

SUPPLEMENT TO

THE CITY RECORD

THE COUNCIL —STATED MEETING OF
TUESDAY, JUNE 30, 2009

THE COUNCIL

*Minutes of the
STATED MEETING*

of
Tuesday, June 30, 2009, 2:30 p.m.

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

Council Members

Christine C. Quinn, Speaker

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

Excused on June 30, 2009: Council Member Martinez.

The Public Advocate (Ms. Gotbaum) was not present at this Meeting. The Majority Leader (Council Member Rivera) assumed the chair as the President Pro Tempore and Acting Presiding Officer for these proceedings.

The presence of a quorum was announced by the President Pro Tempore (Council Member Rivera).

There were 50 Council Members present at this Stated Meeting.

INVOCATION

The Invocation was delivered by Rev. Terrance Kennedy, Pastor, New Hope Community Church, 63 West 126th Street, New York, NY 10027.

Gracious God, we come to you in this time of meeting, decision making and reasoning.

We come to you because you invite us to come.

We come to you because we are well aware that we need your direction, peace, grace and mercy.

As we come, let us first give you something before we ask you for anything.

Therefore, we humbly, respectfully and with a lot of gratitude come to you.

For life, we thank you.

For provision, we thank you.

For our families and friends, we thank you.

For our communities, city, nation and world, we thank you.

For our houses of worship, we thank you.

For our hospitals, agencies, schools, libraries, museums, theaters, parks and gardens,

Father, we thank you.

For our businesses and corporations and factories we thank you.

For our unparalleled transit system, we thank you.

And for those who govern and administrate our city, nation and our government, we thank you and ask for your wisdom upon their lives.

For those who uphold the law, pass laws, write laws, defend laws, teach laws, judge the law, protect the law and wisely execute the law,

we thank you and ask you to keep them in your grace. For the people and citizens who laws are designed to protect, we thank you and bless you because we are reminded every day of the beauty of your diversity, the wonders of your creation and the creativity of your mind.

So God, we ask that you will be with this Council.

They need your peace and compassion.

I ask, God, that as they debate and deliberate they will do so without greed, selfishness and hidden agendas.

Instead, I pray they will unite for the greater good and work to fix what is broken and celebrate what is lovely and virtuous.

I pray for harmony in vision,

Not only for what we see for an innovative, advanced and better New York, but for actually and literally seeing what needs prevailed upon us right now at this moment. Needs such as HIV and AIDS pandemic, and the necessity for legislative reform in regards to testing.

Needs such as affordable housing where affordability is defined by those who can afford it.

Needs such as better schools in all neighborhoods.

God, we are a needy people.

So we pray to you who is the supplier of every need.

I pray for the health and peace of mind of all Council Members.

We realize that the gravity of this economic recession and the heaviness on an unemployed, uninsured society weigh heavy upon them.

However, Father, you are the lifter of our burdens so I pray that when too much comes knocking, they will allow you to answer the door.

I pray for their listening skills and reasoning abilities.

And as they are passionate about their duties, causes and the people they represent make them equally impassioned about doing what is right.

Bless us with your favor; keep us enthusiastic, courageous and focused, unwavering in our fervor to serve mankind.

Finally, we pray for your healing strength and courage for our former Mayor Ed Koch and to all of those who are ill and in need of your touch.

I ask all these blessings in the name of my Lord and my Savior Jesus Christ. Amen.

Council Member Dickens moved to spread the Invocation in full upon the record.

During the Communication from the Speaker segment of this Stated Council Meeting, the Speaker (Council Member) Quinn asked all to keep former New York City Mayor Ed Koch in their thoughts and prayers; the former Mayor was hospitalized and recovering from surgery. Shortly thereafter, the Speaker (Council Member Quinn) yielded the floor to the Majority Whip (Council Member Dickens) and Council Member Foster who both requested a Moment of Silence in memory of the phenomenally talented musician and entertainer Michael Jackson. Jackson passed away in Los Angeles, California on June 25, 2009 at the age of 50.

ADOPTION OF MINUTES

Council Member James moved that the Minutes of the Stated Meetings of April 22, 2009 and May 6, 2009 be adopted as printed.

MESSAGES & PAPERS FROM THE MAYOR

M-1466

Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 992-A, in relation to the residency requirement for city employees.

June 29, 2009

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

Dear Mr. McSweeney:

Pursuant to Section 37 of the New York City Charter, I hereby disapprove Introductory Number 992-A, which would amend the City residency requirements for City employees by allowing them to live in Nassau, Westchester, Suffolk, Orange, Rockland or Putnam County, but only after completing two years of City employment. While this legislation expands upon and covers more employees than the Council's previous "DC37" residency bill, it is still inconsistent with the residency exemption that would have been provided under the legislation the City committed to support through the collective bargaining process.

On September 29, 2006, the City entered into a collective bargaining agreement with District Council 37 in which the City agreed, among other things, to support legislation that would allow employees in the bargaining unit to be deemed to meet the City's residency requirement if they lived in any of the above mentioned six counties. Subsequent agreements reached with approximately 27 other unions included identical commitments. Nothing in these agreements required an employee to complete two years of employment with the City in order to live in those counties. Introductory Number 452, which was introduced at my request, was consistent with the agreements made with District Council 37 and the other unions, and would also have allowed the expanded residency provision to apply to employees in categories designated by the Mayor in the interest of the City who are not in titles certified to a collective bargaining representative.

By contrast, Intro. 9920 would cover all City employees, regardless of whether they reached an agreement with the City through the collective bargaining process or not. Moreover, this bill would require employees to have two years of City service before they could live outside the City limits and within one of the enumerated counties, which was never even discussed in collective bargaining with 1)(137 or any of the other unions. Lastly, the Administration's original residency bill (Intro. 452) provided the Mayor with discretion to exempt other City titles from the residency requirement. By contrast, this bill improperly fragments personnel authority by granting power to establish additional residency requirements to other elected officials namely the Council Speaker, Comptroller, Borough Presidents and Public Advocate.

The Council's failure to enact the legislation that the City committed to support through the collective bargaining process, and its substitution of legislation containing terms that are not consistent with the City's commitment, are not in keeping with the expectations of employees in the bargaining units which reached agreements with the City, and may very well detract from the City's ability to

bargain effectively in the future. My signing legislation that strays so far from the terms agreed to in *negotiations* would only compound the problem even further. I urge the Council to reconsider this issue and adopt the legislation that the City and the various constituent unions committed to support in collective bargaining,

For the foregoing reasons, I hereby disapprove Introductory Number 992-A.

Sincerely,

Michael R. Bloomberg
Mayor

Referred to the Committee on Civil Service and Labor.

COMMUNICATION FROM CITY, COUNTY & BOROUGH OFFICES

M-1467

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a new base station license One Cancun Inc., Council District 48, pursuant to Section 19-511(i), of the administrative code of the city of New York.

TLC NEW YORK CITY
TAXI & LIMOUSINE
COMMISSION

Licensing & Standards Division
32-02 Queens Boulevard, 2nd Floor
Long Island City, New York 11101-2324
Tel: 212.227.6324 Fax: 718-391-5695

Matthew W. Daus, Commissioner/Chair

June 19, 2009

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

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

Dear Speaker Quinn:

Please be advised that on June 19, 2009 the Taxi & Limousine Commission voted to approve the following 30 for-hire-vehicle base license applications:

NEW (3):	LICENSE #	COUNCIL DISTRICT
One Cancun Inc.	B02300	48
West End Cars & Limousines Inc.	B02316	47
Total Car Service	B02319	12
RENEWALS (21):	LICENSE #	COUNCIL DISTRICT
A Kings Highway Car Service, Inc.	B00449	48
Atlantic Car Service	B00821	37
Belle Rock of Beach Channel Inc.	B01546	32
Bensonhurst Transportation LLC D/b/a A.R. Express Car Service	B01722	43
Brown & Brown Corporation	B00415	36

Cobblehill Car Service, Inc.	B00233	33
Community Car Service Corp.	B00029	12
Community Quisqueya Car Service Inc.	B00900	30
Early Bird Car Service Inc.	B00485	28
Family San Juan Radio Dispatch	B01538	7
J.J.S. Transportation Co. Inc. D/b/a Grant City Car Service	B01379	50
JSE Management Corp. D/b/a Dial A Ride	B00255	32
Koop Dispatchers Inc.	B00419	13
Laurelton Car Service Inc.	B01855	31
Lil'D Dispatch Inc. D/b/a Strictly Car Service	B01308	38
Michaels Car Service, Inc. D/b/a Union Limo. & Car Service	B01020	35
Mirage Limousine Service, Inc. D/b/a UFO Private Car & Limousine Service	B00990	26
Munkacs Car Service Limited	B01559	39
New American Car & Limousine Service	B01057	39
Shamrock Dispatch Inc. D/b/a Kelly's Private Car Service	B00171	19
Surf Car Systems Inc.	B00429	31
RENEWAL & OWNERSHIP CHANGE (4):	LICENSE #	COUNCIL DISTRICT
Luxor Limousine Inc.	B02035	40, 47
New Enrico's Car Service Corp.	B01131	22
Santo Domingo Car Service Inc.	B01176	21

Transportation Unlimited Car Service	B00037	40
RENEWAL & NAME CHANGE (1):	LICENSE #	COUNCIL DISTRICT
G Way Transport Inc. (D/b/a to be changed to Getaway Travel)	B01678	38
RELOCATION & NAME CHANGE (1):	LICENSE #	COUNCIL DISTRICT
SLMK D/b/a New Richmond (to be changed to AA PDQ Car & Limousine Service)	B01177	49, 50

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

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

Very truly yours,

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

Printed on paper containing 30% post-consumer material.

Referred to the Committee on Transportation

M-1468

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a new base station license West End Cars & Limousines Inc., Council District 47, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1469

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a new base station license Total Car Service., Council District 12, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1470

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license A Kings Highway Car Service, Inc., Council District 48, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1471

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Atlantic Car Service., Council District 37, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1472

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1473

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Bensonhurst Transportation., Council District 43, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1474

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Brown & Brown Corporation., Council District 36, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1475

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1476

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Community Car Service Corp., Council District 12, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1477

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Community Quisqueya Car Service Inc., Council District 30, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1478

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Early Bird Car Service Inc., Council District 28, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1479

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Family San Juan Radio Dispatch., Council District 7, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1480

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license J.J.S. Transportation Co. Inc., Council District 50, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1481

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1482

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Koop Dispatchers Inc., Council District 13, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1483

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1484

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1485

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Michaels Car Service, Inc., Council District 35, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1486

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1487

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license Munkacs Car Service Limited., Council District 39, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1488

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal base station license New American Car & Limousine Service., Council District 39, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1489

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1490

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

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1491

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal and ownership change base station license Luxor Limousine Inc., Council District 47, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1492

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal and ownership change base station license New Enrico's Car Service Corp., Council District 22, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1493

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal and ownership change base station license Santo Domingo Car Service Inc., Council District 21, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1494

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal and ownership change base station license Transportation Unlimited Car Service., Council District 40, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1495

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a renewal and name change base station license G Way Transport Inc., Council District 38, pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

M-1496

Communication from the Taxi & Limousine Commission – Submitting its approval of an application for a relocation and name change base station license SLMK., Council District 49, 50 pursuant to Section 19-511(i), of the administrative code of the city of New York.

(For text of the TLC letter, please see M-1467 printed above in this Communication from City, County and Borough Offices section in these Minutes)

Referred to the Committee on Transportation

LAND USE CALL UPS

M-1497

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(c) of the Council and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Applications no. C 090220 PPM, C 090221 ZSM, C 090222 ZSM, N 090223 ZAM, shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1498

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 26-28 Carmine Street, CB 2, Application no. 20095246 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1499

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 182 West 4th Street, CB 2, Application no. 20095379 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1500

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 355 West 14th Street, CB 4, Application no. 20095172 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1501

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 414 West 42nd Street, CB 4, Application no. 20095437 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1502

By The Speaker (Council Member Quinn):

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 125 McDougal Street, CB 2, Application no. 20095223 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1503

By Council Member Avella:

Pursuant to Rule 11.20(c) of the Council and Section 197-d(b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Applications no. C 090320 PPQ, shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1504

By Council Member Garodnick:

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 862 Second Avenue, CB 6, Application no. 20095410 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

M-1505

By Council Member Katz:

Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Application no. C 070429 MMQ, shall be subject to review by the Council.
Coupled on Call – Up Vote

M-1506

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

Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Application nos. C 090107 MM K, C 090274 POK, C 090275 POK, C 090277 PPK and shall be subject to Council review. These items are related Uniform Land Use Procedure Application no. N 090273 (A) ZRK.

Coupled on Call – Up Vote

M-1507

By the Chair of the Land Use Committee Council Member Katz

Pursuant to Rule 11.20(c) of the Council and Section 197-d (b)(3) of the New York City Charter, the Council hereby resolves that the action of the City Planning Commission on Uniform Land Use Procedure Application no. C 090263 (A) ZSM and shall be subject to Council review. This items are related Uniform Land Use Procedure Application no. N 090262 ZRM.

Coupled on Call – Up Vote

M-1508

By Council Member Mendez:

Pursuant to Rule 11.20(b) of the Council and Section 20-226(g) of the New York City Administrative Code, the Council resolves that the action of the Department of Consumer Affairs approving an unenclosed sidewalk café located at 39 East 19th Street, CB 5, Application no. 20095438 TCM shall be subject to review by the Council.

Coupled on Call – Up Vote

LAND USE CALL UP VOTE

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

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

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

REPORTS OF THE STANDING COMMITTEES

Reports of the Committee on Consumer Affairs

Report for Int. No. 780-A

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

The Committee on Consumer Affairs, to which was referred on May 28, 2008 (Minutes, page 3036) the annexed amended proposed local law, respectfully

REPORTS:

I. INTRODUCTION

On Monday, June 29, 2009, the Committee on Consumer Affairs, chaired by Council Members Leroy G. Comrie, will vote on Introductory Bill No. 780-A (“Intro. 780-A”), a Local Law to amend the administrative code of the city of New York, in relation to bicycle parking in garage and parking lots. The Committee has previously held two hearings on this Intro, in December 2008 and on June 15, 2009, at which the Department of Transportation, the parking garage and real estate industry, bike advocates and community members testified.

