



Department of Environmental Conservation

# BROWNFIELD CLEANUP PROGRAM (BCP) APPLICATION TO AMEND BROWNFIELD CLEANUP AGREEMENT AND AMENDMENT

## PART I. BROWNFIELD CLEANUP AGREEMENT AMENDMENT APPLICATION

Check the appropriate box below based on the nature of the amendment modification requested:

Amendment to [check one or more boxes below]

- Add
- Substitute
- Remove
- Change in Name

applicant(s) to the existing Brownfield Cleanup Agreement [*Complete Section I-IV below and Part II*]

Does this proposed amendment involve a transfer of title to all or part of the brownfield site?  Yes  No

If yes, pursuant to 6 NYCRR Part 375-1.11(d), a Change of Use form should have been previously submitted. If not, please submit this form with this Amendment. See <http://www.dec.ny.gov/chemical/76250.html>

Amendment to modify description of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Sections I and V below and Part II*]

Amendment to Expand or Reduce property boundaries of the property(ies) listed in the existing Brownfield Cleanup Agreement [*Complete Section I and V below and Part II*]

**Sites in Bronx, Kings, New York, Queens, or Richmond counties ONLY:** Amendment to request determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit. Please answer questions on the supplement at the end of the form.

Other (explain in detail below)

Please provide a brief narrative on the nature of the amendment:

To eliminate the provisions in Paragraph II of the Brownfield Cleanup Agreement, Tangible Property Tax Credit Status, that provides that a portion of the Site, specifically the lot formerly known as Block 675, Lot 36, is not eligible for tangible property tax credits since it has been previously remediated. It has been determined that recent investigation has indicated that Lot 36 does not now meet the definition of "previously been remediated" as set forth in ECL 27-1407(1-a).

The New York City Department of Housing Preservation & Development (HPD) Mandatory Inclusionary Housing (MIH) Permit Notice and Restrictive Declaration are included in Attachment A.

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**\*Please refer to the attached instructions for guidance on filling out this application\***

**Section I. Existing Agreement Information**

BCP SITE NAME: West 29th Street

BCP SITE NUMBER: C231107

NAME OF CURRENT APPLICANT(S): DD West 29th LLC c/o Douglaston Development

INDEX NUMBER OF EXISTING AGREEMENT: C231107-02-18

DATE OF EXISTING AGREEMENT: 3/30/18

**Section II. New Requestor Information (if no change to Current Applicant, skip to Section V)**

NAME

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Is the requestor authorized to conduct business in New York State (NYS)?

Yes

No

- If the requestor is a Corporation, LLC, LLP or other entity requiring authorization from the NYS Department of State to conduct business in NYS, the requestor's name must appear, exactly as given above, in the NYS Department of State's (DOS) Corporation & Business Entity Database. A print-out of entity information from the DOS database must be submitted to DEC with the application, to document that the applicant is authorized to do business in NYS.

NAME OF NEW REQUESTOR'S REPRESENTATIVE

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S CONSULTANT (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

NAME OF NEW REQUESTOR'S ATTORNEY (if applicable)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

Requestor must submit proof that the party signing this Application and Amendment has the authority to bind the Requestor. This would be documentation from corporate organizational papers, which are updated, showing the authority to bind the corporation, or a Corporate Resolution showing the same, or an Operating Agreement or Resolution for an LLC. Is this proof attached?

Yes

No

Describe Requestor's Relationship to Existing Applicant:

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**Section III. Current Property Owner/Operator Information (only include if new owner/operator or new existing owner/operator information is provided, and highlight new information)**

OWNER'S NAME (if different from requestor)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

OPERATOR'S NAME (if different from requestor or owner)

ADDRESS

CITY/TOWN

ZIP CODE

PHONE

FAX

E-MAIL

**Section IV. Eligibility Information for New Requestor (Please refer to ECL § 27-1407 for more detail)**

If answering "yes" to any of the following questions, please provide an explanation as an attachment.

1. Are any enforcement actions pending against the requestor regarding this site?  Yes  No
2. Is the requestor presently subject to an existing order for the investigation, removal or remediation relating to contamination at the site?  Yes  No
3. Is the requestor subject to an outstanding claim by the Spill Fund for this site?  Yes  No  
Any questions regarding whether a party is subject to a spill claim should be discussed with the Spill Fund Administrator.
4. Has the requestor been determined in an administrative, civil or criminal proceeding to be in violation of i) any provision of the subject law; ii) any order or determination; iii) any regulation implementing ECL Article 27 Title 14; or iv) any similar statute, regulation of the state or federal government? If so, provide an explanation on a separate attachment.  Yes  No
5. Has the requestor previously been denied entry to the BCP? If so, include information relative to the application, such as name, address, Department assigned site number, the reason for denial, and other relevant information.  Yes  No
6. Has the requestor been found in a civil proceeding to have committed a negligent or intentionally tortious act involving the handling, storing, treating, disposing or transporting of contaminants?  Yes  No
7. Has the requestor been convicted of a criminal offense i) involving the handling, storing, treating, disposing or transporting of contaminants; or ii) that involves a violent felony, fraud, bribery, perjury, theft, or offense against public administration (as that term is used in Article 195 of the Penal Law) under federal law or the laws of any state?  Yes  No
8. Has the requestor knowingly falsified statements or concealed material facts in any matter within the jurisdiction of the Department, or submitted a false statement or made use of or made a false statement in connection with any document or application submitted to the Department?  Yes  No
9. Is the requestor an individual or entity of the type set forth in ECL 27-1407.9(f) that committed an act or failed to act, and such act or failure to act could be the basis for denial of a BCP application?  Yes  No
10. Was the requestor's participation in any remedial program under DEC's oversight terminated by DEC or by a court for failure to substantially comply with an agreement or order?  Yes  No
11. Are there any unregistered bulk storage tanks on-site which require registration?  Yes  No

THE NEW REQUESTOR MUST CERTIFY THAT IT IS EITHER A PARTICIPANT OR VOLUNTEER IN ACCORDANCE WITH ECL §27-1405 (1) BY CHECKING ONE OF THE BOXES BELOW:

PARTICIPANT

A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.

VOLUNTEER

A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the disposal of hazardous waste or discharge of petroleum.

NOTE: By checking this box, a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site certifies that he/she has exercised appropriate care with respect to the hazardous waste found at the facility by taking reasonable steps to: i) stop any continuing discharge; ii) prevent any threatened future release; iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous waste.

**If a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site, submit a statement describing why you should be considered a volunteer – be specific as to the appropriate care taken.**

Requestor's Relationship to Property (check one):

Prior Owner  Current Owner  Potential /Future Purchaser  Other \_\_\_\_\_

If requestor is not the current site owner, **proof of site access sufficient to complete the remediation must be submitted.** Proof must show that the requestor will have access to the property before signing the BCA and throughout the BCP project, including the ability to place an easement on the site Is this proof attached?  Yes  No

**Note: a purchase contract does not suffice as proof of access.**

**Section V. Property description and description of changes/additions/reductions (if applicable)**

ADDRESS N/A

CITY/TOWN N/A

ZIP CODE N/A

TAX BLOCK AND LOT (TBL) (in existing agreement )

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage
N/A					

Check appropriate boxes below:

- Changes to metes and bounds description or TBL correction
- Addition of property (may require additional citizen participation depending on the nature of the expansion – see attached instructions)

Approximate acreage added: \_\_\_\_\_

**ADDITIONAL PARCELS:**

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

- Reduction of property

Approximate acreage removed: \_\_\_\_\_

**PARCELS REMOVED:**

Parcel Address	Parcel No.	Section No.	Block No.	Lot No.	Acreage

If requesting to modify a metes and bounds description or requesting changes to the boundaries of a site, please attach a revised metes and bounds description, survey, or acceptable site map to this application.

**Supplement to the Application To Amend Brownfield Cleanup Agreement And Amendment - Questions for Sites Seeking Tangible Property Credits in New York City ONLY.**

Property is in Bronx, Kings, New York, Queens, or Richmond counties.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Requestor seeks a determination that the site is eligible for the tangible property credit component of the brownfield redevelopment tax credit.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please answer questions below and provide documentation necessary to support answers.</b>	
1. Is at least 50% of the site area located within an environmental zone pursuant to Tax Law 21(6)? Please see <a href="#">DEC's website</a> for more information.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Is the property upside down as defined below?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>From ECL 27-1405(31):</b>	
"Upside down" shall mean a property where the projected and incurred cost of the investigation and remediation which is protective for the anticipated use of the property equals or exceeds seventy-five percent of its independent appraised value, as of the date of submission of the application for participation in the brownfield cleanup program, developed under the hypothetical condition that the property is not contaminated.	
3. Is the project an affordable housing project as defined below?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>SEE ATTACHMENT A</b>	
From 6 NYCRR 375- 3.2(a) as of August 12, 2016:	
(a) "Affordable housing project" means, for purposes of this part, title fourteen of article twenty seven of the environmental conservation law and section twenty-one of the tax law only, a project that is developed for residential use or mixed residential use that must include affordable residential rental units and/or affordable home ownership units.	
(1) Affordable residential rental projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which defines (i) a percentage of the residential rental units in the affordable housing project to be dedicated to (ii) tenants at a defined maximum percentage of the area median income based on the occupants' households annual gross income.	
(2) Affordable home ownership projects under this subdivision must be subject to a federal, state, or local government housing agency's affordable housing program, or a local government's regulatory agreement or legally binding restriction, which sets affordable units aside for home owners at a defined maximum percentage of the area median income.	
(3) "Area median income" means, for purposes of this subdivision, the area median income for the primary metropolitan statistical area, or for the county if located outside a metropolitan statistical area, as determined by the United States department of housing and urban development, or its successor, for a family of four, as adjusted for family size.	

