644.00	1 Bdrm	No		637
43	5F	\$867.00	0 Bdrm	Yes	60% AMI	600
44	5H	\$565.00	0 Bdrm	Yes	60% AMI	446
45	5I	\$1,123.00	2 Bdrm	Yes	60% AMI	839
46	5K	\$13,632.00	2 Bdrm	No		1136
47	5N	\$7,824.00	1 Bdrm	No		652
48	5O	\$867.00	0 Bdrm	Yes	60% AMI	525
49	5Q	\$931.00	1 Bdrm	Yes	60% AMI	717
50	5R	\$607.00	1 Bdrm	Yes	60% AMI	730
51	5T	\$9,324.00	1 Bdrm	No		777
52	6A	\$10,764.00	2 Bdrm	No		897
53	6B	\$1,123.00	2 Bdrm	Yes	60% AMI	813
54	6D	\$4,860.00	0 Bdrm	No		405
55	6E	\$7,788.00	1 Bdrm	No		649
56	6F	\$867.00	0 Bdrm	Yes	60% AMI	600

57	6H	\$867.00	0 Bdrm	Yes	60% AMI	446
58	6I	\$1,123.00	2 Bdrm	Yes	60% AMI	839
59	6K	\$13,632.00	2 Bdrm	No		1136
60	6L	\$14,904.00	3 Bdrm	No		1242
61	6N	\$7,860.00	1 Bdrm	No		655
62	6O	\$1,384.00	0 Bdrm	Yes	120% AMI	522
63	6Q	\$931.00	1 Bdrm	Yes	60% AMI	717
64	6R	\$931.00	1 Bdrm	Yes	60% AMI	740
65	6T	\$9,324.00	1 Bdrm	No		777
66	7B	\$1,123.00	2 Bdrm	Yes	60% AMI	812
67	7D	\$5,064.00	0 Bdrm	No		422
68	7E	\$7,572.00	1 Bdrm	No		631
69	7F	\$1,384.00	0 Bdrm	Yes	120% AMI	600
70	7H	\$867.00	0 Bdrm	Yes	60% AMI	445
71	7I	\$1,123.00	2 Bdrm	Yes	60% AMI	838
72	7K	\$13,632.00	2 Bdrm	No		1136
73	7L	\$14,904.00	3 Bdrm	No		1242
74	7N	\$7,944.00	1 Bdrm	No		662
75	7O	\$1,967.00	0 Bdrm	No		522
76	7Q	\$931.00	1 Bdrm	Yes	60% AMI	717
77	7R	\$931.00	1 Bdrm	Yes	60% AMI	740
78	7T	\$9,324.00	1 Bdrm	No		777
79	8A	\$12,744.00	3 Bdrm	No		1062
80	8C	\$2,094.00	2 Bdrm	Yes	120% AMI	881
81	8D	\$4,956.00	0 Bdrm	No		413
82	8E	\$13,632.00	3 Bdrm	No		1136
83	8G	\$2,094.00	2 Bdrm	Yes	120% AMI	861
84	8J	\$10,716.00	2 Bdrm	No		893
85	8K	\$13,176.00	3 Bdrm	No		1098

86	8L	\$6,336.00	1 Bdrm	No		528
87	8M	\$5,268.00	0 Bdrm	No		439
88	8O	\$8,232.00	1 Bdrm	No		686
89	8P	\$1,967.00	0 Bdrm	No		487
90	8R	\$931.00	1 Bdrm	Yes	60% AMI	650
91	9A	\$10,764.00	2 Bdrm	No		897
92	9C	\$1,123.00	2 Bdrm	No		882
93	9E	\$843.00	3 Bdrm	Yes	60% AMI	1140
94	9F	\$7,188.00	0 Bdrm	No		599
95	9G	\$2,094.00	2 Bdrm	Yes	120% AMI	861
96	9H	\$867.00	0 Bdrm	Yes	60% AMI	446
97	9I	\$1,123.00	2 Bdrm	Yes	60% AMI	838
98	9J	\$10,716.00	2 Bdrm	No		893
99	9K	\$1,292.00	3 Bdrm	Yes	60% AMI	1109
100	9L	\$6,180.00	1 Bdrm	No		515
101	9M	\$5,256.00	0 Bdrm	No		438
102	9N	\$5,220.00	0 Bdrm	No		435
103	9O	\$2,470.00	1 Bdrm	No		686
104	9P	\$1,967.00	0 Bdrm	No		487
105	9Q	\$1,967.00	0 Bdrm	No		479
106	9R	\$1,741.00	1 Bdrm	Yes	120% AMI	650
107	10A	\$10,764.00	2 Bdrm	No		897
108	10B	\$1,123.00	2 Bdrm	Yes	60% AMI	813
109	10C	\$2,094.00	2 Bdrm	Yes	120% AMI	881
110	10D	\$4,956.00	0 Bdrm	No		413
111	10E	\$3,424.00	3 Bdrm	No		1139
112	10F	\$7,176.00	1 Bdrm	No		598
113	10G	\$2,094.00	2 Bdrm	Yes	120% AMI	863
114	10H	\$867.00	0 Bdrm	Yes	60% AMI	445

115	10I	\$1,123.00	2 Bdrm	Yes	60% AMI	839
116	10J	\$10,716.00	2 Bdrm	No		893
117	10K	\$1,292.00	3 Bdrm	Yes	60% AMI	1108
118	10L	\$6,240.00	1 Bdrm	No		520
119	10N	\$5,220.00	0 Bdrm	No		435
120	10O	\$2,470.00	1 Bdrm	No		677
121	10P	\$1,967.00	0 Bdrm	No		482
122	10Q	\$1,967.00	0 Bdrm	No		479
123	10R	\$882.00	1 Bdrm	Yes	120% AMI	650
124	11A	\$10,764.00	2 Bdrm	No		897
125	11B	\$1,123.00	2 Bdrm	Yes	60% AMI	813
126	11C	\$2,094.00	2 Bdrm	Yes	120% AMI	881
127	11D	\$4,956.00	0 Bdrm	No		413
128	11E	\$2,414.00	3 Bdrm	Yes	120% AMI	1139
129	11F	\$7,176.00	1 Bdrm	No		598
130	11G	\$2,968.00	2 Bdrm	No		862
131	11H	\$867.00	0 Bdrm	Yes	60% AMI	440
132	11I	\$1,123.00	2 Bdrm	Yes	60% AMI	844
133	11K	\$13,296.00	3 Bdrm	No		1108
134	11L	\$6,240.00	1 Bdrm	No		520
135	11M	\$5,208.00	0 Bdrm	No		434
136	11O	\$2,470.00	1 Bdrm	No		686
137	11R	\$1,741.00	1 Bdrm	Yes	120% AMI	650
138	12A	\$10,764.00	2 Bdrm	No		897
139	12C	\$15,432.00	3 Bdrm	No		1286
140	12D	\$14,196.00	3 Bdrm	No		1183
141	12E	\$8,220.00	1 Bdrm	No		685
142	12G	\$4,250.00	0 Bdrm	No		425
143	12H	\$7,428.00	1 Bdrm	No		619

144	12I	\$2,968.00	2 Bdrm	No		842
145	14A	\$10,764.00	2 Bdrm	No		897
146	14B	\$2,968.00	2 Bdrm	No		813
147	14D	\$15,024.00	3 Bdrm	No		1252
148	14E	\$8,220.00	1 Bdrm	No		685
149	14F	\$6,624.00	1 Bdrm	No		552
150	14H	\$7,428.00	1 Bdrm	No		619
151	14I	\$2,968.00	2 Bdrm	No		842
152	15A	\$10,764.00	2 Bdrm	No		897
153	15B	\$2,968.00	2 Bdrm	No		813
154	15C	\$15,372.00	3 Bdrm	No		1281
155	15F	\$6,624.00	1 Bdrm	No		552
156	15G	\$5,100.00	0 Bdrm	No		425
157	15I	\$2,968.00	2 Bdrm	No		847
158	16A	\$10,764.00	2 Bdrm	No		897
159	16B	\$2,968.00	2 Bdrm	No		813
160	16C	\$15,372.00	3 Bdrm	No		1281
161	16D	\$15,024.00	3 Bdrm	No		1252
162	16F	\$6,624.00	1 Bdrm	No		552
163	16G	\$5,100.00	0 Bdrm	No		425
164	16H	\$7,428.00	1 Bdrm	No		619
165	16J	\$10,716.00	2 Bdrm	No		893
166	5G	\$1,123.00	2 Bdrm	Yes	60% AMI	861
167	5L	\$14,904.00	3 Bdrm	No		1242
168	5P	\$867.00	0 Bdrm	Yes	60% AMI	505
169	5S	\$867.00	0 Bdrm	Yes	60% AMI	520
170	6C	\$1,123.00	2 Bdrm	Yes	60% AMI	881
171	6G	\$1,123.00	2 Bdrm	Yes	60% AMI	861
172	6J	\$10,716.00	2 Bdrm	No		893

173	6M	\$1,384.00	0 Bdrm	Yes	120% AMI	478
174	6P	\$1,384.00	0 Bdrm	Yes	120% AMI	505
175	6S	\$867.00	0 Bdrm	Yes	60% AMI	510
176	7C	\$1,123.00	2 Bdrm	Yes	60% AMI	881
177	7G	\$1,123.00	2 Bdrm	Yes	60% AMI	863
178	7J	\$10,716.00	2 Bdrm	No		893
179	7M	\$1,384.00	0 Bdrm	Yes	120% AMI	471
180	7P	\$1,384.00	0 Bdrm	Yes	120% AMI	505
181	7S	\$1,967.00	0 Bdrm	No		510
182	8B	\$931.00	1 Bdrm	Yes	60% AMI	648
183	8F	\$1,967.00	0 Bdrm	No		599
184	8I	\$1,123.00	2 Bdrm	Yes	60% AMI	841
185	8N	\$5,220.00	0 Bdrm	No		435
186	8Q	\$1,967.00	0 Bdrm	No		480
187	9B	\$1,123.00	2 Bdrm	Yes	60% AMI	813
188	11J	\$10,716.00	2 Bdrm	No		893
189	11N	\$5,208.00	0 Bdrm	No		434
190	11Q	\$1,967.00	0 Bdrm	No		479
191	12B	\$2,094.00	2 Bdrm	Yes	120% AMI	808
192	12F	\$6,624.00	1 Bdrm	No		552
193	12J	\$10,716.00	2 Bdrm	No		893
194	14C	\$15,372.00	3 Bdrm	No		1281
195	14G	\$5,100.00	0 Bdrm	No		425
196	14J	\$10,716.00	2 Bdrm	No		893
197	15D	\$15,024.00	3 Bdrm	No		1252
198	15H	\$7,356.00	1 Bdrm	No		613
199	15J	\$10,716.00	2 Bdrm	No		893
200	16E	\$8,220.00	1 Bdrm	No		685
201	16I	\$2,968.00	2 Bdrm	No		842

202	3B	\$7,644.00	1 Bdrm	No		637
203	4I	\$1,123.00	2 Bdrm	Yes	60% AMI	839
204	5M	\$867.00	0 Bdrm	Yes	60% AMI	478
205	7A	\$10,764.00	2 Bdrm	No		897
206	8H	\$867.00	0 Bdrm	Yes	60% AMI	444
207	9D	\$4,956.00	0 Bdrm	No		413
208	10M	\$5,208.00	0 Bdrm	No		434
209	11P	\$1,967.00	0 Bdrm	No		487
210	15E	\$8,220.00	1 Bdrm	No		685
211	5J	\$10,716.00	2 Bdrm	No		893

## Section 7: Site Eligibility Lot No 0040

To qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the start of construction (i.e. "Operative Date"). In order to determine if your project qualifies for 421-a benefits, this section of the application will take you through a number of questions which will determine your site eligibility. You must complete this section for each of the lots for which you are applying for 421-a benefits. Please enter the information as of the Operative Date.

Commencement of Construction Date:	6/9/2015
Operative Date:	06/09/2012
Total land area of lot (Square Feet):	45,083.00
Square footage of site:	45,083.00

### Test 1: The question below will test your site's eligibility based on vacant lot.

Actual Assessed Valuation of improvements on the lot in the Fiscal Year in which the Operative Date falls :	\$40,500.00
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This site is ineligible based on this test because the actual assessed valuation of the improvements on the lot was not less than or equal to \$2,000. Please move on to the next site eligibility test.

### Test 2: The questions below will test your site's eligibility based on a vacant portion of the former lot as of the Operative Date.

Is there an existing building that will not be demolished and will remain on the lot?	N
---	---

Is the new multiple dwelling being constructed on a vacant portion of the lot as of the Operative Date?

This site is ineligible based on this test because the land that you are building on is not vacant. Please move on to the next site eligibility test.

### Test 3: The questions below will test your site's eligibility based on predominantly vacant land as of the Operative Date.

Length of footprint of improvement (sq ft):	100.00	Width of footprint of improvement (sq ft):	79.88
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Total area of footprint of improvement on lot (sq ft):	7,988.00	Total land area of lot (sq ft):	45,083.00
--	----------	---------------------------------	-----------

This site is ineligible based on this test because the area of the footprint of the improvement is not less than or equal to 15% of the land area of the lot. Please move on to the next site eligibility test.

**Test 4: The questions below will test your site's eligibility based on underutilized buildings as of the Operative Date.**

Was there a building(s) on the lot on the Operative Date? Y  
 What was the tax class of the lot on the Operative Date? 2

**Test 5: The questions below will test your site's eligibility based on underutilized former residential building(s) (A.F.A test).**

	Length	Width	# Stories	Total
House Story:	100	24.98	5	12,490.00
Garage Story:	100	20.08	3	6,024.00
Shed Story:	100	66	2	13,200.00
Other Story:	0	0	0	0.00
-----				
Total (AFA of former residential building(s)):				31,714.00
Square footage of site:	45,083.00	Square footage of lot:		45,083.00
AFA of the new multiple dwelling, pro-rated:				274,642.00
70% of the AFA of the New Multiple Dwelling:				192,249.40

This site has passed this 421-a eligibility test. When you complete this electronic application please submit a survey to HPD in addition to other required documentation.

**Section 7: Site Eligibility Summary**

Lot	Square Feet	421-a Eligible
0040	45083	Pass

Since the Project meets the requirements of §421-a(9)(vi)(c), the Project is exempt from the Exemption Cap of §421-a(9).

**Section 8: Addendum**

Part A: Contact Information for Certifying Professionals

Architect's/Engineer's Certification to be provided by:

Name **Richard Metsky**  
 Business Name **Beyer Blinder Belle Architects and Planners LLP**  
 House No **120**  
 Street **Broadway**  
 City **New York**  
 State **NY**  
 Phone Number **(212) 777-7800**

Opinion of Counsel to be provided by:

Name **Robert Pollack**  
Business Name **Marcus & Pollack LLP**  
House No **633**  
Street **Third Avenue**  
City **New York**  
State **NY**  
Phone Number **(212) 490-2900**

## Checklist

- RP604 or RP602 Form
- Submit the most recent approved building plans. However, if the most recent approved building plans were already submitted to HPD as part of an earlier Architect's/Engineer's Certification, you do not need to re-submit the building plans.
- Surveys
- Proof of receipt of Notice to Community Board
- Please submit to HPD an executed copy of the regulatory agreement or 421-a written agreement including all attachments.
- Architect's/Engineer's Certification
- Opinion of Counsel

Please Keep a Copy of this Application for Your Records.



**Terms and Conditions (Remitter and Payee):**

- \* Please keep this copy for your record of the transaction
- \* The laws of a specific state will consider these funds to be "abandoned" if the Cashier's Check is not cashed by a certain time
  - Please cash/deposit this Cashier's Check as soon as possible to prevent this from occurring
  - In most cases, the funds will be considered "abandoned" before the "Void After" Date
- \* Placing a Stop Payment on a Cashier's Check
  - Stop Payment can only be placed if the Cashier's Check is lost, stolen, or destroyed
  - We may not re-issue or refund the funds after the stop payment has been placed until 90 days after the original check was issued
- \* Please visit a Chase branch to report a lost, stolen, or destroyed Cashier's Check or for any other information about this item

**FOR YOUR PROTECTION SAVE THIS COPY  
CASHIER'S CHECK**

**Customer Copy**  
9862136475

12/08/2015  
Void after 7 years

**Remitter:** MARCUS & POLLACK LLP

\$\*\* 100.00 \*\*

**Pay To The Order Of:** NYC DEPARTMENT OF FINANCE 421-A

Drawer **JPMORGAN CHASE BANK, N.A.**  
**NON NEGOTIABLE**

Memo: \_\_\_\_\_  
Note: For information only. Comment has no effect on bank's payment.

28211107 NEW 01/08 8810004306

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK

**CASHIER'S CHECK**

HOLD DOCUMENT UP TO THE LIGHT TO VIEW TRUE WATERMARK



Date 12/08/2015 Void after 7 years

9862136475  
25-3  
440

**Remitter:** MARCUS & POLLACK LLP

**Pay To The Order Of:** NYC DEPARTMENT OF FINANCE 421-A

**Pay:** ONE HUNDRED DOLLARS AND 00 CENTS

\$\*\* 100.00 \*\*

Drawer: **JPMORGAN CHASE BANK, N.A.**

*Bruce Dean*  
Senior Vice President  
JPMorgan Chase Bank, N.A.  
Columbus, OH

Do not write outside this box

Memo: \_\_\_\_\_  
Note: For information only. Comment has no effect on bank's payment.



**Jessica Goldstein**

---

**From:** Louison, Pramila (HPD) [RAMPERP@hpd.nyc.gov]  
**Sent:** Friday, January 22, 2016 12:02 PM  
**To:** Jessica Goldstein  
**Subject:** RE: Online Application Question- TEO11391

List one building under house, the other under shed and the other under story as long as the dimension reflects what on the survey.

*Pramila Louison  
Director, 421-a/b Programs  
Tax Incentive Unit  
212-863-8540 (phone)  
212-863-5899 (fax)  
ramperp@hpd.nyc.gov*

**From:** Jessica Goldstein [mailto:jgoldstein@marcuspollack.com]  
**Sent:** Friday, January 22, 2016 11:27 AM  
**To:** Louison, Pramila (HPD)  
**Subject:** RE: Online Application Question- TEO11391

It is listed as TC 2 please see below from section 3(a) of the online application

Borough	Block	Lot	TC	Base Year	GEA	NPP	REMIC		
MANHATTAN	00346	0040	2	\$1,173,840.00	Y	N	N	<a href="#">Edit</a>	<a href="#">Delete</a>

**From:** Louison, Pramila (HPD) [mailto:RAMPERP@hpd.nyc.gov]  
**Sent:** Friday, January 22, 2016 11:17 AM  
**To:** Jessica Goldstein  
**Subject:** RE: Online Application Question- TEO11391

Jessica,

According to DOF, on the operative date it shows that lot 40 is tax class 2. There you online application should list lot 40 as tax class 2.

*Pramila Louison  
Director, 421-a/b Programs  
Tax Incentive Unit  
212-863-8540 (phone)  
212-863-5899 (fax)  
[ramperr@hpd.nyc.gov](mailto:ramperr@hpd.nyc.gov)*

**From:** Jessica Goldstein [<mailto:jgoldstein@marcuspollack.com>]  
**Sent:** Thursday, January 21, 2016 1:26 PM  
**To:** Louison, Pramila (HPD)  
**Cc:** Bruce Brasky  
**Subject:** RE: Online Application Question- TEO11391

Pramila,

The operative date was June 2012 however the closest survey we have is October 2013 (see attached). Also attached is information relating each building located on the lot as of the operative date, which our client obtained from HPD.

Best,  
Jessica

**From:** Louison, Pramila (HPD) [<mailto:RAMPERP@hpd.nyc.gov>]  
**Sent:** Thursday, January 21, 2016 1:13 PM  
**To:** Jessica Goldstein  
**Subject:** RE: Online Application Question- TEO11391

Please send me a copy of the survey.

Thanks.

*Pramila Louison  
Director, 421-a/b Programs  
Tax Incentive Unit  
212-863-8540 (phone)  
212-863-5899 (fax)  
[ramperr@hpd.nyc.gov](mailto:ramperr@hpd.nyc.gov)*

**From:** Jessica Goldstein [<mailto:jgoldstein@marcuspollack.com>]  
**Sent:** Thursday, January 21, 2016 11:11 AM

**To:** Louison, Pramila (HPD); Spinu, Valeriu (HPD)  
**Cc:** Bruce Brasky  
**Subject:** Online Application Question- TEO11391

Good Morning,

We are currently filing a 421-a application sequence number 59898, TEO11391. The project will be constructed on a portion of lot 40. The portion of lot 40 that the 421-a project will be built upon had 3 buildings in existence on the operative date; two residential and one non-residential buildings:

1. 400 Grand Street was a residential building with 5-stories and a basement. The total floor area of the building was 12,492 square feet constructed upon a footprint of 2,082 square feet of land;
2. 402 Grand Street was also a residential building with 3-stories and a basement. The total floor area of the building was 6,024 square feet constructed upon a footprint of 1,506 square feet of land; and
3. 185 Broome Street was a nonresidential building used by the New York City Fire Department as a firehouse. The building contained 2 floors and a basement with a total floor area of 13,200 square feet constructed upon a footprint of 4,400 square feet of land.

All three buildings qualify as underutilized under the residential and non-residential site eligibility tests.

Section 7, Test 3: of the online application asks for the Length and Width of the improvement on the portion of lot 40 that the building will be constructed on. I was advised by a representative at HPD to combine the FAR of all three buildings for this section. Test #4 asks for the tax class of the lot on the operative date, which finance records indicates as Tax Class 2.

Test #5 then asks for the below information:

# EXHIBIT 1

State of New York )

County of  Kings ) ss.:  
\_\_\_\_\_ )

**Joseph Ferrara**, being duly sworn, under penalty of perjury, deposes and says:

1.a. I, **Joseph Ferrara, Authorized Signatory, Site 5 DSA Owner LLC**, am making this application for a Preliminary Certificate of Eligibility for 421-a Partial Tax Exemption (the "Application").

[If applicable:]

1.b. I held fee title or the leasehold interest under a ground lease of the real property identified in the Application at the time of the original filing, and I am authorized to make the Application on behalf of all persons or entities that currently hold fee title to or the leasehold interest under a ground lease of the real property identified in the Application.

2. I have read and understand the requirements for 421-a Partial Tax Exemption.

3. I have reviewed the Application and I swear that all information set forth in the Application is true and correct and I submit the Application to induce the City of New York to grant 421-a Partial Tax Exemption.

4. The multiple dwelling will be operated as a rental. All rental units will be registered with the State of New York Division of Housing and Community Renewal as they become occupied at rents no higher than the rents approved by the Department of Housing Preservation and Development for 421-a Partial Tax Exemption and initial leases of not less than two years will be offered to tenants of such stabilized units, or a shorter term as the tenant requests, in accordance with rent regulation requirements.

5. As required pursuant to §11-245.8 of the Administrative Code of the City of New York and §6-05(d)(1) of Chapter 6, Title 28 of the Rules of the City of New York, whenever any household appliance in any dwelling unit, or any household appliance that provides heat or hot water for any dwelling unit in the multiple dwelling, is installed or replaced with a new household appliance on or after December 19, 2006, such new appliance shall be certified as Energy Star, unless either (A) an appropriately-sized Energy Star certified household appliance is not manufactured, such that movement of walls or fixtures would be necessary to create sufficient space for such appliance, and/or (B) an Energy Star certified boiler or furnace of sufficient capacity is not manufactured.

[For purposes of this paragraph, (A) "household appliance" shall mean any refrigerator, room air conditioner, dishwasher or clothes washer, within a dwelling unit in the multiple dwelling that is provided by the owner, and any boiler or furnace that provides heat or hot water for any dwelling unit in the multiple dwelling, and (B) "Energy Star" shall mean a designation from the United States Environmental Protection Agency or Department of Energy indicating that a product meets the energy efficiency standards set forth by the agency for compliance with the Energy Star program.]

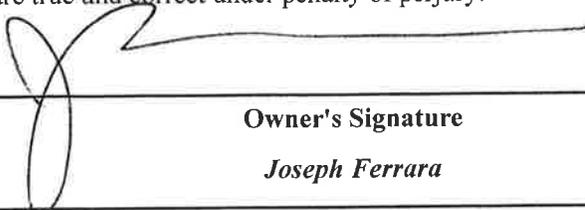
6. As required pursuant to § 421-a(8) of the Real Property Tax Law and § 6-05(d)(1)(ix) of Chapter 6, Title 28 of the Rules of the City of New York, I understand that either (a) all building service employees employed or to be employed at the multiple dwelling shall receive the applicable prevailing wage for the duration of such multiple dwelling's 421-a Partial Tax Exemption, or (b) such multiple dwelling shall contain less than 50 dwelling units, or (c) at initial occupancy of the dwelling units in such multiple dwelling, at least 50% of such dwelling units shall be affordable to individuals or families with a gross household income at or below 125% of the area median income and that any such rental units shall remain affordable for the entire period during which such multiple dwelling receives the 421-a Partial Tax Exemption.