II. BACKGROUND

The numbers of workers commuting via bicycle has been steadily increasing for the past several years. Transportation Alternatives, a New York-based bike advocacy group, estimates that 131,000 New Yorkers bike to work on a daily basis.¹ According to the New York City Department of Transportation, cycling levels in the City have doubled in the past six years.² The City, recognizing this increase in commuter cycling, has accommodated cyclists over the past several years, adding 140 miles of new bicycle routes in the past year alone.³ With this increased use, however, comes the need for more safe places to store bikes when not in use. In 2007, the City installed 800 additional bike racks, increasing the number of racks in the city to 4,000 overall with the capacity to hold up to 20,000 bikes.⁴ While the increase in bike racks is a positive development for the City’s cyclists, the threat of theft and vandalism increases the appeal of indoor bike parking and attended bike parking lots.⁵ Although a handful of buildings throughout the City currently accommodate indoor parking for bicycles, requiring parking garages to reserve space for bikes would provide hundreds, if not thousands, of additional secure parking spaces and promote bike riding as a viable transportation alternative for many New Yorkers.

III. INTRO 780-A

Currently, all parking lots and garages in the City capable of holding five or more vehicles are required to be licensed by DCA.⁶ The revised version of Intro. 780-A would require all licensed parking lots or garages with capacity for one-hundred or more vehicles to create and maintain parking spaces for bicycles. After two years, the garages with capacity for 51 or more vehicles would be required to provide bicycle parking spaces. This is a change from the previous version, which would have required all DCA licensed garages with capacity for 51 or more vehicles to provide bike parking immediately upon enactment of the law. The legislation would require parking garages and lots to create at least one bicycle parking space for every ten authorized vehicle parking spaces in garages. In the previous version of the bill, which followed the zoning text amendment pertaining exactly, there were different space requirements for bike parking in garages and lots. However, this version states that both garages and lots would be mandated to create one bike parking space per ten car spaces, up to one hundred car parking spaces. Thereafter they would be required to provide one bicycle parking space for every one hundred car parking spaces. The legislation provides much leeway as to where these spaces could be located and neither garages nor lots would be required to convert vehicle parking spaces into bike parking spaces. Garages are free to store bikes on walls or ceilings as long as the bikes are preventing from coming into contact with cars.

Intro 780-A would exempt any parking garage or lot that is in compliance with the recently enacted zoning text amendment pertaining to bicycle parking in new construction. Additionally, the amended bill would permit garages and lots to apply for a waiver from DCA if compliance with the bill as written would result in a violation of otherwise applicable zoning regulations. In order to obtain a waiver, a garage would be required to submit certification from a design professional demonstrating that compliance as written would not be possible.

for the Lower Ma_____

¹ Goodman, J. D., “For the Hard Core, Two Wheels Beat Four,” *N. Y. Times*, July 27, 2008, at 6.

² New York City Department of Transportation, “DOT announces 35% increase in commuter cycling from 2007 to 2008 and calls on cyclists to use lights to be seen & safe,” Press Release, October 30, 2008.

³ *Id.*

⁴ McGeehan, P., “Bike Parking Lot, With Attendant, Is Planned for Midtown,” *N. Y. Times*, January 17, 2008.

⁵ *Id.*

⁶ NYC Ad Code §20-231

While the original version of the bill required that each bicycle parking rack provide at least fifteen square feet of space per bicycle and be protected from damage by vehicles by a physical barrier, this version would require an area of at least two by three by six feet in volume for each bike, to accommodate vertical bike storage. The original bill would have required that every bike parking space would be located in a visible, well-lighted area of the garage, but due to pedestrian safety concerns that requirement was amended to require only that the parking spaces be accessible to bike owners to the same extent that car owners are permitted access to their vehicles. Furthermore, the final version of the legislation would require operators to provide secure and locked parking for all bikes, unless the bike parking spaces are located in an area not accessible to the public and the bikes are parked only by employees. In that case, a rack or other secure system would not be required.

Parking operators would be required to file a schedule of bicycle parking rates with DCA and post the rates, hours of operation and the minimum capacity of bicycle parking spaces at the garage entrance. Bicycle parking rates could not be changed without prior notice to DCA. The most recent version of Intro 780-A includes a provision stating that bikes left unclaimed for sixty days will be considered abandoned and become the property of the operator.

Finally, this amended draft would that mandate DCA submit a report to the Council on the effectiveness of the legislation within twelve months of the effective date of the local law.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Int. No. 780-A:)

Int. No. 780-A

By Council Members Koppell, Brewer, Comrie, James, Yassky, White, Garodnick, Gennaro, Vacca and Liu.

A Local Law to amend the administrative code of the city of New York, in relation to bicycle parking in garage and parking lots.

Be it enacted by the Council as follows:

Section 1. Subchapter 17 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-327.1 to read as follows:

§ 20-327.1 *Bicycle parking spaces.*

a. *Applicability.*

1. i. *The operator of every garage and parking lot that has an authorized capacity of one-hundred or more motor vehicles shall provide and maintain parking spaces for bicycles in accordance with the provisions of this section.*

ii. *Two years after the effective date of the local law that added this section, the operator of every garage and parking lot that has an authorized capacity of fifty-one or more motor vehicles shall provide and maintain parking spaces for bicycles in accordance with the provisions of this section.*

2. *The requirements of subdivisions a through f of this section shall not apply to buildings or parking lots that comply with the bicycle parking provisions of sections 25-80, 36-70 and 44-60 of the zoning resolution of the city of New York.*

3. *Waiver. The operator of a garage or parking lot subject to the provisions of this section may apply to the commissioner for a waiver from the requirements of this section on the grounds that compliance with this section will result in a violation of otherwise applicable zoning regulations, including, but not limited to zoning regulations determining the number of required automobile parking spaces a garage or parking lot shall have. Prior to applying for such waiver, such operator of a garage or parking lot shall submit to the commissioner of buildings a certification from a registered design professional and other supporting additional documentation as such commissioner may require, including, but not limited to, floor plans and diagrams of the garage or parking lot in anticipation of the waiver application. Upon complete submission of all required documentation, the commissioner of buildings shall within forty days review the documentation submitted by the operator, and shall provide to the operator a written recommendation, of whether compliance would be impracticable because of the requirements of applicable zoning regulations. The operator shall submit such recommendation to the commissioner as part of its waiver application, and the resulting written grant or denial of such application by the commissioner shall be final.*

b. *Bicycle parking spaces in garages and lots.*

1. *The operator of every garage or lot subject to the provisions of this section shall provide not less than one bicycle parking space for every ten automobile parking spaces provided, up to two hundred automobile parking spaces. Thereafter, one bicycle parking space shall be provided for every one hundred automobile parking spaces. Fractions equal to or greater than one-half resulting from this calculation shall be considered to be one bicycle parking space.*

2. *The bicycle parking spaces in garages and lots subject to the provisions of this section shall be enclosed to the same extent that parking spaces for automobiles are enclosed.*

3. *Each such bicycle parking space shall adjoin a rack or similar system for securing the bicycle and shall be located in an area secured by a lock or similar means, or adjoin a securely anchored rack to which the bicycle frame and at least one wheel can be locked without damage to the wheels, frame or components of the bicycle, unless the bicycle is parked in a location not accessible to the public and bicycles are parked therein only by employees of the facility.*

4. *An area consisting of at least two by three by six feet in volume shall be provided for each such bicycle parking space.*

c. *Bicycle parking racks or other devices shall be securely anchored so they cannot be easily removed and shall be of sufficient strength and design to resist vandalism and theft.*

d. *Bicycle parking spaces in both garages and parking lots shall be protected from damage by motor vehicles by a physical barrier such as curbs, wheel stops, poles or other similar features capable of inhibiting motor vehicles from contacting a bicycle or encroaching upon a bicycle parking space.*

e. *Bicycle parking spaces shall be accessible to bicycle owners/operators to at least the same extent as vehicle parking spaces are accessible to vehicle owners/operators.*

f. *The operator of every garage and parking lot that is subject to the provisions of this section shall file with the commissioner a schedule of rates showing the prices charged daily, weekly, and monthly for parking and storage of bicycles.*

g. *No operator of a garage or parking lot subject to the provisions of this section shall make any charge for parking or storage of a bicycle in excess of the rates set forth in the schedule filed with the commissioner, unless at least sixty days prior to the effective date of such changed rates, such operator has filed with the commissioner, in writing, such change in rates and has posted such changed rates on signs which conform with the requirements of subdivision h of this section.*

h. *The operator of each garage or parking lot subject to the provisions of this section shall post conspicuously at the public entrance to the garage or parking lot a sign composed of letters and figures of such size, height, width, spacing, color and description as shall be prescribed by the rules of the commissioner. Such sign shall set forth the rate to be charged by such garage or parking lot for bicycle parking spaces, the hours during which such garage or parking lot will remain open for business and the minimum capacity of bicycle parking spaces of such garage or parking lot.*

i. *Bicycles unclaimed after sixty days shall be considered abandoned property and shall become the property of the operator of the garage or parking lot.*

j. *Within twelve months after the effective date of the local law that added this section, the commissioner shall submit a report to the council regarding the effectiveness of this local law at increasing the capacity of parking for bicycles in garages. Such report shall contain, among other things, the number and location of bicycle parking spaces and rate of usage of such spaces.*

§2. This local law shall take ninety days after enactment except that the commissioners of consumer affairs and/or buildings shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

LEROY G. COMRIE, Chairperson; JAMES F. GENNARO, G. OLIVER KOPPELL, JOHN C. LIU, Committee on Consumer Affairs, June 29, 2009.

Laid Over by the Council.

Report for Int. No. 1030

Report of the Committee on Consumer Affairs in favor of approving and adopting, a Local Law to amend the administrative code of the city of New York, in relation to the enforcement of etching acid legislation.

The Committee on Consumer Affairs, to which was referred on June 19, 2009 (Minutes, page 2773) the annexed proposed local law, respectfully

REPORTS:

I. INTRODUCTION

On Monday, June 29, 2009, the Committee on Consumer Affairs, chaired by Council Member Leroy G. Comrie, Jr. will vote on Introductory Bill 1030 ("Intro. 1030"), a proposal to amend the administrative code of the City of New York, in relation to the enforcement of etching acid legislation. The Committee previously held a hearing on Intro. 1030 on June 23, 2009.

II. BACKGROUND

A. Legislative Efforts to Combat Vandalism

The Council passed Local Law 30 of 2009 to address New York City's growing problem of acid etching vandalism. Beyond its detrimental aesthetic

impact, acid-etching defacement comes at a significant cost to New York City Transit, whose subways are the most frequent target of all forms of graffiti.¹ Also known as “scratchiti,” etching acid permanently scars subway windows,² which must be replaced at a cost to the Metropolitan Transit Authority (“MTA”) of approximately \$11 million annually.³

New York City employs several laws in its ongoing efforts to thwart graffiti. For example, it is illegal to deface public or private property⁴ and to carry spray paint or marker with intent to make graffiti.⁵ Further, spray paint must be displayed behind counter in a locked case⁶ and owners of commercial and certain residential buildings are obliged to keep their buildings free of graffiti.⁷ The City provides funds for removing graffiti from commercial and certain residential buildings, however, if its owner executes a consent.⁸ The City also offers a reward of up to \$500 to any person who provides information leading to the prosecution of persons violating the City’s anti-graffiti laws.⁹

The New York City Police Department also enforces relevant New York State anti-graffiti laws, which include Penal Law §145.60 that criminalizes the act of producing graffiti and Penal Law §145.65 that makes the possession of graffiti instruments with the intent to create graffiti illegal.

In August 2007, Mayor Michael Bloomberg signed into law Local Law 39, which amended the City’s anti-graffiti law, and Local Law 124 of 2005, which restricted the possession of graffiti instruments by individuals under the age of 21.¹⁰ Local Law 39 addresses concerns raised by courts on the First Amendment rights implications of the Local Law 124, thus minimizing the burden on the exercise of protected speech. Specifically, Local Law 39 provides exemptions for individuals under 21 who carry graffiti tools in a locked or manufacturer sealed container and those who use the tools with the consent or under the supervision of a property owner, or if the tools are being used for educational or employment purposes.¹¹

B. The Uses and Effects of Etching Acid

Readily available in most hardware and art supply stores, etching acid has several commercial and artistic uses.¹² The acid is mildly caustic and can be used to engrave glass and enamel, remove rust, and clean brass and crystal.¹³ Though talented artists have used acid for centuries to create impressions on glass and metal, this technique has been corrupted in recent years and put to use for a less artistic purpose: defacement of public property.

First observed during the anti-globalization demonstrations in Seattle in 1999,¹⁴ damage caused by etching acid has frequently appeared in recent years on New York City’s subways and buses, leaving a mark on window panes. Graffiti vandals often mix the etching acid with paint or shoe polish, which compromises the integrity of the glass and leaves a permanent broad, sweeping smear.¹⁵ At a cost of nearly \$130 per window,¹⁶ the problem has become prevalent enough that MTA now replaces windows only when the etching obstructs the view or showcases profanity or racial epithets.¹⁷ In 2006, the MTA initiated plans to spend \$25 million to replace windows with Mylar-coated glass in 5,000 subway cars in order to protect the panes from acid corrosion.¹⁸

In addition to the dollar cost, etching acid graffiti can also directly impact subway riders. Trains that are severely affected by such vandalism can be out of service for over eight hours while replacement windows are installed, and the number of subway cars going out of service for window repair has increased dramatically in recent years.¹⁹ The indelibility of etching acid has also provoked fears among many that the City’s subways and buses might soon return to their 1970s and 1980s state, when New York’s transit system was plagued by vandalism.²⁰ There is a particular concern that, should the situation not be rectified in a timely manner, vandals may come to believe that the City is not concerned with such destruction of public property, thereby perpetuating and exacerbating the problem.²¹

C. The Dangers of Etching Acid

The presence of etching acid on our subway system also presents a health hazard to the millions of New Yorkers riding the subways each day.²² Whereas vandals using paint often “tag” subway cars by sneaking into tunnels or storage yards during the transit system’s off-peak hours, “scratchiti” vandals using etching acid may make their mark in seconds while the train is in service,²³ thereby exposing passengers to a corrosive substance. One form of etching acid comes from the chemical compound hydrogen fluoride²⁴ and, depending on the concentration of acid and the duration of exposure, a passenger who comes into physical contact with freshly applied etching acid may experience a variety of adverse dermatological reactions, including pain, redness of the skin, and slow healing burns.²⁵ Respiratory exposure to hydrogen fluoride can also adversely affect the nose and throat, causing irritation and inflammation, cough, and narrowing of the bronchi.²⁶

III. INTRODUCTORY BILL 1030

In May of this year, the Council passed and the Mayor signed Local Law 30 of 2009, requiring sellers of etching acid to keep detailed records of purchasers for one year. These records must be made available to the police for the purposes of enforcing anti-graffiti legislation. The penalty section of the bill, however, incorrectly stated that a violation of that section, as opposed to a violation of the provisions of the subchapter, would result in a fine. This rendered the law unenforceable. Intro. 1030 would correct that error to make Local Law 30 of enforceable as originally intended. Violators of the law would be subject to penalties up to five hundred dollars.