**PART II. BROWNFIELD CLEANUP PROGRAM AMENDMENT**

<b>Existing Agreement Information</b>	
BCP SITE NAME: West 29th Street	BCP SITE NUMBER: C231107
NAME OF CURRENT APPLICANT(S): <b>DD West 29th LLC c/o Douglaston Development</b>	
INDEX NUMBER OF EXISTING AGREEMENT: <b>C231107-02-18</b>	
EFFECTIVE DATE OF EXISTING AGREEMENT: <b>3/30/18</b>	

Declaration of Amendment:

By the Requestor(s) and/or Applicant(s) signatures below, and subsequent signature by the Department, the above application to amend the Brownfield Cleanup Agreement described above is hereby approved. This Amendment is made in accordance with and subject to all of the BCA and all applicable guidance, regulations and state laws applicable thereto. All other substantive and procedural terms of the Agreement will remain unchanged and in full force and effect regarding the parties to the Agreement.

Nothing contained herein constitutes a waiver by the Department or the State of New York of any rights held in accordance with the Agreement or any applicable state and/or federal law or a release for any party from any obligations held under the Agreement or those same laws.

<b>Statement of Certification and Signatures: New Requestor(s) (if applicable)</b>
(Individual)  I hereby affirm that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to section 210.45 of the Penal Law. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.  Date: _____ Signature: _____  Print Name: _____
(Entity)  I hereby affirm that I am (title _____) of (entity _____); that I am authorized by that entity to make this application; that this application was prepared by me or under my supervision and direction; and that information provided on this form and its attachments is true and complete to the best of my knowledge and belief. I am aware that any false statement made herein is punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law. _____ signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.  Date: _____ Signature: _____  Print Name: _____

**Statement of Certification and Signatures: Existing Applicant(s) (an authorized representative of each applicant must sign)**

(Individual)

I hereby affirm that I am a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. My signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

(Entity)

I hereby affirm that I am authorized signatory (title) of DD West 29th LLC (entity) which is a party to the Brownfield Cleanup Agreement and/or Application referenced in Section I above and that I am aware of this Application for an Amendment to that Agreement and/or Application. Steven Chalno's signature below constitutes the requisite approval for the amendment to the BCA Application, which will be effective upon signature by the Department.

Date: 11/25/19 Signature: [Signature]

Print Name: STEVEN CHALNO

**REMAINDER OF THIS AMENDMENT WILL BE COMPLETED SOLELY BY THE DEPARTMENT**

Status of Agreement:

<input type="checkbox"/> PARTICIPANT A requestor who either 1) was the owner of the site at the time of the disposal of contamination or 2) is otherwise a person responsible for the contamination, unless the liability arises solely as a result of ownership, operation of, or involvement with the site subsequent to the disposal of contamination.	<input checked="" type="checkbox"/> VOLUNTEER A requestor other than a participant, including a requestor whose liability arises solely as a result of ownership, operation of or involvement with the site subsequent to the contamination.
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Effective Date of the Original Agreement: March 30, 2018

Signature by the Department:

DATED: 2/12/20

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: [Signature]  
Michael J. Ryan, P.E., Director  
Division of Environmental Remediation



**Rider to BCA Amendment # 1 to Document a Tangible Property Tax Credit Determination**

**Site Name: West 29<sup>th</sup> Street**

**Site Number: C231107**

1- The Department has determined that the Site is eligible for tangible property tax credits pursuant to ECL § 27-1407(1-a) because the Site is located in a City having a population of one million or more and:

- At least half of the site area is located in an environmental zone as defined in section twenty-one of the tax law
- The property is upside down, as defined by ECL 27-1405 (31)
- The property is underutilized, as defined by 375-3.2(l).
- The project is an affordable housing project, as defined by 375-3.2(a).

2- The Applicant has provided additional technical data indicating that the portion of the Site formerly known as Block 675, Lot 36 has not been previously remediated and is therefore eligible for tangible property tax credits. Paragraph II. of the Brownfield Cleanup Agreement dated March 30, 2018 is hereby eliminated from the Agreement and the entire site is eligible for tangible property tax credits as the project is an affordable housing project.

THIS RIDER TO AN AMENDMENT TO THE BCA ESTABLISHING ELIGIBILITY FOR TANGIBLE PROPERTY TAX CREDITS IS HEREBY APPROVED, Acting by and Through the Department of Environmental Conservation as Designee of the Commissioner,

By:



Michael J. Ryan, P.E., Director  
Division of Environmental Remediation

**SUBMITTAL INFORMATION:**

- **Two (2)** copies, one hard copy with original signatures and one electronic copy in Portable Document Format (PDF) must be sent to:

Chief, Site Control Section  
New York State Department of Environmental Conservation  
Division of Environmental Remediation  
625 Broadway  
Albany, NY 12233-7020

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**FOR DEPARTMENT USE ONLY**

**BCP SITE T&A CODE:** \_\_\_\_\_ **LEAD OFFICE:** \_\_\_\_\_

**PROJECT MANAGER:** \_\_\_\_\_

**ATTACHMENT A**  
**AFFORDABLE HOUSING DOCUMENTATION**

June 14, 2019

Martin Rebholz, R.A.,  
Borough Commissioner  
Manhattan Borough Office  
New York City Department of Buildings  
280 Broadway, 3rd Fl.  
New York, NY 10007

RE: Mandatory Inclusionary Housing -  
Permit Notice

601 West 29<sup>th</sup> Street  
Manhattan, NY 10001  
Block 675, Lot 12  
("MIH Site")

601 West 29<sup>th</sup> Street  
Manhattan, NY 10001  
Block 675, Lot 12  
("MIH Development")

6/14/19

Dear Commissioner Rebholz:

DD West 29<sup>th</sup> LLC ("Applicant") executed and submitted for recordation a Restrictive Declaration ("Declaration") dated as of June 14, 2019 with respect to the above-referenced MIH Site. In order to permit the above-referenced MIH Development to commence construction of improvements within a Mandatory Inclusionary Housing area, the Declaration states that Applicant will comply with Option 1 pursuant to Section 23-154(d)(3)(i) of the Zoning Resolution. The MIH Site Application complies with the relevant sections of the Zoning Resolution and is reflected in the Declaration,<sup>1</sup> Therefore, the Department of Housing Preservation and Development ("HPD") has approved the MIH Application for the MIH Site.

HPD received a sworn certification dated May 21, 2019 from Daniel J. Kaplan stating that they are the Registered Architect for the MIH Site and stating the total Residential Floor Area of the MIH Development and the amount of Floor Area devoted to Affordable Housing in the MIH Site.

<sup>1</sup> Capitalized terms not specifically defined herein shall have the meaning set forth in the Zoning Resolution.



Based on this sworn certification, Applicant has informed HPD that, the MIH Site will contain the following:

186,074 square feet occupied or to be occupied by Qualifying Households. The Affordable Housing Floor Area is equal to at least 25 percent of the residential floor area within such MIH Development pursuant to Section 23-154(d)(3)(i) of the Zoning Resolution.

This letter does not constitute HPD approval of the Floor Area measurement stated herein and HPD recognizes that this Floor Area measurement is subject to change based upon as-built plans.

No temporary or permanent Certificate of Occupancy may be issued for any portion of the MIH Site greater than 75% of the total Residential Floor Area (i.e., up 35 floors) without the Department's prior approval or until the Department issues a Completion Notice.

If a review by HPD and/or the approval by the Department of Buildings of as-built plans for the MIH Site reflects a different amount of Affordable Floor Area than stated herein, (i) HPD will modify all relevant documents to reflect the correct Floor Area in the MIH Site, and (ii) the MIH Development may need to take additional steps in order to comply with the Affordable Housing requirement prior to the issuance of a temporary or permanent Certificate of Occupancy for the MIH Development.