I understand that if the City of New York finds that the Application and/or supporting documents, including but not limited to, the rent roll for the Project; proof of delivery of the Application to the local Community Board; the most recent Department of Buildings approved building plans; the survey; and the RP-604 or RP-602 approved and executed by the Department of Finance contain incorrect or misleading information of a substantial nature, or have omitted information of a material nature, and in the event that such breach or omission is not cured within ninety (90) days of notice thereof, the Department of Housing Preservation and Development shall advise the Department of Finance that the 421-a Certificate of Eligibility has been revoked or that the amount of 421-a Partial Tax Exemption has been reduced, and the Department of Finance shall retroactively or prospectively withdraw or reduce 421-a Partial Tax Exemption and reinstate the amount of taxes which would have been exempted and charge interest at the rate prescribed by the New York City Administrative Code to be calculated from the day on which such taxes would have been payable but for the 421-a Partial Tax Exemption.

I understand that in order to qualify for 421-a benefits, a site must have been vacant, predominantly vacant, underutilized, or improved with a non-conforming use three years prior to the commencement of construction (i.e., "Operative Date"). The site eligibility statements and/or calculations stated in Section 7 of the Application accurately reflect the conditions at the site on the Operative Date and confirm that the real property identified in the Application meets the site eligibility requirement for 421-a benefits.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.



---

**Owner's Signature**

*Joseph Ferrara*

---

**Owner's Name**

*Authorized Signatory*

---

**Owner's Title**

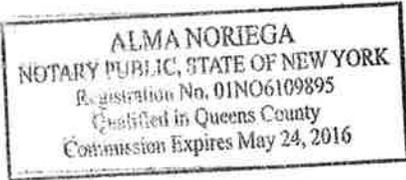
*Site 5 DSA Owner LLC*

---

**Owner's Affiliation**

Sworn to me before this 29 day of Feb, 20 16

Alma Noriega  
**Notary Public or Commissioner of Deeds**



# EXHIBIT 2

# EXHIBIT 2

# MARCUS & POLLACK LLP

ATTORNEYS AT LAW

INCLUDING PROFESSIONAL CORPORATIONS

633 THIRD AVENUE

9TH FLOOR

NEW YORK, NY 10017-6796

(212) 490-2900

JOEL R. MARCUS  
ROBERT M. POLLACK

Date: 3/11/2016

PHILIP H. AZARIAN  
BRUCE A. BRASKY  
STEVEN TISHCO

JESSICA L. GOLDSTEIN  
EMILY N. BLATT  
ZACHARY L. NATHANSON

Director, 421-a Programs  
The City of New York  
Department of Housing Preservation and Development  
100 Gold Street Room 8-C09  
New York, New York 10038

Re: Online Application Submission Confirmation # 59898

Docket # TEO11391

Address(es) / Tentative Lot (s)

**Building 1: 145, Clinton Street, 40**

Borough MANHATTAN Block 00346

Lot(s) 0040.

Total Number of Buildings 1

**Robert Pollack**, an attorney admitted to practice in the Courts of the State of New York, affirms the following to be true under the penalties of perjury pursuant to Civil Practice Law and Rules 2106:

1. I have acted as legal counsel to **Site 5 DSA Owner LLC** ("Owner") in connection with its above referenced application for a partial real property tax exemption pursuant to Section 421-a of the Real Property Tax Law (the "Application").
2. I have reviewed all of the organizational documents of the Owner and such other certificates and instruments as necessary for the purpose of this opinion.
3. Owner is a **Limited Liability Company (LLC.)**, which is duly formed and validly existing under the laws of the State of Delaware.
4. **Joseph Ferrara** is duly authorized to execute and deliver the Application to the City of New York Department of Housing Preservation and Development on behalf of the Owner and to make the representations and warranties contained in the Application.

5a. Owner holds fee title to the real property identified in the Application.

5b. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner holds fee title to the real property identified in the Application.

5c. Owner held fee title to the real property identified in the Application at the time of the original filing.

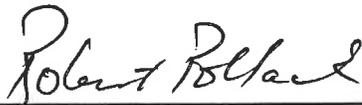
5d. I have attached a title report from \_\_\_\_\_, dated \_\_\_\_\_, which indicates that Owner held fee title to the real property identified in the Application at the time of the original filing.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements herein are incorrect, I may, at HPD's sole discretion, be prevented from delivering any certification or legal opinion to HPD in connection with any future project. Furthermore, I understand that any false statement may be deemed to be professional misconduct pursuant to Section 90 of the Judiciary Law.

Sincerely,



\_\_\_\_\_  
Attorney's Signature

**Robert Pollack**

\_\_\_\_\_  
Attorney's Name

# EXHIBIT 3

City of New York  
Department of Housing Preservation and Development  
Office of Development  
Division of Housing Incentives  
Tax Incentive Programs Unit  
421-a Partial Tax Exemption Program  
100 Gold Street, Room 8-C09  
New York, NY 10038

**Architect's / Engineer's Certification**  
**In Support of Preliminary Application for 421-a Partial Tax Exemption**

Re: Online Application Submission Confirmation # **59898**

Docket # **TEO11391**

Address(es) / Tentative Lot (s)

**Building 1: 145, Clinton Street, 40**

Borough **MANHATTAN** Block **00346**

Lot(s) **0040.**

Total Number of Buildings **1**

**Richard Metsky** , being duly sworn, under penalty of perjury, deposes and says:

1. I am a Registered Architect or Professional Engineer licensed to practice by and in good standing with the New York State Department of Education. As such, I certify to the truth of the matters set forth below in connection with the above pending application (the "Application") for 421-a Partial Tax Exemption.

2. The Building plans accompanying the Architect's/Engineer's Certification signed by me on March 18, 2016 and previously submitted to HPD, each page of which was initialed and dated by me, are a true copy of the most recent plans approved by the New York City Department of Buildings (hereinafter, "Plans").

3. The calculations in Section 6 of the Application are a true and accurate reflection of the layout and dimensions of the Plans, and the room count and dwelling unit count as shown in Section 6 of the Application are in compliance with Section 6-01(c) of Chapter 6 of Title 28 of the Rules of the City of New York (the "421-a Rules").

4. The calculations of Aggregate Floor Area and Floor Area of Commercial Community Facilities and Accessory Use Space of the building(s) applying for 421-a Partial Tax Exemption in Section 6 of the Application are in compliance with Sections 6-01(c) and 6-06(b) of the 421-a Rules and the guidance provided in the latest edition of Department of Housing Preservation and Development's Frequently Asked Questions, dated June 17, 2004.

The annexed survey, dated 11/19/13, as prepared by James C. Weed a licensed land surveyor of <sup>Control Point</sup> ~~Associates, Inc.~~ (name of company, if applicable) is a true copy of the survey used to determine the eligibility of the site for 421-a Partial Tax Exemption. The site eligibility statements and/or calculations stated in Section 7 of the Application accurately represent the conditions at the site on the Operative Date (i.e. 36 months prior to the commencement of construction) and the current lot or lots indicated on the Application are eligible for 421-a Partial Tax Exemption.

The attached RP-604 or RP-602 executed and approved by the New York City Department of Finance Property Division - Survey Unit, dated <sup>July 26, 2015</sup> ~~July 14~~, 2015, accurately reflects the Project's tentative lot changes to the current New York City Tax Map.

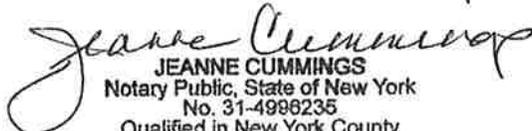
5. I have read the specific sections of the 421-a Rules applicable to this Project and understand them. I have relied upon this understanding for purposes of the representations I am making in this affidavit. 6/9/2015 is the accurate date of "commencement of construction," (i.e., the date upon which excavation and construction of initial footings and foundations commenced in good faith), for the above-referenced project and is consistent with the definitions of "commencement of construction" in Section 6-01(c) and "commence" in Section 6-09(a) of the 421-a Rules, as applicable.

I make these statements to induce the Department of Housing Preservation and Development of the City of New York to grant a partial tax exemption pursuant to Section 421-a of the New York State Real Property Tax Law, Sections 11-245 and 11-245.1 of the Administrative Code of the City of New York, and the 421-a Rules.

I know that the Department of Housing Preservation and Development will rely on the veracity of these statements in granting 421-a Partial Tax Exemption. I certify that the above statements are true and correct under penalty of perjury.

I understand that if the Department of Housing Preservation and Development finds that any of the statements are incorrect, I may, in HPD's sole discretion, be prevented from certifying any future projects with HPD. Furthermore, I understand that submission of a false certification shall be deemed to be professional misconduct pursuant to Section 6509 of the Education Law.

Sworn to me this 18<sup>th</sup> day of MARCH, 2016

  
JEANNE CUMMINGS  
Notary Public, State of New York  
No. 31-4986235  
Qualified in New York County  
Commission Expires May 11, 2018

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

[OR

Dated: March 18, 2016

Seal of RA or PE]



\_\_\_\_\_  
Architect / Engineer Signature

***Richard Metsky***

\_\_\_\_\_  
Architect / Engineer Name

***Beyer Blinder Belle Architects and Planners LLP***

\_\_\_\_\_  
Business Name

***120 Broadway New York, NY***

\_\_\_\_\_  
Business Address

***(212) 777-7800***

\_\_\_\_\_  
Phone Number

# EXHIBIT 4



# APPLICATION FOR MERGERS OR APPORTIONMENTS

**Instructions:** Please complete this application and *submit in person* to: *Department of Finance, Division of Land Records - Tax Map Office, 66 John Street, 13th floor, New York, NY 10038.* Please read the instructions for further details before completing this form. Print clearly.

## SECTION A: PROPERTY INFORMATION

Borough: Manhattan Block: 346 Present Lot(s): 40

Merger  Apportionment Number of Lots Requested 2

DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY

New Lot Number: 39, 40

New Lot(s) Usage (check one):  Residential Building Gross Sq/Ft: \_\_\_\_\_  Commercial Building Gross Sq/Ft: \_\_\_\_\_  Mix (Residential & Commercial) Building Gross Sq/Ft: 265,000

1. Property Owner's Name: Site 5 DSA Owner LLC (LAST NAME) THE CITY OF NEW YORK (FIRST NAME)

2. Property Address: 145 Clinton Street (NUMBER AND STREET) New York (CITY) NY (STATE) 10002 (ZIP CODE)

## SECTION B: APPLICANT INFORMATION

1. Architect/Engineer/Applicant's Name: Metsky (LAST NAME) Richard (FIRST NAME)

Beyer Blinder Belle Architects and Planners LLP

2. Address: 120 Broadway, 20th Floor (NUMBER AND STREET) New York (CITY) NY (STATE) 10271 (ZIP CODE)

3. Telephone Number: (212) 777-7800 4. Email Address: rmetsky@bbbarch.com

## SECTION C: CERTIFICATION

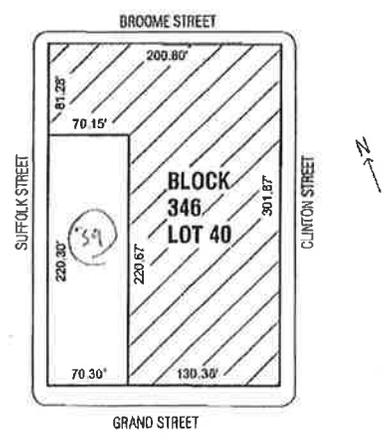
The applicant hereby certifies that, in making this application for merger/apportionment, s/he is the owner, or acting under the direction of the owner.

Signature of Architect/ Engineer/Applicant:

Date: July / 06 / 2015

TAX MAP CHANGE WILL NOT BE MADE UNTIL PRESENTATION OF REQUIRED DOCUMENTS (see reverse for the required documents)

DRAW SKETCH TO SCALE 1" = 50', IF POSSIBLE INDICATE NORTH ARROW



(Architect or Engineer's seal)

Lot(s) issued: \_\_\_\_\_ Customer Service Representative: J. [Signature] Date: 7/14/15 New Lot(s): 39 Lot(s) Affected: 40 Lot(s) Dropped: \_\_\_\_\_

Please note: Map changes will not be made until presentation of all required documents is reviewed and approved by the Cartographer.

Map Updated: \_\_\_\_\_ Tax Map Cartographer: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_



Change color: [Color selection icons]

[FAQs](#)

[Glossary](#)

Change text size:

A A A

Welcome, kbaerga. Your role(s) are: ExternalUser  
[Logout](#)

New Condo Apportionment Request

Online Form RP 602-C

APPLICATION STATUS: **Approved/Unpaid**

CASE NUMBER: **20150617000007**

COMMENTS: **Ready for payment. Please print invoice. Pay, then present paid receipt along with your printed application with architect diagram to receive Condo # and lot #s.**

[Print Application](#)

Basic Property Information

Condo Name	ESSEX CROSSING SITE FIVE CONDOMINIUM		
Borough	Manhattan		
Block	Lot	House #	Street Name
346	40	145	CLINTON STREET

How many lots requested? 5

New Lot(s) Usage Residential

Sponsor(s) / Declarant Information

Sponsor is a(n): LLC

Business Name:

SITE 5 DSA OWNER LLC

House #: Street Name: Apt #:

111 BTH AVENUE SUITE 1500

City: State / Province / Region: Country:

NY NY US

Zip Code: Email: Phone:

10011 EPADRON@BFCNYC.COM 718 422 9999

Applicant Information

Applicant is a(n): Attorney

First Name: Middle Initial: Last Name:

RICHARD METSKY

House #: Street Name: Apt #:

120 BROADWAY 20TH FL

City: State / Province / Region: Country:

NY NY US

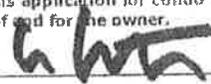
Zip Code: Email: Phone:

10271 RMETSKY@BBBARCH.COM 212 777 7800

The applicant hereby certifies that in making this application for condo apportionment, s/he is acting as the owner, or under the direction of and for the owner.

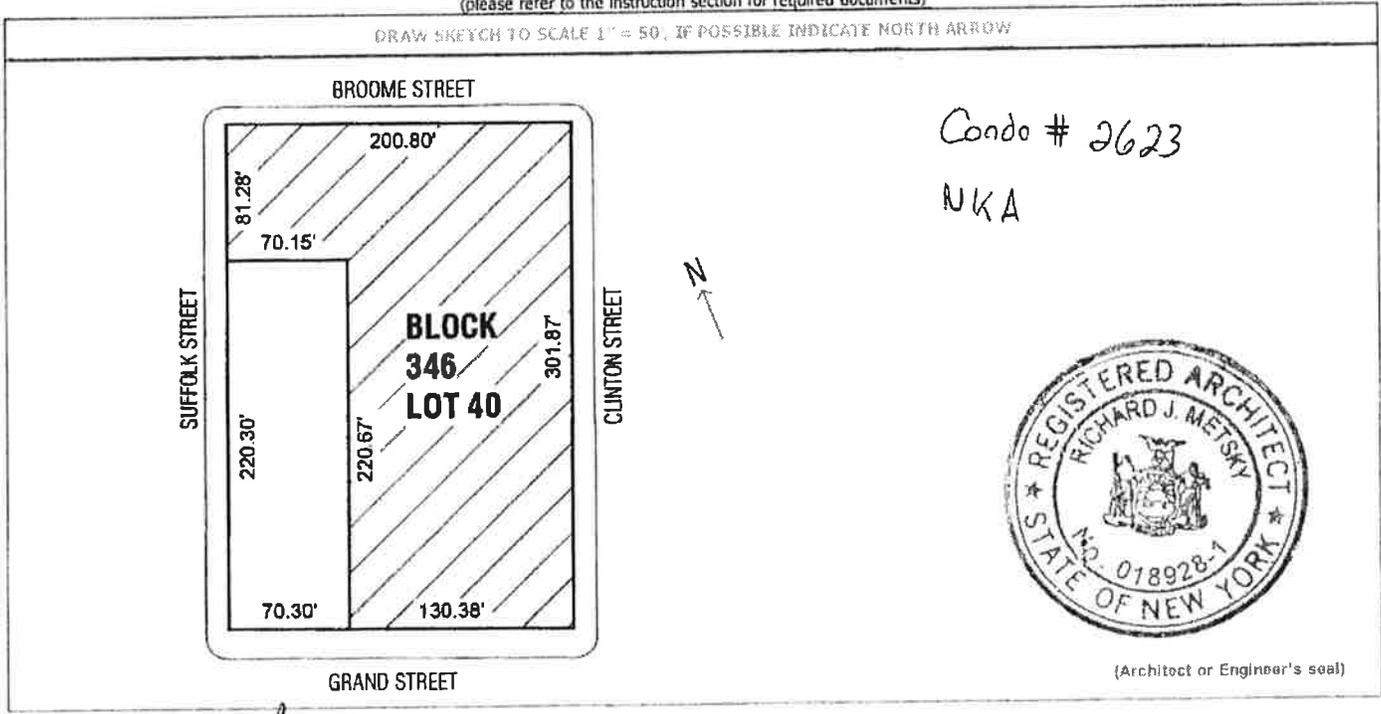
Applicant Name RICHARD METSKY

Applicant Signature

  
Date: 6/17/2015 12:00:00 AM

TAX MAP CHANGE WILL NOT BE MADE UNTIL PRESENTATION OF REQUIRED DOCUMENTS  
(please refer to the instruction section for required documents)

DRAW SKETCH TO SCALE 1" = 50'. IF POSSIBLE INDICATE NORTH ARROW



Condo # 2623

NKA



(Architect or Engineer's seal)

Tax Map Unit Staff: Jamel White Date: 7/20/15

Back



Finance

Division of Land Records

# TAX MAP UNIT FEE SHEET

Date: 7/20/15

Borough: MN

Block: 346

Lot: 40

NYC Business Centers  
Department of Finance  
Manhattan Business Center  
66 John Street, 2nd Floor  
New York, NY 10038

Reference Number: 2015201002-50  
Date/Time: 07/20/2015 2:39:09 PM

Property Tax - Miscellaneous Fees  
2015201002-50-1

CPRR Trans Code: 11  
CPRR Trans Desc: Miscellaneous Fees

Borough: 1  
Block: 346  
Lot: 40

Due Date: 07/20/2015  
UserId: NYC0331

Total: \$365.00

1 ITEM TOTAL: \$365.00

TOTAL: \$365.00

Business Check \$365.00

Check Nbr: 000012002

Total Received: \$365.00



<u>SERVICE</u>	<u>COST</u>	<u>QUANTITY</u>
----------------	-------------	-----------------

<u>TAX MAP CERTIFICATION</u>	\$10.00	<u>                    </u>
------------------------------	---------	-----------------------------

New Lot Request For Applications of Condominium Apportionments and Approvals (RP-602C), and Applications for Mergers and Apportionments (RP-602).	\$73.00 (per lot)	<u>5</u>
---	-------------------	----------

Thank you! Have a nice day.

365.00

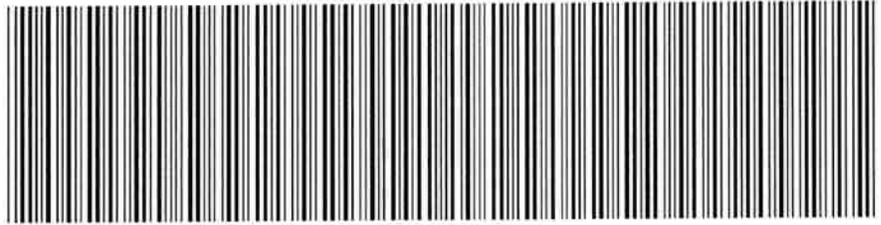
Total :

\$ 365.00

# EXHIBIT 5

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

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



2015070101469002003E8EAA

**RECORDING AND ENDORSEMENT COVER PAGE**

**PAGE 1 OF 21**

**Document ID: 2015070101469002** Document Date: 06-30-2015 Preparation Date: 07-07-2015  
Document Type: DEED  
Document Page Count: 20

**PRESENTER:**  
ALL NEW YORK TITLE AGENCY, INC.  
222 BLOOMINGDALE ROAD^ANY2014-9563C  
SUITE 306  
WHITE PLAINS, NY 10605  
914-686-5600  
JKAMNA@ALLNYT.COM

**RETURN TO:**  
BEATRICE N. THUO, ESQ.  
DEPT OF HPD - OFFICE OF LEGAL AFFAIRS  
100 GOLD STREET, ROOM 5-U2  
NEW YORK, NY 10038

				PROPERTY DATA	
Borough	Block	Lot	Unit	Address	
MANHATTAN	346	40	Partial Lot	145 CLINTON STREET	
<b>Property Type: OTHER</b>					

**CROSS REFERENCE DATA**

CRFN \_\_\_\_\_ or DocumentID \_\_\_\_\_ or \_\_\_\_\_ Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

**PARTIES**

**GRANTOR/SELLER:**  
THE CITY OF NEW YORK, ACTING BY AND  
THROUGH ITS DE  
100 GOLD STREET  
NEW YORK, NY 10038

**GRANTEE/BUYER:**  
SITE 5 DSA OWNER LLC  
1865 PALMER AVENUE, SUITE 203  
LARCHMONT, NY 10538

**FEES AND TAXES**

<b>Mortgage :</b>		<b>Filing Fee:</b>	
Mortgage Amount:	\$ 0.00		\$ 250.00
Taxable Mortgage Amount:	\$ 0.00	NYC Real Property Transfer Tax:	
Exemption:			\$ 185,587.50
TAXES: County (Basic):	\$ 0.00	NYS Real Estate Transfer Tax:	
City (Additional):	\$ 0.00		\$ 28,280.00
Spec (Additional):	\$ 0.00		
TASF:	\$ 0.00		
MTA:	\$ 0.00		
NYCTA:	\$ 0.00		
Additional MRT:	\$ 0.00		
<b>TOTAL:</b>	<b>\$ 0.00</b>		
Recording Fee:	\$ 137.00		
Affidavit Fee:	\$ 0.00		

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



**CITY OF NEW YORK**  
Recorded/Filed 07-08-2015 11:37  
City Register File No.(CRFN):  
**2015000233733**

*Annette M Hill*

*City Register Official Signature*

**THIS DEED** ("Deed"), entered into as of the 30th day of June, 2015, by and between **THE CITY OF NEW YORK**, a municipal corporation formed pursuant to the laws of the State of New York, having its principal office at City Hall, New York, New York 10007 ("City"), acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having its principal office at 100 Gold Street, New York, New York 10038 ("HPD"), as grantor, and **SITE 5 DSA OWNER LLC**, a Delaware limited liability company, having its principal office at 1865 Palmer Avenue, Suite 203, Larchmont, New York 10538 ("Sponsor"), as grantee.

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

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

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

**WHEREAS**, the Disposition Area is eligible as a municipally-owned area to be conveyed pursuant to Article 16 of the General Municipal Law ("GML"); and

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

**WHEREAS**, in furtherance of such program, the City is undertaking an Urban Development Action Area Project for the development of the Disposition Area ("Project"), as such Project is more fully described in a certain Land Disposition Agreement ("LDA") and that certain Regulatory Agreement, dated as the date hereof, among Sponsor, HPD and New York City Housing Development Corporation to be recorded simultaneously herewith against the Disposition Area ("Regulatory Agreement"); and

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

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

**WHEREAS**, on October 11, 2012, by Resolution No. 1559, a copy of which is annexed hereto as Exhibit B and made a part hereof, the Council, having held a public hearing following notice of the date, time, place, and purpose of such hearing, (i) approved the designation of the Disposition Area as an Urban Development Action Area pursuant to Section 693 of the GML, and (ii) approved the project as an Urban Development Action Area Project pursuant to Section 694 of the GML; and

**WHEREAS**, on June 1, 2015, by the document annexed hereto as Exhibit C and made a part hereof, the Mayor, having held a public hearing following notice of the date, time, place, and purpose of such hearing, (i) approved the designation of Sponsor as a qualified and eligible

sponsor pursuant to Section 695 of the GML, (ii) approved the sale of the Disposition Area by the City to Sponsor pursuant to Section 695 of the GML, and (iii) approved the LDA; and

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

**WHEREAS**, as a further condition of the conveyance of the Disposition Area to Sponsor, Sponsor shall, or if applicable, shall cause its affiliate to, execute and deliver on the date hereof an Operating Agreement ("Operating Agreement") between Sponsor (or, if applicable, an affiliate of Sponsor) and New York City Economic Development Corporation ("EDC"), with respect to Sponsor's obligations to, among other things, construct, operate and maintain certain public amenities in the Disposition Area; and

**NOW THEREFORE**, the City, in consideration of the sum of ONE DOLLAR (\$1.00) paid by Sponsor, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and release the Disposition Area unto Sponsor, its successors and assigns forever, subject only to the restrictions set forth or referred to herein.

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

1. Conveyance.

A. Title. The City hereby conveys to Sponsor, and Sponsor accepts from the City, all right, title, and interest of the City in and to the Disposition Area, subject to, without limitation:

1. the trust fund provisions of Section 13 of the Lien Law;
2. all terms, covenants, and conditions of this Deed, the LDA and the Regulatory Agreement;
3. all terms, covenants, and conditions of the Operating Agreement; and
4. all terms, covenants, and conditions of that certain Declaration of General Large-Scale Development, dated as of March 5, 2015, made by the City and recorded on March 19, 2015 against various parcels, including the Disposition Area, as CRFN 2015000094319, as amended by that certain First Modification to Restrictive Declaration, dated as of March 25, 2015, made by the City and recorded on April 14, 2015 against various parcels, including the Disposition Area, as CRFN 2015000124879 ("Restrictive Declaration"), including the obligation therein to develop approximately 14,976 square feet of the Disposition Area as public open space (the "Open Space") and grant the City a non-exclusive easement in the Open Space in perpetuity, for the benefit of the general public.