¹ New York Police Department, “Crime Prevention – Citywide Vandals Task Force,” www.nyc.gov/html/nypd/html/crime_prevention/citywide_vandals_taskforce.shtml

² “Getting Educated About Graffiti,” Vandals Watch Society, City of Abottsford Task Force, www.vandalwatch.citysoup.ca/graffiti/default.htm.

³ Arden, P. “Tag, You’re It,” *Metro New York*, May 23, 2006

⁴ Administrative Code of the City of New York, §10-117(a)

⁵ Administrative Code of the City of New York, §10-117(b)

⁶ Administrative Code of the City of New York, §10-117(d)

⁷ Administrative Code of the City of New York, §10-117.3(b)

⁸ Administrative Code of the City of New York, §10-117.3(c)

⁹ Administrative Code of the City of New York, §10-117.2

¹⁰ Council of the City of New York, “Council to Vote on Legislation Protecting Parents’ Rights to Provide Children With Cellular Phones While Traveling To and From School,” July 25, 2007, Press Release.

¹¹ *Id.*

¹² Office of the Mayor, “Remarks by Mayor Bloomberg at a Public Hearing on Local Laws,” January 7, 2003, Available at <http://www.nyc.gov>

¹³ U.S. Department of Health and Human Services (DHHS), “Hydrogen Fluoride,” August 2007, www.atsdr.cdc.gov/MHMI/mmg11.html.

¹⁴ Perry, T. “Vandalism Etched in Acid,” Nograf Network Inc., Available at www.nograffiti.com/files/files6/glass.htm

¹⁵ Lueck, T., “Graffiti Back in Subways, Idelibly This Time,” *N. Y. Times*, April 25, 2006

¹⁶ *Id.*

¹⁷ Lueck, T., “With \$25 Million, M.T.A. Plans a New War on Subway Graffiti,” *N. Y. Times*, May 23, 2006.

¹⁸ “Cheap at Twice the Price,” *N. Y. Post*, May, 25, 2006.

¹⁹ Arden, P., *supra* note 3.

²⁰ Haberman, C., “A Stain On Subways and On the City,” *N. Y. Times*, January 10, 2006.

²¹ “It’s Not Art, It’s Urban Decay,” *N. Y. Post*, May 8, 2006.

²² Bloomberg, *supra* note 12.

²³ Lueck, T., *supra* note 18.

²⁴ DHHS, *supra* note 13.

²⁵ *Id.*

²⁶ *Id.*

(The following is from the text of the Fiscal Impact Statement for Int. No. 1030:)

FISCAL IMPACT STATEMENT:

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

IMPACT ON REVENUES: It is premature to estimate the impact on revenue at this time.

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

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: City Council Finance Division

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

HISTORY: This legislation was introduced by Council and referred to the Committee on Consumer Affairs on June 19, 2009. A hearing was held on Intro. 1030 by the Committee on Consumer Affairs on June 23, 2009 and the legislation was laid over. The Committee on Consumer Affairs will reconsider this legislation on June 29, 2009.

Accordingly, Your Committee recommends its adoption.

(The following is the text of Int. No. 1030:)

Int. No. 1030

By Council Members Vallone Jr., Jackson, Fidler, Nelson, Stewart, Weprin and Gennaro (in conjunction with the Mayor).

A Local Law to amend the administrative code of the city of New York, in relation to the enforcement of etching acid legislation.

Be it enacted by the Council as follows:

Section 1. Section 20-616 of the administrative code of the city of New York, as added by local law number 30 for the year 2009, is amended to read as follows:

§20-616 Penalties. 1. Any person who violates the provisions of this [section] *subchapter* shall be guilty of a violation punishable by a fine of not less than one hundred dollars and not more than two hundred fifty dollars.

2. Any person violating this [section] *subchapter* shall be subject to a civil penalty of not less than one hundred dollars and not more than two hundred fifty dollars. A proceeding to recover any civil penalty pursuant to this section shall be commenced by the service of a notice of hearing that shall be returnable to the administrative tribunal of the department.

3. Any person who subsequently violates this [section] *subchapter* within a period of one year of the date of the first violation shall be guilty of a violation, punishable by a fine of not less than five hundred dollars.

§2. This local law shall take effect on the same date that local law number 30 for the year 2009 takes effect.

LEROY G. COMRIE, Chairperson; JAMES F. GENNARO, G. OLIVER KOPPELL, JOHN C. LIU, Committee on Consumer Affairs, June 29, 2009.

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

Reports of the Committee on Finance

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

Report for Res. No. 2061

Report of the Committee on Finance in favor of approving a Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the fiscal 2008, 2009 and 2010 expense budget.

The Committee on Finance, to which was referred on June 30, 2009 the annexed resolution, respectfully

REPORTS:

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

Analysis. This Resolution, dated June 30, 2009, approves new designations and changes in the designation of certain organizations receiving local, aging, and youth discretionary funding in accordance with the Fiscal 2010 Expense Budget. In addition, this Resolution approves the new designations and changes in the designation of certain organizations to receive funding pursuant to certain initiatives in the Fiscal 2010 Expense Budget. This Resolution also approves new designations and changes in the designation of certain organizations receiving funding in accordance with the Fiscal 2009 and Fiscal 2008 Expense Budgets, adopted June 29, 2008, and June 15, 2007, respectively.

In an effort to continue to make the budget process more transparent, the Council is providing a list setting forth new designation and/or changes in the designation of certain organizations receiving local, aging, and youth discretionary funding in the Fiscal 2008, Fiscal 2009, and Fiscal 2010 Expense Budget.

This Resolution sets forth new designations and specific changes in the designation of certain organizations receiving, in accordance with the Fiscal 2010 Expense Budget, local initiative funding, as described in Chart 1, attached hereto as Exhibit A; sets forth new designations and changes in aging discretionary funding, as described in Chart 2, attached hereto as Exhibit B; and sets forth new designations and specific changes in the designation of certain organizations receiving youth discretionary funding, as described in Chart 3, attached hereto as Exhibit C. Also, this Resolution sets forth the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2009 Expense Budget, as described in Chart 4, attached hereto as Exhibit D; and sets forth new designations and changes in the designation of organizations receiving local and youth discretionary funding in accordance with the Fiscal 2008 Expense Budget, as described in Charts 5-6, attached hereto as Exhibits E-F.

The Charts, attached to the Resolution, contain the following information: name of the council member(s) designating the organization to receive funding or name of the initiative, as set forth in Adjustments Summary/Schedule C/ Fiscal 2010 Expense Budget, dated June 19, 2009; name of the council member(s) designating the organization to receive funding or name of the initiative, as set forth in Adjustments Summary/Schedule C/ Fiscal 2009 Expense Budget, dated June 29, 2008; name of the council member(s) designating the organization to receive funding or name of the initiative, as set forth in Adjustments Summary/Schedule C/ Fiscal 2008 Expense Budget, dated June 15, 2007; name of the organization; organization's Employer Identification Number (EIN), if applicable; agency name; increase or decrease in funding; name of fiscal conduit, if applicable; and the EIN of the fiscal conduit, if applicable.

Specifically, Chart 1 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2010 Expense Budget. Chart 1 also reflects EIN corrections of several organizations.

Chart 2 sets forth the new designation and changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Fiscal 2010 Expense Budget. Specifically, Chart 2 reflects EIN corrections to organizations. Chart 2 reflects EIN 13-3185040 as the correct EIN for the Alzheimer's Foundation of Staten Island, Inc.; and reflects EIN 11-2047151 as the correct EIN for Catholic Charities Neighborhood Services, Inc. - Bay Senior Center.

Chart 3 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2010 Expense Budget. Chart 3 also reflects EIN corrections to organizations.

Chart 4 sets forth the changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2009 Expense Budget. Specifically, Chart 4 indicates a withdrawal of funds for 5 (five) organizations totaling \$25,000.

Chart 5 sets forth the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Fiscal 2008 Expense Budget. As indicated in Chart 5, funding in the amount of \$80,000 for the Supportive Children's Advocacy Network (SCAN-NY) has been withdrawn. This money will be used to fund Alianza Dominicana, Inc.

Chart 6 sets forth the new designation and changes in the designation of certain organizations receiving youth discretionary funding in accordance with the Fiscal 2008 Expense Budget. As indicated in Chart 6, funding in the amount of \$151,714.00 for the Supportive Children's Advocacy Network (SCAN-NY) has been withdrawn. This money will be used to fund Alianza Dominicana, Inc.

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

Description of Above-captioned Resolution. In the above-captioned Resolution, the Council would approve the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2008, Fiscal 2009, and Fiscal 2010 Expense Budgets. Such Resolution would take effect as of the date of adoption of the Fiscal 2008, Fiscal 2009, and Fiscal 2010 Expense Budgets.

Accordingly, Your Committee recommends its adoption.

(The following is the text of Res. No. 2061:)

Res. No. 2061

CHART 1: Local Initiatives (continued)

Member	Organization	EIN Number	Agency	Amount	Agcy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	Status (Council, MOC, etc)
Crowley	Department of Parks and Recreation - Dry Harbor Pre-School	13-6400434	DPR	\$2,000.00	846	006			Government Entity
Crowley	Glendale Cullen Observation Park, Inc., The	11-2522973	DYCD	\$5,000.00	280	005			Pending-Council
Crowley	New York Hall of Science	11-2104939	DCA	\$4,000.00	126	012			Cleared-MOCS
Crowley	Queens Historical Society	25-7078007	DCA	\$1,000.00	126	003			Pending-Council
Crowley	Queens Symphony Orchestra, Inc.	11-2108191	DCA	\$2,500.00	126	003			Cleared-MOCS
Crowley	Queensboro Council for Social Welfare, Inc.	11-1817487	DFTA	\$2,857.00	125	003			Did Not Apply for Prequal
Crowley	St. Stanislaus Athletic Association	11-1981305	DYCD	\$2,357.00	280	312			Pending-Council
Crowley	Department of Parks and Recreation - Dry Harbor Pre-School	13-6400434	DPR	\$1,000.00	846	006			Government Entity
Crowley	Glendale Volunteer Ambulance Corps, Inc.	23-7248768	FDNY	\$1,000.00	057	005			Pending-Council
Crowley	Jewish Community Council of Kew Gardens and Richmond Hill, Inc.	13-3844621	DYCD	\$1,000.00	280	005	Greater Woodhaven Development Corporation		Did Not Apply for Prequal
Crowley	Woodhaven Residents Road Association	23-7387148	DFTA	\$2,000.00	125	003			Council OK
Crowley	Young Men's Christian Association of Greater New York - Ridgewood	13-1624228	DYCD	\$1,000.00	280	312			Cleared-MOCS

* Indicates pending completion of pre-qualification review.

EXHIBIT B

CHART 2: Aging Discretionary

Member	Organization	EIN Number	Agency	Amount	Agcy #	U/A	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	Status (Council, MOC, etc)
Milstein	Alzheimer's Foundation of Staten Island, Inc.	13-3185140	DFTA	\$10,000.00	125	003			Did Not Apply for Prequal
Milstein	Alzheimer's Foundation of Staten Island, Inc.	13-3185000	DFTA	\$10,000.00	125	003			Did Not Apply for Prequal
Fidler	Catholic Charities Neighborhood Services, Inc. - Bay	11-2407151	DFTA	\$3,500.00	125	003			Cleared-MOCS
Fidler	Senior Center	11-2047151	DFTA	\$3,500.00	125	003			Cleared-MOCS
Jackson	Fort Washington Houses Services for the Elderly, Inc.	13-3355074	DFTA	\$8,000.00	125	003			Cleared-MOCS
Jackson	Rivertown Senior Life Services, Inc.	13-3355074	DFTA	\$8,000.00	125	003			Cleared-MOCS
Yassky	Brooklyn Chinese-American Association, Inc.	11-3065858	DFTA	\$10,000.00	125	003			Did Not Apply for Prequal
Yassky	Brooklyn Academy of Music	11-2201344	DFTA	\$10,000.00	125	003			Changed-MOCS
Recchia	Mont Precious Blood Roman Catholic Church	11-1650778	DFTA	\$5,000.00	125	003			Pending-Council
Recchia	Our Lady of Grace Roman Catholic Church - Golden Age Club	11-1654947	DFTA	\$15,000.00	125	003			Did Not Apply for Prequal
Recchia	Our Lady of Grace Roman Catholic Church - Widow Support Group	11-1654947	DFTA	\$5,000.00	125	003			Did Not Apply for Prequal
Recchia	Our Precious Blood Roman Catholic Church	11-1650778	DFTA	\$5,000.00	125	003			Pending-Council
Recchia	Our Lady of Grace Roman Catholic Church - Golden Age Club	11-1654947	DFTA	\$15,000.00	125	003			Did Not Apply for Prequal
Recchia	Support Group	11-1654947	DFTA	\$5,000.00	125	003			Did Not Apply for Prequal
Rayna	Center, Inc.	11-2327136	DFTA	\$10,000.00	125	003			Cleared-MOCS
Weyn	Southeast United Housing Development Fund Corp	11-2283358	DFTA	\$3,000.00	125	003			Pending-MOCS
Weyn	Jewish Association for Services for the Aged (JASA)	13-2620858	DFTA	\$5,000.00	125	003			Cleared-MOCS
Weyn	Queens Jewish Community Council, Inc.	23-7172152	DFTA	\$5,000.00	125	003			Did Not Apply for Prequal
Garofnick	Health Advocates for Older People Housing Development Fund Company, Inc.	13-4165807	DFTA	\$4,250.00	125	003			Pending-Council
Leppin	Health Advocates for Older People Housing Development Fund Company, Inc.	13-4165807	DFTA	\$5,000.00	125	003			Pending-Council
Garofnick	Health Advocates for Older People, Inc.	13-4165807	DFTA	\$4,250.00	125	003			Pending-Council
Leppin	Health Advocates for Older People, Inc.	13-4165807	DFTA	\$5,000.00	125	003			Pending-Council

* Indicates pending completion of pre-qualification review.