Very truly yours,



Patricia Zafiriadis

6/12/19  
PZ

**MANDATORY INCLUSIONARY HOUSING  
RESTRICTIVE DECLARATION**

**THIS RESTRICTIVE DECLARATION** ("Restrictive Declaration"), made as of the 14<sup>th</sup> day of June, 2019 by **DD WEST 29th LLC**, a New York limited liability company formed pursuant to the laws of the State of New York ("Applicant"), having an office located at c/o Douglaston Development, 7 Penn Plaza, Suite 600, New York, New York 10001 and **WEST SIDE 11TH & 29TH LLC**, a New York limited liability company formed pursuant to the laws of the State of New York, having an office at c/o Valeray Real Estate Company, 445 Park Avenue, Suite 1503, New York, New York 10022 ("Owner")

**WHEREAS**, Owner is owner in fee simple of the premises located in the County of New York, City and State of New York, known as and by the street address 601 West 29<sup>th</sup> Street, identified as Block 675, Lot 12 on the Tax Map of the City (the "Premises"), more particularly described in Exhibit A attached hereto and made a part hereof; and

**WHEREAS**, Applicant holds title to the leasehold estate in the Premises pursuant to that certain lease dated November 27, 2018 between Owner, as landlord, and Applicant, as tenant, having a term commencing on November 27, 2018 and ending on November 27, 2117 (the "Ground Lease"); and

**WHEREAS**, the Premises is located in a Mandatory Inclusionary Housing area within the meaning of Section 23-911 of the New York City Zoning Resolution (the "Resolution") and the Inclusionary Housing Program Guidelines (the "Guidelines") (the Guidelines and Resolution are collectively referred to herein as the "Program"); and

**WHEREAS**, pursuant to Section 23-154(d)(1) of the Resolution, no Residential Development, Enlargement or Conversion from non-Residential to Residential Use is permitted at a property located in a Mandatory Inclusionary Housing area, unless either Affordable Housing is provided, a contribution is made to the Affordable Housing Fund, or a special permit exempting the property from such requirements is obtained from the Board of Standards and Appeals ("BSA"); and

**WHEREAS**, Applicant has not obtained a special permit from the BSA; and

**WHEREAS**, Applicant does not qualify to make a contribution to the Affordable Housing Fund or chooses to forgo making such contribution to the Affordable Housing Fund; and

**WHEREAS**, Applicant intends to satisfy the requirements of the Program by constructing improvements on the Premises that will constitute Affordable Housing within the meaning of the Program; and

**WHEREAS**, the New York City Department of Housing Preservation and Development (the "Department") has been duly authorized to administer the Program; and

**WHEREAS**, Applicant has filed with the Department a MIH Application pursuant to Section 23-961(d) of the Resolution, attached hereto and made a part hereof as Exhibit B, and the Department has evaluated and approved the MIH Application as such terms and requirements of the MIH Application are reflected in this Restrictive Declaration; and

**WHEREAS**, Applicant intends to construct one or more buildings on the Premises with a total Residential Floor Area not to exceed 723,534 square feet; and

**WHEREAS**, Applicant intends to provide 186,074 square feet of Affordable Floor Area (as defined in Section 23-911 of the Resolution (the "Affordable Housing Units") to be affordable to and occupied by Qualifying Households; and

**WHEREAS**, capitalized terms not specifically defined herein shall have the meaning set forth in the Resolution.

**NOW THEREFORE**, the Applicant and Owner have agreed to execute and record this Restrictive Declaration against the Premises.

1. Applicant shall construct 234 Affordable Housing Units on the Premises (the "Building") pursuant to the building plans submitted to and approved by the Department ("Building Plans"). Attached hereto as Exhibit C, is a list identifying each Affordable Housing Unit.
2. The amount of Affordable Floor Area for Qualifying Households shall be equal to at least 25% of the total Residential Floor Area to be constructed on the Premises.
3. The weighted average of all Income Bands for Affordable Housing Units shall not exceed 60% of the Income Index and no Income Band shall exceed 130% of the Income Index. At least 10% of the Residential Floor Area within the MIH Development shall be affordable within an Income Band at 40% of the Income Index.
4. Construction Requirements and Construction Period.
  - (a) Applicant shall not permit the Building Plans to be professionally certified to the City of New York Department of Buildings ("DOB"). Applicant shall submit (i) such Building Plans and (ii) applicable zoning calculations to a DOB plan examiner for review and approval. Construction of Affordable Housing Units shall be in accordance with the Program requirements and the Building Plans with respect to the Affordable Housing Units (which Program requirements and Building Plans with respect to the Affordable Housing Units are collectively defined as "Construction Requirements"). Applicant shall not alter the Construction Requirements that relate to the Program requirements or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) without the Department's prior written approval.
  - (b) Applicant shall complete the construction of the Affordable Housing Units within three (3) years from the date of this Restrictive Declaration ("Completion Deadline"). The construction of the Affordable Housing Units shall be deemed complete upon the Department's issuance of a Completion Notice in accordance with Section 8 of this Restrictive Declaration ("Completion").
5. Affordable Housing Units will be occupied solely by tenants who are Qualifying Households at the time of such tenant's Initial Occupancy and shall be operated as Affordable Housing for Qualifying Households for the life of the MIH Site. Such obligation shall run with the land.

6. Rents.

(i) The rents charged by Applicant for the Affordable Housing Units upon Initial Occupancy shall: (a) not exceed the rents set forth in the schedule attached hereto as Exhibit D, which have been established by the Department pursuant to Section 23-961(b) of the Resolution, (b) be registered with the New York State Division of Housing and Community Renewal or any successor agency ("DHCR") and (c) thereafter be subject to Rent Stabilization without regard to whether such Affordable Housing Units are statutorily subject to Rent Stabilization. If a court determines that Rent Stabilization is statutorily inapplicable to an Affordable Housing Unit, such unit shall remain subject to Rent Stabilization in accordance with the terms of this Restrictive Declaration and the lease for such Affordable Housing Unit for the remainder of the Regulatory Period. Applicant shall register all Affordable Housing Units with DHCR upon the earlier to occur of: (A) the occupancy of the last remaining unit, or (B) one year from Completion Deadline (the "DHCR Registration Deadline").

(ii) Rents for existing tenants of the Affordable Housing Units upon renewal of leases for such units or at any time during the term of the lease shall be the lesser of (a) the rent allowed by Rent Stabilization, or (b) the Maximum Monthly Rent for Qualifying Households.

(iii) Upon rental of an Affordable Housing Unit that becomes vacant after the Initial Occupancy, the rent for any new tenant shall be the lesser of (a) the rent allowed by Rent Stabilization, or (b) the Maximum Monthly Rent for Qualifying Households.

(iv) Notwithstanding anything to the contrary contained herein, Applicant shall not utilize any exemption or exclusion from any requirement of Rent Stabilization to which Applicant might otherwise be or become entitled with respect to one or more Affordable Housing Units, including, but not limited to, any exemption or exclusion from the rent limits, renewal lease 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 tenant income and/or a unit's rent exceeds prescribed maximum amounts, (iii) the nature of the tenant, or (iv) any other factor.

(v) Applicant shall grant all tenants in Affordable Housing Units the same rights that they would be entitled to pursuant to Rent Stabilization, and such rights shall be stated in each lease for an Affordable Housing Unit.

7. Applicant shall not request or accept a certificate of occupancy ("CO") or temporary certificate of occupancy ("TCO") for any portion of the MIH Site greater than 75% of the total Residential Floor Area (i.e., up 35 floors) without the Department's prior approval or until the Department issues a Completion Notice.

8. Applicant acknowledges that the Department shall not issue a Completion Notice prior to Applicant complying with the following requirements (a) through (l) of this Section 8:

(a) submitting evidence satisfactory to the Department that up to 75% of the total Residential Floor Area has received its CO or TCO;



- (b) at the discretion of the Department, performance by the Department of a site inspection which establishes to the satisfaction of the Department that (i) the Affordable Housing Units meet the requirements of Section 23-96(d) of the Resolution, and (ii) the Building(s) comprising the MIH Development meets the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;
- (c) submission of proof, satisfactory to the Department, that the Affordable Housing Units are being rented in accordance with the Program and that Applicant has entered into leases with tenants for at least 10% of the Affordable Housing Units in accordance with the Program, pursuant to which the tenants may begin occupancy upon the issuance of a CO or TCO;
- (d) submission of certificates of insurance evidencing coverage of the types and in the amounts required by Section 11 of this Restrictive Declaration with all premiums for the current year fully paid;
- (e) submission on or after the date that DOB either certifies to the Department that DOB is prepared to issue the CO or the TCO for all of the Affordable Housing Units or that DOB has issued the CO or the TCO for all of the Affordable Housing Units, as the case may be, of (i) a policy of fee title insurance dated as of the date the Owner acquired title to the Premises or the Applicant acquired leasehold interest in the Premises, or a title policy insuring the lien of mortgage of the Lender for the Premises and/or the Premises or such Lender's credit enhancer, dated as of the date of the closing of the financing of such mortgage, will satisfy the foregoing, where such policy (a) has been issued by a title company in good standing licensed to issue title insurance in New York State and contains the Standard New York Endorsement (Owner's Policy) in substantially the form that appears as Exhibit E hereto, (b) such policy evidences leasehold ownership in the Applicant or fee simple ownership in the Owner and the absence of liens and other encumbrances on the Premises other than those approved by the Department, (ii) proof of payment of premiums therefor, and (iii) title continuations run by the title company from the date of the title policy to the date of submission of such title policy together with a letter from the title company confirming the absence of liens and encumbrances on the Premises other than those previously approved by the Department and mechanics liens which have been bonded;
- (f) submission of (1) proof of registration of the Building and all Affordable Housing Units with DHCR; (2) proof that such Building is entirely free of violations of record issued by any city or state agency pursuant to the Multiple Dwelling Law, the Building Code, the Housing Maintenance Code and the Program; and (3) submission of an affidavit stating that Applicant shall complete multiple dwelling registration of the Building in accordance with the New York City Housing Maintenance Code;