B. "As Is" Condition. Sponsor accepts the Disposition Area in its "as is" condition on the date of delivery of this Deed to Sponsor ("Closing"). The City has not made any representations regarding the condition of the Disposition Area and neither has nor had any obligation to undertake demolition, site clearance, or site

preparation. The City neither warrants nor represents the surface and subsurface conditions of the Disposition Area, that such conditions will be suitable for the Project, or that the Disposition Area is or will be level to grade. Sponsor represents and warrants that it has inspected the Disposition Area and is fully familiar with its condition.

2. Revesting.

A. Revesting.

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

- a. Failure to commence Construction on or before the Commencement Date;
- b. Failure to perform the Construction in accordance with the Approved Plans;
- c. Abandonment or substantial suspension of Construction after the Commencement Date and before the Completion Date;
- d. Failure to complete ninety five percent (95%) of the value of Construction in accordance with the Approved Plans, as such percentage and compliance are determined by HPD, on or before the Completion Date; and
- e. Any Prohibited Transfer without the prior written consent of HPD.

2. Cure.

- a. Upon the occurrence of any Default, HPD shall give written notice of such Default ("Default Notice") to Sponsor and to any Holder which has previously requested such Default Notice in writing.
- b. Sponsor and any Holder shall be permitted thirty (30) days from the date of any Default Notice ("Cure Period") to cure such Default to the satisfaction of HPD ("Cure").
- c. If HPD, in its sole discretion, determines in writing that the nature of the Default makes it impossible to complete a Cure within the Cure Period, Sponsor or any Holder shall be permitted to commence the Cure of such Default during the Cure Period and to thereafter diligently and continuously pursue the Cure of such Default until such Default shall be completely Cured; provided, however, that such Default shall be completely Cured not later than one hundred eighty (180) days after the Completion Date ("Extended Cure Period").

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

the LDA (except for the provisions of Section 202 of the LDA and any provisions which would control by operation of law even in the absence of this Deed and the LDA) are subordinated to the lien of the Mortgage in the event that Sponsor ceases to hold title to the Disposition Area as a result of the Holder's exercise of a remedy for the Sponsor's default under the Loan Documents.

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

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

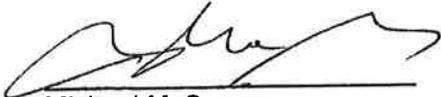
8. Severability. If any term or provision of this Deed shall be found to be void, voidable, or otherwise unenforceable, such term or provision shall be deemed severed from this Deed and shall have no further force or effect, and the remaining terms and provisions shall thereafter continue in full force and effect to accomplish the intent and purpose of this Deed to the fullest extent possible.
9. Waiver. To the extent permitted by law, Sponsor hereby waives any and all rights it may have, at law or equity, to challenge, modify, set aside, extinguish, enjoin enforcement of, or seek relief from any of the terms, conditions, covenants, restrictions, or agreements in this Deed.
10. Cross-Default. A default pursuant to the LDA, the Regulatory Agreement, or any other document between Sponsor and the City shall constitute a default pursuant to this Deed.
11. Defined Terms. Any capitalized terms not defined herein shall have the meanings ascribed to them in the LDA.
12. Dormitory. No portion of the Disposition Area shall be used as a dormitory.
13. Devotion of Disposition Area to Project.

The Disposition Area shall be devoted solely to the Project.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the CITY OF NEW YORK, acting by its Mayor, has caused its corporate seal to be affixed hereto and duly attested and this Deed to be signed by an authorized official of the Department of Housing Preservation and Development, and Sponsor has caused this Deed to be signed as of the day and year first above written.

ATTEST:



Michael McSweeney  
City Clerk

THE CITY OF NEW YORK

By: DEPARTMENT OF HOUSING  
PRESERVATION AND DEVELOPMENT

By:   
Vicki Been  
Commissioner

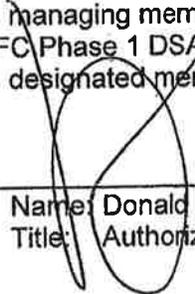
Seal of The City of New York

SITE 5 DSA OWNER LLC

By: DSA Phase 1 Holdings LLC,  
its sole member

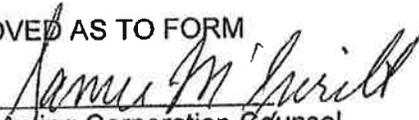
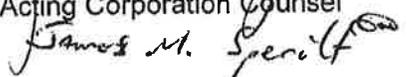
By: DSA Phase 1 LLC,  
its managing member

By: BFC Phase 1 DSA LLC,  
its designated member

By:   
Name: Donald Capoccia  
Title: Authorized Signatory

APPROVED AS TO FORM

By:

  
Acting Corporation Counsel  


**COMMISSIONER ACKNOWLEDGMENT**

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

On the 30<sup>th</sup> day of June in the year 2015 before me, the undersigned, personally appeared **VICKI BEEN**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

JOANNA HAMLIN KANDEL  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01KA6224410  
Qualified in New York County  
My Commission Expires November 18, 2018

*Joanna Hamlin Kandel*  
NOTARY PUBLIC

**CITY CLERK ACKNOWLEDGMENT**

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

On the 30th day of June in the year 2015 before me, the undersigned, personally appeared **MICHAEL MCSWEENEY**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

*Wendy Fitzgarry Lopez*  
\_\_\_\_\_  
NOTARY PUBLIC

WENDY FITZGARRY-LOPEZ  
Commissioner of Deeds  
City of New York No. 2-12331  
Certificate Filed in New York County  
Commission Expires Jan 23, 2016

1/1/2016

**SPONSOR ACKNOWLEDGMENT**

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

On the 30<sup>th</sup> day of June in the year 2015 before me, the undersigned, personally appeared DONALD CAPOCCIA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

  
\_\_\_\_\_  
NOTARY PUBLIC  
**JOHN M. MARTIN**  
Notary Public, State of New York  
No. 02MA4856355  
Qualified in Westchester County  
Commission Expires March 17, 2018

EXHIBIT A

Property Description

All those certain plots, pieces and parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the City and State of New York, designated on the Tax Map of the City of New York as of June 1, 2015 as:

<u>Block(s)</u>	<u>Lot(s)</u>	<u>Address</u>
346	p/o 40	145 Clinton Street

County: New York

also known as:

ALL that certain parcel of land lying in the Borough of Manhattan, City, County and State of New York, more particularly described as follows:

BEGINNING at a point being the intersection of the northeasterly line of Grand Street (100 feet wide) and the northwesterly line of Clinton Street (variable width) and from said point and place of beginning;

RUNNING thence along the northeasterly line of Grand Street, a distance of 130.38 feet to a point;

THENCE turning an interior angle of 90 degrees 18' 29", a distance of 220.67 feet to a point;

THENCE turning an interior angle of 269 degrees 00' 26", a distance of 70.15 feet to the southwesterly line of Suffolk Street;

THENCE along the southeasterly line of Suffolk Street (variable width), turning an interior angle of 89 degrees 58' 15", a distance of 81.28 feet to the southeasterly line of Broome Street;

THENCE along the southwesterly line of Broome Street (variable width), turning an interior angle of 89 degrees 48' 45", a distance of 200.80 feet to the northwesterly line of Clinton Street;

THENCE along the northwesterly line of Clinton Street, turning an interior angle of 90 degrees 09' 49", a distance of 301.87 feet to the point and place of beginning, having a closing angle of 89 degrees 45' 16" with said northeasterly line of Grand Street.

EXHIBIT B

City Council Resolution

(next page)

**THE COUNCIL OF THE CITY OF NEW YORK  
RESOLUTION NO. 1559**

Resolution approving an application submitted by the New York City Department of Housing Preservation and Development ("HPD") and the decision of the City Planning Commission, N 120236 HAM, approving the designation of properties located on Essex, Delancey, Norfolk, Grand, Stanton and Broome streets (Block 346, part of Lot 40; Block 347, Lot 71; Block 352, Lots 1, 28; Block 353, Lot 44; Block 354, Lots 1, 12; and Block 409, Lot 56) as an Urban Development Action Area (the "Area"), and approving the project for the area as an Urban Development Action Area Project (L.U. No. 696; N 120236 HAM).

By Council Members Comrie and Levin

WHEREAS, the New York City Department of Housing Preservation and Development (HPD) submitted an application pursuant to Article 16 of the General Municipal Law of New York State regarding:

- a) the designation of properties located on Essex, Delancey, Norfolk, Grand, Stanton and Broome streets (Block 346, part of Lot 40; Block 347, Lot 71; Block 352, Lots 1, 28; Block 353, Lot 44; Block 354, Lots 1, 12; and Block 409, Lot 56), as an Urban Development Action Area (the "Area"); and
- b) an Urban Development Action Area Project for such area (the "Project");

to facilitate the development of residential, community facility and commercial uses, including the redevelopment of the Essex Street Market (No. N 120236 HAM) (the "Application");

WHEREAS, the City Planning Commission filed with the Council on August 24, 2012 its decision dated August 22, 2012 (the "Decision"), on the Application;

WHEREAS, the Application is related to Application C 120226 ZMM (L.U. No. 688), a proposed amendment to the Zoning Map, Section No. 12c, establishing a C2-5 District within an existing R8 District; N 120227 ZRM (L.U. No. 689), a proposed amendment to the Zoning Resolution, modifying Sections 74-743 (Special Provisions for Bulk Modifications) and 74-744 (Modification of Use Regulations) concerning special permit regulations for large-scale general developments, relating to the former Seward Park Extension Urban Renewal Area; C 120228 ZSM (L.U. No. 690), a Special Permit, to modify the bulk regulations within a Large-Scale General Development; C 120229 ZSM (L.U. No. 691), a Special Permit, to modify the use regulations within a Large-Scale General Development; C 120231 ZSM (L.U. No. 692), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Norfolk Street, Broome Street and Essex Street (Site 2, Block 352, p/o Lot 1 and Lot 28), in a C6-1 District; C 120233 ZSM

(L.U. No. 693), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Delancey Street, Suffolk Street, Broome Street and Norfolk Street (Site 3, Block 346, p/o Lot 40), in an R8/C2-5 District; C 120234 ZSM (L.U. No. 694), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking on property bounded by Delancey Street, Clinton Street, Broome Street and Suffolk Street (Site 4, Block 346, p/o Lot 40), in an R8/C2-5 District; C 120235 ZSM (L.U. No. 695), a Special Permit, pursuant to Sections 13-562 and 74-52 of the Zoning Resolution, to allow a public parking garage on property bounded by Broome Street, Clinton Street Grand Street and Suffolk Street (Site 5, Block 346, p/o Lot 40), in an R8/C2-5 District; C 120237 PQM (L.U. No. 697), Acquisition of property bounded by Essex, Delancey, Norfolk, and Broome Streets (Block 352, p/o Lots 1 and 28), by the New York City Department of Citywide Administrative Services; C 120245 PPM (L.U. No. 698), Disposition of city-owned property (Block 346, p/o of Lot 40; Block 347, Lot 71; Block 352, Lots 1 and 28; Block 353, Lot 44; Block 354, Lots 1 and 12; and Block 409, Lot 56), by the New York City Department of Housing Preservation and Development to a future developer, or by the New York City Department of Citywide Administrative Services to the New York City Economic Development Corporation (NYCEDC) or a successor local development corporation; C 120156 MMM (L.U. No. 699), a proposed amendment to the City Map involving: the establishment of Broome Street between Norfolk Street and Clinton Street; the establishment of Suffolk Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Clinton Street between Grand Street and Delancey Street; the narrowing, by elimination, discontinuance and closing, of Delancey Street between Norfolk Street and Clinton Street; the establishment of the name Delancey Street for the Unnamed Street between Clinton Street and Franklin D. Roosevelt Drive; and the adjustment of grades necessitated thereby, including authorization for any disposition or acquisition of real property related thereto, in accordance with Map No. 30236, dated March 14, 2012, and signed by the Borough President;

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 and Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Application and Decision on September 19, 2012;

WHEREAS, on September 7, 2012, HPD submitted a project summary to the Council pursuant to the Application;

WHEREAS, on September 25, 2012, HPD submitted a revised project summary to the Council pursuant to the Application ("Revised Project Summary"); and

WHEREAS, HPD submitted a project summary to the City Planning Commission pursuant to Application No. N 120236 HAM; and

WHEREAS, HPD submitted a revised project summary dated September 27, 2012 to the City Planning Commission pursuant to Application No. N 120236 HAM;

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 Generic Environmental Impact Statement ("FGEIS") for which a Notice of Completion was issued on August 10, 2012 and the CEQR Technical Memorandum dated October 1, 2012 (the "CEQR Technical Memorandum") (CEQR No. 11DME012M);

RESOLVED:

Having considered the FGEIS and the CEQR Technical Memorandum with respect to the Application and the Decision, the Council finds that:

- (1) The FGEIS 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 thereto, the Proposed Action, as modified with the modifications adopted herein, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FGEIS and the CEQR Technical Memorandum will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, in accordance with environmental commitment letters, dated August 15, 2012, from HPD and August 15, 2012, from NYCEDC, those project components related to the environment and mitigation measures that were identified as practicable.
- (4) The Decision together with the FGEIS and the CEQR Technical Memorandum 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 Article 16 of the General Municipal Law, and on the basis of the Application and Decision, and based on the environmental determination and consideration described in this report, N 120236 HAM, incorporated by reference herein the Council approves the Application and the Decision.

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 the 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 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 and subject to the terms and conditions of the Revised Project Summary, a copy of which is attached hereto.

Adopted

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

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on October 11, 2012, on file in this office.

  
City Clerk, Clerk of The Council

EXHIBIT C

Mayoral Approval Document

(next page)

THE MAYOR  
CITY OF NEW YORK

MAY 27, 2015

Cal. No. 9

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

Block  
346

Lot  
part of 40

on the Tax Map of the City and as Essex Crossing Site 5 in HPD's Mixed Income Program: Mix & Match ("Disposition Area"); and

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

WHEREAS, the City Planning Commission duly filed with the Council and the affected Borough President its approval (Report No. C120245PPM, dated August 22, 2012) of the use and disposition of the Disposition Area in conformity with the land use review procedures required by Sections 197-c and 197-d of the Charter, which have been adhered to; and

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

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Part 617 of Volume 6 of the Codes, Rules and Regulations of the State of New York, Chapter 5 of Title 62 of the Rules of the City of New York, and Mayoral Executive Order No. 91 of August 24, 1977, as amended, the Office of the Deputy Mayor for Economic Development has prepared an Environmental Impact Statement which has been duly considered by the Mayor; and

WHEREAS, HPD has designated Site 5 DSA Owner LLC ("Sponsor") as a qualified and eligible developer; and

WHEREAS, it is anticipated that the Project to be developed by the Sponsor will contain one building containing approximately 211 dwelling units, approximately 76,375 square feet of commercial space, and approximately 14,976 square feet of public open space; and

WHEREAS, a proposed agreement ("Land Disposition Agreement") between the City and Sponsor providing for the sale of the Disposition Area to Sponsor for the negotiated price of \$7,070,000 ("Disposition Price") and setting forth the terms and conditions for the development of the Disposition Area has been submitted to the Mayor; and

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

WHEREAS, as certified below, a duly noticed public hearing in the matter of the disposition, pursuant to Section 1802(6)(j) of the Charter, was held and closed by the Mayor on MAY 27, 2015 (Cal. No. 9). At such public hearing, no amendments were made and no testimony was offered. The relevant portion of the calendar is annexed hereto.

CERTIFICATION by the Mayor's Office of Contract Services/Public Hearings Unit of the actions at and final disposition of the Real Property Public Hearing held on MAY 22, 2015 (Cal. No. 9).

Josephine Gallego Hearing Secretary June 1, 2015  
NAME TITLE DATE

NOW THEREFORE:

1. The Mayor hereby approves the designation of Sponsor as a qualified and eligible sponsor.
2. The Mayor hereby authorizes and approves the sale of the Disposition Area at the Disposition Price by negotiated sale, without public auction or sealed bids.
3. The Mayor hereby approves the Land Disposition Agreement in substantially the form submitted and authorizes the subordination of the Land Disposition Agreement to the lien of mortgages securing loans financing the Project.
4. The Mayor hereby authorizes any Deputy Mayor or the Commissioner of HPD to execute a Land Disposition Agreement in substantially the form submitted, when approved as to form by the Corporation Counsel, and directs the City Clerk or acting City Clerk to attest the same and to affix the seal of the City thereto.
5. The Mayor hereby authorizes the City, as more particularly described in the Land Disposition Agreement, to indemnify Sponsor and its successors or assigns, holders of mortgages securing loans financing the Project and their successors or assigns, and title companies against any claims of interest in the Disposition Area, or any portion thereof, by the holders of any mortgages of record against the Disposition Area, or any portion thereof, at the time the City acquired title.
6. The Mayor hereby authorizes any Deputy Mayor or the Commissioner of HPD to execute and deliver to Sponsor, or to an affiliate or successor of Sponsor controlled by the same principal(s) that controlled Sponsor, a deed of conveyance of title to the Disposition Area, when approved as to form by the Corporation Counsel, at the Disposition Price, without public auction or sealed bids, and upon the terms and conditions contained in the Land Disposition Agreement, and directs the City Clerk or acting City Clerk to attest said deed and to affix the seal of the City thereto.

Date: 6-1, 2015

By: Paul Prissel

Paul Prissel, General Counsel  
Mayor's Office of Contract Services

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



2015070101469002003S402B

**SUPPORTING DOCUMENT COVER PAGE**

**PAGE 1 OF 1**

**Document ID: 2015070101469002**  
Document Type: DEED

Document Date: 06-30-2015

Preparation Date: 07-07-2015

**ASSOCIATED TAX FORM ID: 2015062500415**

**SUPPORTING DOCUMENTS SUBMITTED:**

Page Count

RP - 5217 REAL PROPERTY TRANSFER REPORT

2

FOR CITY USE ONLY

C1. County Code  C2. Date Deed Recorded  /  /   
 Month Day Year

C3. Book  OR C4. Page   
 C5. CRFN



**REAL PROPERTY TRANSFER REPORT**  
 STATE OF NEW YORK  
 STATE BOARD OF REAL PROPERTY SERVICES  
**RP - 5217NYC**

**PROPERTY INFORMATION**

1. Property Location  145  CLINTON STREET  MANHATTAN  10002  
 STREET NUMBER STREET NAME BOROUGH ZIP CODE

2. Buyer Name  SITE 5 DSA OWNER LLC   
 LAST NAME / COMPANY FIRST NAME

3. Tax Billing Address   
 Indicate where future Tax Bills are to be sent if other than buyer address (at bottom of form) LAST NAME / COMPANY FIRST NAME

4. Indicate the number of Assessment Roll parcels transferred on the deed  1 # of Parcels OR  Part of a Parcel

6. Deed Property Size  FRONT FEET  X  DEPTH OR  ACRES

8. Seller Name  THE CITY OF NEW YORK, ACTING BY AND THROUGH ITS   
 LAST NAME / COMPANY FIRST NAME

- 4A. Planning Board Approval - N/A for NYC  
 4B. Agricultural District Notice - N/A for NYC  
 Check the boxes below as they apply:  
 6. Ownership Type is Condominium   
 7. New Construction on Vacant Land

9. Check the box below which most accurately describes the use of the property at the time of sale:
- |  |  |  |  |  |
|--|--|--|--|--|
| A <input type="checkbox"/> One Family Residential    | C <input type="checkbox"/> Residential Vacant Land     | E <input checked="" type="checkbox"/> Commercial Apartment | G <input type="checkbox"/> Entertainment / Amusement Community Service | I <input type="checkbox"/> Industrial Public Service |
| B <input type="checkbox"/> 2 or 3 Family Residential | D <input type="checkbox"/> Non-Residential Vacant Land | F <input type="checkbox"/> Apartment                       | H <input type="checkbox"/> Entertainment / Amusement Community Service | J <input type="checkbox"/> Industrial Public Service |

**SALE INFORMATION**

10. Sale Contract Date  6 / 30 / 2015  
 Month Day Year

11. Date of Sale / Transfer  6 / 30 / 2015  
 Month Day Year

12. Full Sale Price \$  7,070,000  
 ( Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

13. Indicate the value of personal property included in the sale

14. Check one or more of these conditions as applicable to transfer:
- A  Sale Between Relatives or Former Relatives
  - B  Sale Between Related Companies or Partners in Business
  - C  One of the Buyers is also a Seller
  - D  Buyer or Seller is Government Agency or Lending Institution
  - E  Deed Type not Warranty or Bargain and Sale (Specify Below)
  - F  Sale of Fractional or Less than Fee Interest (Specify Below)
  - G  Significant Change in Property Between Taxable Status and Sale Dates
  - H  Sale of Business is Included in Sale Price
  - I  Other Unusual Factors Affecting Sale Price (Specify Below)
  - J  None

**ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill**

16. Building Class  C, 7 16. Total Assessed Value (of all parcels in transfer)  2,975,850

17. Borough, Block and Lot / Roll Identifier(s) ( If more than three, attach sheet with additional Identifier(s) )  
 MANHATTAN 346 40

**CERTIFICATION**

I certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and understand that the making of any willful false statement of material fact herein will subject me to the provisions of the penal law relative to the making and filing of false instruments.

BUYER			BUYER'S ATTORNEY	
BUYER SIGNATURE <i>[Signature]</i>	DATE	LAST NAME	FIRST NAME	
111 EIGHTH AVENUE SUITE 1500	<i>6/20/15</i>			
STREET NUMBER	STREET NAME (AFTER SALE)	AREA CODE	TELEPHONE NUMBER	
NEW YORK				
CITY OR TOWN	STATE	ZIP CODE		
	NY	10011		

**SELLER**  
*[Signature]*  
SELLER SIGNATURE  
DATE *6/20/15*

*Bentley Huse*  
*Assistant General Counsel*

# EXHIBIT 6

# **NYC**<sup>TM</sup> Buildings



## Work Permit Department of Buildings

Permit Number: 121186938-01-NB

Issued: 06/08/2015

Expires: 08/14/2015

Address: MANHATTAN 145 CLINTON STREET

Issued to: BRANDON BARON

Business: ESSEX CROSSING BUILDERS L

Description of Work:

NEW BUILDING - PROPOSED: 15 STORY MIXED NEW BUILDING.

Contractor No: GC-614135

Review is requested under Building Code: 2008

SITE FILL: ON-SITE

To see a Zoning Diagram (ZD1) or to challenge a zoning approval filed as part of a New Building application or Alteration application filed after 7/13/2009, please use "My Community" on the Buildings Department web site at [www.nyc.gov/buildings](http://www.nyc.gov/buildings).