EXHIBIT C

CHART 3: Youth Discretionary

Member	Organization	EIN Number	Agency	Amount	Agy #	UJA	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	Status (Council, MOC, etc)
Carson	Working Harbor Committee, Inc.	23-050971	DYCD	\$4,000.00	260	312			* Possible Future
Carson	Howl-Tonika of Paris, Inc.	13-216621	DYCD	\$4,000.00	260	312			* Pending-Council
Manly	Mo Better Aquatics Football, Inc.	98-114658	DYCD	\$5,000.00	260	312			* No Budget Info Submitted
Manly	Mo Better Aquatics Football, Inc.	11-3501430	DYCD	\$5,000.00	260	312			* OK pending AG
Sanders, J	Margaret Community Corporation	11-557400	DYCD	\$40,000.00	260	312			* Did Not Apply for Prequal
Sanders, J	Margaret Community Corporation	11-554700	DYCD	\$40,000.00	260	312			* Did Not Apply for Prequal
James	Brooklyn Historical Society, The	23-077915	DYCD	\$7,500.00	260	312			Cleared-MOC'S
James	Brooklyn Historical Society, The	11-859813	DYCD	\$7,500.00	260	312			Cleared-MOC'S
Mitchell	St. Adalbert's School	13-936279	DYCD	\$3,000.00	260	312		13-2957483	* Pending-Council
Mitchell	St. Adalbert's School	11-859813	DYCD	\$3,000.00	260	312		13-2957483	* Pending-Council
Mitchell	St. Adalbert's School & School	13-028841	DYCD	\$3,000.00	260	312	United Activities Unlimited, Inc.	13-2957483	* Pending-Council
Mitchell	St. Adalbert's School & School	13-028841	DYCD	\$3,000.00	260	312	United Activities Unlimited, Inc.	13-2957483	* Pending-Council
Mitchell	Boy Scouts of America - Greater New York Council	13-024015	DYCD	\$10,000.00	260	312	S-175-A-G		* Did Not Apply for Prequal
Mitchell	NYC Arts Center, Inc.	87-1229330	DYCD	\$5,000.00	260	312			* Pending-Council
Vann	SCO Family of Services	11-777066	DYCD	\$5,000.00	260	312			Cleared-MOC'S
Vann	Big Apple Circus, Ltd	13-2066377	DYCD	\$5,000.00	260	312			Cleared-MOC'S
Jackson	Police Athletic League, Inc.	13-5568871	DYCD	\$500.00	260	312			Cleared-MOC'S
Jackson	Police Athletic League, Inc.	13-917768	DYCD	\$500.00	260	312			* Pending-Council
Yasky	Brooklyn Historical Society, The	11-859813	DYCD	\$9,000.00	260	312			Cleared-MOC'S
Yasky	Center for Alternative Education (CAE), Inc., The	11-244876	DYCD	\$7,500.00	260	312			Cleared-MOC'S
Yasky	Center for Alternative Education (CAE), Inc., The	11-859813	DYCD	\$7,500.00	260	312			Cleared-MOC'S
Yasky	United Hebrew Brotherhood of Brooklyn	03-509385	DYCD	\$5,000.00	260	312			* Pending-Council
Yasky	Yeshiva Mikdash Yeshiva	11-005354	DYCD	\$8,000.00	260	312			* Did Not Apply for Prequal
Yasky	Brooklyn Arts Council	23-077915	DYCD	\$10,000.00	260	312			Cleared-MOC'S
Reochia	Our Lady of Grace Roman Catholic Church	11-894847	DYCD	\$5,000.00	260	312			* Did Not Apply for Prequal
Reochia	Our Lady of Grace Roman Catholic Church	11-894847	DYCD	\$5,000.00	260	312			* Did Not Apply for Prequal
Sears	American Ballroom Theatre Company, Inc.	22-542960	DYCD	\$3,000.00	260	312			* Pending-Council
Sears	Latin American Talent Support, Inc.	27-002808	DYCD	\$3,000.00	260	312			* Pending-Council
Reyna	Sun of Justice Chorus	28-432977	DYCD	\$2,000.00	260	312			* Pending-Council
Reyna	Star Square, Inc.	52-488714	DYCD	\$10,000.00	260	312			Cleared-MOC'S
Crowley	St. Ignace High School	13-824014	DYCD	\$2,000.00	260	312			Cleared-MOC'S
Crowley	Girl Scout Council of Greater New York, Inc.	13-824014	DYCD	\$2,000.00	260	312			Cleared-MOC'S
Crowley	How Child Jesus Teen Drama Club	11-838802	DYCD	\$3,000.00	260	312			Cleared-MOC'S
Crowley	Magpie's Lite Theater	11-723800	DYCD	\$3,000.00	260	312	Greater Woodhawn Development Corporation	11-2684728	Council OK
Crowley	Our Lady of Hippo - Sports Association	11-202490	DYCD	\$900.00	260	312			* Pending-Council
Crowley	Shooting Stars of Queens, Inc.	20-018995	DYCD	\$500.00	260	312			* Pending-Council
Crowley	St. Matthias Sports	11-685926	DYCD	\$1,000.00	260	312		23-725702	Council OK
Crowley	Youth Group of St. Margaret and Our Lady of Hope	11-723800	DYCD	\$5,000.00	260	312			* Pending-Council
				\$0.00					

* Indicates pending completion of pre-qualification review.

CHART 4: Youth Discretionary (FISCAL 2009)**

Member	Organization	EIN Number	Agency	Amount	Agy #	UJA	Fiscal Conduit/Sponsoring Organization	Fiscal Conduit EIN	Status (Council, MOC, etc)
Stewart	St. Paul's Lutheran Church	41-1582278	DYCD	\$7,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728	Approved
Stewart	St. Paul's United Methodist	11-1775687	DYCD	\$5,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728	Approved
Stewart	St. Stephen's Lutheran Church		DYCD	\$5,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728	Approved
Stewart	East Flatbush Ecumenical Council	05-1483880	DYCD	\$5,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728	Approved
Stewart	Preparation Church of God	11-2840221	DYCD	\$5,000.00	260	312	Council of Jewish Organizations of Flatbush, Inc.	11-2864728	Approved
				\$25,000.00					

* Indicates pending completion of pre-qualification review.

** The funds are being withdrawn

EXHIBIT D

EXHIBIT E

CHART 5: Local Initiatives (FISCAL 2008)**

Member	Organization	EIN Number	Agency Amount	Agy #	UJA *	Status (Council, MOC, etc.)
Foster	Supportive Children's Advocacy Network (SCAN-NY)	13-2912963	DYCD (\$80,000.00)	260	312	* Denied
Foster	Alianza Dominicana, Inc.	13-3402057	DYCD \$80,000.00	260	312	Approved
						\$0.00

* Indicates pending completion of pre-qualification review.
 ** Indicates a Fiscal Conduit change for CM Foster's Local Initiatives

CHART 6: Youth Discretionary (FISCAL 2008)**

Member	Organization	EIN Number	Agency Amount	Agy #	UJA *	Status (Council, MOC, etc.)
Foster	Supportive Children's Advocacy Network (SCAN-NY)	13-2912963	DYCD (\$151,714.00)	260	312	* Denied
Foster	Alianza Dominicana, Inc.	13-3402057	DYCD \$151,714.00	260	312	Approved
						\$0.00

* Indicates pending completion of pre-qualification review.
 ** Indicates a Fiscal Conduit change for CM Foster's Youth Discretionary Pot

EXHIBIT F

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, MARIA BAEZ, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, June 30, 2009.

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

Report for L.U. No. 1111

Report of the Committee on Finance in favor of approving Westbeth Corporation Housing Development fund Company Inc. 463 West Street, Manhattan, Council District No. 3.

The Committee on Finance, to which was referred on June 10, 2009 (Minutes, page 2366) the annexed Land Use resolution, respectfully

REPORTS:

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

June 30, 2009

TO: Hon. David Weprin
 Chair, Finance Committee
 Members of the Finance Committee

FROM: Anthony Brito, Finance Division

RE: Finance Committee Agenda of June 30, 2009-Resolution approving tax exemptions for three preconsidered Land Use Items (Council District's 1, 2, 3).

HPD has submitted a request to the Council to approve tax exemptions for the following properties: Westbeth Corp. HDFC located at 463 West Street in Speaker Quinn's District, 368 East 8th Street HDFC in Council Member Mendez's District, and 72 Clinton Street in Council Member Gerson's District.

Westbeth Corp. Housing Development Fund contains one multiple dwelling with 383 units of rental housing for low income artist. The sponsor, Westbeth Corp. Housing Development Fund Company has an exemption that will expire on June 30, 2009 and is now seeking a new 40 year exemption which will require that Westbeth make annual real property tax payments equal to ten percent of shelter rent and to collect a surcharge not to exceed fifty percent of the base rent from households whose incomes exceed a maximum prescribed by the FHA insured mortgage. In order to keep the project financially viable and provide affordable housing to artists, HPD is requesting a tax exemption pursuant to Section 577 of the Private Housing Finance Law. The value of the tax exemption is projected at \$390,507 million in the first year of the exemption and \$29.4 million over the 40-year length of the exemption.

368 East 8th Street contains one multiple dwelling with 30 units of rental housing for low income families. The 368 East 8th Street HDFC acquired and rehabilitated the property in 1975 with a loan from HPD. Due to sharp increases in real estate values and utilities the HDFC is now requesting a partial tax exemption pursuant to Section 577 of the Private Housing Finance Law in order to keep operating costs low and provide affordable housing to families. The value of the tax exemption is projected at \$178,668 million in the first year of the exemption and \$8.5 million over the 30-year length of the exemption.

72 Clinton Street contains one multiple dwelling with 19 units of rental housing for low income families. The 72 Clinton Street HDFC acquired and rehabilitated the property in 1974 with a loan from HPD. Due to sharp increases in real estate values and utilities the HDFC is now requesting a partial tax exemption pursuant to Section 577 of the Private Housing Finance Law in order to keep operating costs low and provide affordable housing to families. The value of the tax exemption is projected at \$113,700 million in the first year of the exemption and \$5.4 million over the 30-year length of the exemption.

These items have the approval of Speaker Quinn and Council Member's Mendez and Gerson.

Accordingly, Your Committee recommends the adoption of L.U. Nos. 1111, 1134, and 1135 and their respective coupled resolutions.

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

Res. No. 2062

Resolution approving a partial exemption from real property taxes for property located at 463 West Street (Block 639, Lot 1) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (L.U. No. 1111).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated May 18, 2009 that the Council take the following action regarding a housing project to be located at 463 West Street (Block 639, Lot 1) Manhattan ("Exemption Area"):

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

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

WHEREAS, the Council held a hearing on the Project on June 30, 2009;

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

RESOLVED:

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

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

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

(a) "Effective Date" shall mean the date that HPD and Sponsor, in their respective sole discretion, enter into the Regulatory Agreement.

"Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, identified as Block 639, Lot 1 on the Tax Map of the City of New York.

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

(c) "Maximum Shelter Rent Tax" shall mean the greater of (1) \$329,043 per annum or (2) for the period commencing as of the Effective Date and ending on the Rent Registration Date, ten percent (10%) of Shelter Rent, or (3) for the period commencing on the Rent Registration Date, \$200,000 plus ten percent (10%) of Shelter Rent..

(d) "New Exemption" shall mean the exemption from real property taxation provided hereunder.

(e) "Prior Exemption" shall mean the partial exemption from real property taxation for the Exemption Area approved by the City Council on December 7, 1999 (Cal. No.1097).

(f) "Loft Units" shall mean the dwelling units on the Exemption Area which, on the date hereof, are currently designated as units 1209, 1300, 1301 and 1302 and which are registered as Interim Multiple Dwelling Units with the New York City Loft Board under IMD Registration No. 10870.

(g) "Shelter Rent" shall mean the total rents received from the commercial and residential occupants of the Exemption Area, but excluding the rent received from the Loft Units, which exclusion shall continue regardless of any future designation or registration of the Loft Units, including any federal subsidy (including, but not limited to, Section 8, rent supplements, and rental assistance), less the cost of providing to such occupants electricity, gas, heat and other utilities.

(h) "Sponsor" shall mean Westbeth Corp. Housing Development Fund Company, Inc.

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

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

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

(l) "Surcharge" shall mean additional rent to be collected by the Owner on a monthly basis from tenants whose income exceeds the allowable amount under the Regulatory Agreement, to the extent permitted by

law and in accordance with a formula approved by HPD.

- (m) "Rent Registration Date" shall mean the date the rents are required to be registered under the Rent Stabilization Code pursuant to the Regulatory Agreement.
2. The Prior Exemption shall terminate upon the Effective Date.
 3. All of the value of the property in the Exemption Area, including both the land and any improvements (excluding the Loft Units) shall be exempt from real property taxation, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon Expiration Date.
 4. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, Owner shall make real property tax payments in the sum of the Maximum Shelter Rent Tax. Notwithstanding the foregoing, the total annual real property tax payment by the Owner shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule or regulation.
 5. Notwithstanding any provision hereof to the contrary, the exemption from real property taxation provided hereunder ("New Exemption") shall terminate if HPD determines at any time that (i) the Exemption Area is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the Exemption Area is not being operated in accordance with the requirements of the Regulatory Agreement, (iii) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (iii) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the Owner and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the New Exemption shall prospectively terminate.
 6. In consideration of the New Exemption, the Sponsor, for so long as the New Exemption shall remain in effect, shall waive the benefits of any additional or concurrent exemption from or abatement of real property taxation which may be authorized under any existing or future local, state, or federal law, rule, or regulation.
 7. Notwithstanding any provision hereof to the contrary, the Owner shall remit the Surcharges to the City on an annual basis in accordance with the Regulatory Agreement.
 8. The New Exemption shall not apply to any building constructed on the Exemption Area which did not have a certificate of occupancy on the Effective Date.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, MARIA BAEZ, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, June 30, 2009.