- (g) certification that all applicable representations, warranties and statements made by Applicant in this Restrictive Declaration and in any other documents submitted to the Department in connection with this Restrictive Declaration and the Program remain true and correct as of the date on which the foregoing conditions have been satisfied;
  - (h) Omitted.
  - (i) submission of a Memorandum of Restrictive Declaration, in the form attached hereto as Exhibit F, where applicable, and the Restrictive Declaration stamped as recorded separately in the Office of the City Register in accordance with Section 14;
  - (j) submission of proof that any required Affordable Housing Subordination Agreement (defined in Section 12 herein) was recorded immediately following execution thereof and that Applicant fully complied with the requirements of Section 12 herein;
  - (k) submission of proof that the Building Plans submitted to the Department were reviewed by a DOB plan examiner and submission of a zoning sheet approved, prior to the issuance of a TCO or a CO, by DOB; the Department's issuance of the Completion Notice shall be based upon such DOB approved calculations; and
  - (l) compliance with the terms of this Restrictive Declaration.
9. Warranties. Applicant shall obtain and retain commercially reasonable warranties of the work on the Affordable Housing Units from the general contractor and all subcontractors performing such work and, at the Department's request, shall submit such warranties for inspection.
10. Renting Affordable Housing Units. Applicant has contracted with FIFTH AVENUE COMMITTEE, INC. a not-for profit organization qualified by the Department to participate in the Program, to act as Administering Agent for the Affordable Housing Units ("Administering Agent Agreement"). The Administering Agent Agreement shall require that the Administering Agent ensure that Affordable Housing Units are rented at Rent-up and each subsequent vacancy, in compliance with this Restrictive Declaration and all of the requirements of the Program. The Applicant shall ensure that within (60) sixty days after the DHCR Registration Deadline, the Administering Agent submit an affidavit to the Department attesting that at Initial Occupancy, the Monthly Rent registered and charged for each Affordable Housing Unit complied with the Monthly Rent requirements for such unit. The Applicant shall also ensure that each March after the DHCR Registration Deadline, the Administering Agent submit an affidavit to the Department attesting that each lease or sublease of an Affordable Housing Unit or renewal thereof, during the preceding year, complied with the applicable Monthly Rent requirements of the Program. A contract between the Administering Agent and the Department is attached and made a part hereof as Exhibit G. The Department may replace the Administering Agent in the event that the Affordable Housing Units are not rented at Rent-up and each subsequent vacancy thereafter in compliance with the

Program. Applicant may not terminate the Administering Agent Agreement without simultaneously entering into a new Administering Agent Agreement approved in writing by the Department.

11. Insurance.

(a) Insurance.

- (i) Applicant shall obtain and maintain in force all-risk casualty insurance, including broad form extended coverage that, in the event of a casualty to the Building containing the Affordable Housing Units, will pay an amount of insurance equal to full replacement value of the Building containing the Affordable Housing Units.
- (ii) Applicant shall obtain and maintain in force commercial general liability insurance and other insurance of commercially reasonable types and amounts with respect to the Building containing the Affordable Housing Units.

(b) Casualty.

- (i) In the event of a casualty, Applicant shall promptly notify the Department thereof. Subject to the terms and conditions set forth in this Section 11, the proceeds of the insurance on the Premises may be utilized as determined by the lender or lenders participating in the financing of the Building (the "Financiers") in accordance with the documents governing such Financiers' loan(s), copies of which have been provided to the Department (the "Loan Documents"). Applicant shall promptly inform the Department of the disposition of such insurance proceeds.
- (ii) (A) In the event of a partial casualty, if the Building is reconstructed after such casualty, the Affordable Housing Units shall also be reconstructed so as to maintain in the Building the same ratio of Affordable Housing to total Residential Floor Area required by the Program, notwithstanding the availability of, or priority of payment of, insurance proceeds, and the terms of this Restrictive Declaration shall remain in full force and effect.  
  
(B) If the Applicant and Financiers determine that, due to the nature of the casualty and the condition of the remaining structure, it is not practicable to include the Affordable Housing Units as originally configured in the replacement building, the Affordable Housing Units may be reconstructed in a location other than the Premises in accordance with Section 23-154(d)(5) of the Resolution, the requirements of this Restrictive Declaration and the Program.
- (iii) In the event of a total casualty, where all Residential Floor Area created pursuant to this Restrictive Declaration ceases to exist and the Applicant elects not to reconstruct Residential Floor Area in the restored building, if any, then all proceeds shall be applied in accordance with the Loan Documents.

- (iv) Applicant agrees that if the Building containing the Affordable Housing Units is reconstructed as provided in Section 11(b)(ii), then: (A) at such time as the restored portion of the Building or any new building is ready for occupancy, the Affordable Housing Units on each restored floor shall be made available for occupancy and re-rented prior to the market rate units on the same floor; (B) Applicant shall restore, repair, replace, rebuild, alter or otherwise improve the Affordable Housing Units in accordance with this Restrictive Declaration and the Program in effect as of the date hereof; (C) such construction shall be free of all violations under the New York City Building Code, the New York State Multiple Dwelling Law and the New York City Housing Maintenance Code; and (D) Applicant shall, upon request of the Department, amend this Restrictive Declaration to reflect any changes to the number, configuration or location of the Affordable Housing Units in any replacement building.
- (v) Applicant may require the Financiers under any current or future Mortgage to use the insurance proceeds for the rebuilding of the Premises (with certain protective procedures).

12. Debt Restrictions. Applicant shall not mortgage or otherwise encumber the Affordable Housing Units or this Restrictive Declaration with debt other than any initial debt approved by the Department and any modifications of same unless, (1) Applicant has notified the Department of such debt; (2) the lender is a local, state, or federal agency, savings bank, commercial bank, life insurance company, public real estate investment company, pension fund, Federal National Mortgage Association (Fannie Mae), Federal Home Loan Mortgage Corporation (Freddie Mac), or other lender approved by the Department, (3) if the debt service coverage ratio for the mortgaged property would be less than 1.1 if the Affordable Housing Units were to be encumbered with such subsequent debt, Applicant has obtained the prior written consent of the Department, and (4) if such debt is a new indebtedness and/or a new mortgage, the lender enters into a subordination and non-disturbance agreement between the lender, Applicant and the Department ("Affordable Housing Subordination Agreement") in form and substance satisfactory to the Department, substantially in the form annexed hereto as Exhibit H, which Applicant shall cause to be recorded against the Affordable Housing Units immediately following execution thereof in the Office of the City Register for the county in which the Premises are located.

13. Construction Monitoring. The Department may monitor the construction of the Affordable Housing Units in any reasonable manner, including inspection of the Premises. Upon request (a) Applicant shall give the Department notice of planning and construction progress meetings by telephone or in writing, and (b) the Department may (i) participate in planning and construction progress meetings, (ii) review construction contracts, plans, specifications and materials samples, and (iii) review proposed changes to the foregoing. Following the Department's request for any documents pursuant to Section 13(iii) herein, Applicant shall give to the Department (x) notice of proposed changes to such documents or materials, and (y) notice of any casualty to or other material event concerning the work on the Affordable Housing Units.

14. Condominium Declaration. Nothing in this Restrictive Declaration shall prohibit the Applicant from subdividing the Building into condominium units, so long as (i) any condominium documents, including, but not limited to, the condominium declaration and

by-laws (the "Condominium Declaration") with all exhibits thereto, necessary to effectuate such subdivision of the Building are submitted to the Department, for review and approval prior to submission to the New York State Attorney General's Office and prior to recording of the Condominium Declaration with the Office of the City Register and (ii) the Memorandum of Restrictive Declaration has been recorded against the Affordable Housing Units prior to receipt of a Completion Notice in accordance with Section 8 of this Agreement. After such review and approval, the portions of the Condominium Declaration affecting the Affordable Housing Units shall not be modified without the prior written approval of the Department.