Emergency Telephone Day or Night: 311 SITE SAFETY PHONE : 212 669-7043

Borough Commissioner:

Commissioner of Buildings:

Tampering with or knowingly making a false entry in or falsely altering this permit is a crime that is punishable by a fine, imprisonment of both

01 06/08/2015

# EXHIBIT 7

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

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



2015070101469003002EDE96

PAGE 1 OF 48

**RECORDING AND ENDORSEMENT COVER PAGE**

Preparation Date: 07-02-2015

Document ID: 2015070101469003

Document Date: 06-30-2015

Document Type: SUNDRY MISCELLANEOUS  
Document Page Count: 46

**PRESENTER:**

ALL NEW YORK TITLE AGENCY, INC.  
222 BLOOMINGDALE ROAD^ANY2014-9565C  
SUITE 306  
WHITE PLAINS, NY 10605  
914-686-5600  
JKAMNA@ALLNYT.COM

**RETURN TO:**

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

**PROPERTY DATA**

Borough	Block	Lot	Unit	Address
MANHATTAN	346	40	Partial Lot	145 CLINTON STREET

Property Type: OTHER

**CROSS REFERENCE DATA**

CRFN \_\_\_\_\_ or DocumentID \_\_\_\_\_ or \_\_\_\_\_ Year \_\_\_\_\_ Reel \_\_\_\_\_ Page \_\_\_\_\_ or File Number \_\_\_\_\_

**PARTIES**

**PARTY 1:**  
SITE 5 RESIDENTIAL OWNER LLC  
150 MYRTLE AVENUE - SUITE 2  
BROOKLYN, NY 11201

**PARTY 2:**  
NEW YORK CITY HOUSING DEVELOPMENT  
CORPORATION  
110 WILLIAM STREET  
NEW YORK, NY 10038

Additional Parties Listed on Continuation Page

**FEES AND TAXES**

Mortgage Amount:	\$	0.00	Filing Fee:	\$	0.00
Taxable Mortgage Amount:	\$	0.00	NYC Real Property Transfer Tax:	\$	0.00
Exemption:			NYS Real Estate Transfer Tax:	\$	0.00
TAXES: County (Basic):	\$	0.00			
City (Additional):	\$	0.00			
Spec (Additional):	\$	0.00			
TASF:	\$	0.00			
MTA:	\$	0.00			
NYCTA:	\$	0.00			
Additional MRT:	\$	0.00			
<b>TOTAL:</b>	\$	0.00			
Recording Fee:	\$	267.00			
Affidavit Fee:	\$	0.00			

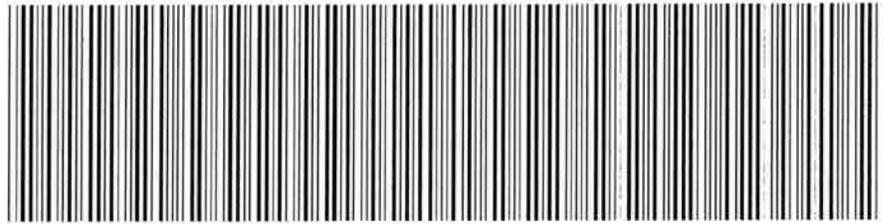
**RECORDED OR FILED IN THE OFFICE  
OF THE CITY REGISTER OF THE**

**CITY OF NEW YORK**  
Recorded/Filed 07-08-2015 11:37  
City Register File No.(CRFN):  
2015000233734



*Annette McMill*  
City Register Official Signature

NYC DEPARTMENT OF FINANCE  
OFFICE OF THE CITY REGISTER



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RECORDING AND ENDORSEMENT COVER PAGE (CONTINUATION)

PAGE 2 OF 48

Document ID: 2015070101469003

Document Date: 06-30-2015

Preparation Date: 07-02-2015

Document Type: SUNDRY MISCELLANEOUS

**PARTIES**

**PARTY 1:**

SITE 5 DSA HOUSING DEVELOPMENT FUND  
CORPORATION  
C/O SETTLEMENT HOUSING FUND, INC., 247 WEST  
37TH STREET - 4TH FLOOR

**PARTY 1:**

SITE 5 COMMERCIAL OWNER LLC  
150 MYRTLE AVENUE - SUITE 2  
BROOKLYN, NY 11201

**PARTY 1:**

SITE 5 UNIT 1 MASTER TENANT LLC  
150 MYRTLE AVENUE - SUITE 2  
BROOKLYN, NY 11201

**PARTY 1:**

SITE 5 DSA OWNER LLC  
150 MYRTLE AVENUE - SUITE 2  
BROOKLYN, NY 11201

**PARTIES**

**PARTY 2:**

THE CITY OF NEW YORK, ACTING BY AND  
THROUGH ITS DE  
100 GOLD STREET  
NEW YORK, NY 10038

---

**REGULATORY AGREEMENT**

among

**SITE 5 RESIDENTIAL OWNER LLC,  
SITE 5 COMMERCIAL OWNER LLC,  
SITE 5 DSA OWNER LLC,  
SITE 5 UNIT 1 MASTER TENANT LLC,  
SITE 5 HOUSING DEVELOPMENT FUND CORPORATION,  
NEW YORK CITY HOUSING DEVELOPMENT CORPORATION**

and

**THE CITY OF NEW YORK, ACTING BY AND THROUGH ITS DEPARTMENT OF  
HOUSING PRESERVATION AND DEVELOPMENT**

---

June 30, 2015

---

**BLOCK: 346  
LOT: 40  
COUNTY: New York**

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**RECORD AND RETURN TO:**

**New York City Housing Development Corporation  
110 William Street  
New York, NY 10038  
Attention: General Counsel**

**REGULATORY AGREEMENT** (as may be amended, this "Agreement"), entered into as of June 30, 2015, among **SITE 5 RESIDENTIAL OWNER LLC**, a New York limited liability company with an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 ("Residential Beneficial Owner"), **SITE 5 DSA HOUSING DEVELOPMENT FUND CORPORATION**, a New York not-for-profit corporation with an address at c/o Settlement Housing Fund, Inc., 247 West 37th Street, 4th Floor, New York, New York 10018, (the "Residential Legal Owner"), **SITE 5 COMMERCIAL OWNER LLC**, a New York limited liability company with an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 ("Commercial Owner"), **SITE 5 UNIT 1 MASTER TENANT LLC**, a New York limited liability company with an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 ("Master Tenant"), and **SITE 5 DSA OWNER LLC**, a New York limited liability company with an address at 150 Myrtle Avenue, Suite 2, Brooklyn, New York 11201 ("Initial Legal Owner" and together with Residential Beneficial Owner, Residential Legal Owner and Master Tenant, jointly and severally, the "Sponsor"), **NEW YORK CITY HOUSING DEVELOPMENT CORPORATION** ("HDC"), a New York public benefit corporation with its address at 110 William Street, New York, NY 10038, and **THE CITY OF NEW YORK** (the "City"), acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT** ("HPD"), with its address at 100 Gold Street, New York, NY 10038.

#### **PRELIMINARY STATEMENT**

**WHEREAS**, HDC has agreed to provide a portion of the construction financing for the low income portion of a rental housing development and related facilities, to be constructed on the premises described in Schedule A (the "Premises"), as identified in Schedule B (the "Project");

**WHEREAS**, the City has conveyed fee title to the Premises to the Initial Legal Owner, and the City and the Initial Legal Owner have entered into a Land Disposition Agreement dated as of the date of this Agreement, which is to be recorded against the Premises;

**WHEREAS**, the Sponsor intends to create five condominium units on the Premises pursuant to the New York Real Property Law, as amended, and related regulations; two condominium units shall contain retail space (together, the "Commercial Condo Unit"); one condominium unit shall contain 45 Non-Tax Code Income-Restricted Units, as defined herein (the "Middle Income Condo Unit"); one condominium unit shall contain 106 Market Rate Units and one superintendent's unit (the "Market Rate Condo Unit" and together with the Middle Income Condo Unit, the "Middle and Market Rate Residential Condo Unit"); and one condominium unit shall contain 59 residential apartments which will be affordable to Low Income Tenants (as defined herein) (the "Low Income Condo Unit");

**WHEREAS**, the Low Income Condo Unit will further be subject to a master lease between the Residential Beneficial Owner, the Residential Legal Owner and the Master Tenant (the "Low Income Master Lease"); the Low Income Condo Unit is expected to receive Tax Credits and comprise the "building" for purposes of Section 42 of the Tax Code and "project" for the purposes of Section 142 of the Tax Code (the "Low Income Project"); prior to the formation of the condominium units, in the event that the condominium units are not formed, if the condominium declaration is not declared effective, or the Master Lease is no longer in place, the term "Low Income Project" shall be deemed to refer to the 59 Low Income Units (as defined herein);

**WHEREAS**, after the formation of the condominium units, the Residential Beneficial Owner and the Residential Legal Owner have entered into a Declaration of Interest and Nominee Agreement (the "Nominee Agreement"), pursuant to which the Residential Beneficial Owner is

the beneficial owner of the Middle Income Condo Unit and the Low Income Condo Unit and the Residential Legal Owner retains the record fee title to the to the Middle Income Condo Unit and the Low Income Condo Unit;

**WHEREAS**, HDC has agreed to make, pursuant to the HDC Commitment (as defined below; capitalized terms used but not defined in this preliminary statement are defined in Section 1.01): (i) a mortgage loan to the Residential Beneficial Owner and the Commercial Owner (together, the "Borrower") in the aggregate principal amount of \$13,500,000 (the "Bond Loan") which upon Permanent Conversion will be prepaid in whole and (ii) a mortgage loan to the Borrower in the aggregate principal amount of \$109,620,000.00 (the "Bank Construction Loan") which upon the Permanent Conversion will become a permanent mortgage loan (the "Bank Permanent Loan," together with the Bank Construction Loan, the "Bank Loan", and together with the Bond Loan, the "HDC Loan" or the "HDC Financing") in which Wells Fargo Bank, N.A. will have a 100% participation interest; the Bond Loan will be evidenced by notes made by the Borrower and dated as of the date of this Agreement (collectively, and as may be amended, the "Bond Mortgage Note") and secured by mortgages made by the Borrower and Residential Legal Owner (together, the "Mortgagor") and dated as of the date of this Agreement (collectively, and as may be amended, the "Bond Mortgage"); the Bank Loan will be evidenced by notes made by the Borrower and dated as of the date of this Agreement (collectively, and as may be amended, the "Bank Mortgage Note", and together with the Bond Mortgage Note, the "HDC Mortgage Note") and secured by mortgages made by the Mortgagor and dated as of the date of this Agreement (collectively, and as may be amended, the "Bank Mortgage," and together with the "Bond Mortgage, the "HDC Mortgage");

**WHEREAS**, the Borrower has requested that Wells Fargo Bank, N.A. (the "Credit Provider") extend a stand-by letter of credit (the "Credit Instrument") for the benefit of HDC to further secure the Borrower's obligation to HDC under the Bond Loan; the Credit Provider will service the Bond Loan while the Credit Instrument is in place, pursuant to a Servicing and Release Agreement dated as of the date of this Agreement among the Borrower, the Credit Provider and HDC (as may be amended, the "Servicing and Release Agreement");

**WHEREAS**, the Borrower has requested that the Credit Provider purchase a 100% participation interest in the Bank Loan; the Credit Provider will service the Bank Loan, pursuant to a Participation Agreement, dated as of the date of this Agreement among the Credit Provider and HDC (as may be amended, the "Participation Agreement"); and the Servicing and Release Agreement;

**WHEREAS**, The Credit Provider has entered into a Standby Bond Purchase Agreement with HDC dated as of June 25, 2015 with respect to the Obligations (the "SBPA").

**WHEREAS**, the Residential Beneficial Owner has applied to receive an allocation of Tax Credits from HPD by reason of the issuance of the Obligations by HDC, and an extended low income housing commitment is required pursuant to the Tax Code; the Tax Credits equity investor in the Master Tenant will be Wells Fargo Affordable Housing Community Development Corporation (the "Tax Credit Investor");

**WHEREAS**, the Sponsor expects to receive Real Property Tax Benefits;

**WHEREAS**, HDC requires that the Project and the Sponsor comply with marketing, occupancy and operating requirements as a condition to the provision of the HDC Financing, in order to fulfill HDC's statutory purpose of providing housing for people and families for whom the ordinary operations of private enterprise cannot provide an adequate supply of safe, sanitary and affordable housing;

**WHEREAS**, HPD requires that the Project and the Sponsor comply with marketing, occupancy and operating requirements as a condition to the conveyance of the Premises to the Initial Legal Owner and the allocation of the Tax Credits;

**WHEREAS**, in order for the Project to have the benefit of the HDC Financing and the Tax Credits, HDC and HPD require that the Sponsor (i) agree to operate the Project in accordance with this Agreement and (ii) agree that the restrictions in this Agreement shall run with the Premises and bind all of the successors and assigns of the Sponsor, for so long as set forth in this Agreement;

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the parties agree as follows:

## ARTICLE I. DEFINITIONS

**SECTION 1.01** Definitions. In this Agreement, the following terms shall have the meanings set forth below:

"Actual Rent" shall have the meaning set forth in Section 5.03.

"Agreement" shall have the meaning set forth in the preamble.

"AMI" shall mean the area median income for the New York metropolitan area, as determined by HUD from time to time, for a family of four, as adjusted for family size. All percentage of AMI numbers provided in this Agreement shall be calculated as the appropriate percentage adjustment to the income levels, as determined by HUD from time to time, for 50% of AMI families (also known as "very low income" families), as adjusted for family size. For example, 60% of AMI is equal to 120% of the 50% of AMI figure published by HUD; 100% of AMI is equal to 200% of the 50% of AMI figure. HDC and HPD may determine, however, in their sole discretion and from time to time, that another applicable AMI figure is published by HUD and should be used to calculate a particular percentage of AMI number. For the purposes of determining rents for Income-Restricted Units, incomes shall be adjusted for family size as follows: Units with no bedrooms shall be treated as being occupied by a one-person family, and units with one or more bedrooms shall be treated as being occupied by 1.5 people per bedroom, regardless of the actual number of people occupying the unit.

"Annual Income" shall mean (i) when referring to the income of one tenant, the current gross income of such tenant and (ii) when referring to the income of a Household, the current gross income of all individuals in the Household, calculated in each instance in a manner consistent with the determination of low income families under Section 8 of the United States Housing Act of 1937, as amended (or, if such program is terminated, under such program as was in effect immediately before such termination).

"Applicable AMI Limit" shall mean for any Tax Code Unit, the percentage of AMI specified as the income restriction for occupancy of the unit, as set forth in Section 4.02, such that, by way of example, the Applicable AMI Limit for a 60% of AMI Unit is 60% of AMI, and for any Non-Tax Code Income-Restricted Unit, the percentage of AMI specified for the initial rents as set forth in Schedule B, such that, by way of example, the Applicable AMI Limit for a 120% of AMI Unit (the income restriction for occupancy) is 110% of AMI (the initial rent level).

"Bank Construction Loan" shall have the meaning set forth in the WHEREAS clauses.

"Bank Loan" shall have the meaning set forth in the WHEREAS clauses.

"Bank Permanent Loan" shall have the meaning set forth in the WHEREAS clauses.

"Bank Mortgage" shall have the meaning set forth in the WHEREAS clauses.

"Bank Mortgage Note" shall have the meaning set forth in the WHEREAS clauses.

"Bond Loan" shall have the meaning set forth in the WHEREAS clauses.

"Bond Mortgage" shall have the meaning set forth in the WHEREAS clauses.

"Bond Mortgage Note" shall have the meaning set forth in the WHEREAS clauses.

"Bond Counsel" shall mean an attorney or firm of attorneys of nationally recognized standing in the law of municipal, state and public agency financing, as selected by HDC.

"Borrower" shall have the meaning set forth in the WHEREAS clauses.

"City" shall have the meaning set forth in the preamble.

"Compliance Period" shall have the meaning set forth in Section 6.02.

"Construction Loan Closing" shall mean the closing of the HDC Loan.

"Commercial Condo Unit" shall have the meaning set forth in the WHEREAS clauses.

"Commercial Owner" shall have the meaning set forth in the preamble.

"Credit Instrument" shall have the meaning set forth in the WHEREAS clauses.

"Credit Provider" shall have the meaning set forth in the WHEREAS clauses.

"Default Rate" shall mean the U.S. prime rate of interest as reported from day to day in The Wall Street Journal, plus 4% per annum, or, if such prime rate is no longer available, the base rate or prime rate of interest of any "Money Center" bank designated by HDC or HPD, in each case in its sole discretion, plus 4% per annum.

"Eligible Tenant" shall mean a tenant who meets the income restrictions and other requirements set forth in this Agreement and the Tax Code, as applicable.

"Event of Default" shall have the meaning set forth in Section 10.01.

"Extended Use Period" shall have the meaning set forth in Section 6.02.

"FMR" shall mean the fair market rent as determined by HUD for the New York metropolitan area and in effect as of the date of the relevant rent determination.

"GS Investor" shall mean GS DSA Phase I Investor LLC.

"HDC" shall have the meaning set forth in the preamble.

"HDC Act" shall mean the New York City Housing Development Corporation Act, Article XII of the New York Private Housing Finance Law, as may be amended, and any rules, regulations, policies or procedures promulgated under the statute.

"HDC Commitment" shall mean the Construction and Permanent Financing Commitment and Agreement with respect to the HDC Financing, among the Sponsor, the Commercial Owner, HDC and the guarantors of certain obligations, as may be amended.

"HDC Loan" shall have the meaning set forth in the WHEREAS clauses.

"HDC Mortgage" shall have the meaning set forth in the WHEREAS clauses.

"HDC Mortgage Note" shall have the meaning set forth in the WHEREAS clauses.

"Household" shall mean all of the occupants of a unit whether or not legally related.

"HPD" shall have the meaning set forth in the preamble.

"HUD" shall mean the U.S. Department of Housing and Urban Development (and any successor agency).

"Income-Restricted Unit" shall mean a Tax Code Unit or a Non-Tax Code Income-Restricted Unit.

"Initial Legal Owner" shall have the meaning set forth in the preamble.

"Residential Beneficial Owner" shall have the meaning set forth in the preamble.

"Residential Legal Owner" shall have the meaning set forth in the preamble.

"Legal Rent" shall have the meaning set forth in Section 5.02.

"Loan Agreement" shall mean the Building Loan Agreement, and the Project Loan Agreement, if any, among HDC and the Borrower, dated as of the date of this Agreement and as may be amended.

"Loan Documents" shall mean, collectively, (i) the HDC Mortgage, the HDC Mortgage Note and all other documents delivered in connection with the HDC Financing.

"Low Income Condo Unit" shall have the meaning set forth in the WHEREAS clauses.

"Low Income Master Lease" shall have the meaning set forth in the WHEREAS clauses.

"Low Income Tenant" shall mean an Eligible Tenant pursuant to Sections 42 and 142 of the Tax Code, as applicable, prior to initial occupancy. This category includes any units designated in Section 4.02 as having income restrictions for occupancy at any level at or below 60% of AMI. No Non-Tax Code Income-Restricted Unit, Market-Rate Unit, Student Unit or Superintendent Unit shall qualify as a Tax Code Unit.

"Low Income Project" shall have the meaning set forth in the WHEREAS clauses.

"Management Agreement" shall have the meaning set forth in Section 7.01.

"Managing Agent" shall have the meaning set forth in Section 7.01.

"Market-Rate Unit" shall mean any unit that is not a Superintendent Unit, Income-Restricted Unit or Over-Income Unit.

"Master Tenant" shall have the meaning set forth in the preamble.

"Middle and Market Rate Residential Condo Unit" shall have the meaning set forth in the WHEREAS clauses.

"Nominee Agreement" shall have the meaning set forth in the WHEREAS clauses.

"Non-Tax Code Income-Restricted Unit" shall mean any unit that is not a Tax Code Unit, but that is required to be leased pursuant to this Agreement to a tenant who qualifies as an Eligible Tenant with an Annual Income prior to initial occupancy that is at or below an income level or levels specified in Section 4.02. This category includes any units designated in Section 4.02 as having income restrictions for occupancy at any level above 60% of AMI (but not any Market-Rate Units).

"Obligations" shall mean that portion of the obligations issued by HDC to fund the HDC Loan in whole or in part pursuant to the Resolution.

"Occupancy Restriction Period" shall have the meaning set forth in Section 2.01.

**"Operating Agreement"** shall mean that certain Operating Agreement of DSA Phase 1 Holdings LLC dated as of December 22, 2014.

**"Participation Agreement"** shall have the meaning set forth in the WHEREAS clauses.

**"Permanent Conversion"** shall mean the date the Credit Instrument is returned to the Credit Facility Provider without a drawing thereunder in accordance with Section 18 of the Servicing and Release Agreement.

**"Permitted Mortgages"** shall mean the HDC Mortgage and any other mortgage affecting the Premises incurred with the prior written consent of HDC and HPD.

**"Premises"** shall have the meaning set forth in the WHEREAS clauses.

**"Project"** shall have the meaning set forth in the WHEREAS clauses.

**"Real Property Tax Benefits"** shall mean the exemption from or abatement of real property tax with regard to the Project pursuant to Section 421-a of the New York Real Property Tax Law, as may be amended.

**"Rent Stabilization"** shall mean Title 26, Chapter 4 of the New York City Administrative Code (and any successor statute) and the rules and regulations promulgated under the statute.

**"Residential Beneficial Owner"** shall have the meaning set forth in the WHEREAS clauses.

**"Residential Legal Owner"** shall have the meaning set forth in the WHEREAS clauses.

**"Resolution"** shall mean HDC's Multi-Family Housing Revenue Bonds Bond Resolution adopted on July 27, 1993, as amended or supplemented.

**"SBPA"** shall have the meaning set forth in the WHEREAS clauses.

**"Section 8"** shall mean a federal rental subsidy pursuant to the Section 8 housing choice voucher program, the Section 8 rental certificate program, the Section 8 project-based rental assistance program, or any successor programs under the United States Housing Act of 1937, as amended.

**"Section 8 Rent"** shall mean the maximum rent for a unit that is eligible to be subsidized under the applicable Section 8 program. For example, in the case of any unit occupied by a tenant with a Section 8 voucher, the unit will be deemed a Section 8 Unit and the Section 8 Rent shall be the voucher payment standard as authorized by the government agency issuing the voucher.

**"Section 8 Unit"** shall mean a unit occupied by a tenant receiving a Section 8 voucher or certificate or a unit subject to the Section 8 project-based rental assistance program.

**"Servicing and Release Agreement"** shall have the meaning set forth in the WHEREAS clauses.

**"Sponsor"** shall have the meaning set forth in the preamble.

**"State"** shall mean the State of New York.

**"Student Unit"** shall mean a unit where all of the occupants of the unit are students, as defined in Section 152(f)(2) of the Tax Code, subject to the exceptions given in Section 42(i)(3)(D) of the Tax Code.

**"Superintendent Unit"** shall mean a unit occupied by a resident superintendent or porter of the Project.

**"Tax Code"** shall mean the Internal Revenue Code of 1986, as may be amended, and any rules or regulations promulgated under the statute.

**"Tax Code Unit"** shall mean any unit that is occupied by a tenant who qualified under this Agreement as an Eligible Tenant pursuant to Sections 42 and 142 of the Tax Code, as applicable, prior to initial occupancy. This category includes any units designated in Section 4.02 as having income restrictions for occupancy at any level at or below 60% of AMI. No Market-Rate Unit, Student Unit or Superintendent Unit shall qualify as a Tax Code Unit.

**"Tax Code Unit Percentage"** shall mean the percentage of units (excluding any Superintendent Unit) that are Tax Code Units.

**"Tax Credit Investor"** shall have the meaning set forth in the WHEREAS clauses.

**"Tax Credits"** shall mean the low income housing tax credits available to the Sponsor due to the inclusion of Tax Code Units in the Project pursuant to Sections 42 and 142 of the Tax Code and any related rules and regulations.

**"Unit"** or **"unit"** shall mean a residential apartment located in the Project.

**SECTION 1.02**        References to this Agreement. References in this Agreement to specific articles, sections, schedules, etc. refer to provisions in this Agreement unless otherwise noted.

**SECTION 1.03**        Headings. Headings are for reference only and shall not control the interpretation of this Agreement.

**SECTION 1.04**        Preliminary Statement. The recitals in the preliminary statement are a part of the agreement of the parties and are incorporated in this Agreement for all purposes.

## ARTICLE II. TERM OF RESTRICTIONS

**SECTION 2.01**        Occupancy Restriction Period. The Project and the Sponsor shall be subject to the requirements of this Agreement during the Occupancy Restriction Period (as defined in this section), except as may be specifically provided otherwise in this Agreement. The **"Occupancy Restriction Period"** shall mean a period lasting in perpetuity from the date that is the later of (i) the date that 10% of the units are first occupied after completion of construction of the Project and (ii) the date of issuance of the Obligations. Notwithstanding that the Occupancy Restriction Period is intended to last in perpetuity, the following provisions are included in this Agreement to satisfy requirements of the Tax Code and other financing requirements. This Agreement contains these and other provisions referring to the end of the Occupancy Restriction Period and the period after the Occupancy Restriction Period ends. Any such provisions are included out of caution only and shall not apply barring unforeseen amendment of this Agreement, change in law or court order. In no event shall the Occupancy Restriction Period end prior to the latest of the following dates:

- (a) the date that is 15 years after the date on which 50% of the units are first occupied;
- (b) the first day on which no Obligation or other tax-exempt private activity obligation with respect to the Project is outstanding;
- (c) the date on which any assistance provided with respect to the Project under Section 8 of the United States Housing Act of 1937, as amended, terminates;
- (d) the date of the end of the Extended Use Period (see Section 6.02);
- (e) the date on which the Real Property Tax Benefits expire;

- (f) the date on which the HDC Mortgage and any other mortgage held by HDC or HPD with respect to the Project have been satisfied;
- (g) 60 years from the date of the Permanent Conversion.

Notwithstanding the foregoing, with respect to the Market Rate Units, the Occupancy Restriction Period shall end on the date on which the Real Property Tax Benefits expire.

**SECTION 2.02** Post-Occupancy Restriction Period. Any provisions of this Agreement (i) necessary to preserve the exclusion from gross income for purposes of federal income taxation of interest on the Obligations and (ii) governing the rental of units after the Occupancy Restriction Period ends, and the enforcement of such provisions, shall remain in effect for as long as may be necessary to preserve and enforce such provisions.

**SECTION 2.03** Unforeseen Events. This Agreement shall cease to apply in the event, to the extent and for the duration of any involuntary non-compliance caused by fire, seizure, requisition, condemnation, change in federal law or any action of a federal agency after the date of issuance of the Obligations that prevents HDC and HPD from enforcing some or all of this Agreement, or any similar event, if in any such event (i) the Obligations used to provide the Project are retired within a reasonable period, or (ii) the amounts received as a result of the unforeseen event, subject to the rebate requirement of Section 148 of the Tax Code, are used to provide a project that meets the requirements of Section 142(d) of the Tax Code.

**SECTION 2.04** Termination; Release.

- (a) Consent of HDC and HPD Required. This Agreement shall not be terminated without the prior written consent of HDC and HPD, except as provided otherwise in this section.
- (b) Foreclosure. Prior to the date of Permanent Conversion, in the event of a foreclosure or deed in lieu of foreclosure of the HDC Mortgage, or a comparable conversion of the Project, this Agreement shall terminate only (i) upon written request of the owner of the HDC Mortgage, and (ii) if, within a reasonable period, the Obligations are retired (it being agreed that HDC shall cause the Obligations to be retired within a reasonable period pursuant to the terms of the Resolution). However, if the Sponsor or a related person obtains an ownership interest in the Project after any such foreclosure, deed in lieu of foreclosure or comparable conversion, but during the Occupancy Restriction Period, this Agreement shall be reinstated in full force and effect. After the date of Permanent Conversion, this Agreement shall survive an assignment or refinancing of the HDC Mortgage (the HDC mortgage as assigned or refinanced shall be deemed the "HDC Mortgage" for the purposes of this paragraph), an event of foreclosure or deed in lieu of foreclosure of the HDC Mortgage or a comparable conversion of the Project.
- (c) Release. At the request of the Sponsor, HDC and HPD shall provide the Sponsor with a release of this Agreement in recordable form upon termination of this Agreement.
- (d) Conversion to Co-Op or Condo. After the Occupancy Restriction Period ends, the Sponsor may convert the Project to cooperative or condominium ownership of individual units. Such a conversion shall not be made pursuant to an eviction plan, as defined by Section 352-eeee of the New York General Business Law, as may be amended.