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

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

Report for L.U. No. 1134

Report of the Committee on Finance in favor of approving 368 East 8th Street, Manhattan, Council District No. 2.

The Committee on Finance, to which was referred on June 30, 2009 the annexed Land Use resolution, respectfully

REPORTS:

(For text of the report, please see the Report of the Committee on Finance for L.U. No. 1111 printed in these Minutes.)

Accordingly, Your Committee recommends its adoption.

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

Res. No. 2063

Resolution approving a partial exemption from real property taxes for property located at East 8th Street (Block 377, Lot 16) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1134).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated May 18, 2009 that the Council take the following action regarding a housing project to be located at East 8th Street (Block 377, Lot 16) Manhattan ("Exemption Area"):

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

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

WHEREAS, the Council held a hearing on the Project on June 30, 2009;

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

RESOLVED:

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

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

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

- (a) "Commercial Property" shall mean those portions of the Exemption Area devoted to business or commercial use.
- (b) "Effective Date" shall mean July 1, 2009.
- (c) "Exemption" shall mean the partial exemption from real property taxes provided hereunder with respect to the Exemption Area.
- (d) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, and identified as Block 377, Lot 16 on the Tax Map of the City of New York.
- (e) "Expiration Date" shall mean the earlier to occur of (i) a date which is thirty (30) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
- (f) "HDFC" shall mean Tenants of 368 East 8th Street Housing Development Fund Corporation.
- (g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.

- (h) "Partial Annual Real Estate Tax Payment" shall mean an annual real estate tax payment (i) in the amount of \$26,082 for the period from July 1, 2009 to June 30, 2010 (ii) for the period commencing on July 1, 2010, in an amount based on an assessed valuation equal to the lesser of (i) an amount equal to the full assessed valuation of the Residential Property, or (iii), an amount calculated by multiplying \$7,693 times the number of residential units included in the Exemption Area and increasing such product by six percent (6%) on July 1, 2011 and on July 1 of each successive year, but not by more than twenty percent (20%) in any five-year period.
 - (j) "Regulatory Agreement" shall mean the regulatory agreement between HPD and Sponsor establishing certain controls upon the operation of the Disposition Area during the term of the Exemption.
 - (j) "Residential Property" shall mean all of the real property, other than the Commercial Property, included in the Exemption Area.
2. All of the value of the Residential Property in the Exemption Area, including both the land and improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxes, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
 3. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the HDFC shall make real property tax payments in the sum of the Partial Annual Real Estate Tax Payment. Notwithstanding the foregoing, the total annual real property tax payment by the HDFC shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule or regulation.
 4. Notwithstanding any provision hereof to the contrary:
 - a. The Exemption shall terminate if HPD determines that (i) the housing project is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the owner of the Exemption Area has failed to execute the Regulatory Agreement within thirty (30) days after a written request from HPD, (iii) the housing project is not being operated in accordance with the requirements of the Regulatory Agreement, (iv) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
 - b. The Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.
 - c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid by or on behalf of the HDFC or any other owner of the Exemption Area prior to July 1, 2009.
 5. In consideration of the Exemption, the owner of the Exemption Area shall (i) execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, waive the benefits, if any, of additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation except for an exemption from and/or abatement of real property taxation pursuant to Section 489 of the Real Property Tax Law.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, MARIA BAEZ, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, June 30, 2009.

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

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

Report for L.U. No. 1135

Report of the Committee on Finance in favor of approving 72 Clinton Street, Manhattan, Council District No.1

The Committee on Finance, to which was referred on June 30, 2009 the annexed Land Use resolution, respectfully

REPORTS:

(For text of the report, please see the Report of the Committee on Finance for L.U. No. 1111 printed in these Minutes.)

Accordingly, Your Committee recommends its adoption.

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

Res. No. 2064

Resolution approving a partial exemption from real property taxes for property located at 72 Clinton Street (Block 344, Lot 173) Manhattan, pursuant to Section 577 of the Private Housing Finance Law (Preconsidered L.U. No. 1135).

By Council Member Weprin.

WHEREAS, the New York City Department of Housing Preservation and Development ("HPD") submitted to the Council its request dated May 18, 2009 that the Council take the following action regarding a housing project to be located at 72 Clinton Street (Block 344, Lot 173) Manhattan ("Exemption Area"):

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

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

WHEREAS, the Council held a hearing on the Project on June 30, 2009;

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

RESOLVED:

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

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

1. For the purposes hereof, the following terms shall have the following meanings:
 - (a) "Commercial Property" shall mean those portions of the Exemption Area devoted to business or commercial use.
 - (b) "Effective Date" shall mean July 1, 2009.
 - (c) "Exemption" shall mean the partial exemption from real property taxes provided hereunder with respect to the Exemption Area.

- (d) "Exemption Area" shall mean the real property located in the Borough of Manhattan, City and State of New York, and identified as Block 344, Lot 173 on the Tax Map of the City of New York.
- (e) "Expiration Date" shall mean the earlier to occur of (i) a date which is thirty (30) years from the Effective Date, (ii) the date of the expiration or termination of the Regulatory Agreement, or (iii) the date upon which the Exemption Area ceases to be owned by either a housing development fund company or an entity wholly controlled by a housing development fund company.
- (f) "HDFC" shall mean 72 Clinton Street Housing Development Fund Corporation.
- (g) "HPD" shall mean the Department of Housing Preservation and Development of the City of New York.
- (h) "Partial Annual Real Estate Tax Payment" shall mean an annual real estate tax payment (i) in the amount of \$1,000 for the period from July 1, 2009 to June 30, 2010 (ii) for the period commencing on July 1, 2010, in an amount based on an assessed valuation equal to the lesser of (i) an amount equal to the full assessed valuation of the Residential Property, or (iii), an amount calculated by multiplying \$7,693 times the number of residential units included in the Exemption Area and increasing such product by six percent (6%) on July 1, 2011 and on July 1 of each successive year, but not by more than twenty percent (20%) in any five-year period.
- (j) "Regulatory Agreement" shall mean the regulatory agreement between HPD and Sponsor establishing certain controls upon the operation of the Disposition Area during the term of the Exemption.
- (j) "Residential Property" shall mean all of the real property, other than the Commercial Property, included in the Exemption Area.
2. All of the value of the Residential Property in the Exemption Area, including both the land and improvements (excluding those portions, if any, devoted to business or commercial use), shall be exempt from real property taxes, other than assessments for local improvements, for a period commencing upon the Effective Date and terminating upon the Expiration Date.
3. Commencing upon the Effective Date, and during each year thereafter until the Expiration Date, the HDFC shall make real property tax payments in the sum of the Partial Annual Real Estate Tax Payment. Notwithstanding the foregoing, the total annual real property tax payment by the HDFC shall not at any time exceed the amount of real estate taxes that would otherwise be due in the absence of any form of tax exemption or abatement provided by an existing or future local, state, or federal law, rule or regulation.
4. Notwithstanding any provision hereof to the contrary:
- a. The Exemption shall terminate if HPD determines that (i) the housing project is not being operated in accordance with the requirements of Article XI of the Private Housing Finance Law, (ii) the owner of the Exemption Area has failed to execute the Regulatory Agreement within thirty (30) days after a written request from HPD, (iii) the housing project is not being operated in accordance with the requirements of the Regulatory Agreement, (iv) the Exemption Area is not being operated in accordance with the requirements of any other agreement with, or for the benefit of, the City of New York, or (v) the demolition of any private or multiple dwelling on the Exemption Area has commenced without the prior written consent of HPD. HPD shall deliver written notice of any such determination to the HDFC and all mortgagees of record, which notice shall provide for an opportunity to cure of not less than sixty (60) days. If the noncompliance specified in such notice is not cured within the time period specified therein, the Exemption shall prospectively terminate.
- b. The Exemption shall not apply to any building constructed on the Exemption Area which did not have a permanent certificate of occupancy on the Effective Date.
- c. Nothing herein shall entitle the HDFC to a refund of any real property taxes which accrued and were paid by or on behalf of the HDFC or any other owner of the Exemption Area prior to July 1, 2009.

5. In consideration of the Exemption, the owner of the Exemption Area shall (i) execute and record the Regulatory Agreement, and (ii) for so long as the Exemption shall remain in effect, waive the benefits, if any, of additional or concurrent real property tax abatement and/or tax exemption which may be authorized under any existing or future local, state or federal law, rule or regulation except for an exemption from and/or abatement of real property taxation pursuant to Section 489 of the Real Property Tax Law.

DAVID I. WEPRIN, Chairperson; JOEL RIVERA, DIANA REYNA, MARIA BAEZ, GALE A. BREWER, LEROY G. COMRIE, BILL DEBLASIO, LEWIS A. FIDLER, ERIC N. GIOIA, ROBERT JACKSON, G. OLIVER KOPPELL, HELEN SEARS, ALBERT VANN, DAVID YASSKY, VINCENT J. GENTILE, VINCENT M. IGNIZIO, JAMES S. ODDO, Committee on Finance, June 30, 2009.

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

Reports of the Committee on Governmental Operations

Report for Int. No. 1022

Report of the Committee on Governmental Operations in favor of approving and adopting, a Local Law to provide for the establishment of a panel on regulatory review.

The Committee on Governmental Operations, to which was referred on June 10, 2009 (Minutes, page 2337) the annexed proposed local law, respectfully

REPORTS:

I. Introduction

The Committee on Governmental Operations, chaired by Council Member Helen Sears, will meet today to consider three pieces of legislation.

Int. No. 1022, by Council Members Oddo, Fidler, James and Ignizio, provides for the establishment of a panel on regulatory review.

Res. No. 1891, by Council Members Ignizio, Sears and Oddo, calls on the New York State Legislature to pass Bill Nos. A06138 and S. 5442-A, which would authorize the City of New York to privately sell certain property that cannot be independently developed.

The Preconsidered Int., by Council Members Sears, Quinn (The Speaker) and Weprin, would allow the Commissioner of the Department of Finance to establish a temporary resolution program for default judgments (judgments where respondents failed to plead within a specified time or a failed to appear on a specified date) and to waive the default penalty for respondents who are subject of default judgments. Respondents in the program would only be required to pay the "base penalty" (penalty for underlying violation).

Int. No. 1022

A. Background on Rules and Rule-Making in New York City

Chapter 45 of the New York City Charter, or the Citywide Administrative Procedure Act ("CAPA"), revised the City's rulemaking process. Approved by voters in 1988 along with other revisions to the Charter, CAPA authorizes each City agency to enact certain rules and regulations that enable it to carry out the powers and duties delegated to it by or pursuant to federal, state, or local law. Numerous rules and regulations are used by the City to protect the well-being of the public. For example, rules and regulations govern City streets and sidewalks as well as the use and development of private property. Moreover, the City uses rules and regulations to administer the health, fire, and building codes. To ensure consumer safety, the City also enacts rules to regulate many businesses, including restaurants, taxicabs, plumbing and electrical companies, parking lots and garages.

The approval of CAPA by the electorate made the City's rulemaking process more transparent. The Act standardized the rulemaking process throughout City government by providing a set of universal guidelines to be used by every agency in the promulgation of rules. CAPA also made it easier for the public to understand and participate in the rule-making process. City agencies, for example, are now not only required to write rules in plain language (Section 1043), but are also required to publish proposed rules in *The City Record*, the official newspaper of the City, and to hold a public hearing on the proposed rule where members of the public have the opportunity to comment (Section 1042).

The panel proposed in Int. 1022 would evaluate both the rule-making process and the rules that have resulted from the process.

B. The Legislation

Int. 1022 provides for the establishment of a panel on regulatory review. Such a panel would be comprised of the Director of the Mayor’s Office of Operations; the Director of the Mayor’s Office of Management and Budget; the Corporation Counsel; the Director of the Mayor’s Office of Special Enforcement; the Commissioner of the Department of Consumer Affairs; the Commissioner of the Department of Small Business Services; and three Council Members designated by the Speaker of the City Council. The chair of the panel would be designated by the Mayor from among such members.

The purpose of the panel would be to study and evaluate the extent to which agency rules are currently successful in meeting regulatory objectives in a way that minimizes the costs and burdens borne by City agencies, businesses, consumers, homeowners, and the public. A special emphasis would be placed on examining the costs and burdens on small businesses.

The panel would develop recommendations to enhance the efficiency and effectiveness of the City’s regulatory system, including those to amend or modify CAPA. Such recommendations would be made in a report to the Mayor and the Speaker to be delivered no later than December 31, 2009.

C. Testimony

The Committee previously heard testimony on this legislation from a variety of interested parties at a public hearing on June 26, 2009.

Res. No. 1891

A. Background on the Department of Citywide Administrative Services

The Department of Citywide Administrative Services (“DCAS”) provides numerous support services to New York City government. For example, DCAS assists every City agency with the purchase, inspection, and distribution of all supplies and equipment, including automobiles, computers and energy. DCAS is also charged with managing, maintaining, and providing security for City-owned buildings. Notable buildings managed by DCAS include City Hall, the Manhattan and Brooklyn Municipal Buildings, all Borough Halls, and City and State Courts.

In addition to managing City-owned buildings, DCAS is also responsible for selling the City’s excess real estate holdings. DCAS is required by New York State law to sell such property through public auctions or other competitive bidding processes. The last auction to sell surplus real estate occurred on June 13, 2006. The City auctioned 53 parcels of land. On auction day, DCAS sold 44 parcels, withdrew three from consideration, and failed to sell six parcels. The prices paid per parcel ranged from \$9,000 to \$4.7 million. The next auction to sell surplus real estate has yet to be scheduled.

B. The “Sale Away” Program

DCAS has identified approximately 1,000 lots of land throughout the five boroughs that the agency wishes to sell privately rather than at public auction. Unlike the parcels of land that have been previously sold at auction, these select 1,000 lots cannot be independently developed because of size, shape, zoning, configuration and topography. These lots – mostly small strips of land – generally go unused and are not well maintained, consequently detracting from the beauty of the neighborhoods in which they are located. In some cases, adjacent property owners use the land without permission from the City. Because of the size, shape, zoning, configuration and topography of these lots, the land can only be fully utilized by adjacent property owners.