15. Covenants Running With The Land. The restrictions, covenants and provisions set forth in this Restrictive Declaration shall run with the land, bind Applicant and all other parties in interest to the Premises and their respective successors and assigns, and be perpetual in duration. In the event of any conveyance of the Premises, the grantee(s) shall be bound to the terms and conditions contained in this Restrictive Declaration.
16. Recordation. Applicant, at its sole expense, shall promptly after execution of this Restrictive Declaration submit this Restrictive Declaration for recordation against the Premises in the Office of the City Register, and deliver satisfactory evidence of such recordation to the Department.
17. Amendments. This Restrictive Declaration may only be amended or modified by an instrument in recordable form executed by Applicant and Owner with the written approval of the Department thereon.
18. No Third Party Beneficiaries. The provisions of this Restrictive Declaration are solely and exclusively for the benefit of the City and Applicant and Owner and no other person or entity shall be a beneficiary thereof.
19. No Waiver. No failure or delay on the part of the City to exercise any right, power or remedy under this Restrictive Declaration or available at law or in equity shall operate as a waiver thereof, or limit or impair the City's right to take any action or to exercise any such right, power or remedy, or prejudice its rights against Applicant in any respect.
20. Enforcement. The City of New York or the Department may enforce the terms of this Restrictive Declaration through the exercise of remedies at law or in equity.
21. Primary Residence. Affordable Housing Units may only be occupied as a primary residence, as defined in Rent Stabilization, by natural persons or families pursuant to a one or two year lease who have met the applicable income requirements for Low Income Households at the time of such tenant's initial occupancy of such unit. Applicant shall only offer a vacant dwelling unit for occupancy by persons or families intending to occupy such 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 dwelling unit for transient occupancy, for occupancy by any household that is not income eligible, or to any corporation or other entity.

22. Owner/Ground Lessor's Consent and Agreement.


- (a) The Ground Lease provides that Owner's title to the fee estate (the "Fee"), Owner's interest in the Ground Lease and any and all Fee Mortgages, whether now or in the future encumbering either Owner's interest in the Fee or in the Ground Lease, shall be subject and subordinate to the terms of this Restrictive Declaration during the term of this Restrictive Declaration. Nothing in this Section 22 shall provide the Department with any remedies that it may not otherwise have under this Restrictive Declaration or result in the forfeiture of Owner's interests in the Fee.
- (b) Owner, as fee owner and as the landlord under the Ground Lease consents to the execution and delivery of this Agreement by Applicant and to all of the terms and conditions of this Agreement.
- (c) If the Ground Lease is terminated prior to the expiration of this Restrictive Declaration and Owner then leases the Premises to a third party (the "New Ground Lease"), the New Ground Lease and any amendments thereto shall also be subject to and subordinate to this Restrictive Declaration and the tenant under the New Ground Lease shall be required to assume the ongoing obligations of the Applicant pursuant to this Restrictive Declaration for the balance of the term of this Restrictive Declaration.
- (d) If the Ground Lease or any New Ground Lease is terminated and Owner does not enter into a New Ground Lease, Owner shall assume all of the ongoing obligations of Applicant pursuant to this Restrictive Declaration.
- (e) In the event of any conflict between the terms of this Restrictive Declaration and the Ground Lease, the terms of this Restrictive Declaration shall govern.
- (f) Notwithstanding anything in the Restrictive Declaration to the contrary, if the Ground Lease or/and New Ground Lease is terminated prior to the date of the issuance of any Certificate of Completion of Affordable Housing Units hereunder, then Owner shall have the right, but not the obligation, upon written notice given within 15 business days of the termination of the Ground Lease or any New Ground Lease to the Department, to terminate this Agreement. To the extent Owner elects to terminate this Agreement, then the parties hereto shall not be entitled to the benefits of the Program and shall comply with the Resolution without the benefits of the Program hereunder.
- (g) Notwithstanding any provision of this Agreement to the contrary and notwithstanding the Owner's execution of this Agreement, the Department agrees to look only to Applicant for satisfaction of all obligations of Applicant under this Agreement arising or accruing up to the date of any termination of the Ground Lease (including, without limitation, any indemnification provisions relating thereto or to such period), and Owner and its successors and assigns shall in no event be liable for any thereof.
- (h) Owner agrees that it will promptly execute and deliver to the Department such documents as the Department may reasonably request to effectuate the terms of this Agreement, including but not limited to, a subordination, non-disturbance and attornment agreement(s) subordinating the Owner's interest under the Ground Lease to this Agreement.

23. Counterparts. This Restrictive Declaration may be executed in counterparts, each of which shall be deemed an original but all of which together shall be deemed one and the same instrument.

No further text; signature page immediately follows

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

**DD WEST 29th LLC**

By:   
Name: Stuart Clark  
Title: Authorized Signy

**WEST SIDE 11TH & 29TH LLC**

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

APPROVED AS TO FORM BY  
STANDARD TYPE OF CLASS  
UNTIL: December 31, 2019

By: /s/ Isabel Galis-Menendez  
Acting Corporation Counsel



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

**DD WEST 29<sup>th</sup> LLC**

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

**West Side 11<sup>th</sup> & 29<sup>th</sup> LLC**

By: Margie E. Nesbitt  
Name: MARGIE E NESBITT  
Title: MANAGING MEMBER

APPROVED AS TO FORM BY  
STANDARD TYPE OF CLASS  
UNTIL: December 31, 2019

By: /s/ Isabel Galis-Menendez  
Acting Corporation Counsel

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK

On this 12 day of June, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven Chamo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

  
NOTARY PUBLIC

LEIVONA SUEDASS  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01SU6389920  
Qualified in Queens County  
My Commission Expires 04-08-2023

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK

On this \_\_\_\_\_ day of June, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK

On this \_\_\_\_ day of June, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEW YORK )  
 ) SS:  
COUNTY OF NEW YORK

On this 13<sup>th</sup> day of June, 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared Marjorie E. Whit, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to in the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
NOTARY PUBLIC

BARRY LANGMAN  
Notary Public, State of New York  
No. 02LA5029645  
Qualified in New York County  
Commission Expires Dec. 27, 2022

## 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 Borough of Manhattan, in the City and State of New York, designated as:

**Block:** 675

**Lot:** 12

**Address:** 601 West 29<sup>th</sup> Street

**County:** New York

**EXHIBIT B**  
**MIH APPLICATION**

(following page)

THE CITY OF NEW YORK  
DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT  
OFFICE OF DEVELOPMENT  
100 GOLD STREET, ROOM 5G, NEW YORK, NEW YORK 10038  
(212) 863-8228

AFFORDABLE HOUSING PLAN APPLICATION PURSUANT TO  
THE MANDATORY INCLUSIONARY HOUSING PROGRAM

Please indicate "Not Applicable" or "NA" where appropriate. Do not leave any lines blank.

1. **Applicant:** DD West 29th LLC  
Address: c/o Douglaston Development, 7 Penn Plaza, Suite 600, New York, NY 10001  
Fax: (212) 991-5656  
Email: scharno@ddny.com, gchristensen@ddny.com  
Primary Contact (Name, Phone, Email):  
Steven Charno, (212) 400-9282, scharno@ddny.com
  
2. **Owner (if different):** West Side 11th & 29th LLC  
Address: c/o Valeray Real Estate Company, 445 Park Avenue, Suite 1503, NY, NY 10022  
Fax: (646) 559-4295  
Email: Marjorie.Nesbitt@8pam.com  
Primary Contact (Name, Phone, Email):  
Marjorie Nesbitt, (212) 567-8100, Marjorie.Nesbitt@8pam.com
  
3. **Administering Agent:** Fifth Avenue Committee, Inc.  
Address: 621 Degraw Street, Brooklyn, New York 11217  
Fax: (718) 237-5366  
Email: JMarcus@fifthave.org  
Primary Contact (Name, Phone, Email):  
Jay Marcus, (718) 237-2017 ext. 133, JMarcus@fifthave.org
  
4. **General Contractor:** N/A  
Address: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Primary Contact (Name, Phone, Email):  
\_\_\_\_\_
  
5. **Architect:** FXCollaborative  
Address: 22 West 19th Street, New York, New York 10011  
Fax: (212) 463-8716  
Email: mcarr@FXCollaborative.com  
Primary Contact (Name, Phone, Email):  
Max Carr, (646) 292-8250, mcarr@FXCollaborative.com

6. **Attorney and Firm:** Seiden & Schein, P.C., Alvin Schein and David Shamshovich  
Address: 570 Lexington Avenue, 14th Floor, New York, New York 10022  
Fax: (212) 593-4545  
Email: aschein@seidenschein.com, dshamshovich@seidenschein.com  
Primary Contact (Name, Phone, Email):  
Alvin Schein, (212) 935-1400, aschein@seidenschein.com

7. **Location of Affordable Housing Units**  
Street Address: 601 West 29th Street, New York, New York 10001  
Borough: Manhattan  
Block(s)/Lot(s): Block: 675, Lot: 12  
Community Board: 4

8. **Mandatory Inclusionary Housing Area**  
(Include Zoning Resolution Appendix F Map Reference):  
Manhattan Community District 4 - Map 1 / Area 1

Special Permit: \_\_\_\_\_

9. MIH Option for Compliance with Affordable Housing Requirement – ZR 23-154 (d)(3)(i-iv):  
 Option 1  
 Option 2  
 Deep Affordability Option  
 Workforce Option