### ARTICLE III. GENERAL COMPLIANCE

**SECTION 3.01** Compliance with Laws and Regulations. The Sponsor shall do all things necessary to ensure the following:

- (a) HDC and HPD Financing. The Sponsor shall comply, and shall cause the Project to comply, with (i) this Agreement, (ii) the Loan Documents, (iii) the HDC Act and (iv) any rules adopted by HDC or HPD relating to the HDC Financing or the operation of the Project as may be necessary to enforce this Agreement. Any violation of the requirements of the Loan Documents may be declared an Event of Default under this Agreement.
- (b) Tax-Exempt Obligations. The Sponsor shall comply, and shall cause the Low Income Project to comply, with the applicable provisions of the Tax Code and this Agreement in order to preserve the exclusion from gross income for purposes of federal income taxation of interest on the Obligations.
- (c) Tax Credits. The Sponsor shall comply, and shall cause the Low Income Project to comply, with (i) the provisions of the Tax Code governing the Tax Credits, (ii) the extended low income housing commitment provisions of this Agreement (Section 5.06(c)) and (iii) HDC's monitoring procedures with respect to the Tax Credits.
- (d) Real Property Tax Benefits; Other Agreements and Permits. The Sponsor shall do all things necessary: (i) to maintain the Real Property Tax Benefits, (ii) to maintain any permits or agreements with government agencies, including HDC and HPD, in good standing and (iii) to comply with the requirements of such agencies. Any violation of the requirements of the Real Property Tax Benefits, or any permits or agreements with or requirements of any government agencies, may be declared an Event of Default under this Agreement. The Borrower shall comply with the stipulations contained in the Letter of Resolution among the New York State Office of Parks, Recreation, and Historic Preservation ("OPRHP"), HDC, and Delancey Street Associates LLC ("DSA"), executed April 1, 2015, OPRHP Project No. 12PR00119.

**SECTION 3.02** More Restrictive Provisions Control. If this Agreement conflicts with any other applicable agreement, law, regulation or permit, or if any provision of this Agreement conflicts with any other provision of this Agreement, the more restrictive provision (as determined by HDC and HPD) shall control.

### ARTICLE IV. PROJECT OCCUPANCY

**SECTION 4.01** General Compliance. The Sponsor agrees that the occupancy requirements for the Project shall comply with (i) the HDC Act and the rules and regulations of HDC and HPD, including any requirements pertaining to Eligible Tenants or Income-Restricted Units, (ii) all provisions of the Tax Code that may or shall affect (1) the exclusion from gross income for purposes of federal income taxation of interest on the Obligations or (2) the Tax Credits, (iii) any applicable requirements of Section 8 and (iv) any other provisions of federal, state or local law or regulation that may be applicable, including the Loan Documents (so long as they remain in effect).

**SECTION 4.02**      Distribution of Units. The Sponsor shall lease the units (excluding any Superintendent Unit) to Eligible Tenants as provided in this section. In calculating the number of units in each category below, no unit may be counted multiple times unless specifically stated otherwise.

- (a)      Tax Code Units. In accordance with the distribution set forth in Schedule B, 59 units shall be Tax Code Units.
  - (i)      The Sponsor shall lease no fewer than 6 Tax Code Units solely to Eligible Tenants whose Annual Income upon initial occupancy does not exceed 40% of AMI ("40% of AMI Units").
  - (ii)     The Sponsor shall lease no fewer than 53 Tax Code Units solely to Eligible Tenants whose Annual Income upon initial occupancy does not exceed 60% of AMI ("60% of AMI Units").
- (b)      Non-Tax Code Income-Restricted Units. In accordance with the distribution set forth in Schedule B, 45 units shall be Non-Tax Code Income-Restricted Units.
  - (i)      The Residential Beneficial Owner, Residential Legal Owner and the Initial Legal Owner shall lease no fewer than 17 Non-Tax Code Income-Restricted Units solely to Eligible Tenants whose Annual Income upon initial occupancy does not exceed 120% of AMI ("120% of AMI Units").
  - (ii)     The Residential Beneficial Owner, Residential Legal Owner and the Initial Legal Owner shall lease no fewer than 28 Non-Tax Code Income-Restricted Units solely to Eligible Tenants whose Annual Income upon initial occupancy does not exceed 165% of AMI ("165% of AMI Units").
- (c)      Market-Rate Units. In accordance with the distribution set forth in Schedule B, 106 units shall be Market-Rate Units.

**SECTION 4.03**      Changes to Distribution of Units. Except by reason of an involuntary change caused by unforeseen events such as fire, seizure, requisition or condemnation:

- (a)      Changes Violating Certifications. The Sponsor shall make no changes in the amount of residential and non-residential space or in the number of units, which in the opinion of Bond Counsel, would cause a violation of the certifications presented to HDC with respect to such space or units and adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Obligations; and
- (b)      Tax Code Unit Percentage. The Sponsor shall not reduce the Tax Code Unit Percentage for the Low Income Project below 100%, unless the Sponsor receives the prior written consent of HDC and HPD, which may be granted in the sole discretion of HDC and HPD.

**SECTION 4.04**      General Requirements for Units.

- (a)      Rental to the General Public; Non-Transient Units. Each unit (excluding any Superintendent Unit) shall be rented or made available for rental on a continuous basis to the general public, subject to any preferences required under this Agreement. None of the units shall be used on a transient basis or as a hotel, motel, dormitory, fraternity or sorority house, rooming house, hospital, nursing

home, sanitarium, rest home or trailer park.

- (b) **Primary Residence.** Units may only be occupied as a primary residence, as defined by Rent Stabilization, pursuant to a one- or two-year lease and by natural people or families who are otherwise eligible to occupy the unit pursuant to this Agreement. The Sponsor shall only offer a vacant unit for occupancy by natural people or families intending to occupy the unit as their primary residence pursuant to a one- or two-year lease, and shall not cause or permit the sublease or assignment of any unit for transient occupancy, for occupancy by any Household that is not eligible, or to any corporation or other entity.
- (c) **Condition of Units.** The units shall be suitable for occupancy and similarly constructed and shall contain living, sleeping, eating, cooking and sanitation facilities for a single person or family.
- (d) **Integration of Tax Code Units.** The Sponsor shall not segregate or physically isolate Tax Code Units from any other units in the Project, and Tax Code Units shall be reasonably dispersed throughout the Project.

**SECTION 4.05** **Marketing Guidelines.** The Sponsor shall comply with the procedures and requirements of HDC and HPD pertaining to the marketing and rent-up of all Income-Restricted Units, including the use of HDC's forms for verifying Annual Income and Household size. HDC and HPD reserve the right to require that all Income-Restricted Units that become vacant at a future date are marketed pursuant to marketing guidelines provided by HDC or HPD.

**SECTION 4.06** **Qualification of Eligible Tenants.** The Sponsor shall comply with the procedures and requirements of HDC and HPD and any applicable provisions of the Tax Code pertaining to the initial and ongoing qualification of Eligible Tenants.

- (a) **Applicant Certifications.** Prior to the initial rental of any Income-Restricted Unit or the rental of any Income-Restricted Unit after vacancy, the Sponsor shall determine whether each applicant for the unit qualifies as an Eligible Tenant. The Sponsor shall obtain a certification of Annual Income and Household size from each applicant, along with the documentation necessary to verify the certification. The Sponsor shall verify each certification in a manner consistent with the verification of Annual Income under Section 8. If an applicant is receiving assistance under Section 8, the verification requirement is satisfied if the public housing agency providing the assistance gives the Sponsor a statement indicating that the applicant qualifies as an Eligible Tenant. The Sponsor may consult with HDC and HPD to obtain guidance on the applicant certification process. Notwithstanding anything to the contrary set forth above, the provisions of this Section 4.06(a) that apply to the Tax Code Units shall be the obligation of Sponsor and the provisions of this Section 4.06(a) that apply to the Non-Tax Code Income-Restricted Units shall be the obligation of the Residential Beneficial Owner, Residential Legal Owner and the Initial Legal Owner.
- (b) **Agency Review Prior to Initial Rental.** Prior to the initial rental of any Income-Restricted Unit or the rental of any Income-Restricted Unit after vacancy, the Sponsor shall furnish to HDC (and to HPD, if requested by HPD in writing) the certification of Annual Income and Household size provided by the applicant selected for the unit, along with verification documentation as may be required by HDC, HPD or under the Tax Code in order to review the qualifications of the applicant. No lease for any Income-Restricted Unit shall be executed until the

Sponsor has received approval from HDC (and HPD, if applicable). Notwithstanding anything to the contrary set forth above, the provisions of this Section 4.06(a) that apply to the Tax Code Units shall be the obligation of Sponsor and the provisions of this Section 4.06(b) that apply to the Non-Tax Code Income-Restricted Units shall be the obligation of the Residential Beneficial Owner, Residential Legal Owner and the Initial Legal Owner.

- (c) Annual Tenant Certifications (Tax Code Units). On an annual basis, the Sponsor shall certify to HDC as to the Household size and student status of each tenant residing in a Tax Code Unit.
- (d) Annual Agency Reviews (Tax Code Units). The Sponsor shall furnish to HDC (and to HPD, if requested by HPD in writing), on an annual basis or more frequently if required in writing by HDC or HPD in order to ensure compliance with this Agreement, a certification by the Sponsor documenting the annual tenant certifications provided in accordance with paragraph (c) above, along with verification documentation (if requested by HDC or HPD). The Sponsor shall also furnish any reports or other documents that HDC or HPD reasonably determine are necessary to establish compliance with this Agreement and the Tax Code.
- (e) Tenant's Failure to Certify; Fraud. If a tenant residing in an Income-Restricted Unit fails to provide the Sponsor with certifications and documentation as required within 60 days of the Sponsor's request, or if such a tenant provides false or fraudulent materials at any time, then the Sponsor may, or at the request of HDC or HPD shall, refuse to offer a lease renewal and/or commence legal action to terminate the lease of the tenant.

**SECTION 4.07** Changes in Tenant Income. An Eligible Tenant shall be entitled to remain in occupancy and to obtain a lease renewal to the extent provided under Rent Stabilization even if the tenant's Annual Income, after initial occupancy, exceeds the maximum for initial eligibility. No Eligible Tenant may be evicted or have his or her tenancy terminated except for good cause.

**SECTION 4.08** Next Available Unit Rules.

- (a) The Tax Code Unit Percentage of the Low Income Project is 100%. Accordingly, the Next Available Unit Rules do not apply.

## ARTICLE V. RENTS AND LEASES

**SECTION 5.01** Compliance with Rent Stabilization.

- (a) All Units Subject to Rent Stabilization. All units (including any Market-Rate Units) shall be subject to Rent Stabilization and shall remain subject to Rent Stabilization after the Occupancy Restriction Period ends. The Sponsor shall follow all procedures and guidelines of New York State Homes & Community Renewal ("HCR") (or any successor agency enforcing Rent Stabilization) and all relevant requirements of Rent Stabilization. However, pursuant to a special agreement on rent regulation with the New York State Division of Housing and Community Renewal (a predecessor of HCR), HCR will not regulate the Project in a manner that is inconsistent with the Tax Code or with this Agreement. Where there may be inconsistencies, the more restrictive provisions of the Tax Code and this

Agreement shall prevail.

- (b) No Exemptions from Rent Stabilization. The Sponsor shall not claim any exemption or exclusion from Rent Stabilization to which the Sponsor might be entitled with respect to any unit. This includes any exemption or exclusion from the rent limits, lease renewal requirements, registration requirements or other provisions of Rent Stabilization due to (i) the vacancy of a unit where the rent exceeds a prescribed maximum amount, (ii) the fact that the tenant's income or rent exceeds prescribed maximum amounts, (iii) the nature of the tenant or (iv) any other factor. This section shall continue to apply to Income-Restricted Units after the Occupancy Restriction Period ends until any such unit becomes vacant (except for any vacancy resulting from a breach of the warranty of habitability, harassment, constructive eviction or any similar action caused by the Sponsor).
- (c) Permitted Increases under Rent Stabilization.
- (i) In General. Where this Agreement allows rent increases under Rent Stabilization for Income-Restricted Units (subject to the other restrictions on increases contained in this Agreement), such language shall permit only those increases that are based on the percentage increases for one- and two-year lease renewals approved annually by the New York City Rent Guidelines Board (or any successor). Subject to the exceptions given in this paragraph (c), rents shall not be increased or registered at a greater amount for any other reason typically allowed under Rent Stabilization, including vacancy lease increases, major capital improvement ("MCI") increases or individual apartment improvement ("IAI") increases. This prohibition applies to both Legal Rents (the registered legal regulated rents) and Actual Rents (which are to be registered as preferential rents). To be clear, this section shall not apply after the Occupancy Restriction Period ends and does not apply to the Market Rate Units.
- (ii) Exception for Certain Vacancy Lease Increases. Upon vacancy of an Income-Restricted Unit, if the Legal Rent is less than 30% of the Applicable AMI Limit (adjusted for a monthly rent), then the Sponsor may increase the Legal Rent by the lesser of (1) the vacancy lease increase permitted by Rent Stabilization and (2) the amount required to increase the Legal Rent up to 30% of the Applicable AMI Limit (adjusted for a monthly rent).
- (iii) Exception for MCI and IAI Increases After Year 30. During the period commencing on the 30th anniversary of the date of the Permanent Conversion, the Sponsor may apply to HCR (or any successor agency enforcing Rent Stabilization) for MCI or IAI increases. If HCR (or any successor agency enforcing Rent Stabilization) approves the Sponsor's application, then upon lease renewal or vacancy of an Income-Restricted Unit, the Sponsor may increase (1) the Legal Rent by the amount of the MCI or IAI increase so approved by HCR (or any successor agency enforcing Rent Stabilization) and (2) the Actual Rent by the lesser of (A) such MCI or IAI increase and (B) an amount that increases the Actual Rent to 30% of the Applicable AMI Limit (adjusted for a monthly rent).
- (d) Contractual Rent Regulation. If Destabilization (as defined in this paragraph) occurs during the Occupancy Restriction Period, then all units that have undergone Destabilization shall be subject to Contractual Rent Regulation (as

defined in this paragraph). If some units remain subject to Rent Stabilization while other units have undergone Destabilization, Contractual Rent Regulation will only apply to the units that have undergone Destabilization. For purposes of this paragraph:

- (i) "Destabilization" shall mean any set of facts that causes Rent Stabilization to no longer apply to the units, whether by expiration, legislative repeal, judicial invalidation or any other reason.
- (ii) "Contractual Rent Regulation" shall mean the following after Destabilization: (1) The Sponsor shall be required to offer new and renewal leases on the same terms and conditions as had been required by Rent Stabilization at the time of Destabilization (subject however to the provisions in subparagraphs (2) and (3) below) as if the unit were still subject to and not excluded or exempted from any provision of Rent Stabilization, including, but not limited to, any exemption or exclusion regarding rent limits, renewal lease requirements, or any other provision due to (w) the vacancy of a unit where the rent exceeds a prescribed maximum amount, (x) the fact that tenant income or unit rent exceeds prescribed maximum amounts, (y) the nature of the tenant or (z) any other factor. (2) The "Legal Rent," as such term is used in this Agreement, shall be limited by percentage increases calculated based on a method or index established by HPD for determining the maximum increase to Legal Rent upon lease renewal or vacancy. Such method or index shall be based on inflation or on factors substantially equivalent to the factors considered in calculating such increases under Rent Stabilization at the time of Destabilization, and shall incorporate a method for determining and implementing increases to Legal Rent by reason of major capital improvements performed by the Sponsor, to the extent that such increases, if any, are not prohibited under this Agreement. HPD will publish such methodology in the City Record and will provide a copy of the methodology to the Sponsor upon request. (3) Wherever this Agreement limits increases in rent by increases as permitted by Rent Stabilization (or language of similar import), such increases shall be limited by the percentage increases established by HPD as described in subparagraph (2) above.

**SECTION 5.02**      Registration in Accordance with Rent Stabilization. The Sponsor shall register the rents for each unit in accordance with Rent Stabilization as follows:

- (a) Legal Rents. The initial legal regulated rent for each unit shall be the amount set forth in Schedule B. This amount may increase upon lease renewal or vacancy in accordance with Rent Stabilization (as limited by Section 5.01). This amount, as adjusted from time to time as permitted, shall be the "Legal Rent".
- (b) Registered Preferential Rents. If the Actual Rent (as defined in the following section) for a unit is less than the Legal Rent for the unit, then the Actual Rent shall be registered as a preferential rent.
- (c) Registration of Rents. A sample registration form is attached as Schedule C. The Sponsor shall provide a copy of the initial registration form for all units to HDC (and to HPD, if requested in writing by HPD) prior to the Permanent Conversion.
- (d) Annual or Biannual Re-Registration. After initial registration, on an annual or biannual basis as applicable for each unit, and in accordance with Rent Stabilization, the Sponsor shall re-register the Legal Rent then in effect as the

legal regulated rent and the Actual Rent in effect as a preferential rent.

**SECTION 5.03** Actual Rents. The Sponsor shall lease each Income-Restricted Unit for a rent that does not exceed the maximum amount permitted below (such amount shall be the "Actual Rent"). The Actual Rent shall be the rent that appears on the lease and that may be collected by the Sponsor (i.e., it shall include the rent paid by the tenant and any rental subsidy, but not the applicable utility allowance). Certain limits given below may in practice equal the same amount.

(a) **Tax Code Units.**

(i) Initial Rents. The initial Actual Rent for a Tax Code Unit that is not a Section 8 Unit shall not exceed the least of:

- 1) the Legal Rent (as set forth in Schedule B);
- 2) the initial Actual Rent set forth in Schedule B; and
- 3) 30% of the Applicable AMI Limit (adjusted for a monthly rent).

If the unit is a Section 8 Unit, the initial Actual Rent shall not exceed the least of:

- 1) the Legal Rent (as set forth in Schedule B); and
- 2) the Section 8 Rent.

(ii) Lease Renewal. Upon lease renewal for a Tax Code Unit that is not a Section 8 Unit, the new Actual Rent shall not exceed the least of:

- 1) the Legal Rent;
- 2) the prior Actual Rent increased as permitted by Rent Stabilization (as limited by Section 5.01); and
- 3) 30% of the Applicable AMI Limit (adjusted for a monthly rent).

If the unit is a Section 8 Unit, the Actual Rent upon lease renewal shall not exceed the least of:

- 1) the Legal Rent; and
- 2) the Section 8 Rent.

(iii) Vacancy. Upon vacancy of a Tax Code Unit that is not a Section 8 Unit, the Actual Rent for the new Eligible Tenant shall not exceed the lesser of:

- 1) the Legal Rent; and
- 2) 30% of the Applicable AMI Limit (adjusted for a monthly rent).

If the unit is a Section 8 Unit, the Actual Rent upon vacancy shall not exceed the least of:

- 1) the Legal Rent;
- 2) the Section 8 Rent.

(iv) Tax Code Maximums. In no event shall any tenant of a Tax Code Unit, including those Section 8 Units that are also Tax Code Units, pay a rent that is greater than the amount permitted by the Tax Code or, for tenants of Section 8

Units, a tenant rent share that is greater than the amount required by Section 8 and allowed by the Tax Code, nor shall the Sponsor charge an Actual Rent or increase the Actual Rent for any Tax Code Unit except as permitted by the Tax Code.

- (b) **Non-Tax Code Income-Restricted Units.**
- (i) **Initial Rents.** The initial Actual Rent for a Non-Tax Code Income-Restricted Unit shall not exceed the lesser of:
- 1) the Legal Rent (as set forth in Schedule B); and
  - 2) the initial Actual Rent set forth in Schedule B.
- (ii) **Lease Renewal.** Upon lease renewal for a Non-Tax Code Income-Restricted Unit, the Sponsor may only increase the Actual Rent to the least of:
- 1) the Legal Rent;
  - 2) the prior Actual Rent increased as permitted by Rent Stabilization (as limited by Section 5.01); and
  - 3) 30% of the Applicable AMI Limit (adjusted for a monthly rent).
- (iii) **Vacancy.** Upon vacancy of a Non-Tax Code Income-Restricted Unit, the Actual Rent for the new Eligible Tenant shall not exceed the lesser of:
- 1) the Legal Rent; and
  - 2) an amount that is the greater of (x) the Actual Rent that would have been permitted upon lease renewal for the prior tenant and (y) 30% of the Applicable AMI Limit (adjusted for a monthly rent).
- (iv) **2% Floor.** Notwithstanding the provisions of paragraph (b) above, upon lease renewal or vacancy of any Non-Tax Code Income-Restricted Unit, if the percentage increase that is allowed under Rent Stabilization is 2% or greater, but an Actual Rent at 30% of the Applicable AMI Limit (adjusted for a monthly rent) would restrict the rent increase to a percentage increase that is less than 2%, then the Sponsor may increase the tenant's Actual Rent by 2%.
- (c) **30% Limits Apply to Gross Rents.** All provisions in this Agreement limiting a rent to 30% of the Applicable AMI Limit shall mean that the sum of the rent and the applicable utility allowance (i.e., the gross rent) shall not exceed 30% of the Applicable AMI Limit.

**SECTION 5.04**      Additional Requirements for Section 8 Units.

- (a) **Tenant's Loss of Section 8.** If a Section 8 tenant is occupying a Tax Code Unit and the tenant loses his or her Section 8 at any time, then the Sponsor shall immediately revise the tenant's Actual Rent to an amount that does not exceed the maximum amount that may be collected under the Tax Code.
- (b) **Vacancy; No New Section 8.** Upon vacancy of a Tax Code Unit that had been occupied by a tenant with Section 8, if the next tenant identified for the unit does not have Section 8, but he or she is an Eligible Tenant for a Tax Code Unit, then the Sponsor shall set the Actual Rent for the new tenant in accordance with Section 5.03, and to an amount that does not exceed the maximum amount that may be collected under the Tax Code. The Sponsor shall register this revised

Actual Rent as the new preferential rent for the unit.

**SECTION 5.05**      Post-Occupancy Restriction Period.

- (a) Rents for Income-Restricted Units at 80% of AMI and Below. After the Occupancy Restriction Period ends, but not less than 150 days prior to the end of each lease with an Eligible Tenant who occupies an Income-Restricted Unit having an income restriction for occupancy at 80% of AMI or below (including Tax Code Units), the Sponsor shall request that the tenant submit to the Sponsor a certification of Annual Income and Household size and verification documentation. Lease renewals for these tenants shall be offered as follows:
- (i) Continuing Eligible Tenants. A tenant with a verified Annual Income and Household size that continues to qualify the tenant as an Eligible Tenant for the unit, as applicable, as of the date of the certification shall be entitled to a lease renewal and shall pay the Actual Rent that would be in effect for the succeeding lease renewal term. Thereafter, the tenant shall be entitled to continued lease renewals, and the rent shall be increased as permitted pursuant to Rent Stabilization for so long as the tenant continues to legally reside in the unit. The tenant shall not be required to provide further certifications of Annual Income and Household size pursuant to this Agreement.
  - (ii) Non-Qualifying Tenants. A tenant with a verified Annual Income and Household size that fails to qualify the tenant as an Eligible Tenant for the unit, as applicable, as of the date of the certification shall be entitled to a lease renewal, but the tenant's rent shall be revised to an amount that is the greater of (a) 30% of the tenant's Annual Income (adjusted for a monthly rent) or (b) the Actual Rent that would be in effect for the succeeding lease renewal term (the "Revised Rent"). The Revised Rent shall not exceed the Legal Rent, however. If the Revised Rent is less than the Legal Rent, the Revised Rent shall be registered with the agency administering Rent Stabilization as the new preferential rent for the unit. Thereafter, the tenant shall be entitled to continued lease renewals, and the rent shall be increased as permitted pursuant to Rent Stabilization for so long as the tenant continues to legally reside in the unit. The tenant shall not be required to provide further certifications of Annual Income and Household size pursuant to this Agreement.
  - (iii) Tenant's Failure to Certify; Fraud. In addition to any rights granted to the Sponsor under Section 4.06(e) of this Agreement, if a tenant fails to supply the requested certification and documentation within 60 days of the Sponsor's request, or if a tenant provides false or fraudulent materials, the Sponsor may, at its option, (1) refuse to provide a lease renewal to the tenant or (2) provide such tenant a lease renewal at such rent as the Sponsor may legally establish.
- (b) Rents for Income-Restricted Units Above 80% of AMI and Market Rate Units. After the Occupancy Restriction Period ends, tenants residing in any Income-Restricted Units having an income restriction for occupancy above 80% of AMI or any Market-Rate Units shall remain subject to Rent Stabilization and shall be entitled to continued lease renewals at rents not to exceed their Actual Rent then in effect, as may be adjusted pursuant to Rent Stabilization.