To solve this problem, DCAS has devised the “Sale Away” program, which calls for the City to forego the public auction process for such parcels, and, instead, sell these properties directly to the abutting property owners. During public auctions, bidders who do not own property adjacent to the lot being auctioned may outbid those who live adjacent to the property so that they can re-sell the land at a higher price on the private market. The City could stand to benefit in the long term from selling the land directly to adjacent property owners rather than at public auction because adjacent property owners have a stake in purchasing and using the land not merely as an investment, but also to improve their neighborhoods. Even with the contemplated change in state law, all property sales would still be subject to approval under the Uniform Land Review Procedure (ULURP), Section 197-c of the New York City Charter.

C. The Legislation

Resolution 1891 calls upon the New York State Legislature to pass Bills No. A06138 and S. 5442-A , which would authorize the City to bypass the auction process and sell property that cannot be independently developed directly to the abutting property owner. Assembly member James F. Brennan of Brooklyn and State Senator Joseph P. Addabbo Jr. of Queens are the sponsors of the state legislation. Currently, both bills remain in their respective committees.

D. Securing Passage

If this Resolution is adopted, the Committee will work with the state legislature to help ensure the passage of such legislation.

E. Testimony

The Committee previously heard testimony on this legislation from a variety of interested parties at a public hearing on June 26, 2009.

Preconsidered Int. 1041

A. Background

Notices of violation returnable to the Environmental Control Board (“ECB”) often result in default judgments. Such judgments result in the maximum fine amount allowed by law and are issued when a respondent either fails to plead within the time allowed by the rules of the ECB or fails to appear before the ECB on a designated hearing date. The additional penalties, which represent the amount above the base penalty for a violation, create deterrence to payment.

The ECB and the Department of Finance (“DOF”) have established a pilot program to permit certain respondents who are the subject of default judgments to resolve those judgments by admitting liability and paying the penalty associated with the underlying violation without paying an additional default penalty. The results of that program have demonstrated that the city can resolve many default judgments that would otherwise remain outstanding, thus recouping otherwise lost revenue. Moreover, to minimize the number of default judgments issued by the ECB, the City is now engaged in a comprehensive study that will, within the coming year, examine the best practices for achieving the most prompt and efficient resolution possible of such outstanding default judgments.

B. The Legislation

This bill would expand the pilot program described above to provide a temporary, three-month program to be carried out during FY 2010 for any judgment issued before May 1, 2009.

Specifically, the bill would:

- Allow the Commissioner of the Department of Finance to establish a temporary resolution program for default judgments (judgments where respondents failed to plead within a specified time or failed to appear on a specified date);
- Waive the default penalty for respondents who are subject of default judgments. Respondents in the program would only be required to pay the “base penalty” (penalty for underlying violation);

The dates of the program are currently being formulated, but the Program, once established, would run for 90 days and cover default judgments issued before May 1, 2009. The program would only be effective during Fiscal Year 2010.

C. Special Cases--Notices of Correction

In cases where a notice of violation includes an order to correct a violation, a Respondent would be unable to enter into the Amnesty program until such underlying condition was cured. Additionally, this Program would be extended past 90 days for Respondents who, during the Program period, applied for a “certificate of correction” in response to an order to correct a violation, but the application is approved after the 90 day period of the program.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1022:)

FISCAL IMPACT STATEMENT:

	Effective FY 09	FY Succeeding Effective FY 10	Full Fiscal Impact FY 09
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	\$0	\$0	\$0
Net	\$0	\$0	\$0

IMPACT ON REVENUES: This local law would generate no additional revenues for the City.

IMPACT ON EXPENDITURES: This local law would have no impact on expenses. Although the proposed legislation requires liaisons to the Panel from all

City agencies, it is presumed that these staff would assist the Panel as part of their regular duties and that no new staff would need to be hired. Similarly, whereas the legislation would require to agencies provide to the panel with timely information and assistance, such information and assistance could be provided using existing agency resources. The required report on the Panel’s initial findings could likewise be drafted without additional City expenditures. Finally, the solicitation and review of input regarding the City’s regulatory process should be cost neutral.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION:City Council Finance Division, Mayor’s Office of City Legislative Affairs

ESTIMATE PREPARED BY: Andy Grossman, Deputy Director
John Russell, Legislative Financial Analyst

HISTORY: Intro. 1022 was introduced by the Council and referred to the Committee on Governmental Operations on June 10, 2009. On June 26, 2009, this legislation was considered by the Committee and laid over. On June 29, 2009, this legislation will be considered and voted on by the Committee. This legislation will be voted on by the full Council on June 30, 2009.

(For text of Res No. 1891, please see the Report of the Committee on Governmental Operations for Res No. 1891 printed in the (voice-vote) Resolutions section of these Minutes; for text of Int No. 1041, please see the Report of the Committee on Governmental Operations for Int No. 1041 printed in this Report of the Committees on Governmental Operations section of these Minutes; for text of Int No. 1022, please see immediately below;)

Accordingly, Your Committee recommends the adoption of Int No. 1022, Res No. 1891, and Int No. 1041.

(The following is the text of Int. No. 1022:)

Int. No. 1022

By Council Members Oddo, Fidler, James, Mitchell, Sears, Ignizio, Garodnick, Gentile, Jackson, Katz, Liu, Vallone Jr., Weprin, White and Ulrich.

A Local Law to provide for the establishment of a panel on regulatory review.

Be it enacted by the Council as follows:

Section 1. Establishment and Composition of a Panel on Regulatory Review. There shall be a temporary panel on regulatory review (“the Panel”). The Panel shall be comprised of the Director of the Mayor’s Office of Operations; the Director of the Mayor’s Office of Management and Budget; the Corporation Counsel; the Director of the Mayor’s Office of Special Enforcement; the Commissioner of the Department of Consumer Affairs; the Commissioner of the Department of Small Business Services; and three Council Members designated by the Speaker of the City Council. The Mayor shall appoint one additional member to serve as chair of the panel. Each member of the Panel may designate one or more staff members to represent that member on the Panel.

§ 2. Powers and Responsibilities of the Panel. a. The Panel shall study and evaluate the extent to which agency rules are currently successful in meeting regulatory objectives in a way that minimizes the costs and burdens borne by City agencies, local businesses, consumers, homeowners, and the public.

In order to identify those agency rules that should be given primary focus, the Panel shall work with City agencies, including those agencies that impact small businesses, and receive input from them, as well as from other branches of government, from members of the public, and from private and not-for-profit entities, such as small businesses, established and emerging industries, trade associations, community organizations, labor unions, and good government groups.

b. The Panel shall, where appropriate, develop recommendations to enhance the efficiency and effectiveness of the City’s regulatory system, including those to amend or modify Chapter 45 of the City Charter, known as the City Administrative Procedure Act.

When making such recommendations, the Panel shall consider and explore the following issues: public benefit; fiscal impact; customer service impact; and alternative legal or administrative mechanisms, such as the use of technology or more strategic inter-agency coordination.

c. The Panel may establish an advisory group or groups comprised of experts from within, and outside of, City government to provide appropriate subject matter guidance.

d. The Panel shall report its initial findings and recommendations to the Speaker of the City Council and the Mayor no later than December 31, 2009.

§ 3. Agency Assistance and Cooperation with the Panel. All City agencies shall designate a liaison to work with the Panel and provide it with appropriate information and other assistance, as may be requested, in a timely manner.

§ 4. This local law shall take effect immediately.

HELEN SEARS, Chairperson; ERIK MARTIN DILAN, SIMCHA FELDER, DOMENIC M. RECCHIA JR., LARRY B. SEABROOK, PETER F. VALLONE JR., INEZ E. DICKENS, Committee on Governmental Operations, June 29, 2009.

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

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

Report for Int. No. 1041

Report of the Committee on Governmental Operations in favor of approving and adopting, a Local Law in relation to authorizing the commissioner of finance to establish a temporary program for the resolution of outstanding default judgments issued by the environmental control board.

The Committee on Governmental Operations, to which was referred on June 30, 2009 the annexed proposed local law, respectfully

REPORTS:

(For text of the report, please see the section dealing with Preconsidered Int No. 1041 in the Report of the Committee on Governmental Operations for Int No. 1022 printed above in these Minutes)

Accordingly, Your Committee recommends the adoption of Int No. 1041.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1041:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	\$6,000,000	\$0	\$6,000,000
Expenditures (-)	Minimal	\$0	Minimal
Net	\$6,000,000	\$0	\$6,000,000

IMPACT ON REVENUES: The City expects to collect \$6,000,000 in base fines that are in default as a result of the enactment of this legislation. Currently, there is about \$200 million in outstanding base fines that are in default. Based on evidence from ECB and DOF’s default judgment pilot program, we conservatively estimate that the participation rate will be about 3 percent in the proposed default resolution program. However, since this program provides businesses and individuals with the opportunity to “clear their books” of default judgments, the participation rate could be as high as 5 percent or more, and the City could realize as much as \$10 million in revenue as a result of this program.

IMPACT ON EXPENDITURES: There would be minimal impact on expenditures by the enactment of this legislation. The outreach and publicity campaigns will for the most part be funded by existing agency resources.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: N/A

SOURCE OF INFORMATION:New York City Council Finance Division
New York City Department of Finance

ESTIMATE PREPARED BY: Nadine Felton, Assistant Director,
Revenue
City Council Finance Division

HISTORY: This legislation will be introduced and considered by the full Council on June 30, 2009. Hearing was conducted by the Committee on

Governmental Operations on June 29, 2009, to be considered by the Committee on June 30, 2009.

(The following is the text of Int. No. 1041:)

Int. No. 1041

By Council Members Sears, The Speaker (Council Member Quinn), and Council Members Weprin, Felder, Fidler, James, Liu, Mealy, Mitchell, Reyna, Dickens and Gonzalez.

A Local Law in relation to authorizing the commissioner of finance to establish a temporary program for the resolution of outstanding default judgments issued by the environmental control board.

Be it enacted by the Council as follows:

Section 1. Declaration of findings and legislative intent. The Council finds that too often notices of violation returnable to the environmental control board result in default judgments, payments for which remain uncollected; that the additional penalties for defaults create a special deterrence to payment in the present economic climate; that the city would benefit from the prompt and efficient resolution of such outstanding default judgments; that the environmental control board and the department of finance have embarked on a pilot program to permit respondents who are the subject of default judgments to resolve those judgments by admitting liability and paying the penalty associated with the underlying violation without paying an additional default penalty; that the results of that program show an expanded temporary default suspension program could enable respondents and the city to resolve many default judgments that would otherwise remain outstanding; that a temporary default resolution program is warranted for a period of ninety days; and that the city is now engaged in a comprehensive study that will, within the coming year, lead to a new approach to address permanently how to minimize the number of default judgments issued by the environmental control board and how best to collect and record debt created by the board's judgments.

§2. Temporary default resolution program.

a. For purposes of this section, the following definitions apply:

1. "Base penalty" means, with respect to any notice of violation returnable to the environmental control board, the penalty that would be imposed upon a timely admission by the respondent or finding of liability after a hearing, pursuant to the environmental control board penalty schedule, without regard to reductions of penalty in cases of mitigation or involving stipulations.

2. "Default judgment" means a judgment of the environmental control board, pursuant to subparagraph (d) of paragraph (1) of subdivision d of section 1049-a of the charter of the city of New York, determining a respondent's liability based upon that respondent's failure to plead within the time allowed by the rules of the environmental control board or failure to appear before the environmental control board on a designated hearing date or on a subsequent date following an adjournment.

3. "Default penalty" means a penalty imposed by the environmental control board, pursuant to section 1049-a of the charter of the city of New York, in the maximum amount prescribed by law for the violation charged.

4. "Environmental control board" means the environmental control board of the city of New York and its tribunal, as described in section 1049-a of the charter of the city of New York.

5. "Environmental control board penalty schedule" means the schedule of penalties adopted as a rule by the environmental control board or such predecessor schedule as may have applied on the date of the violation.

6. "Resolve" means, with respect to an outstanding judgment of the environmental control board, to conclude all legal proceedings in connection with a notice of violation.

7. "Respondent" means a person or entity named as the subject of a notice of violation returnable to, or a judgment issued by, the environmental control board, or such other person or entity who asserts legal responsibility for the liability of the person or entity named in the notice or the judgment.

8. "Temporary default resolution program" means the program authorized by this section.

b. Subject to an appropriate authorizing resolution of the environmental control board, and notwithstanding any other provision of law to the contrary, the commissioner of finance shall establish a temporary default resolution program for a ninety-day period, to be effective during the fiscal year of the city beginning July first, two thousand nine, to permit respondents who are subject to default judgments of the environmental control board to resolve such judgments by payment of base penalties without payment of default penalties and associated interest.

c. Eligibility to participate in the temporary default resolution program shall be restricted to respondents who are subject to default judgments of the environmental control board, and the program shall apply only to default judgments.

d. A respondent seeking to participate in the temporary default resolution program to resolve a default judgment arising out of a notice of violation that includes an order requiring the correction of a violation shall demonstrate to the satisfaction of the city agency issuing the notice of violation that the condition cited

in the notice of violation has been corrected. A default judgment may not be resolved under the temporary default resolution program if the respondent seeking the resolution cannot demonstrate that any correction required by an order has been made. Nothing contained herein shall require a city agency to issue or approve certificates of correction or the equivalent if such city agency does not have a program to do so as of the effective date of this local law.

e. A respondent seeking resolution of a default judgment under the temporary default resolution program shall admit liability for the violation. A default judgment may not be resolved under the temporary default resolution program if the respondent seeking resolution of the judgment fails or refuses to admit liability.

f. A respondent seeking resolution of a default judgment under the temporary default resolution program shall pay the base penalty for the violation that is the subject of the default judgment to be resolved. The base penalty amount shall be determined by referring to the environmental control board penalty schedule. A default judgment may not be resolved under the program unless the base penalty amount of the violation that is the subject of the default judgment can be determined from the notice of violation, default judgment and environmental control board penalty schedule alone.

g. A respondent's resolution of a default judgment under the temporary default resolution program shall constitute a waiver of all legal and factual defenses to liability for the judgment at issue. A judgment resolved under the temporary default resolution program shall have the same legal force and effect as any other judgment issued by the environmental control board.

h. A judgment of the environmental control board may not be resolved under the temporary default resolution program if the judgment was issued on or after May first, two thousand nine.

i. The duration of the program shall be ninety days, provided that the program shall be extended for a reasonable period to the extent necessary to permit participation by any respondent who made application for approval of a certificate of correction, or the equivalent, for a violation that is the subject of a default judgment to be resolved by this program from any city agency within ninety days of the commencement of the program, but whose application was approved after such ninety-day period. After the program has concluded, any default judgment that remains outstanding and has not been resolved by this program shall continue to have full legal effectiveness and enforceability regardless of whether it could have been resolved under this program.

j. The commissioner of finance shall publicize the temporary default resolution program provided in this section so as to maximize public awareness of and participation in such program.