10. Unit Count:  
Total Units: 931 Total MIH Units: 234 Super's Units: 1

Income Distribution of Affordable Housing Units:  
Number of low-income units (equal to or less than 80% AMI): 188  
Number of moderate-income units (equal to or less than 125% AMI): 46  
Number of middle-income units (equal to or less than 175% AMI): \_\_\_\_\_

11. If publicly financed, list all sources of governmental assistance, including tax credits, bond financing, and land disposition programs:  
N/A

Tax Exemption to be requested: 421-a Option E

**12. Type of Project (check all that apply)**

Construction type:

- New Construction
- Conversion
- Enlargement

Location of MIH Units:

- On-site (MIH Site is located on the same zoning lot as MIH Development)
- Off-site (MIH Site is located on a different zoning lot to MIH Development)

Tenure of Units:

MIH Units

- Rental
- Homeownership

Non-MIH Units

- Rental
- Homeownership
- Not Applicable/All units are MIH units

Electric Utility Systems:

- N/A – Not Used
- Individual unit heating systems utilizing electric resistance heated PTACs or heat pumps
- Individual unit hot water systems heated by electrically powered boilers
- Electric stoves

**13. If the project will contain a condominium or cooperative structure, please describe the structure and the use of each unit. If not, please indicate N/A:**

TBD

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Authorized Signature of Applicant:

*Steven Charno*, authorized signatory for DD West 29th LLC

Print name: Steven Charno

Date:

5/23/19



**EXHIBIT C**  
**LIST OF AFFORDABLE UNITS**  
(following page)

Apartments			
Construction Floor	Marketing Floor	Apt #	# Bedrooms
41	42	1	1
40	41	1	1
39	40	6	1
39	40	4	2
38	39	6	1
38	39	4	2
37	38	6	1
37	38	4	1
37	38	3	1
37	38	1	1
36	37	6	1
36	37	4	1
36	37	3	1
36	37	1	1
35	36	6	1
35	36	4	1
35	36	3	1
35	36	1	1
34	35	21	0
34	35	8	1
34	35	6	1
34	35	4	1
34	35	3	1
34	35	1	2
33	34	21	0
33	34	8	1
33	34	6	1
33	34	4	1
33	34	3	1
33	34	1	2
32	33	21	0
32	33	8	1
32	33	6	1
32	33	4	1
32	33	3	1
32	33	1	2
31	32	21	0
31	32	8	1
31	32	6	1

Unit Summary	
# Bedrooms	# Units
Studios	37
1 Bedroom	159
2 Bedrooms	38
<b>Total</b>	<b>234</b>

601 WEST 29TH STREET

EXHIBIT C

31	32	4	1
31	32	3	1
31	32	1	2
30	31	21	0
30	31	8	1
30	31	6	1
30	31	4	1
30	31	3	1
30	31	1	2
29	30	21	0
29	30	8	1
29	30	6	1
29	30	4	1
29	30	3	1
29	30	1	2
28	29	21	0
28	29	8	1
28	29	6	1
28	29	4	1
28	29	3	1
28	29	1	2
27	28	21	0
27	28	8	1
27	28	6	1
27	28	4	1
27	28	3	1
27	28	1	2
26	27	21	0
26	27	8	1
26	27	6	1
26	27	4	1
26	27	3	1
26	27	1	2
25	26	21	0
25	26	8	1
25	26	6	1
25	26	4	1
25	26	3	1
25	26	1	2
24	25	21	0
24	25	8	1
24	25	6	1
24	25	4	1
24	25	3	1
24	25	1	2
23	24	21	0
23	24	8	1

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23	24	6	1
23	24	4	1
23	24	3	1
23	24	1	2
22	23	21	0
22	23	8	1
22	23	6	1
22	23	4	1
22	23	3	1
22	23	1	2
21	22	21	0
21	22	8	1
21	22	6	1
21	22	4	1
21	22	3	1
21	22	1	2
20	21	21	0
20	21	16	2
20	21	13	1
20	21	8	1
20	21	6	1
20	21	4	1
20	21	3	1
19	20	21	0
19	20	16	2
19	20	13	1
19	20	8	1
19	20	6	1
19	20	4	1
19	20	3	1
18	19	21	0
18	19	16	2
18	19	13	1
18	19	8	1
18	19	6	1
18	19	4	1
18	19	3	1
17	18	21	0
17	18	16	2
17	18	13	1
17	18	8	1
17	18	6	1
17	18	4	1
17	18	3	1
16	17	21	0
16	17	16	2
16	17	13	1

16	17	8	1
16	17	6	1
16	17	4	1
16	17	3	1
15	16	21	0
15	16	16	2
15	16	13	1
15	16	8	1
15	16	6	1
15	16	4	1
15	16	3	1
14	15	21	0
14	15	16	2
14	15	13	1
14	15	8	1
14	15	6	1
14	15	4	1
14	15	3	1
13	14	21	0
13	14	16	2
13	14	13	1
13	14	8	1
13	14	6	1
13	14	4	1
13	14	3	1
12	12	21	0
12	12	16	2
12	12	13	1
12	12	8	1
12	12	6	1
12	12	4	1
12	12	3	1
11	11	21	0
11	11	16	2
11	11	13	1
11	11	8	1
11	11	6	1
11	11	4	1
11	11	3	1
10	10	21	0
10	10	16	2
10	10	13	1
10	10	8	1
10	10	6	1
10	10	4	1
10	10	3	1
9	9	21	0

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EXHIBIT C

9	9	16	2
9	9	13	1
9	9	8	1
9	9	6	1
9	9	4	1
9	9	3	1
8	8	21	0
8	8	16	2
8	8	13	1
8	8	8	1
8	8	6	1
8	8	4	1
8	8	3	1
7	7	21	0
7	7	16	2
7	7	13	1
7	7	8	1
7	7	6	1
7	7	4	1
7	7	3	1
5	5	18	1
5	5	17	1
5	5	16	1
5	5	14	2
5	5	6	2
4	4	31	0
4	4	30	0
4	4	28	1
4	4	27	1
4	4	21	0
4	4	17	1
4	4	16	1
4	4	14	2
4	4	6	2
4	4	1	1
3	3	31	0
3	3	30	0
3	3	28	1
3	3	27	1
3	3	21	0
3	3	17	1
3	3	16	1
3	3	14	2
3	3	6	2
3	3	1	1
2	2	31	1
2	2	30	0

601 WEST 29TH STREET

EXHIBIT C

2	2	28	1
2	2	27	1
2	2	25	2
2	2	22	0
2	2	21	0
2	2	17	1
2	2	6	2

<b>Super/Resident Manager Unit(s)</b>			
<b>Construction Floor</b>	<b>Marketing Floor</b>	<b>Apt #</b>	<b># Bedrooms</b>
3	3	2	1

**EXHIBIT D**  
**SCHEDULE OF RENTS AND EXPENSES**

(following page)



Inclusionary Housing Units -- Rents*			
# Bedrooms	# Units	AMI Level	Legal Regulated Rent**
Studio	15	40%	\$728
1 Bedroom	64		\$780
2 Bedroom	15		\$941
<b>SUBTOTAL</b>	<b>94</b>		
Studio	15	60%	\$1,101
1 Bedroom	64		\$1,180
2 Bedroom	15		\$1,421
<b>SUBTOTAL</b>	<b>94</b>		
Studio	7	100%	\$1,848
1 Bedroom	31		\$1,981
2 Bedroom	8		\$2,382
<b>SUBTOTAL</b>	<b>46</b>		
<b>TOTAL</b>	<b>234</b>		

\* Tenants responsible for paying for gas utilities.

\*\* The maximum Legal Regulated Rent is 30% of the applicable Income Index as defined in the New York City Zoning Resolution, including applicable utility allowances.

931 Total Units

234 Inclusionary Housing Units

<b>Operating Expenses*</b>	<b>Amount</b>	<b>Per Unit</b>
Legal & Accounting	\$77,312	\$83
Insurance	\$465,450	\$500
Oil/Gas	\$453,924	\$488
Electricity	\$562,109	\$604
Water & Sewer	\$457,650	\$492
Maintenance Supplies	\$624,943	\$671
Repairs & Maintenance - Elevator	\$21,886	\$24
Repairs & Maintenance - General	\$465,020	\$499
Reserve	\$80,000	\$86
Payroll	\$2,134,258	\$2,292
Marketing	\$442,000	\$475
Miscellaneous	\$192,348	\$207
Telephone/Answering Service	\$40,311	\$43
<i>(Assumes 421-a benefit)</i>		
<b>Total Expenses</b>	<b>\$6,017,211</b>	<b>\$6,463</b>

\*The expenses reflect the overall 601 WEST 29TH STREET project underwriting dated MAY 15, 2019, which comprises 931 units, of which 234 are Inclusionary Housing units.

**EXHIBIT E**

**STANDARD NEW YORK ENDORSEMENT  
(OWNER'S POLICY)**

1. The following is added to the insuring provisions on the face page of this policy:

"\_\_\_. Any statutory lien for services, labor or materials furnished prior to the date hereof, and which has now gained or which may hereafter gain priority over the estate or interest of the insured as shown in Schedule A of this policy."