**SECTION 5.06**      Lease Requirements.

- (a) **Subordination.** In renting units to tenants, the Sponsor shall use a lease expressly subordinate to this Agreement and to the Permitted Mortgages. The lease and any riders shall comply with New York law and shall otherwise be satisfactory to HDC and HPD. To the extent legally permissible, this Agreement shall take precedence and shall control over any other requirements.
- (b) **HDC Lease Riders.** In renting Income-Restricted Units to tenants, and to the extent legally permissible, the Sponsor shall use a lease rider provided by HDC that sets forth the applicable occupancy and rental requirements of this Agreement (the "HDC Rider"). The HDC Rider shall, among other things, (i) require the tenant to meet HDC's and HPD's eligibility standards in accordance with this Agreement, (ii) prohibit or restrict sublets and (iii) permit the Sponsor to terminate or refuse to renew the tenant's lease if the tenant fails to provide the Sponsor with certifications and documentation as required within 60 days of the Sponsor's request, or if the tenant provides false or fraudulent materials. No lease or other rider for an Income-Restricted Unit shall contain any provision that conflicts with the terms of this Agreement or the HDC Rider (and no such provision shall be enforceable).
- (c) **Subleases.** The Sponsor shall not consent to any sublease or assignment of lease by a tenant of an Income-Restricted Unit except as may be expressly required by law (and, in such event, only upon at least 30 days' prior written notice to HDC and HPD).

## ARTICLE VI. EXTENDED LOW INCOME HOUSING COMMITMENT

**SECTION 6.01** Extended Low Income Housing Commitment. This Agreement serves as the "extended low income housing commitment" required under Section 42(h)(6) of the Tax Code. Accordingly, the provisions of this Agreement will be interpreted in accordance with the requirements of the Tax Code, and to the extent that Section 42 of the Tax Code provides additional or stricter requirements or restrictions than this Agreement, the requirements or restrictions of Section 42 of the Tax Code will control and will become additional requirements or restrictions under this Agreement. When recorded against the Premises, this Agreement shall be a restrictive covenant with respect to the Premises as required under Section 42(h)(6)(B)(vi) of the Tax Code.

**SECTION 6.02** Compliance Term for Tax Credits. The Project must be in compliance with all provisions of Section 42 of the Tax Code, any and all related regulations, the provisions of this extended low income housing commitment, and HDC's monitoring procedures with respect to the Tax Credits, in each case during the term of the Compliance Period and the Extended Use Period (and otherwise as provided in this Agreement). For purposes of this Agreement:

- (a) "Compliance Period" shall mean the period commencing upon the Compliance Period Commencement Date and ending on the Compliance Period Termination Date.
- (b) "Compliance Period Commencement Date" shall mean the date that is the first day of the first taxable year of the Credit Period.
- (c) "Compliance Period Termination Date" shall mean the date that is 15 years after the Compliance Period Commencement Date.

- (d) "Credit Period" shall mean the period of 10 taxable years beginning with (i) the taxable year in which the building is placed in service, or (ii) at the election of the Sponsor, the succeeding taxable year, but only if the Project is a qualified low income housing project under Sections 42(g) and 142(d) of the Tax Code.
- (e) "Extended Use Period" shall mean the period commencing upon the Compliance Period Commencement Date and terminating on the date that is 30 years after the Compliance Period Commencement Date, unless the Project is acquired by foreclosure (or instrument in lieu of foreclosure), in which case the Extended Use Period shall terminate at the request of the party acquiring the Project after such foreclosure, unless the Secretary of the Treasury determines that the acquisition is part of an arrangement with the Sponsor, a purpose of which is to terminate the Extended Use Period. This paragraph relates solely to the Extended Use Period and does not relate to the Occupancy Restriction Period as covered in Paragraph 204(b) herein. This paragraph relates solely to the Extended Use Period and does not relate to the Occupancy Restriction Period as covered in Paragraph 2.04(b) herein.

**SECTION 6.03** Waiver of Right to Petition HPD. The Sponsor agrees for itself, and its successors and assigns, that the Project shall continue to be subject to the provisions of this Agreement throughout the Extended Use Period and that it has waived any right to request that HPD find a person to acquire the Sponsor's interest in the low income portion of the Project after the 14<sup>th</sup> year of the Compliance Period.

**SECTION 6.04** Applicable Fraction. The Applicable Fraction (as defined in this section) for the Low Income Project for each taxable year in the Extended Use Period shall be not less than 100%, excluding any Superintendent Unit. "Applicable Fraction" shall have the meaning set forth in Section 42(c)(1)(B) of the Tax Code.

**SECTION 6.05** Condition of Units. Each Tax Code Unit shall be Suitable for Occupancy and shall be used on other than a Transient Basis (each as defined in this section). "Suitable for Occupancy" shall mean habitable and suitable for occupancy in accordance with all applicable federal, state and local laws, rules and regulations, including but not limited to local health, safety and building codes. "Transient Basis" shall mean a unit with occupants who have not entered into a lease for their initial occupancy or who have entered into a lease that has an initial term of less than six months or such other period of occupancy as may be required under rules and regulations promulgated under Section 42 of the Tax Code; provided, however, (i) a unit shall be considered to be used on other than a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building (1) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of Section 103 of the Stewart B. McKinney Homeless Assistance Act in effect on December 19, 1989) to independent living within 24 months and (2) in which a governmental entity or qualified non-profit organization (as defined in Section 42(h)(5)(C) of the Tax Code) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing, and (ii) a single-room occupancy unit shall not be treated as being used on a transient basis merely because it is rented on a month-to-month basis.

**SECTION 6.06** No Eviction or Increase in Gross Rent. No existing tenant of any unit may be evicted, other than for good cause, nor shall any increase in the gross rent with respect to such unit be permitted except as may otherwise be permitted by this Agreement. The foregoing

shall continue to apply to tenants of Tax Code Units for a three-year period following the end of the Extended Use Period (and Section 2.02 shall apply as well).

**SECTION 6.07** Section 8 Status. The Sponsor shall not refuse to lease to a holder of a Section 8 voucher or certificate because of the status of the prospective tenant as such a holder.

**SECTION 6.08** Enforcement by Certain Individuals. Any individual who meets the income limitation applicable to the Premises under the Tax Code (whether former, present or prospective occupants of the Premises) shall have the right to enforce in any state court the requirements and prohibitions of Section 42(h)(6)(B)(i) of the Tax Code. The Sponsor acknowledges that such individuals are intended third-party beneficiaries of the provisions of this section.

**SECTION 6.09** No Retaliation. The Sponsor shall not retaliate against any tenant who notifies HDC or HPD of alleged violations of this Agreement.

**SECTION 6.10** Transfers. No portion the Low Income Project shall be disposed of to any person unless all of the building is disposed of to such person. Transfers shall also be subject to Section 8.01.

## ARTICLE VII. MANAGEMENT

**SECTION 7.01** Approval of Managing Agent and Management Agreement. The managing agent and any sub-agent (collectively, the "Managing Agent"), and the arrangements for management of the Middle and Market Rate Residential Condo Unit and the Low Income Condo Unit, including the management agreement or management plan (collectively, the "Management Agreement"), shall require the prior written approval of HDC (and HPD, if requested by HPD in writing). In particular, the Sponsor shall obtain HDC's (and HPD's, if applicable) written approval of the Managing Agent and the Management Agreement prior to both the Construction Loan Closing and, notwithstanding any prior approval, the Permanent Conversion. Any changes to the Managing Agent or changes to the Management Agreement, other than renewals of its term, shall require the prior written approval of HDC (and HPD, if requested by HPD in writing). All approvals of the Managing Agent and the Management Agreement shall not be unreasonably withheld. HDC approves C&C Apartment Management, LLC as the Managing Agent for purposes of the Construction Loan Closing.

**SECTION 7.02** Requirements for Management Agreement. The Management Agreement shall be acceptable to HDC (and HPD, if applicable) in all respects and shall provide (i) that it is subject to termination by the Sponsor on not more than 30 days' notice, without cause and without penalty, and (ii) that the Managing Agent shall carry fidelity insurance for the benefit of the Sponsor in the amount of no less than three months' gross rent for the Middle and Market Rate Residential Condo Unit and the Low Income Condo Unit.

**SECTION 7.03** Removal of Managing Agent. At any time, HDC or HPD may determine, in either case in its sole discretion, that the Managing Agent is no longer acceptable (among other reasons, because the Project is not being operated in compliance with this Agreement or because the Managing Agent is not operating another HDC- or HPD-supervised project in proper compliance). If so, HDC or HPD may provide a written demand to the Sponsor to terminate the Management Agreement. HDC or HPD may also provide a period for the Sponsor

to cure any non-compliance, in the sole discretion of HDC or HPD as applicable. Upon receipt of a demand to terminate the Management Agreement, the Sponsor shall do so immediately, and the existing management services shall be fully discontinued within a period of not more than 30 days from the Sponsor's receipt of HDC's or HPD's demand. In addition, the Sponsor shall make timely arrangements to have the continuing management of the Middle and Market Rate Residential Condo Unit and the Low Income Condo Unit approved in writing by HDC (and by HPD, if requested by HPD in writing) and shall submit such arrangements to HDC (and HPD, if applicable) for prior review.

## ARTICLE VIII. OWNERSHIP

### SECTION 8.01 Transfers of Project by Sponsor.

- (a) In General. The Sponsor and the Commercial Owner covenant that neither shall not sell, lease, sublease, convey, transfer or otherwise dispose of all or any portion of the Project (each, a "Transfer") without the prior written consent of HDC and HPD, which shall not be unreasonably withheld. As a condition to a Transfer of all or substantially all of the Project, the transferee shall be required to assume all of the Sponsor and Commercial Owner's obligations under this Agreement from the date of such Transfer and to execute any document that HDC or HPD shall reasonably require in connection with the assumption. Notwithstanding the foregoing, nothing in this Section 8.01(a) shall prevent the Commercial Owner from entering into leases or subleases and neither HPD nor HDC's consent shall be required. With respect to transfers of ownership interest, HPD or HDC's consent shall be granted provided that the proposed new owner is in good standing with the City of New York.
- (b) Residential Leases. This covenant shall not require HDC's or HPD's consent for the Sponsor or Commercial Owner to enter into leases with residential tenants or users of the Project, if such leases (i) are consistent with this Agreement and (ii) do not contain an option to acquire all or any portion of the Project while this Agreement is in effect.
- (c) Other Consents. Nothing contained in this Agreement shall affect any provision of the Loan Documents that requires the Sponsor or Commercial Owner to obtain the consent of the holder of the HDC Mortgage (which may be HDC or HPD) or any other person as a condition to a Transfer.
- (d) Foreclosure. This covenant shall not require HDC's or HPD's consent to a Transfer in connection with the foreclosure or deed in lieu of foreclosure of the HDC Mortgage or a comparable conversion of the Project. Any subsequent Transfer, however, shall require the prior written consent of HDC and HPD.

**SECTION 8.02** Non-Residential Lease Approval. The Sponsor shall obtain the prior written approval of HDC and HPD for all non-residential leases, subleases or occupancy agreements affecting any portion of Project contained in the Middle and Market Rate Residential Condo Unit and the Low Income Condo Unit. An amendment of a non-residential lease, sublease or occupancy agreement that changes the permitted use or that otherwise alters a material term of the agreement shall also require the prior written consent of HDC and HPD. No

portion of the Low Income Project shall consist of a store, a principal business of which is the sale of alcoholic beverages for consumption off-premises. HDC and HPD approve the Low Income Master Lease.

**SECTION 8.03** Interests in Borrower and Master Tenant. Except as may be expressly permitted by this article, the Borrower and Master Tenant each covenants that it shall not permit any change to its ownership at any tier, including admissions, withdrawals and acquisitions of additional interests, without the prior written consent of HDC and HPD.

**SECTION 8.04** Interests in Tax Credit Investor. Notwithstanding the requirements of Section 8.03, and provided that the Tax Credit Investor is a passive investor in the Master Tenant, transfers of (i) passive investment interests in the Tax Credit Investor and (ii) the Tax Credit Investor's passive investment interest in the Master Tenant are permitted with written notice to HDC and HPD, so long as the manager, managing member or general partner of the Tax Credit Investor, or any transferee of the Tax Credit Investor's interest in the Master Tenant, is an affiliate of, and is and remains controlled by or under common control with, Wells Fargo Affordable Housing Community Development Corporation. Any interest in the Master Tenant of a special member or limited partner may be transferred only together with a permitted transfer of the interest of the manager, managing member or general partner of the Tax Credit Investor, and only to the same transferee or to a party that is an affiliate of, and is and remains controlled by or under common control with the transferee.

**SECTION 8.05** Interests in Residential Legal Owner and Initial Legal Owner. The Residential Legal Owner and the Initial Legal Owner each covenants that it shall not permit any change to its ownership at any tier, including admissions, withdrawals and acquisitions of additional interests, without the prior written consent of HDC and HPD.

**SECTION 8.06** Previously Approved Entities. Interests in the Sponsor or Commercial Owner (in either case, at any tier) may be transferred to entities that have been previously approved in writing by HDC and HPD. Prior to any such transfer, prompt notice must be given to HDC and HPD, and the transferee must comply with the applicable HDC and HPD disclosure procedures.

**SECTION 8.07** Death or Incapacity. A direct or indirect transfer of an ownership interest to an executor, administrator or conservator of a deceased or incapacitated individual shall require written notice to, but not the consent or approval of, HDC and HPD. A subsequent transfer by such executor, administrator or conservator shall be subject to this article, however.

**SECTION 8.08** No Other Liens or Financing. While the HDC Bond Mortgage is outstanding, the Sponsor covenants that it shall not incur any additional debt secured by all or part of the Project, or any other subordinate financing, except for (i) the Permitted Mortgages and (ii) as may have been expressly approved by HDC and HPD in writing. Except as expressly permitted in this Agreement, assignments, transfers, encumbrances, granting of participation interests, hypothecations, or pledges of interests (or proceeds of such interests) of any of the direct or indirect ownership interests in the Sponsor shall not be permitted without the prior written consent of HDC and HPD.

**SECTION 8.09** No Purchase of Obligations. Neither the Sponsor, Commercial Owner nor any "related person" to the Sponsor or Commercial Owner, as defined in Section 144(a)(3) of the Tax Code, shall purchase Obligations (other than Pledged Bonds or Bank Bonds (each as defined in the Resolution)) in an amount related to the amount of the HDC Loan funded by the

Obligations.

**SECTION 8.10**      No Distributions Upon Default. Upon written notice from HDC or HPD to Sponsor of (i) an Event of Default under this Agreement, or (ii) a material uncured default under any other Loan Document, the Sponsor covenants that it shall not make any distribution of any assets of, or any income of any kind from, the Project to its partners, members or shareholders, as applicable, until the cure of the Event of Default or default has been determined by HDC or HPD, as applicable.

**SECTION 8.11**      Transfers of Project by GS Sponsor

- (a) Any transfers of (i) interests in GS DSA Phase I Investor LLC ("GS Investor"), and (ii) the GS Investor's investment interest in Sponsor to an entity wholly owned or controlled directly or indirectly by The Goldman Sachs Group, Inc. (GS Investor is the non-managing member (with 85% interest) of DSA Phase 1 Holdings LLC, the sole member of Sponsor) and (iii) the GS Investor's interest in Sponsor to an Institutional Investor;
- (b) The removal by GS Investor of DSA Phase I LLC as the managing member of DSA Phase 1 Holdings LLC, the sole member of Sponsor, in accordance with the terms of that certain Operating Agreement of DSA Phase 1 Holdings LLC dated as of December 22, 2014 ("Operating Agreement"); provided that the replacement managing member is either (i) GS Investor or (ii) a Permitted Entity; and
- (c) The purchase by GS Investor of the membership interest of DSA Phase I LLC in DSA Phase 1 Holdings LLC, the sole member of Sponsor, in accordance with the terms of the Operating Agreement upon written notice to HPD; provided that (i) GS Investor becomes the sole member of DSA Phase 1 Holdings LLC, the sole member of Sponsor, or (ii) GS Investor replaces DSA Phase I LLC with a Permitted Entity, or (iii) GS Investor sells the membership interest of DSA Phase I LLC to a Permitted Entity.
- (d) For purposes of this Agreement:
  - (i) "Institutional Investor" shall mean any person or entity controlled by a person or persons who (a) has individual or combined net assets of not less than Two Hundred Million Dollars (\$200,000,000), (b) has liquid assets (including, without limitation, unfunded capital commitments) of at least Fifteen Million Dollars (\$15,000,000) and (c) is subject to the jurisdiction of the courts of the State of New York.
  - (ii) "Permitted Entity" shall mean, following the submission of all required disclosure statements and related documents to HPD, any person or entity that HPD shall have approved in writing on an expedited basis pursuant to HPD's sponsor review procedures considering the same types of information and performing the same types of inquiries regarding the integrity and competence of the proposed transferee and its principals or officers as HPD customarily employs under its sponsor review procedure.

**ARTICLE IX. RECORDS AND REPORTING**

**SECTION 9.01**      Requests for Information. The Sponsor shall promptly furnish any reports, records, documents or information reasonably requested by HDC or HPD, in a form

satisfactory to HDC or HPD, as the case may be, with respect to the construction, marketing, occupancy, maintenance or operation of the Project.

**SECTION 9.02** Financial Statements. Audited financial statements for the Project shall be prepared at least annually in accordance with generally accepted accounting principles. Financial statements may be modified in accordance with government auditing standards as set forth by the Comptroller General of the United States, to the extent and in a manner approved by HDC in its sole discretion (and by HPD in its sole discretion, if requested by HPD in writing).

**SECTION 9.03** Retention of Records. The Sponsor shall maintain and keep current all books, documents, plans and records concerning the Project (the "Records"). The Sponsor shall retain (i) those Records pertaining to the rental or occupancy of each Tax Code Unit, and the rent roll for all units, for a minimum of six years after the end of the Occupancy Restriction Period and (ii) all other Records for a minimum of six years after the end of the fiscal or calendar year for which the Record was produced. Upon reasonable notice, HDC and HPD may, during normal business hours, (x) audit and examine the Records and (y) inspect the buildings, grounds, equipment and offices of the Project. The Sponsor shall use its best efforts to facilitate inspections.

**SECTION 9.04** Annual Tax-Exempt Obligations Certification. The Sponsor shall submit (or shall cause the operator of the Project to submit) to the Secretary of the Treasury, at such time and in such manner as the Secretary of the Treasury shall prescribe, an annual certification (IRS Form 8703, as may be amended) as to whether the Project continues to comply with the requirements of Section 142(d)(7) of the Tax Code. Any failure to submit this certification shall not affect the exclusion from gross income for purposes of federal income taxation of interest on the Obligations but shall subject the Sponsor and/or such operator to a penalty pursuant to Section 6652(j) of the Tax Code.

**SECTION 9.05** Annual Tax Credits Certification. On an annual basis, the Sponsor shall submit to HDC as HPD's designee (i) a certified rent roll for the Premises and (ii) a written certification that the Tax Code Units are owned and operated in compliance with the Tax Code.

**SECTION 9.06** Notice of Material Non-Compliance. The Sponsor covenants to notify HDC and HPD promptly if the Sponsor discovers any material non-compliance with any restriction or covenant in this Agreement, including any occurrence or event that adversely affects (i) the exclusion from gross income for purposes of federal income taxation of interest on the Obligations or (ii) the Tax Credits.

## ARTICLE X. ENFORCEMENT

### **SECTION 10.01** Events of Default; Remedies.

- (a) In the event of a breach of any of the covenants or agreements contained in this Agreement, either HDC or HPD may, by written notice to all parties, declare an "Event of Default". If the Credit Instrument has not been released, notice of an Event of Default shall be given to the Credit Provider as well. Upon the occurrence of an Event of Default, HDC and HPD shall have the right to take one or more of the following actions:

- (i) Institute and prosecute any proceeding for an injunction or for specific

performance of the Sponsor's obligations under this Agreement.

- (ii) Extend the term of this Agreement by the period of non-compliance upon the recording of an appropriate document, executed solely by HDC and HPD, against the Premises. The period of non-compliance shall be presumed to be the period running from the date of this Agreement to the date that HDC or HPD declares an Event of Default, which presumption may be rebutted by the Sponsor.
- (iii) Upon written notice of HDC or HPD, prohibit the Sponsor and/or any of its principals from doing business with HDC or HPD, as the case may be, for a period of not less than three years from the date of violation. This prohibition shall not extend to any as-of-right benefits.
- (iv) Cure the violation and charge the Sponsor for any costs or expenses incurred to remedy the violation plus interest at the Default Rate from the date of demand until paid.
- (v) Rent any un-leased or vacant unit in order to comply with this Agreement (in such event, HDC and HPD shall use reasonable efforts to obtain the highest rent permitted by this Agreement).
- (vi) Prohibit the occupancy of any unoccupied unit in order to comply with this Agreement.
- (vii) Prohibit distributions to partners, members or shareholders, as applicable, of the Sponsor and/or take any action to seek restitution to the Project's account for any distributions made in violation of this Agreement, if the distribution was made after notice was given pursuant to Section 8.10.
- (viii) Declare an event of default under any Loan Document and pursue any applicable remedies, including commencing a foreclosure of the HDC Mortgage.
- (ix) Require the removal of any partner, member or shareholder, as applicable, responsible for the violation.
- (x) Seek appointment of HDC, HPD or a receiver to take possession of and operate the Project, collect all rents, and pay all necessary costs of the Project in accordance with the terms of this Agreement and any other Loan Documents, until the Sponsor has cured the violation and given satisfactory evidence that it can operate the Project in compliance with this Agreement.
- (xi) Seek any other relief that may be appropriate or desirable at law or in equity.

Notwithstanding anything to the contrary set forth above, the provisions of this Section 10.01(a) applicable to the Tax Code Units shall apply solely to the Sponsor and the provisions of this Section 10.01(a) applicable to the Non-Tax Code Income-Restricted Units shall apply solely to the Residential Beneficial Owner, the Residential Legal Owner and the Initial Legal Owner.

- (b) In the event of a threatened breach of any of the covenants or agreements contained in this Agreement, HDC and HPD shall have the right to the remedy described in paragraph (a)(i) above.

**SECTION 10.02** Cure Period; Waiver. Either HDC or HPD, with the prior written consent of the other agency, but otherwise in the sole discretion of HDC or HPD, may by written notice to all parties to this Agreement, (i) give the Sponsor a period of up to 30 days to cure an Event

of Default (provided the Event of Default can be cured without affecting the rights of any bona fide tenants who have executed leases with the Sponsor) or (ii) waive an Event of Default. If the Credit Instrument has not been released, written notice of any cure period or waiver shall also be given to the Credit Provider. HDC and HPD agree that any cure of any Event of Default made or tendered by one or more of the Sponsor's members, partners or shareholders, as applicable, shall be deemed to be a cure by the Sponsor and shall be accepted or rejected on the same basis as if made or tendered by the Sponsor.

**SECTION 10.03**      Reporting of Non-Compliance to IRS. The Sponsor acknowledges that actions taken or authorized to be taken by HDC or HPD following an Event of Default are in addition to HDC's obligations under the Tax Code to report acts of non-compliance to the Internal Revenue Service pursuant to HDC's monitoring procedures with respect to the Tax Credits.

**SECTION 10.04**      Indemnity. The Sponsor agrees to pay all reasonable costs and expenses of HDC and HPD (including fees of attorneys and experts), in addition to any other loss, claim, damage or liability that may be incurred by HDC or HPD or awarded by any court, arising out of any proceeding or action that is brought or taken in connection with this Agreement (including those brought or taken by HDC, HPD or the Sponsor). The Sponsor shall pay any such amount regardless of whether a legal action is finally decided by a court. The Sponsor shall not be obligated to pay any costs or expenses of HDC or HPD that are attributable to any action or proceeding brought by HDC or HPD in bad faith. If the Sponsor fails to pay any amount due under this section within 10 days of demand by HDC or HPD, the unpaid amount shall bear interest at the Default Rate from the date of demand until paid.

**SECTION 10.05**      Except as provided in this section, in enforcing this Agreement, neither HDC nor HPD will seek a money judgment against the Sponsor, Master Tenant or any related officer, director, member, partner or shareholder. HDC and HPD may seek a money judgment against the Residential Beneficial Owner and Master Tenant and their respective members, partners or shareholders, as applicable, in order to enforce the obligations or liabilities of the Residential Beneficial Owner and Master Tenant and their respective present or future members, partners or shareholders pursuant to Section 10.01(a)(iv) (concerning the Sponsor's responsibility for the costs and expenses of HDC or HPD in curing any violations of this Agreement, and any interest on such amounts), Section 10.01(a)(vii) (concerning the prohibition on distributions after default) or Section 10.04 (concerning the Sponsor's indemnification of HDC and HPD). HDC and HPD may also seek a money judgment against the Residential Beneficial Owner and Master Tenant and their respective members, partners or shareholders to the extent of any deficiency, loss, damage or non-compliance with this Agreement resulting from (i) fraud, (ii) misappropriation or diversion of funds or other property or (iii) intentional damage to the Project inflicted by the Residential Beneficial Owner or Master Tenant or any of their respective members, partners, shareholders, agents or employees. HDC and HPD agree that they will seek to collect any money judgment obtained against the Residential Beneficial Owner or Master Tenant's respective members, partners or shareholders only from (a) their capital contributions actually paid in at the time HDC or HPD seeks a judgment, or to be paid in pursuant to the Residential Beneficial Owner or Master Tenant's respective organizational documents, and (b) any distributions to such members, partners or shareholders made in violation of the HDC Act or this Agreement. The provisions of this section shall not affect the validity or enforceability of any provision of the HDC Mortgage or any guaranty or indemnity agreement made in connection with the issuance of the Obligations, the HDC Commitment, or the funding of the HDC Financing.