§3. This local law shall take effect immediately.

HELEN SEARS, Chairperson; ERIK MARTIN DILAN, SIMCHA FELDER, DOMENIC M. RECCHIA JR., LARRY B. SEABROOK, PETER F. VALLONE JR., INEZ E. DICKENS, Committee on Governmental Operations, June 29, 2009.

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

Reports of the Committee on Land Use

Report for L.U. No. 1083

Report of the Committee on Land Use in favor of approving Application no C 090283 ZMQ submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City charter for an amendment of the Zoning Map, Section No.14a; by changing from an R1-2 District to an R1-2A District.

The Committee on Land Use, to which was referred on April 22, 2009 (Minutes, page 1741) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

QUEENS CB - 6

C 090283 ZMQ

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 14a; by changing from an R1-2 District to an R1-2A District property bounded by a line midway between 66th Avenue and 66th Road, 110th Street, 67th Road, 112th Street, the easterly centerline prolongation line of 67th Drive, the southwesterly service road of the Grand Central Parkway, the easterly centerline prolongation of 72nd Avenue, 72nd Avenue, a line 425 feet northeasterly of 112th Street, a line midway between 72nd Avenue and 72nd Road, 112th Street, 71st Avenue, 110th Street, 70th Road,

and 108th Street, as shown on a diagram (for illustrative purposes only) dated March 2, 2009.

INTENT

To rezone a portion of the Forest Hills neighborhood in Queens.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2065

Resolution approving the decision of the City Planning Commission on ULURP No. C 090283 ZMQ, a Zoning Map amendment (L.U. No. 1083).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on May 22, 2009 its decision dated May 20, 2009 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map (ULURP No. C 090283 ZMQ) (the "Application");

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, issued on March 2, 2009 (CEQR No. 09DCP041Q);

RESOLVED:

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

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

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 14a; by changing from an R1-2 District to an R1-2A District property bounded by a line midway between 66th Avenue and 66th Road, 110th Street, 67th Road, 112th Street, the easterly centerline prolongation line of 67th Drive, the southwesterly service road of the Grand Central Parkway, the easterly centerline prolongation of 72nd Avenue, 72nd Avenue, a line 425 feet northeasterly of 112th Street, a line midway between 72nd Avenue and 72nd Road, 112th Street, 71st Avenue, 110th Street, 70th Road, and 108th Street, as shown on a diagram (for illustrative purposes only) dated March 2, 2009, Community District 6, Borough of Queens.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1084

Report of the Committee on Land Use in favor of approving Application no. N 090304 ZRQ submitted by the New York City Department of City Planning pursuant to Section 200 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7 to modify certain provisions concerning the Queens Plaza, Court Square, and Hunters Point subdistricts of the Special Long Island City Mixed Use District.

The Committee on Land Use, to which was referred on April 22, 2009 (Minutes, page 1741) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

QUEENS CB - 2

N 090304 ZRQ

City Planning Commission decision approving an application submitted by the New York City Department of City Planning pursuant to Section 200 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7 to modify certain provisions concerning the Queens Plaza, Court Square, and Hunters Point subdistricts of the Special Long Island City Mixed Use District.

INTENT

To establish new regulations within the Special Long Island City Mixed Use District in the Borough of Queens.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2066

Resolution approving the decision of the City Planning Commission on Application No. N 090304 ZRQ, for an amendment of the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7 to modify certain provisions concerning the Queens Plaza, Court Square, and Hunters Point subdistricts of the Special Long Island City Mixed Use District (L.U. No. 1084).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on May 22, 2009 its decision dated May 20, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the New York City Department of City Planning for an amendment to the Zoning Resolution of the City of New York, relating to Article XI, Chapter 7 to modify certain provisions concerning the Queens Plaza, Court Square, and Hunters Point subdistricts of the Special Long Island City Mixed Use District, Application No. N 090304 ZRQ, Community District 7, Borough of Queens (the "Application");

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration issued on February 2, 2009 (CEQR No. 09DCP047Q):

RESOLVED:

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

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

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

- Matter Underlined is new, to be added;
- Matter in ~~Strikeout~~ is old, to be deleted;
- Matter within # # is defined in Section 12-10;
- * * * indicate where unchanged text appears in the Zoning Resolution

Article III – Commercial District Regulations

* * *

**Chapter 7
Special Urban Design Regulations**

* * *

**37-40
OFF-STREET RELOCATION OR RENOVATION OF A SUBWAY STAIR**

Where a #development# or #enlargement# is constructed on a #zoning lot# of 5,000 square feet or more of #lot area# that fronts on a portion of a sidewalk containing a stairway entrance or entrances into a subway station located within the #Special Midtown District# as listed in Section 81-46, the #Special Lower Manhattan District# as listed in Section 91-43, the #Special Downtown Brooklyn District# as listed in Section 101-43, the #Special Long Island City Mixed Use District# as described in Section 117-44, the #Special Union Square District# as listed in Section 118-60 and those stations listed in the following table, the existing entrance or entrances shall be relocated from the #street# onto the #zoning lot#. The new entrance or entrances* shall be provided in accordance with the provisions of this Section.

* * *

Article XI - Special Purpose Districts

**Chapter 7
Special Long Island City Mixed Use District**

* * *

**117-10
HUNTERS POINT SUBDISTRICT**

* * *

**117-23
Street Wall Location in Certain Designated Districts**
R6B M1-4/R6A M1-4/R6B M1-4/R7A M1-4/R7X M1-5/R8A

In the districts indicated, the #street wall# of any #development# or #enlargement# containing #residences# shall be located no closer to nor further from the #street line# than the #street wall# of an adjacent existing #building#. However, the #street wall# of a #building# need not be located further from a #street line# than 15 feet. On #corner lots#, the #street wall# along one #street line# need not be located further from the #street line# than five feet. Recesses, not to exceed three feet in depth from the #street line# or eight feet in depth where ramps for the physically handicapped are required, shall be permitted on the ground floor where required to provide access to the #building#.

Existing #buildings# may be vertically enlarged by up to one #story# or 15 feet without regard to the #street wall# location provisions of this Section.

* * *

**117-40
COURT SQUARE SUBDISTRICT**

* * *

**117-401
General provisions**

The regulations governing #developments#, #enlargements#, #extensions# or changes of #use# within the Court Square Subdistrict of the #Special Long Island City Mixed Use District# are contained within Sections 117-40 through 117-45, inclusive. These regulations supplement the provisions of Sections 117-01 through 117-03, inclusive, of the #Special Long Island City Mixed Use District# and supersede the underlying districts.

Mandatory ~~pedestrian circulation~~ and subway improvements are ~~those~~ elements of the Subdistrict Plan which shall be built by the developer of the #zoning lot# to which they apply.

For the purposes of the mandatory ~~pedestrian circulation~~ and subway improvements in the Subdistrict, the #floor area# of the #development# or #enlargement# shall be the total amount of #floor area# resulting from #developments# or #enlargements# after August 14, 1986.

For the purposes of the mandatory ~~pedestrian circulation~~ and subway improvements in the Subdistrict, any tract of land consisting of two or more contiguous lots of record under single ownership or control as of March 1, 1986, shall be considered a single #zoning lot#.

**117-41
Court Square Subdistrict Plan**

The Subdistrict Plan for the Court Square Subdistrict specifies the location of Blocks 1, 2 and 3 and identifies the improvements to be provided in the District under the provisions of this Chapter. The elements of the Subdistrict Plan are set forth in Appendix B of this Chapter, which consists of the Subdistrict Plan Map and the Description of Improvements, and is incorporated into the provisions of this Chapter.

**117-42
Special Bulk and Use Regulations in the Court Square Subdistrict**

#Developments# or #enlargements# containing at least 70,000 square feet of #floor area# on #zoning lots# of at least 10,000 square feet are subject to the provisions of the underlying C5-3 District, as modified by Sections 117-40 through 117-45, inclusive.

Other #developments# or #enlargements# are subject to the #use# provisions of the underlying C5-3 District and the #bulk# provisions of an M1-4/R6B designated district pursuant to the regulations of Article XII, Chapter 3 (Special Mixed Use District), as modified by Sections 117-00 through 117-22, inclusive.

**117-421
Special bulk regulations**

- (a) #Developments# or #enlargements# that meet the minimum #floor area# and #zoning lot# standards of Section 117-44 and provide mandatory subway improvements as required by Section 117-44, may #develop# to a #floor area ratio# of 15.0. #Developments# or #enlargements# that do not meet the minimum standards of Section 117-44 shall not exceed the maximum #floor area ratio# of the designated district for the applicable #use#.
- (b) The following provisions shall not apply within the Court Square Subdistrict:

Section 33-13 (Floor Area Bonus for a Public Plaza)

Section 33-14 (Floor Area Bonus for Arcades)

Section 33-26 (Minimum Required Rear Yards)

Section 34-223 (Floor area bonus for a public plaza)

Section 34-224 (Floor area bonus for an arcade)

Section 34-23 (Modification of Yard Regulations)

(c) The height and setback regulations of the underlying C5-3 District shall apply, except that:

- (1) no #building or other structure# shall exceed a height of 85 feet above the #base plane# within the area bounded by 23rd Street, 44th Road, a line 60 feet east of and parallel to 23rd Street, and a line 75 feet north of and parallel to 45th Road, and
- (2) on Blocks 1 and 3, the #street wall# of a #building# or other structure# shall be located on the #street line# or sidewalk widening line, where applicable, and extend along the entire #street# frontage of the #zoning lot# up to at least a height of 60 feet and a maximum height of 85 feet before setback. Recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#. Above the level of the second #story#, up to 30 percent of the #aggregate width of #street walls# may be located beyond the #street line#, provided no such recesses are within 15 feet of an adjacent #building#.

Above a height of 85 feet, the underlying height and setback regulations shall apply. However, the underlying tower regulations shall be modified to permit portions of #buildings# that exceed a height of 85 feet to be set back at least five feet from a #wide street line#, provided no portion of such #building# that exceeds a height of 85 feet is located within 15 feet of a #side lot line#. The provisions of this paragraph (c)(2), shall not apply to #enlargements# on #zoning lots# existing on (the effective date of amendment), where such #zoning lot# includes an existing #building# to remain with at least 300,000 square feet of #floor area#.

* * *

117-423 Sidewalk widening

For any #development# or #enlargement# on Block 3 with a building wall facing 45th Road, a sidewalk widening of five feet shall be provided on 45th Road between 23rd Street and Jackson Avenue. Such sidewalk widening shall be a continuous, paved open area along the #front lot line# of the #zoning lot# at the same elevation as the adjoining sidewalk and directly accessible to the public at all times. Such sidewalk widening shall be unobstructed from its lowest level to the sky except for temporary elements of weather protection, such as awnings or canopies, provided that the total area (measured on the plan) of such elements does not exceed 20 percent of the sidewalk widening area, and that such elements and any attachments thereto are at least eight feet above #curb level#, and that any post or other support for such element or any attachment to the support has a maximum horizontal dimension of six inches. No #street# trees, vehicle storage, parking or trash storage is permitted on such sidewalk widening.

* * *

117-43 Mandatory Circulation Improvement

All #developments# or #enlargements# on #zoning lots# of at least 15,000 square feet that contain at least 50,000 square feet of #floor area# or on #zoning lots# of any size providing at least 200,000 square feet of #floor area# shall provide a minimum amount of pedestrian circulation space at the rate provided in the following table:

#Lot Area#	Minimum Area of Pedestrian Circulation Space
15,000 to 40,000 sq. ft.	1 sq. ft. per 350 sq. ft. of #floor area#

Above 40,000 sq. ft.

1 sq. ft. per 300 sq. ft. of #floor area#

The pedestrian circulation space provided shall be one or more of the following types: building entrance recess area, corner circulation space, sidewalk widening or subway stair relocation.

Such pedestrian circulation space shall meet the requirements set forth in Section 117-431 (Design standards for pedestrian circulation spaces). No sidewalk widenings or corner circulation spaces shall be permitted along 23rd Street within the Court Square Subdistrict.

117-431 Design standards for pedestrian circulation spaces

(a) Sidewalk widening

A sidewalk widening is a continuous, paved open area along the #front lot line# of a #zoning lot# at the same elevation as the adjoining sidewalk and directly accessible to the public at all times. A sidewalk widening shall meet the following requirements:

(1) Dimensions

A sidewalk widening shall have a width no less than 5 feet nor greater than 10 feet measured perpendicular to the #street line#, and shall be contiguous along its entire length to a sidewalk.

(2) Permitted interruptions

Only under the following conditions shall any interruptions of the continuity of a qualifying sidewalk widening be permitted.

(i) A sidewalk widening may be overlapped by a corner circulation space or a building entrance recess area that permits uninterrupted pedestrian flow.

(ii) An off-street subway entrance may interrupt a sidewalk widening, provided such an entrance is located at a #side lot line# or is located at the intersection of two #street lines#.

(iii) A sidewalk widening may be overlapped by the queuing space of a relocated subway entrance, provided that the queuing space for the entrance leaves a 5-foot uninterrupted width of sidewalk widening along the entire length of the queuing space.

(iv) A sidewalk widening may be interrupted by a driveway that is located at a #side lot line#. The area occupied by the driveway, up to the width of the sidewalk widening, may be counted towards meeting the pedestrian circulation space requirement, provided that there shall be no change of grade within the area of the sidewalk widening.

(3) Permitted obstructions

A sidewalk widening shall be unobstructed from its lowest level to the sky except for temporary elements of weather protection, such as awnings or canopies, provided that the total area (measured on the plan) of such elements does not exceed 20 percent of the sidewalk widening area, and that such elements and any attachments thereto are at least 8 feet above the #curb level#, and that any post or other support for such element or any attachment to the support has a maximum horizontal dimension of 6 inches.

(4) Specific prohibitions

No #street# trees are permitted on a sidewalk widening. No vehicle storage, parking or trash storage is permitted on a sidewalk widening. Gratings may not occupy more than 50 percent of the

sidewalk widening area nor be wider than one half the width of the sidewalk widening.