2. Exclusion Number 5 is deleted, and the following is substituted:

5. Any lien on the Title for real estate taxes, assessments, water charges or sewer rents imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as Shown in Schedule A.

This endorsement is issued as part of the policy. Except as it expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsements, (iii) extend the Date of Policy, or (iv) increase the Amount of Insurance. To the extent a provision of the policy or a previous endorsement is inconsistent with an express provision of this endorsement, this endorsement controls. Otherwise, this endorsement is subject to all of the terms and provisions of the policy and of any prior endorsements.

IN WITNESS WHEREOF, \_\_\_\_\_ Insurance Company of New York has caused this Endorsement to be signed and sealed on its date of issue set forth herein.

DATED:

COUNTERSIGNED \_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_ Insurance Company

BY: \_\_\_\_\_

**EXHIBIT F**

**MEMORANDUM OF RESTRICTIVE DECLARATION**

**THIS MEMORANDUM OF RESTRICTIVE DECLARATION** made this \_\_\_\_ day of \_\_\_\_\_, 201[##], by [owner], [description of legal entity (e.g., a New York limited liability company formed pursuant to the laws of the State of New York)], ("Applicant"), having an office at [address].

**WITNESSETH THAT:**

1. The Applicant is owner in fee simple of the premises located in the County of \_\_\_\_\_, City and State of New York, known as and by the street address [address], identified as Block [##], Lot [##] on the Tax Map of the City (the "Premises"), more particularly described in Exhibit A attached hereto and made a part hereof;
2. The Applicant has covenanted and agreed for and on behalf of itself, its successors, assigns, heirs, grantees and lessees, which covenants shall be covenants running with the land to provide Affordable Housing on the Premises in accordance with the Mandatory Housing Restrictive Declaration ("Declaration"), dated as of [insert date] by [insert name(s) of non-HPD parties] and recorded in the Office of the City Register for New York County on [insert date] as CRFN [insert CRFN number], the provisions of which are by this reference made a part hereof and Section 23-90 (Inclusionary Housing), inclusive of the Resolution.
3. The Declaration and the covenants therein, shall run with the land that constitutes the Premises in accordance with the terms therein.
4. This Memorandum of Declaration is intended to provide constructive notice of the existence and terms of the Declaration and in no way modifies or amends the Declaration. If any provisions of this Memorandum of Declaration conflict with the Declaration, the terms of the Declaration shall prevail. The Applicant at its sole cost and expense shall cause this Memorandum of Restrictive Declaration to be recorded against each tax lot within the zoning lot containing the Affordable Housing whether or not such tax lot existed at the time the Declaration was recorded.

**NO FURTHER TEXT**

IN WITNESS WHEREOF, this Memorandum of Restrictive Declaration has been executed as of the date first set forth above.



**EXHIBIT G**

**Administering Agent Agreement  
Inclusionary Housing Program**

AGREEMENT made this 14<sup>th</sup> day of June, 2019, between **FIFTH AVENUE COMMITTEE, INC.** ("Administering Agent"), having an office at [Address] and the **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT** ("Department"), having an office at 100 Gold Street, Ninth Floor, New York, NY 10038.

WHEREAS, **DD WEST 29TH LLC** ("Applicant"), and **WEST SIDE 11TH & 29TH LLC** ("Owner"), have executed a Restrictive Declaration with the Department, pursuant to which Applicant has agreed to create two hundred and thirty-four (234) Affordable Housing Units located at 601 West 29<sup>th</sup> Street, New York, NY (the "Affordable Housing Units") in accordance with Section 23-90 (Inclusionary Housing), inclusive of the Zoning Resolution ("Resolution") and with the Inclusionary Housing Guidelines ("Guidelines"); and

WHEREAS, Administering Agent has agreed to ensure that the Affordable Housing Units are rented in compliance with the Restrictive Declaration at Rent-up and each subsequent vacancy and has signed an agreement with the Applicant to that effect; and

WHEREAS, Administering Agent has been qualified to act as an Administering Agent by the Department;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, it is hereby agreed that Administering Agent will assume the ongoing responsibility for insuring that each Affordable Housing Unit is rented and upon vacancy re-rented in compliance with the Restrictive Declaration. In addition, the Administering Agent shall (1) maintain records setting forth the facts that form the basis of any affidavit submitted to the Department; (2) maintain such records as the Department may require at the Administering Agent's office or other location approved by the Department; and (3) make all records and facts of the operation of the Administering Agent available for the Department's inspection.

Notwithstanding any other remedy contained herein, the Department may commence an action against Administering Agent to require specific performance of Administering Agent's obligations herein. Department reserves the right to replace Administering Agent in the event that the Affordable Housing Units are not rented at Rent-up and each subsequent vacancy thereafter in compliance with the Program. If the agreement between Owner and Administering Agent is terminated or expires, Administering Agent shall provide the Department with written notice of such termination or expiration and this Administering Agent Agreement shall be terminated.

This Administering Agent Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall be deemed one and the same instrument.

[NO FURTHER TEXT APPEARS ON THIS PAGE]

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

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



\_\_\_\_\_  
Patricia Zafiriadis  
Associate Commissioner for Housing Incentives

**FIFTH AVENUE COMMITTEE, INC.**

BY: \_\_\_\_\_



Name: Michelle de la Uz  
Title: Executive Director

UNIFORM ACKNOWLEDGEMENTS

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

On the 14<sup>th</sup> day of June in the year 2019 before me, the undersigned, personally appeared Patricia Zafiridas, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

**ALYSON L. LANZER**  
Notary Public, State of New York  
No. 02LA6374567  
Qualified in Kings County  
Commission Expires April 30, 2022

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

On the 10<sup>th</sup> day of June in the year 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared **Michelle de la Uz** 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

**CHARMAINE G. MARIZAN**  
Notary Public - State of New York  
No. 01MA6384712  
Qualified in Queens County  
My Commission Expires 12/17/2022



**EXHIBIT H**  
**AFFORDABLE HOUSING SUBORDINATION AGREEMENT**

(following pages)

**THIS SUBORDINATION AND NON-DISTURBANCE AGREEMENT** (“Agreement”), made as of this 14th day of June, 2019, by **HSBC BANK USA, NATIONAL ASSOCIATION**, a national banking association having an office located at 452 Fifth Avenue, New York, New York 10018, as agent (“Mortgagee” or “Lender”), in favor of **THE CITY OF NEW YORK**, (the “City”) a municipal corporation acting by and through its **DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT**, having an office at 100 Gold Street, New York, New York 10038 (“HPD”).

**WHEREAS**, Mortgagee holds a certain (i) Building Loan Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement and (ii) Project Loan Leasehold Mortgage, Assignment of Leases and Rents and Security Agreement, each dated May 31, 2019 in the aggregate principal sum of up to **Four Hundred and Fifteen Million Dollars (\$415,000,000)** and recorded in the office of the City Register, New York County on June 6, 2019, at CRFN 2019000176522 and CRFN 2019000176525, respectively (collectively, the “Mortgage”), each made by **DD West 29<sup>th</sup> LLC**, having an office located at c/o Douglaston Development, 7 Penn Plaza, Suite 600, New York, New York 10001 (“Applicant” or “Borrower”), covering the leasehold interest in the premises described in **Schedule A** annexed hereto and incorporated herein (“Premises”);

**WHEREAS**, Applicant holds title to the leasehold estate in the Premises pursuant to that certain lease dated November 27, 2018 between Owner, as landlord, and Applicant, as tenant, having a term commencing on November 27, 2018 and ending on November 27, 2117 (the “Ground Lease”); and

**WHEREAS**, Applicant has executed a certain Mandatory Inclusionary Housing Restrictive Declaration (“Restrictive Declaration”) dated as of the date hereof which Restrictive Declaration is intended to be recorded against the Premises immediately following execution and delivery thereof;

**WHEREAS**, the Restrictive Declaration was entered into under the Mandatory Inclusionary Housing Program, which is governed by Sections 23-90 of the New York City Zoning Resolution (the “Resolution”) and the Inclusionary Housing Program Guidelines (the “Guidelines”) (the Guidelines and the Resolution are collectively referred to as the “Program”);

**WHEREAS**, the Restrictive Declaration provides that Applicant shall not mortgage or otherwise encumber its interest in the Premises or the Restrictive Declaration without the prior written consent of HPD and that, if HPD consents to a mortgage loan, the lender must subordinate the loan to all of the terms and conditions of the Restrictive Declaration;

**WHEREAS**, Applicant has entered into the Mortgage and other instruments evidencing or securing obligations of Applicant to Mortgagee (collectively, “Other Loan Documents”; the Mortgage and the Other Loan Documents are referred to collectively as the “Loan Documents”); and

**WHEREAS**, HPD has consented to the Loan Documents on the condition that Mortgagee subordinate the Loan Documents to all the terms and conditions of the Restrictive Declaration in the manner hereinafter described.