**SECTION 10.06** Cumulative Rights and Remedies. All rights and remedies of HDC and HPD shall be cumulative and may be exercised singularly or concurrently, at HDC's or HPD's option. The exercise or enforcement of any one right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other right or remedy. The enumeration of rights and remedies in this Agreement shall not preclude the exercise or enforcement by HDC or HPD of any other rights or remedies available to HDC or HPD.

**SECTION 10.07** Cross-Default under Mortgages. The HDC Mortgage shall each provide that an Event of Default under this Agreement shall also be a default under the mortgages. So long as this Agreement is in effect, any mortgage on the Project funded by HDC shall provide that an Event of Default under this Agreement shall be a default under the mortgage and that HDC, or the holder of the mortgage if not HDC, may prosecute a foreclosure in accordance with the mortgage, subject to any other written agreements that may have been made by HDC and any other holder of the mortgage.

**SECTION 10.08** Prior Owner Liability. The Sponsor (including any subsequent owner of the Project) shall be liable for (i) the breach of any obligation or any Event of Default under this Agreement caused by any prior owner and (ii) any related payment or indemnification obligation. During any period in which the Credit Provider or its designee owns the Project, however, or if any subsequent owner acquires the Project from the Credit Provider or its designee, neither the Credit Provider, its designee, nor the subsequent owner shall be liable for the breach or Event of Default of a prior owner, or any related payment or indemnification obligation. In such a case, the owner of the Project at the time of the breach or Event of Default shall remain liable for any and all related damages. Any party seeking to collect damages from the liable prior owner in such a case shall, to that extent, have no recourse to the Project and no right to levy against or otherwise collect on any judgment from the Project. The liable prior owner shall bear no liability under this Agreement, however, for any damages caused by any subsequent breach or Event of Default occurring after the entity no longer owned the Project.

**SECTION 10.09** Enforcement by Credit Provider. Except as expressly provided in the Servicing and Release Agreement or Participation Agreement, the Credit Provider shall not be obligated or have any right to enforce this Agreement.

## ARTICLE XI. MISCELLANEOUS

### **SECTION 11.01** Fees.

- (a) Tax Credits Monitoring Fee. Pursuant to the Tax Code, HDC is entitled to a reasonable fee for monitoring the Project's compliance with respect to the Tax Credits. During the Compliance Period, the Sponsor shall pay to HDC an annual monitoring fee of \$15,000 (the "Tax Credits Monitoring Fee") such amount to be increased annually in accordance with any increase in the New York City Consumer Price Index.
- (b) HDC Monitoring Fee (Prepayment in Full). To compensate HDC for continued monitoring of the Project after a prepayment in full of the HDC Loan, upon such a prepayment and on an annual basis thereafter, the Residential Beneficial Owner and Master Tenant shall pay to HDC an amount equal to \$50 per unit, subject to an annual cap of \$7,500, such amount to be increased annually in accordance with any increase in the New York City Consumer Price Index. If the Sponsor

transfers their respective interest in the Project (subject to the requirements of this Agreement), HDC reserves the right, in its sole discretion, to charge a one-time monitoring fee or to revise the annual fee for continued monitoring.

- (c) **Compliance Escrow.** If the Project is not in compliance with this Agreement on the date that the Sponsor gives notice of a prepayment to HDC, then unless the Sponsor withdraws the notice until the Project is in compliance, the Sponsor shall enter into a compliance escrow agreement with HDC and deposit \$20,000, such amount to be increased at the time in accordance with any increase in the New York City Consumer Price Index. This compliance escrow shall be in addition to the monitoring fee required by paragraph (b) above. The compliance escrow shall be applied ratably by HDC to monitor compliance with this Agreement. Once the Project is restored to compliance, any balance of the compliance escrow will be refunded to the Sponsor, without interest.

**SECTION 11.02** **Equal Opportunity.** The Sponsor shall use reasonable efforts to ensure that businesses owned by women and by members of traditionally disadvantaged minority groups are afforded equal opportunity to participate in any development and construction contracts entered into in connection with the Project.

**SECTION 11.03** **Waivers.** No delay or failure to act or give notice shall waive any provision of this Agreement or preclude the enforcement of any rights or remedies of HDC or HPD. All waivers must be in writing and must be signed by the waiving parties. No waiver shall apply to any instance other than the specific instance in connection with which it is delivered.

**SECTION 11.04** **Amendments.** This Agreement shall not be amended or otherwise modified except by an instrument in recordable form signed by all of the parties. This Agreement shall not be amended without first obtaining, if required by HDC in its sole discretion, an opinion of Bond Counsel that such amendment will not adversely affect the exclusion from gross income for purposes of federal income taxation of interest on the Obligations. The Sponsor shall agree to amend this Agreement if any amendments are required to obtain mortgage insurance for the HDC Mortgage. In addition, if after the execution of this Agreement, there are amendments to (i) the HDC Act, (ii) the Tax Code or (iii) Rent Stabilization, or any related rules or regulations, and if such amendments are applicable to the Project and inconsistent with this Agreement, as determined by HDC and HPD, then upon written request of HDC and HPD, this Agreement shall be amended to the extent necessary.

**SECTION 11.05** **Severability.** The invalidity of any provision of this Agreement shall not affect the validity of the remaining provisions of the Agreement.

**SECTION 11.06** **Action and Consents.** Except where the granting of HDC's or HPD's consent or approval is expressly stated to be in HDC's or HPD's discretion (or words of similar import), HDC, HPD and the Sponsor shall use reasonable promptness, reasonable diligence, reasonable judgment and reasonable discretion in exercising any duty or right, providing any consent or approval, or making any determination required by this Agreement. HDC, HPD and the Sponsor shall use their reasonable efforts to effectuate the purposes of this Agreement.

**SECTION 11.07** **Successors and Assigns.** All references in this Agreement to any party, entity or person shall be deemed to include the successors and assigns of the party, entity or person. Successors to HDC or HPD shall include any body, agency or instrumentality of the State or the City that succeeds to the powers, duties or functions of HDC or HPD, as the case

may be.

**SECTION 11.08** Covenants Run with the Land. This Agreement shall be recorded against the Premises. The parties agree that, during the term of this Agreement, all provisions shall run with the Premises and shall be enforceable by both HDC and HPD against the Sponsor and its successors, assigns, heirs, grantees and lessees. The parties declare their understanding and intent that the burden of the covenants set forth in this Agreement touch and concern the land in that the Sponsor's legal interest in the Project is rendered less valuable by them. The parties further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by people and families for whom the ordinary operations of private enterprise cannot provide an adequate supply of safe, sanitary and affordable housing, the intended beneficiaries of such covenants. During the term of this Agreement, the covenants of the Sponsor in this Agreement are enforceable by both HDC and HPD as contract beneficiaries whether or not the Sponsor is or remains indebted to HDC or HPD.

**SECTION 11.09** Notices. Any notice, demand, direction, request or other instrument authorized or required to be given or filed under this Agreement shall be deemed to have been sufficiently given or filed if and when sent (i) by certified mail, return receipt requested, (ii) by fax or other electronic means with notice of receipt or (iii) by hand delivery. All notices sent by mail or hand delivery shall be sent to the addresses given above or to any other address of any party that it has notified the other parties of in writing. Notices to HDC or HPD shall be sent to the attention of the General Counsel. Notices required to be given to the Credit Provider shall be sent to Wells Fargo Bank, National Association, Winston-Salem Loan Center, One West Fourth Street, 3<sup>rd</sup> Floor, Winston-Salem, North Carolina 27101, Attention: Disbursement Administrator. HDC and HPD shall make an effort to send copies of all notices that are sent to the Borrower or Master Tenant to their counsel at Hirschen Singer & Epstein, LLP, 902 Broadway, 13th Floor, New York, New York 10013, Attention: Russell A. Kivler, Esq., and to the Tax Credit Investor at Wells Fargo Affordable Housing Community Development Corporation, MAC D1053-170, 301 South College Street, Charlotte, North Carolina 28288. Failure to send any such copy, however, shall not affect the effectiveness of the notice.

**SECTION 11.10** Governing Law; Jurisdiction; Service of Process. The parties unconditionally and irrevocably agree that this Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws principles. The parties unconditionally and irrevocably accept the jurisdiction of any state or federal court sitting in the State and New York County or the county in which the Project or any portion of the Project is located, waive any objection to the bringing of an action, suit or other legal proceeding in such jurisdiction, and consent to venue in any such court. The parties agree that service of process may be by hand or certified mail, return receipt requested or otherwise as permitted by law. The parties irrevocably consents to the service of any and all process in any such action, suit or proceeding to its then-current address or such other address permitted by law as may be agreed to in writing by HDC and HPD. HDC's designated agent for service of process shall be its General Counsel at its offices. HPD's designated agent for service of process shall be its General Counsel at its offices.

**SECTION 11.11** Loan Agreement. The Borrower shall pay all amounts due to HDC pursuant to the Loan Agreement. If the Borrower does not pay any such amounts, HDC may declare an Event of Default under this Agreement.

**SECTION 11.12** Counterparts. This Agreement may be executed in counterparts, and all

counterparts shall collectively constitute a single instrument. An executed signature page to one counterpart may be attached to another counterpart that is identical (except for additional signature pages) without impairing the legal effect of the signatures. Any counterpart containing the signatures of each of the parties shall be sufficient proof of this Agreement.

**SECTION 11.13** Investigations. The Sponsor shall be bound by the provisions of the investigations clause attached as Schedule D.

**SECTION 11.14** Further Assurances. The Sponsor shall, at the Sponsor's expense, promptly execute and deliver any further documents, and take any further action, as may be reasonably requested by HDC or HPD to ensure that the Project and the Low Income Project complies with all applicable provisions of the Tax Code and this Agreement.

**SECTION 11.15** Concerning the Residential Legal Owner.

- (a) Nominee Agreement. The Residential Legal Owner and the Residential Beneficial Owner each represent that they have delivered to HDC and HPD a true copy of the Nominee Agreement, and each agrees that it shall observe the terms of the Nominee Agreement. The Residential Legal Owner and the Residential Beneficial Owner agree that the Nominee Agreement shall not be amended without the prior written consent of HDC and HPD, which shall not be unreasonably withheld. Any notice of a default or event of default required under the Nominee Agreement shall simultaneously be provided to HDC and HPD, and any default that remains uncured beyond the applicable cure period shall constitute a breach under this Agreement and shall be subject to the enforcement procedures of this Agreement.
- (b) Right to Enter and Cure. Notwithstanding anything contained in the Nominee Agreement to the contrary, the Nominee Agreement shall be deemed to provide (if it does not already provide) that if there is an event of default under any City, State or federal loan document, including but not limited to any mortgage, regulatory agreement or financing commitment, the Residential Legal Owner shall have the right to enter the Premises to cure the default as agent for and on behalf of the Residential Beneficial Owner, unless the Residential Beneficial Owner is acting diligently to cure the default.
- (c) Must Remain in Project for Term of Mortgages. The Residential Legal Owner (including any successor or permitted assign) shall remain in the Project's ownership structure for the entire term of the HDC Mortgage.

[Signatures follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

**SITE 5 RESIDENTIAL OWNER LLC**

- By: Site 5 DSA Owner LLC,  
its sole member
- By: DSA Phase 1 Holdings LLC,  
its sole member
- By: DSA Phase 1 LLC,  
its managing member
- By: BFC Phase 1 DSA LLC

By: \_\_\_\_\_  
 Name: Donald Capoccia  
 Title: Authorized Signatory

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

On the 30<sup>th</sup> day of June, 2015, before me, the undersigned, a notary public in and for said state, personally appeared Donald Capoccia, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

Sarah C. Hetzer  
 Notary Public  
 Commission expires:

SARAH C. HETZER  
 Notary Public, State of New York  
 No. 01HE6117403  
 Qualified in Rensselaer County  
 Commission Expires October 25, 2016

**SITE 5 COMMERCIAL OWNER LLC**

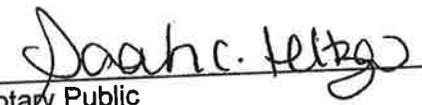
By: Site 5 Commercial Manager LLC,  
its sole member  
By: DSA Phase 1 Holdings LLC,  
its sole member  
By: DSA Phase 1 LLC,  
its managing member  
By: BFC Phase 1 DSA LLC

By:

  
Name Donald Capoccia  
Title Authorized Signatory

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

On the 30<sup>th</sup> day of June, 2015, before me, the undersigned, a notary public in and for said state, personally appeared Donald Capoccia, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

  
Notary Public  
Commission expires:

SARAH C. HETZER  
Notary Public, State of New York  
No. 01HE6117403  
Qualified in Rensselaer County  
Commission Expires October 25, 2016

SITE 5 DSA OWNER LLC

By:

Name: Donald Capoccia  
Title: Authorized Signatory

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

On the 30<sup>th</sup> day of June, 2015 before me, the undersigned, a notary public in and for said state, personally appeared Donald Capoccia, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

Sarah C. Hetzer  
Notary Public  
Commission expires:

SARAH C. HETZER  
Notary Public, State of New York  
No. 01HE6117403  
Qualified in Rensselaer County  
Commission Expires October 25, 2016

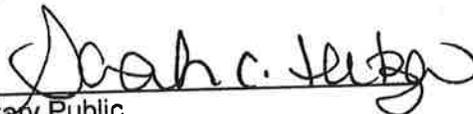
**SITE 5 UNIT 1 MASTER TENANT LLC**

By: Site 5 Unit 1 MM LLC,  
its managing member  
By: DSA Phase 1 Holdings LLC,  
its sole member  
By: DSA Phase 1 LLC,  
its managing member  
By: BFC Phase 1 DSA LLC  
By: \_\_\_\_\_

Name: Donald Capoccia  
Title: Authorized Signatory

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

On the 30<sup>th</sup> day of June, 2015 before me, the undersigned, a notary public in and for said state, personally appeared Donald Capoccia, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public  
Commission expires:

SARAH C. HETZER  
Notary Public, State of New York  
No. 01HE6117403  
Qualified in Rensselaer County  
Commission Expires October 25, 2018

**SITE 5 HOUSING DEVELOPMENT FUND CORPORATION**

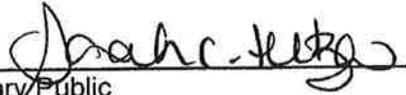
By:



Name: Lee Warshavsky  
Title: Secretary/Treasurer

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

On the 30<sup>th</sup> day of June, 2015 before me, the undersigned, a notary public in and for said state, personally appeared Lee Warshavsky personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public  
Commission expires:

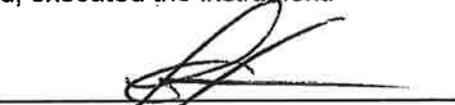
SARAH C. HETZER  
Notary Public, State of New York  
No. 01HE6117403  
Qualified in Rensselaer County  
Commission Expires October 25, 2016

**NEW YORK CITY HOUSING  
DEVELOPMENT CORPORATION**

By:   
Anthony R. Richardson  
Senior Vice President

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

On the 30 day of June, 2015, before me, the undersigned, a notary public in and for said state, personally appeared **ANTHONY R. RICHARDSON**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

  
Notary Public  
Commission expires:

JAMES KAMNA  
Notary Public, State of New York  
No. 01KA6079499  
Qualified in Westchester County  
Commission Expires August 26, 2018

**THE CITY OF NEW YORK, acting by and  
through its DEPARTMENT OF HOUSING  
PRESERVATION AND DEVELOPMENT**

By: *Susan Kensky*  
Susan Kensky  
Assistant Commissioner

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

On the 30th day of June, 2015, before me, the undersigned, a notary public in and for said state, personally appeared **Susan Kensky**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

*Benjamin Steiner*  
Notary Public  
Commission expires:

**BENJAMIN STEINER  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 02ST6043316  
QUALIFIED IN NEW YORK COUNTY  
COMMISSION EXPIRES JUNE 12, 2018**

APPROVED AS TO FORM BY STANDARD  
TYPE OF CLASS FOR USE UNTIL June 30, 2015:  
By: /s/ Howard Friedman  
Acting Corporation Counsel

**SCHEDULE A**

**LEGAL DESCRIPTION OF PREMISES**

[Follows]

### Property Description

All those certain plots, pieces and parcels of land, with the buildings and improvements thereon erected, situate, lying and being in the City and State of New York, designated on the Tax Map of the City of New York as of June 1, 2015 as:

<u>Block(s)</u>	<u>Lot(s)</u>	<u>Address</u>
346	p/o 40	145 Clinton Street

County: New York

also known as:

ALL that certain parcel of land lying in the Borough of Manhattan, City, County and State of New York, more particularly described as follows:

BEGINNING at a point being the intersection of the northeasterly line of Grand Street (100 feet wide) and the northwesterly line of Clinton Street (variable width) and from said point and place of beginning;

RUNNING thence along the northeasterly line of Grand Street, a distance of 130.38 feet to a point;

THENCE turning an interior angle of 90 degrees 18' 29", a distance of 220.67 feet to a point;

THENCE turning an interior angle of 269 degrees 00' 26", a distance of 70.15 feet to the southwesterly line of Suffolk Street;

THENCE along the southeasterly line of Suffolk Street (variable width), turning an interior angle of 89 degrees 58' 15", a distance of 81.28 feet to the southeasterly line of Broome Street;

THENCE along the southwesterly line of Broome Street (variable width), turning an interior angle of 89 degrees 48' 45", a distance of 200.80 feet to the northwesterly line of Clinton Street;

THENCE along the northwesterly line of Clinton Street, turning an interior angle of 90 degrees 09' 49", a distance of 301.87 feet to the point and place of beginning, having a closing angle of 89 degrees 45' 16" with said northeasterly line of Grand Street.

## SCHEDULE B

### DISTRIBUTION OF UNITS AND INITIAL RENTS

Project: **Essex Crossing – Site 5**  
145 Clinton Street  
New York, New York  
Block 346, Lot 40

The Project shall contain 211 units in total (including 1 Superintendent Unit).

#### Tax Code Units

##### 40% of AMI Units

	<u>No. of Units</u>	<u>Legal Rent (initial)</u>	<u>Actual Rent (initial)</u>
Studio	2	\$565 (40% of AMI)	\$519 (37% of AMI)
1-Bedroom	1	\$607 (40% of AMI)	\$558 (37% of AMI)
2-Bedroom	2	\$735 (40% of AMI)	\$676 (37% of AMI)
3-Bedroom	1	\$843 (40% of AMI)	\$775 (37% of AMI)
TOTAL	6		

##### 60% of AMI Units

	<u>No. of Units</u>	<u>Legal Rent (initial)</u>	<u>Actual Rent (initial)</u>
Studio	21	\$867 (60% of AMI)	\$822 (57% of AMI)
1-Bedroom	10	\$931 (60% of AMI)	\$882 (57% of AMI)
2-Bedroom	20	\$1,123 (60% of AMI)	\$1,065 (57% of AMI)
3-Bedroom	2	\$1,292 (60% of AMI)	\$1,224 (57% of AMI)
TOTAL	53		

#### Non-Tax Code Income-Restricted Units

##### 120% of AMI Units

	<u>No. of Units</u>	<u>Legal Rent (initial)</u>	<u>Actual Rent (initial)</u>
Studio	6	\$1,384 (110% of AMI)	\$1,384 (110% of AMI)
1-Bedroom	3	\$1,741 (110% of AMI)	\$1,741 (110% of AMI)
2-Bedroom	7	\$2,094 (110% of AMI)	\$2,094 (110% of AMI)
3-Bedroom	1	\$2,414 (110% of AMI)	\$2,414 (110% of AMI)
TOTAL	17		

**SCHEDULE B (continued)**

**165% of AMI Units**

	<u>No. of Units</u>	<u>Legal Rent (initial)</u>	<u>Actual Rent (initial)</u>
Studio	11	\$1,967 (155% of AMI)	\$1,967 (155% of AMI)
1-Bedroom	3	\$2,470 (155% of AMI)	\$2,470 (155% of AMI)
2-Bedroom	13	\$2,968 (155% of AMI)	\$2,968 (155% of AMI)
3-Bedroom	1	\$3,424 (155% of AMI)	\$3,424 (155% of AMI)
<b>TOTAL</b>	<b>28</b>		

**Legal Rents for Units Initially Occupied by Tenants with Section 8 Vouchers or Certificates**

At the initial rent-up of the Project, the Sponsor shall determine the units, if any, that will be occupied by Section 8 tenants with vouchers or certificates. For any such unit, the initial Legal Rent shall not exceed the amount given in this section. The parties shall amend this Agreement at the Permanent Conversion to complete this section by documenting the number of units, if any, in each category below and specifying the units.

	<u>No. of Units</u>	<u>Legal Rent (initial)</u>
Studio	TBD	\$[•] (90% of FMR)
1-Bedroom	TBD	\$[•] (90% of FMR)
2-Bedroom	TBD	\$[•] (90% of FMR)
3-Bedroom	TBD	\$[•] (90% of FMR)
[Studio (Homeless Unit)]	TBD	\$[•] (100% of FMR)
1-Bedroom (Homeless Unit)	TBD	\$[•] (100% of FMR)
2-Bedroom (Homeless Unit)	TBD	\$[•] (100% of FMR)
3-Bedroom (Homeless Unit)	TBD	\$[•] (100% of FMR)]
<b>TOTAL</b>	<b>TBD</b>	

Unit numbers for units occupied by tenants with Section 8 vouchers or certificates at the initial rent-up of the Project: TBD [(Homeless Units to be specified)]

**Market-Rate Units**

A total of 106 units shall be Market-Rate Units. The Market-Rate Units shall be distributed as follows:

	<u>No. of Units</u>	<u>Legal Rent (initial)</u>
Studio	23	TBD
1-BR	36	TBD
2-BR	29	TBD
3-BR	18	TBD
<b>TOTAL</b>	<b>106</b>	

## **SCHEDULE B (continued)**

At the initial rent-up of the Project, the Sponsor shall determine the Legal Rents for the Market-Rate Units in accordance with the requirements of Rent Stabilization. The parties shall amend this Agreement at the Permanent Conversion to complete this section by adding the initial Legal Rent for each Market-Rate Unit (e.g., in the form of a rent roll or similar).

### **Rent Increases at Initial Rent-Up**

In certain circumstances, Legal Rents and Actual Rents specified in this Schedule B may be increased at initial rent-up with the prior written consent of HDC and HPD (and at the sole discretion of HDC and HPD). In the case of any increase, the parties shall amend this Agreement at the Permanent Conversion to document Schedule B as modified.