**NOW THEREFORE**, for good and valuable consideration, the receipt whereof is hereby acknowledged, Mortgagee hereby represents to and agrees with HPD, notwithstanding any contrary term, provision, agreement, covenant, warranty, and/or representation contained or

implied in any Loan Documents or any other document executed in connection with the Premises, that:

1. The Loan Documents are and shall continue to be subject and subordinate to the terms, covenants, agreements, and conditions of the Restrictive Declaration.
2. As used in this Agreement (a) the term "Mortgage" shall refer to any amendments, replacements, substitutions, extensions, modifications, or renewals thereof, and (b) the term "Mortgagee" shall include the Mortgagee's successors and assigns.
3. As used in this Agreement, the phrase "subject and subordinate" means that:
  - (a) to the extent there are any inconsistencies between the provisions of the Restrictive Declaration and any provisions of the Loan Documents, the provisions of the Restrictive Declaration shall take priority over the inconsistent provisions of the Loan Documents, except as provided herein; and
  - (b) if Mortgagee or if any person or entity becomes the owner of the Premises (including, if the Premises is defined as a leasehold interest as well as a fee interest, the owner of such leasehold interest) by foreclosure, conveyance in lieu of foreclosure, or otherwise ("New Owner"), (i) the Restrictive Declaration shall continue in full force and effect and the Mortgagee and New Owner shall have no right to disturb the rights of HPD under the Restrictive Declaration, (ii) HPD shall not be named as a defendant in any action or proceeding to foreclose the Mortgage or otherwise enforce the Mortgagee's or New Owner's rights thereunder, except as set forth below, and (iii) the Premises shall be subject to the Restrictive Declaration in accordance with the provisions thereof; provided, however, that Mortgagee and New Owner shall not be liable for any act or omission of Applicant or bound by any subsequent amendment of or modification to the Restrictive Declaration without its written consent. Subject to the foregoing, nothing contained herein shall prevent the Mortgagee or New Owner from naming HPD in any foreclosure or other action or proceeding initiated by the Mortgagee or New Owner pursuant to the Mortgage to the extent necessary under applicable law in order for the Mortgagee or New Owner to avail itself of and complete the foreclosure or other remedy.
4. Upon a declaration of default under the Restrictive Declaration, HPD shall give Mortgagee notice thereof by hand delivery or reputable overnight courier and a reasonable opportunity to cure (if such default can be cured), provided, however, that Mortgagee shall have no obligation to cure any such default. If Mortgagee cures the default during such cure period (if any) or has commenced to cure the specified default within such period and is diligently pursuing completion of such cure, or has commenced the exercise of remedies under the Loan Documents within such period, HPD shall not exercise any remedies under the Restrictive Declaration by reason of such default. Nothing herein shall limit HPD's right to consent to a replacement manager pursuant to Paragraph 6 herein.
5. Mortgagee hereby acknowledges that it has no interest in or rights to any funds held in the Special Reserve Fund pursuant to the Restrictive Declaration.

6. Notwithstanding anything contained in the Restrictive Declaration or the Loan Documents, neither HPD nor Mortgagee may assume responsibility for management of the Affordable Housing Units (as defined in the Restrictive Declaration) or designate a third party to manage the Affordable Housing Units without the consent of the other. If, in the exercise of its remedies under the Restrictive Declaration, HPD notifies Mortgagee of its intention to install a replacement manager of the Affordable Housing Units, then Mortgagee's consent to such manager shall not be unreasonably withheld or delayed. If, in the exercise of its remedies under the Loan Documents, Mortgagee notifies HPD of its intention to install a replacement manager of the Affordable Housing Units, then HPD's consent to such manager shall not be unreasonably withheld or delayed. The aforesaid provisions shall apply to management of the Premises (and not only management of the Affordable Housing Units) if it is not feasible or practical for the Affordable Housing Units to be managed separately from the rest of the Premises.
7. Upon a casualty to a building on the Premises,
  - (a) where the repair or reconstruction cost is more than thirty-five percent (35%) of the replacement value of a building on the Premises, Mortgagee shall have the right to determine whether insurance proceeds are applied for the reconstruction or repair of the Premises or towards repayment of the Mortgage, and
  - (b) where the repair or reconstruction cost is less than or equal to thirty-five percent (35%) of the replacement value of the Premises, HPD shall have the right to determine how insurance proceeds shall be applied. HPD shall make such determination within sixty (60) days after HPD is notified of the occurrence of the casualty. If HPD determines in such case not to apply the insurance proceeds for the reconstruction or repair of the Premises, the insurance proceeds shall be retained by Mortgagee to the extent of sums then due under the Mortgage.

This paragraph supersedes any contrary provisions in the Restrictive Declaration or Loan Documents.

8. No failure to exercise and no delay in exercising, on the part of HPD, of any right, power or privilege under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege operate as a waiver of any other right, power or privilege under this Agreement.
9. The covenants, provisions and terms of this Agreement and the rights and obligations of the parties hereunder shall be governed by and construed and interpreted in accordance with the laws of the State of New York, and shall be binding upon and inure to the benefit of Mortgagee, HPD, and their respective successors, transferees, and assigns.
10. Neither this Agreement nor any provision hereof (including this paragraph) may be changed, modified, amended, waived, supplemented, discharged, abandoned, or terminated orally except by an instrument in writing signed by the party against whom enforcement of the change, modification, amendment, waiver, discharge, abandonment, or termination is sought.
11. All notices, approvals, requests, waivers, consents or other communications given or required to be given under this Agreement shall be in writing and sent as follows:

If to HPD, in duplicate, to: Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038  
Attn: Associate Commissioner, Housing Incentives

and: Department of Housing Preservation and Development  
100 Gold Street  
New York, NY 10038  
Attn: General Counsel

If to Lender, in duplicate, to: HSBC Bank USA, National Association, as Agent  
95 Washington Street, Floor 2SE  
Buffalo, New York 14203  
Attn: CRE Support

with a copy to: HSBC Bank USA, National Association, as Agent  
452 Fifth Avenue  
New York, New York 10018  
Attn: James P. Brennan

with a copy to: King & Spalding LLP  
1185 Avenue of the Americas  
New York, New York 10036  
Attn: Erik F. Andersen, Esq.

Notices must be hand delivered, sent by overnight delivery (e.g., FEDEX) or sent by certified or registered U.S. mail, return receipt requested. Notice shall be deemed to have been given upon delivery if sent by hand delivery, U.S. mail or overnight delivery. Each party named above may designate a change of address by written notice to all of the other parties.

12. This Agreement shall be recorded against the Premises immediately after the execution hereof, in the Office of the City Register for the County in which the Premises are located and the Applicant and/or Owner shall pay all required fees and taxes in connection therewith.
13. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

**[No further text - signatures on the next page]**

IN WITNESS WHEREOF, the undersigned have duly executed this Subordination and Non-Disturbance Agreement as of the day and year first above written.

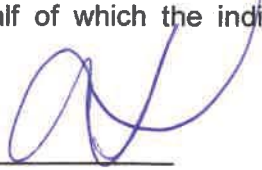
THE CITY OF NEW YORK

BY: DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT

By:   
Patricia Zafiriadis  
Associate Commissioner for Housing Incentives

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

On the 11 day of June in the year 2019 before me, the undersigned, personally appeared Patricia Zafiriadis, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

AJAY KANTH LANKER  
Notary Public, State of New York  
ID: 02148374867  
Qualified in Kings County  
Notary Public Expires April 30, 2022

APPROVED AS TO FORM BY  
STANDARD TYPE OF CLASS  
UNTIL: May 31, 2020

By: Lori Barrett-Peterson  
Acting Corporation Counsel

HSBC BANK USA, NATIONAL ASSOCIATION,  
as Agent

By:

James P Brennan  
Name: James P. Brennan  
Title: Vice President

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

On the 13<sup>th</sup> day of June in the year 2019 before me, the undersigned, a Notary Public in and for said State, personally appeared James P. Brennan, 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 executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Dawn Somers

Notary Public

DAWN MARIE SOMERS  
Notary Public, State of New York  
No. 01SO6273850  
Qualified in Queens County 20  
Commission Expires Dec. 24, 2020

**SCHEDULE 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 Borough of Manhattan, in the City and State of New York, designated as:

**Block:** 675

**Lot:** 12

**Address:** 601 West 29<sup>th</sup> Street

**County:** New York



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**SUBORDINATION AGREEMENT**

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by and between

**THE CITY OF NEW YORK**

-and-

**HSBC BANK USA, NATIONAL ASSOCIATION, as Agent**

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The property affected by this written instrument lies within the:

<u>Block(s)</u>	<u>Lot(s)</u>	<u>Address(es)</u>
675	12	601 West 29 <sup>th</sup> Street

County: New York

**RECORD AND RETURN TO:**

Alyson L. Lanzer, Esq.  
Department of Housing Preservation  
and Development  
100 Gold Street, Room 5-S7  
New York, New York 10038