## SCHEDULE C

### RENT REGISTRATION FORM



State of New York • Division of Housing and Community Renewal Processing Services Unit, Hampton Plaza,  
38-40 State Street, Albany, NY 12207 Visit DHCR website at: [www.dhcr.state.ny.us](http://www.dhcr.state.ny.us)  
**INITIAL APARTMENT REGISTRATION**

**NOTE: All information entered on this form must be valid for the date this apartment became subject to Rent Stabilization (this is the date entered in Item 1)**

1. Date apartment became subject to Rent Stabilization ____/____/____ <small>Month Day Year</small>		2. Date of this Initial Registration ____/____/____ <small>Month Day Year</small>		14. Legal Regulated Rent on Date in Item 1 \$ _____ per <input type="checkbox"/> Month <input type="checkbox"/> Week	
3. Building ID Number <input type="checkbox"/> MDR <input type="checkbox"/> ETPA <input type="checkbox"/> Hotel		4. Street Address		15a. Actual Rent Paid on Date in Item 1 (enter only if different than Legal Regulated Rent in item 14 above) \$ _____ per <input type="checkbox"/> Month <input type="checkbox"/> Week	
5. City, Town or Village NY		6. Zip Code		15b. Reason for difference: <input type="checkbox"/> Appliance Surcharge <input type="checkbox"/> DHCR Rent Reduction Order <input type="checkbox"/> Preferential Rent <input type="checkbox"/> Section 8 <input type="checkbox"/> SCRIB/DRIE <input type="checkbox"/> Other (specify): _____	
7. County	8. Apartment Number	9. Total # of Rooms in Apt.		16a. Reason for Initial Apartment Registration (check one)	
10. Tenant Name(s) LAST FIRST MI				<input type="checkbox"/> New Construction <input type="checkbox"/> Major Rehab <input type="checkbox"/> Late Registration <input type="checkbox"/> Apartment Vacant at time of previous Initial Registration <input type="checkbox"/> Apartment Previously under Mitchell-Lama <input type="checkbox"/> Apartment Previously Rent Controlled \$ _____ Rent \$ _____ MCR \$ _____ MBR Date Rent Controlled tenant vacated ____/____/____ <input type="checkbox"/> Other (specify): _____	
11. Lease Dates in effect on Date in Item 1 above Began on ____/____/____ Expires on ____/____/____ <small>Month Day Year Month Day Year</small>				16b. Initial Apartment Registration Status	
12. Equipment and services included in rent (check as many as apply) <input type="checkbox"/> Stove <input type="checkbox"/> Refrigerator <input type="checkbox"/> Dishwasher <input type="checkbox"/> Blinds/Shades <input type="checkbox"/> Furniture <input type="checkbox"/> Maid Service <input type="checkbox"/> Linen Service <input type="checkbox"/> Room A/C (No. of units) _____ <input type="checkbox"/> Other (specify): _____				<input type="checkbox"/> Rent Control <input type="checkbox"/> Vacant but Previously Rent Stabilized <input type="checkbox"/> Stabilized/ETPA <input type="checkbox"/> 421-a Market Rate Unit <input type="checkbox"/> 421-a Income Restricted Unit _____ % Area Median Income <small>This 421-a Income Restricted Unit is reserved for individuals or families whose incomes at the time of initial occupancy do not exceed the above % of the area median income, as adjusted for family size.</small>	
13. Equipment and services for which a separate charge is collected by owner (check as many as apply) <input type="checkbox"/> Electricity/AC <input type="checkbox"/> Maid Service <input type="checkbox"/> Linen Service <input type="checkbox"/> Furniture <input type="checkbox"/> Master TV Antenna <input type="checkbox"/> Recreational Facilities <input type="checkbox"/> Garage/Parking \$ _____ per month each car Separate Lease: From ____/____/____ To ____/____/____ <small>Month Day Year Month Day Year</small> <input type="checkbox"/> Other (specify): _____				<input type="checkbox"/> Exempt (if exempt box is checked, one reason MUST be selected below): <input type="checkbox"/> Commercial/Professional <input type="checkbox"/> Owner Occupied/Employee <input type="checkbox"/> Not Prime Residence/ <input type="checkbox"/> High Rent, Vacancy Deregulation Not for Profit <input type="checkbox"/> Coop/Condo Occupied by Owner or Non-Protected Tenant Expiration of: <input type="checkbox"/> Section 21-243 <input type="checkbox"/> Section 421-a <input type="checkbox"/> Section 608 or 11-244 (731)	
17. Owner/Managing Agent (check one) LAST NAME		<input type="checkbox"/> Owner <input type="checkbox"/> Managing Agent <input type="checkbox"/> Coop/Condo Owner FIRST NAME MI		<b>NOTE: If unit is coop/condo, enter information for unit owner. In all other cases, enter information for building owner or building managing agent.</b>	
Street Address		Apartment/Room Number			
City, Town or Village		State Zip Code			

PARA INFORMACION EN ESPANOL, VEA RESPALDO DE ESTA FORMA. IMPORTANT TENANT INFORMATION ON OTHER SIDE OF FORM  
RR-369 12/87 Copy 1 - DHCR Copy 2 - OWNER Copy 3 - TENANT (save for your records)

## SCHEDULE D

### INVESTIGATIONS CLAUSE

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

b. If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State; or

c. If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony governing the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

d. The commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing upon not less than five days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

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

f. The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:

1. The disqualification for a period not to exceed five years from the date of an adverse determination of any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

2. The cancellation or termination of any and all existing City contracts, leases, permits, or licenses that the refusal to testify concerns and that have not been assigned as permitted under this agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination;

monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

g. The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Sections (g)(1) and (g)(2). He or she may also consider, if relevant and appropriate, the criteria established in Sections (g)(3) and (g)(4) in addition to any other information which may be relevant and appropriate:

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

2. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

3. The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.

4. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Section (f) above, provided that the party or entity has given actual notice to the commissioner or agency head upon the acquisition of the interest, or at the hearing called for in Section (d) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

h. 1. The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

2. The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

3. The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.

4. The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

i. In addition to and notwithstanding any other provision of this agreement the commissioner or agency head may in his or her sole discretion terminate this agreement upon not less than three days written notice in the event contractor fails to promptly report in writing to the Commissioner of Investigation of the City any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this agreement by the contractor, or affecting the performance of this contract.

# EXHIBIT 8

Dear Ms. Toribio:

I, Richard Metsky, am a Partner at Beyer Blinder Belle Architects and Planners LLP, with offices at 120 Broadway, 20<sup>th</sup> Floor, New York, New York 10271.

Our firm was retained by the Applicant, Site 5 DSA Owner LLC, in conjunction with the construction of a new multiple dwelling containing 211 residential units (the "Project") to be constructed at 145 Clinton Street, on the footprint of a portion of Block 346, p.o. Lot 40 in New York, New York and I am therefore familiar with the project site.

I base this affidavit on my experience and personal knowledge of the Project, review of the relevant surveys and building plans. I make this affidavit in support of the Application for the Preliminary Certificate of Eligibility to be filed by the Law Offices of Marcus & Pollack LLP ("M & P") and have relied exclusively on the advice and representations provided by M & P in regard to all statements made herein that relate to the 421-a laws and rules.

M & P has advised that Section 6-02(f) of the Rules states that the land on which the building is to be constructed must have been vacant, predominantly vacant, under-utilized, or improved with a non-conforming use on the "Operative Date." The Rules define Operative Date to mean thirty-six months prior to the Commencement of Construction.

M & P has advised that pursuant to Section 6-09(a)(1) of the Rules, Commencement of Construction is considered to be the later of the date a building permit is issued based upon architectural and structural plans approved by the Department of Buildings, and the date of installation of a metal or concrete load bearing structure, footing or caisson. M & P has advised that pursuant to the 421-a Rules, construction commenced on June 9, 2015 during the 2014/15 tax year and that the Operative Date would therefore be June 9, 2012 in the 2011/12 tax year.

M & P has further advised that according to the assessment records of the New York City Department of Finance, during the 2011/12 tax year, Tax Lot 40 consisted of a 124,560 foot parcel of land with 3 buildings located thereon. Finance records indicate that the total floor area of the 3 buildings was 31,200 with 21,200 square feet of residential space and 10,000 square feet of commercial space. Lot 40 was classified on the City's assessment roll for tax year 2012/13 as a Class 2 residential parcel.

A survey of lot 40 by Control Point Associates, Inc. dated November 19, 2013 reflects the portion Block 346, Lot 40 which will be created by the subdivision as the site of the Project. According to this survey (copy enclosed), the portion of lot 40 to be created by the subdivision as the site of the Project ("Proposed Lot B") will consist of 45,083 square feet of land and will contain the 3 buildings which are currently on lot 40, prior to the proposed subdivision. The survey describes the 3 buildings as they existed on the Operative Date as follows:

1. 400 Grand Street was a residential building with 5-stories and a basement. The total floor area of the building was 12,490 square feet constructed upon a footprint of 2,082 square feet of land;
2. 402 Grand Street was also a residential building with 3-stories and a basement. The total floor area of the building was 6,024 square feet constructed upon a footprint of 1,506 square feet of land; and
3. 185 Broome Street was a nonresidential building used by the New York City Fire Department as a firehouse. The building contained 2 floors and a basement with a total floor area of 13,200 square feet constructed upon a footprint of 4,400 square feet of land.

Thus, on the Operative Date in June 2012 during the 2011/12 tax year, neither Lot 40 in its entirety nor Proposed Lot B was vacant or predominantly vacant.

M & P has advised that §6-02(f)(3)(A) of the 421-a Rules provides that a site which was improved on the Operative Date, with a residential building or buildings qualifies as under-utilized where the room count of occupied dwelling units of the residential buildings did not exceed seventy percent of the room count in the dwelling units in the new building.

The Project will consist of 211 residential units with a total of 792.5 dwelling rooms.

I have reviewed the records of the Office of Property Management of the Department of Housing Preservation and Development ("HPD") and obtained a printout of the Building Apartment List (copy enclosed) which reflects the fact that prior to demolition, the residential buildings located at 400 and 402 Grand Street contained 18 and 2 dwelling units respectively and a total of 69 rooms.

The total room count of occupied dwelling units of these 2 residential buildings on the Operative Date of June 9, 2012 (69) therefore represents 8.7% of the room count in the new building.

The residential buildings located at 400 and 402 Grand Street therefore qualify as under-utilized pursuant to §6-02(f)(3)(A) of the 421-a Rules as the total room count of these residential buildings is less than 70% of the room count of the dwelling units in the Project.

M & P has also advised me that Section 11-245.1 (a-4) of the Code and Section 6-02(f)(3)(G)(a)(1) and (2)(i) of the Rules provide that land in Manhattan south of or adjacent to either side of 110<sup>th</sup> Street is under-utilized if, on the Operative Date, it was improved with a nonresidential building or buildings and that the actual assessed valuation of such nonresidential buildings did not exceed 50% of the assessed valuation of the land on which the building was situated.

M & P advised that on the Operative Date of June 9, 2012 during the 2011/12 tax year, the building assessment of lot 40 in its entirety was 40,500 and the assessed value of the entire 124,500 square foot parcel of land was \$2,146,500. Thus, the ratio of the building to land assessments for lot 40 on the Operative Date was far less than 2%. As the Project will be constructed upon 45,083 square feet of lot 40 representing approximately 36% of the original tax lot,, the ratio of the assessed value of the nonresidential building at 185 Broome Street would clearly be less than 50% so the nonresidential building located at 185 Broome Street would satisfy the test for under-utilization for nonresidential buildings.



Richard Mersky FAIA, LEED AP

DATE: March 30, 2016



LAST PAGE

CITY OF NEW YORK - H. P. D. T A S OFFICE OF PROPERTY MANAGEMENT  
OPM033M 090198 BUILDING APARTMENT LIST 12/16/2015 9:08 AM

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B 1 BLOCK 00346 LOT 0040 SITE NUMBER 925 PAGE 1

402 GRAND STREET

NUMBER OCC RES APTS:	0	NUMBER VAC RES APTS:	2
NUMBER OCC COM APTS:	0	NUMBER VAC COM APTS:	2
TOTAL RESIDENTIAL :	2	TOTAL COMMERCIAL :	2

APT#	FLOOR	STATUS	TLI	ROOMS	BEDRMS	TERM DATE	VAI	VAI DATE
STR1	GRD	W		0				04/09/2015
STR2	GRD	W		1				04/09/2015
2	2	V	7	2.5				04/09/2015
3		V	1	3				04/09/2015

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FUNCTION: 54 ACCOUNT NUMBER: \_\_\_\_\_ PF-8 PAGE FORWARD PF-7 PAGE BACKWARD

LAST PAGE

CITY OF NEW YORK - H. P. D.

T A S

OFFICE OF PROPERTY MANAGEMENT

OPM033M 090198

BUILDING APARTMENT LIST

12/16/2015 9:07 AM

PAGE 2

B BLOCK 00346 LOT 0040 SITE NUMBER 925

400 GRAND STREET

NUMBER OCC RES APTS:	0	NUMBER VAC RES APTS:	18
NUMBER OCC COM APTS:	0	NUMBER VAC COM APTS:	1
TOTAL RESIDENTIAL :	18	TOTAL COMMERCIAL :	1

APT#	FLOOR	STATUS	TLI	ROOMS	BEDRMS	TERM DATE	VAI	VAI DATE
2D	2	V	1	3.5				04/09/2015
3A	3	V	1	3.5				04/09/2015
3B	3	V	1	3.5				04/09/2015
3C	3	V	1	3.5				04/09/2015
3D	3	V	1	3.5				12/10/2014
4A	4	V		3.5				12/10/2014
4B	4	V		3.5				08/19/2014
4C	4	V		3.5				08/19/2014
4D	4	V		3.5				

PF-7=SCR/B,

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B 1 BLOCK 00346 LOT 0040 SITE NUMBER 925  
 400 GRAND STREET

PAGE 1

NUMBER OCC RES APTS: 0 NUMBER VAC RES APTS: 18  
 NUMBER OCC COM APTS: 0 NUMBER VAC COM APTS: 1  
 TOTAL RESIDENTIAL : 18 TOTAL COMMERCIAL : 1

APT#	FLOOR	STATUS	TLI	ROOMS	BEDRMS	TERM DATE	VAI	VAI DATE
A	GRD	V	1	3.5				04/09/2015
B	GRD	V	1	3.5				04/09/2015
STR1	GRD	W		0				04/09/2015
1A	1	V	1	3.5				04/09/2015
1B	1	V		3.5				04/09/2015
1C	1	V	1	3.5				04/09/2015
1D	1	V	1	3.5				04/09/2015
2A	2	V		3.5				04/09/2015
2B	2	V		3.5				04/09/2015
2C	2	V		3.5				04/09/2015

PF-8=SCR/F

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FUNCTION: 54 ACCOUNT NUMBER: \_\_\_\_\_ PF-8 PAGE FORWARD PF-7 PAGE BACKWARD

**PREPARED BY:**



**CONTROL POINT ASSOCIATES, INC.**

35 TECHNOLOGY DRIVE  
WARREN, NJ 07059  
908.668.0099 - 908.668.9595 FAX

CHALFONT, PA 215.712.9800  
SOUTHBOROUGH, MA 508.948.3000

5	10-20-2014	M.W.P.	REVISE TO ADD SEWER INFO PER RECEIPT OF NYCDEP SEWER INVESTIGATION	G.J.S.
4	8-14-2014	G.R.E.	REVISE TO SHOW ADDITIONAL SPOT GRADES	G.J.S.
3	5-7-2014	M.W.P.	REVISE PER CLIENT COMMENTS	G.J.S.
2	4-22-2014	M.W.P.	REVISE ELEVATIONS TO NAVD 88	G.J.S.
1	1-30-2014	M.W.P.	REVISE TO ADD DIMENSIONING TO SEWER MAIN & INVERT INFO	G.J.S.
NO.	DATE	BY	DESCRIPTION	APPROVED

**REVISIONS**

**PROJECT NAME**

**BFC PARTNERS, LLC**

394-406 GRAND STREET  
LOT 40, BLOCK 346  
BOROUGH OF MANHATTAN,  
CITY, COUNTY AND STATE OF NEW YORK

**DRAWING TITLE**

**ALTA/ACSM LAND TITLE SURVEY**

SEAL & SIGNATURE

NOT VALID UNTIL SEALED WITH A BLUE INK SEAL

*[Signature]*  
DATE 10-20-14  
**JAMES C. WEED**  
NEW YORK PROFESSIONAL LAND SURVEYOR #50765

FIELD DATE: 10-16-2013  
10-17-2013

FIELD BK:

F. B. PAGE:

DATE: 11-19-2013

SCALE: 1"=20'

PROJECT No: C11282.01

DRAWING BY: C.M.

CHK BY: G.R.E.

APPROVED BY: G.J.S.

DWG No:

**V001.05**

CAD FILE No:  
C11282.01-40B  
NAVD88

PAGE No:  
1 OF 1

# EXHIBIT 9

	MANHATTAN	BLOCK	346 LOT 1001	SECTION	2	VOLUME	1
		AV LAND		AV BUILDING			AV TOTAL
12/13 ACTUAL VALUES		100,891		45,965			146,856
12/13 TRANS. VALUES		93,387		28,573			121,960
13/14 ACTUAL VALUES		20,172		367,320			387,492
13/14 TRANS. VALUES		84,735		92,572			177,307
14/15 ACTUAL VALUES		17,338		432,231			449,569
14/15 TRANS. VALUES		58,959		171,980			230,939
15/16 ACTUAL VALUES		17,338		463,088			480,426
15/16 TRANS. VALUES		45,087		263,158			308,245
RECORD BOOK TRANS		0		0			0
16/17 ACTUAL VALUES		631,213		47,473			678,686
16/17 TRANS. VALUES		153,990		47,473			201,463
RECORD BOOK TRANS		153,990		47,473			201,463

PF6: PRINT SCREEN

PF8: PREVIOUS SCREEN

PF10: CANCEL

	AV LAND	AV BUILDING	AV TOTAL
12/13 ACTUAL VALUES	78,299	35,674	113,973
12/13 TRANS. VALUES	72,473	22,175	94,648
13/14 ACTUAL VALUES	15,656	285,067	300,723
13/14 TRANS. VALUES	65,761	71,842	137,603
14/15 ACTUAL VALUES	13,457	335,442	348,899
14/15 TRANS. VALUES	45,759	133,467	179,226
15/16 ACTUAL VALUES	13,457	359,389	372,846
15/16 TRANS. VALUES	34,993	204,226	239,219
RECORD BOOK TRANS	0	0	0
16/17 ACTUAL VALUES	489,865	36,842	526,707
16/17 TRANS. VALUES	119,508	36,844	156,352
RECORD BOOK TRANS	119,508	36,844	156,352

PF6: PRINT SCREEN      PF8: PREVIOUS SCREEN      PF10: CANCEL

AVHS ~ 04 00003

	MANHATTAN	BLOCK	346 LOT 1003	SECTION	2	VOLUME	1
		AV LAND		AV BUILDING			AV TOTAL
12/13 ACTUAL VALUES		203,351		92,645			295,996
12/13 TRANS. VALUES		188,226		57,586			245,812
13/14 ACTUAL VALUES		40,659		740,347			781,006
13/14 TRANS. VALUES		170,787		186,578			357,365
14/15 ACTUAL VALUES		34,947		871,176			906,123
14/15 TRANS. VALUES		118,834		346,631			465,465
15/16 ACTUAL VALUES		34,947		933,368			968,315
15/16 TRANS. VALUES		90,874		530,402			621,276
RECORD BOOK TRANS		0		0			0
16/17 ACTUAL VALUES		1,272,231		95,684			1,367,915
16/17 TRANS. VALUES		310,371		95,684			406,055
RECORD BOOK TRANS		310,371		95,684			406,055

PF6: PRINT SCREEN

PF8: PREVIOUS SCREEN

PF10: CANCEL

	AV LAND	AV BUILDING	AV TOTAL
12/13 ACTUAL VALUES	77,193	35,169	112,362
12/13 TRANS. VALUES	71,449	21,862	93,311
13/14 ACTUAL VALUES	15,433	281,047	296,480
13/14 TRANS. VALUES	64,831	70,827	135,658
14/15 ACTUAL VALUES	13,265	330,712	343,977
14/15 TRANS. VALUES	45,110	131,584	176,694
15/16 ACTUAL VALUES	13,265	354,321	367,586
15/16 TRANS. VALUES	34,496	201,345	235,841
RECORD BOOK TRANS	0	0	0
16/17 ACTUAL VALUES	482,960	32,574	515,534
16/17 TRANS. VALUES	117,821	32,574	150,395
RECORD BOOK TRANS	117,821	32,574	150,395

PF6: PRINT SCREEN      PF8: PREVIOUS SCREEN      PF10: CANCEL

AVHS 04 00003

MANHATTAN

BLOCK

346 LOT 1005

SECTION 2 VOLUME 1

	AV LAND	AV BUILDING	AV TOTAL
12/13 ACTUAL VALUES	91,512	41,692	133,204
12/13 TRANS. VALUES	84,705	25,917	110,622
13/14 ACTUAL VALUES	18,297	333,172	351,469
13/14 TRANS. VALUES	76,856	83,966	160,822
14/15 ACTUAL VALUES	15,727	392,048	407,775
14/15 TRANS. VALUES	53,478	155,992	209,470
15/16 ACTUAL VALUES	15,727	420,036	435,763
15/16 TRANS. VALUES	40,894	238,693	279,587
RECORD BOOK TRANS	0	0	0
16/17 ACTUAL VALUES	572,532	38,616	611,148
16/17 TRANS. VALUES	139,674	38,616	178,290
RECORD BOOK TRANS	139,674	38,616	178,290

PF6: PRINT SCREEN

PF8: PREVIOUS SCREEN

PF10: CANCEL

## Digital Tax Map History - New York City Department of Finance

### Search Parameters:

**Change Type:** Condominium

**Lot:** 40

**Lot Action:** Affected

**Authority For Change:** Condo No. 2623 Condo Name: Essex Crossing Site Five Condominium Condominium

Approval Date: 9/21/2015 Decl. CRFN 2015000336819 Maps CRFN 2015000336820

**Change Date:** 2015/09/23

### Tax Lots

Borough	Block	Lot	Lot Action
Manhattan	346	40	Affected

### Condominium Conversion

Borough	Block	FKA Lot	Condo Number	Condo Action
Manhattan	346	40	2623	Condo Conversion

### Condominium Units

Borough	Block	FKA Lot	Condo Unit Lot Number	Condo Unit Action
Manhattan	346	40	1001	New
Manhattan	346	40	1002	New
Manhattan	346	40	1003	New
Manhattan	346	40	1004	New
Manhattan	346	40	1005	New

# EXHIBIT 10

EXHIBIT B TO THE CONDOMINIUM DECLARATION

Essex Crossing Site Five Condominium  
 145 Clinton Street  
 New York, New York 10002

Unit Designation	Tax Lot Number	Percentage of Interest in the Common Elements	Approximate Square Foot Area of Unit	Location (Building Façade)	Approximate Square Foot Area of Limited Common Elements
Resil Rental Unit (Affordable) ("Resil Unit")	1001	18.3024%	0	Cellar	0
			0	Floor 1	0
			0	Floor 2	0
			2227	Floor 3	0
			7058	Floor 4	0
			7914	Floor 5	0
			6407	Floor 6	0
			5296	Floor 7	0
			2583	Floor 8	0
			4346	Floor 9	0
			3205	Floor 10	0
			2097	Floor 11	0
			0	Floor 12	0
			0	Floor 14	0
			0	Floor 15	0
			0	Floor 16	0
			0	Roof	0
0	Upper Roof	0			
0	Roof Bulkhead	0			

Unit Designation	Tax Lot Number	Percentage of Interest in the Common Elements	Approximate Square Foot Area of Unit	Location (Building Façade)	Approximate Square Foot Area of Limited Common Elements
<b>Total Resi1 Rental Unit</b>			<b>41133</b>		<b>0</b>
Resi2 Rental Unit (Moderate) ("Resi2 Unit")	1002	14.2039%	0	Cellar	0
			0	Floor 1	0
			0	Floor 2	0
			1746	Floor 3	630
			1740	Floor 4	0
			0	Floor 5	0
			1505	Floor 6	0
			2608	Floor 7	0
			3308	Floor 8	0
			4045	Floor 9	0
			5171	Floor 10	0
			5184	Floor 11	0
			1650	Floor 12	0
			1655	Floor 14	0
			1655	Floor 15	0
			1655	Floor 16	0
			0	Roof	0
			0	Upper Roof	0
			0	Roof Bulkhead	0
<b>Total Resi2 Rental Unit</b>			<b>31922</b>		<b>630</b>
Resi3 Rental Unit (Market Rate) ("Resi3 Unit")	1003	36.8891%	0	Cellar	0
			0	Floor 1	0
			0	Floor 2	0
			10455	Floor 3	3846

Unit Designation	Tax Lot Number	Percentage of Interest in the Common Elements	Approximate Square Foot Area of Unit	Location (Building Façade)	Approximate Square Foot Area of Limited Common Elements
			5766	Floor 4	0
			6651	Floor 5	0
			6654	Floor 6	0
			6660	Floor 7	0
			6690	Floor 8	2116
			4190	Floor 9	0
			4190	Floor 10	0
			5297	Floor 11	0
			6540	Floor 12	1105
			6604	Floor 14	0
			6604	Floor 15	0
			6604	Floor 16	0
			0	Roof	0
			0	Upper Roof	0
			0	Roof Bulkhead	0
<b>Total Resi3 Rental Unit</b>			<b>82905</b>		<b>7067</b>
Commercial 1 Unit ("COMM1")	1004	14.0037%	30808	Cellar	0
			664	Floor 1	0
			0	Floor 2	0
			0	Floor 3	0
			0	Floor 4	0
			0	Floor 5	0
			0	Floor 6	0
			0	Floor 7	0
			0	Floor 8	0



Unit Designation	Tax Lot Number	Percentage of Interest in the Common Elements	Approximate Square Foot Area of Unit	Location (Building Façade)	Approximate Square Foot Area of Limited Common Elements
<b>Total Comm2 Unit</b>			<b>37309</b>	Floor 15 Floor 16 Roof Upper Roof Roof Bulkhead	<b>0</b>
<b>TOTAL</b>		<b>100%</b>	<b>224741</b>		<b>7697</b>

- Residential Unit 1 includes apartments: 308, 310, 311, 312, 402, 408, 410, 412, 413, 414, 416, 418, 419, 420, 502, 503, 508, 510, 511, 512, 513, 514, 516, 517, 518, 519, 602, 603, 612, 613, 614, 616, 617, 618, 619, 702, 703, 712, 713, 717, 718, 719, 802, 813, 816, 817, 902, 905, 906, 916, 917, 1002, 1006, 1016, 1017, 1102, 1116, 1117.  
TOTAL 59 UNITS

- Residential Unit 2 includes apartments: 303, 316, 403, 417, 608, 610, 611, 708, 710, 711, 714, 716, 803, 811, 812, 814, 815, 903, 910, 911, 912, 913, 915, 1003, 1005, 1010, 1011, 1012, 1013, 1015, 1103, 1105, 1110, 1111, 1112, 1113, 1115, 1202, 1209, 1402, 1409, 1502, 1509, 1602, 1609.  
TOTAL 45 UNITS

- Residential Unit 3 includes apartments: 301, 302, 303, 304, 305, 306, 307, 309, 313, 314, 315, 317, 318, 319, 401, 404, 405, 406, 407, 409, 415, 501, 504, 505, 506, 507, 509, 515, 520, 601, 604, 605, 606, 607, 609, 615, 620, 701, 704, 705, 706, 707, 709, 715, 720, 801, 804, 805, 806, 807, 808, 809, 810, 818, 901, 904, 907, 909, 914, 918, 1001, 1004, 1007, 1008, 1009, 1014, 1018, 1101, 1104, 1106, 1107, 1108, 1109, 1114, 1118, 1201, 1203, 1205, 1206, 1207, 1208, 1210, 1401, 1403, 1404, 1405, 1406, 1407, 1408, 1410, 1501, 1503, 1504, 1505, 1506, 1507, 1508, 1510, 1601, 1603, 1604, 1605, 1606, 1607, 1608, 1610.  
TOTAL 107 UNITS

# EXHIBIT 11