(5) Special design treatment

When one end of the sidewalk widening abuts an existing #building# on the #zoning lot# or an existing #building# on the #side lot line# of the adjacent #zoning lot#, design treatment of the termination of the sidewalk widening is required to smooth pedestrian flow. The portion of the sidewalk widening subject to design treatment, hereinafter called the transition area, shall not extend more than 10 feet along the sidewalk widening from its termination.

The transition area shall be landscaped and the paved portion shall have a curved or diagonal edge effecting a gradual reduction of its width over the length of the transition area to no width at the point of the sidewalk widening termination. The unpaved portion of such landscaped treatment shall not exceed 50 percent of the transition area and shall be considered a permitted obstruction.

(b) Corner circulation space

A corner circulation space is a small open space on the #zoning lot# of a #development# or #enlargement#, adjoining the intersection of two #streets#, at the same elevation as the adjoining sidewalk or sidewalk widening and directly accessible to the public at all times. A corner circulation space shall meet the following requirements:

(1) Dimensions

A corner circulation space shall have a minimum area of 200 square feet, a minimum depth of 15 feet measured along a line bisecting the angle of intersecting #street lines#, and shall extend along both #street lines# for at least 15 feet but not more than 40 feet from the intersection of the two #street lines#.

(2) Obstructions

A corner circulation space shall be clear of all obstructions, including, without limitation, door swings, building columns, #street# trees, planters, vehicle storage, parking or trash storage. No gratings except for drainage are permitted.

(3) Building entrances

Entrances to ground level #uses# are permitted from a corner circulation space. An entrance to a building lobby is permitted from a corner circulation space, provided that the entrance is at no point within 20 feet of the intersection of the two #street lines# which bound the corner circulation space.

(4) Permitted overlap

A corner circulation space may overlap with a sidewalk widening.

(e) Building entrance recess area

A building entrance recess area is a space which adjoins and is open to a sidewalk or sidewalk widening for its entire length and provides unobstructed access to the building's lobby entrance. A building entrance recess area shall meet the following requirements.

(1) Dimensions

A building entrance recess area shall have a minimum length of 15 feet and a maximum length of 40 feet measured parallel to the #street line#. It shall have a maximum depth of 15 feet measured from the #street line#, and if it adjoins a sidewalk widening shall have a minimum depth of 10 feet measured from the #street line#.

(2) Obstructions

A building entrance recess area shall either be completely open to the sky or completely under an overhanging portion of the #building# with a minimum clear height of 15 feet. It shall be free of obstructions except for building columns, between any two of which there shall be a clear space of at least 15 feet measured

parallel to the #street line#. Between a building column and a wall of the #building# there shall be a clear path at least 5 feet in width.

(3) Permitted overlap

A building entrance recess area may overlap with a sidewalk widening or a corner circulation space.

117-44

Mandatory Subway Improvements

#Developments# or #enlargements# containing at least 70,000 square feet of total #floor area# on #zoning lots# of at least 10,000 square feet shall provide mandatory subway improvements as described in Appendix B of this Chapter

Subway improvements are required for qualifying #developments# or #enlargements# as follows:

(a) #Zoning lots# with at least 5,000 square feet of #lot area#

#Developments# or #enlargements# on #zoning lots# with 5,000 square feet or more of #lot area#, which front on a sidewalk containing a sidewalk entrance(s) to the E and V subway lines, shall relocate the stairway or entrance(s) to such subway onto the #zoning lot# in accordance with the provisions of Section 37-40 (Off-Street Relocation or Renovation of a Subway Stair), with the exception that, in addition to the waivers provided by Section 37-44, the additional standards for location, design and hours of public accessibility contained in Section 37-41 may be waived upon a finding by the Metropolitan Transportation Authority that they are undesirable or unnecessary to ensure a good overall design.

(b) #Zoning lots# with at least 10,000 square feet of #lot area#

#Developments# or #enlargements# on Blocks 1, 2 or 3, identified in Appendix B (Court Square Subdistrict Plan Map and Description of Improvements) of this Chapter, containing at least 70,000 square feet of #floor area# on #zoning lots# of at least 10,000 square feet of #lot area# shall provide mandatory subway improvements as described in paragraph (a) for Block 1, paragraph (b) for Block 2 and paragraph (c)(1) for Block 3 in Appendix B.

In addition, on #Block # 3, any #development# or #enlargement# containing at least 300,000 square feet of total #floor area# or any #development# or #enlargement# on a #zoning lot# of at least 30,000 square feet of #lot area# shall provide all the mandatory subway improvements for the #block #, as described in paragraphs (c)(1) and (c)(2) for Block 3).

117-441

Standards and procedures for mandatory subway improvements

* * *

(b) Procedure

(1) Pre-application

* * *

(6) Where a #development# or #enlargement# is located on a #zoning lot# which fronts on a sidewalk containing a sidewalk entrance or entrances into a subway and such #zoning lot# contains 5,000 square feet or more of #lot area#, such #development# or #enlargement# shall relocate the stairway entrance or entrances to the subway onto the #zoning lot# in accordance with the provisions of Section 37-03 (Off-Street Relocation or Renovation of a Subway Stair), with the exception that, in addition to the waivers provided by Section 37-034 (Waiver of requirements), the additional standards contained in Section 37-031 (Standards for location, design and hours of public accessibility) may be waived upon a finding by the Metropolitan Transportation Authority that they are undesirable or unnecessary to ensure a good overall design.

* * *

117-50

QUEENS PLAZA SUBDISTRICT

* * *

117-531

Street wall location

* * *

- (g) For any #development# or #enlargement# on a #zoning lot# located on Jackson Avenue between 42nd Road and Queens Plaza South, the #street wall# fronting on Jackson Avenue may be set back ~~ten~~ five feet from the #street line# only upon certification of the Chairperson of the City Planning Commission to the Department of Buildings that the Jackson Avenue sidewalk adjacent to the #zoning lot# will be landscaped in accordance with a plan acceptable to the Department of Transportation and the Chairperson. Such plan shall include five planting beds that shall contain a mixture of deciduous and evergreen shrubs, ground covers and flowers. Such planting beds shall be installed and maintained by the owner of the #development# or #enlargement#. The #street wall# of any subsequent #development# or #enlargement# shall be located no closer to nor further from the #street line# than the #street wall# of an adjacent existing #building#.

* * *

Appendix B

Court Square Subdistrict Plan Map and Description of Improvements

* * *

Description of Improvements

This Appendix describes the mandatory lot improvements that are designated on the District Plan Map in Appendix B for the Court Square Subdistrict. ~~This~~ Descriptions refers to the text for requirements and standards for the following improvements.

- (a) ~~#- Block #-1~~
- (+) A subway improvement, to consist of a connection between the G and 7 lines and maintenance of glass partitions in the control area of the E/F Ely Avenue mezzanine and near the control area of the G mezzanine which are to be installed by the developer of ~~#Block#-2~~. The developer shall notify the Chairperson of the City Planning Commission upon both application for and issuance of a first building permit for the #development# on this #block#.
- (b) ~~# Block #2~~
- (+) A subway improvement, to consist of a connection between the E/F and G lines, preparation of preliminary plans for a G/7 connection and installation of glass partitions in the control area of the E/F Ely Avenue mezzanine and near the control area of the G mezzanine upon receipt of a written request by the Chairperson of the City Planning Commission, which shall occur only after the issuance of a first building permit for the #development# on #Block#1.
- (c) ~~#Block #3~~
 - (1) ~~A subway improvement, to consist of construction of a building entrance within the #lot line# at the northwestern corner of the #block#, a direct link to the 7 platform and construction of a new mezzanine area; and/or—~~ The first #development# to meet the criteria for a subway improvement shall construct new entrances at the intersection of 44th Drive and 23rd Street for the Number 7 45th Road/Courthouse Square station, in consultation with the Metropolitan Transportation Authority and the Department of City Planning.
 - (2) ~~A subway improvement, to consist of a substantial physical improvement to the G platform and mezzanine areas, including reconfiguration of control areas as necessary and acoustical upgrading. For subsequent #developments#, a subway improvement to the north end of the Number 7 45th Road/Courthouse Square station shall be required. Such improvement shall be determined in consultation with the Metropolitan Transportation Authority and the Department of City Planning.~~

* * *

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1114

Report of the Committee on Land Use in favor of approving Application no. N 0 090306 ZRM by the Battery Park City Authority, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York concerning Article VII, Chapter 4 (Special Battery Park City District) relating to paragraph e of Section 84-144 (Location of Curb Cuts) on the east side of battery place between Second Place and Third Place.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2361) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 1 N 090306 ZRM

City Planning Commission decision approving an application submitted by the Battery Park City Authority pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, concerning Article VII, Chapter 4 (Special Battery Park City District) relating to paragraph (e) of Section 84-144 (Location of Curb Cuts) on the east side of Battery Place between Second Place and Third Place.

INTENT

To revise regulations pertaining to the permitted curb cuts for Site No. 3 in Battery Park City.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2067

Resolution approving the decision of the City Planning Commission on Application No. N 090306 ZRM, for an amendment of the Zoning Resolution of the City of New York, concerning Article VII, Chapter 4 (Special Battery Park City District) relating to paragraph (e) of Section 84-144 (Location of Curb Cuts) on the east side of Battery Place between Second Place and Third Place (L.U. No. 1114).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on May 22, 2009 its decision dated May 20, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Battery Park City Authority for an amendment to the Zoning Resolution of the City of New York,

concerning Article VII, Chapter 4 (Special Battery Park City District) relating to paragraph (e) of Section 84-144 (Location of Curb Cuts) on the east side of Battery Place between Second Place and Third Place, Application No. N 090306 ZRM, Community District 1, Borough of Manhattan (the "Application");

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration issued on February 24, 2009, under SEQRA regulations with the Battery Park City Authority as lead agency.

RESOLVED:

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

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

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

**Chapter 84
Special Battery Park City District**

**84-144
Location of curb cuts**

Curb cuts are permitted only in the areas or locations indicated in Appendices 2.6 and 3.5. The aggregate width of all curb cuts provided for any #development# shall not exceed 20 feet, except that:

- (a) for the #zoning lot# bounded to the north by a mapped public place, to the west by North Park, to the south by Chambers Street, and to the east by Marginal Street, the aggregate width of all curb cuts shall not exceed 40 feet;
- (b) for the #zoning lot# bounded by Warren Street to the north, River Terrace to the west, North End Avenue to the east and Park Place West to the south, the aggregate width of all curb cuts shall not exceed 30 feet, comprised of two 15 foot curb cuts;
- (c) for the #zoning lot# bounded by Murray Street to the north, River Terrace to the west, North End Avenue to the east and Vesey Place to the south, the aggregate width of all curb cuts shall not exceed 40 feet, including a 25 foot wide curb cut to the #accessory# off-street parking facility;
- (d) for the #zoning lot# south of First Place and east of Battery Place, the aggregate width of all curb cuts shall not exceed 50 feet;
- (e) for each #zoning lot# located on the east side of Battery Place:
 - (1) between First Place and ~~Third~~ Second Place, the aggregate width of all curb cuts shall not exceed 40 feet;
 - (2) between Second Place and Third Place, the aggregate width of all curb cuts shall not exceed 50 feet; and
- (f) for the #zoning lot# south of First Place and west of Battery Place, the aggregate width of all curb cuts shall not exceed 24 feet.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1116

Report of the Committee on Land Use in favor of approving Application no. C 090166 MMX by the Department of City Planning, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment of the City Map, involving the establishment of a waterfront Park in area bounded by Major Deegan Boulevard, the Harlem River, and the extensions of East 144th Street and East 146th Street and any acquisition or disposition of real property.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2362) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

BRONX CB - 1

C 090166 MMX

City Planning Commission decision approving an application submitted by the Department of City Planning and the Department of Parks and Recreation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

the establishment of a waterfront Park in an area bounded by Major Deegan Boulevard, the Harlem River, and the extensions of East 144th Street and East 146th Street;

and any acquisition or disposition of real property related thereto,

in accordance with Map No. 13124 dated January 29, 2009 and signed by the Borough President.

INTENT

To facilitate new development in the Lower Concourse area of the Bronx.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 30, 2009

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

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

Res. No. 2068

Resolution approving the decision of the City Planning Commission on ULURP No. C 090166 MMX, an amendment to the City Map (L.U. No. 1116).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on May 27, 2009 its decision dated May 20, 2009 (the "Decision"), on the application submitted by the New York City Department of City Planning and the Department of Parks and Recreation, pursuant to Sections 197-c and 199 of the New York City Charter, for an amendment to the City Map involving:

- the establishment of a waterfront Park in an area bounded by Major Deegan Boulevard, the Harlem River, and the extensions of East 144th Street and East 146th Street;

- and any acquisition or disposition of real property related thereto,

in accordance with Map No. 13124 dated January 29, 2009 and signed by the Borough President, (ULURP No. C 090166 MMX), Community District 1, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers N 090302 ZRX (L.U. No. 1117), a zoning text amendment to establish a Special Mixed Use District and a Special Harlem River Waterfront District and C 090303 ZMX (L.U. No. 1127), a Zoning Map Amendment of 30 city blocks to allow residential and commercial development, and light industrial uses;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 23, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on May 8, 2009 (CEQR No. 08DCP071X).

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

RESOLVED:

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

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) From among the reasonable alternatives thereto, the actions to be approved, is one which avoids or minimizes adverse environmental impacts to the maximum extent practicable; and
- (3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent possible by incorporating as conditions to the approval those mitigative measures that were identified as practicable;
- (4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards, that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

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

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1117

Report of the Committee on Land Use in favor of approving Application no. C 090302 ZRX by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York concerning Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area); Article VIII, Chapter 7 establishing the Special Harlem River Waterfront District; and Article XII, Chapter 3 (Special Mixed Use District) specifying a special Mixed Use District (MX-13) and amending related sections of the Zoning Resolution.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2362) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

BRONX CB - 1

N 090302 ZRX

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area); Article VIII, Chapter 7 establishing the Special Harlem River Waterfront District; and Article XII, Chapter 3 (Special Mixed Use District) specifying a Special Mixed Use District (MX-13) and amending related sections of the Zoning Resolution.

INTENT

To facilitate new development in the Lower Concourse area of the Bronx.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 30, 2009

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

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

Res. No. 2069

Resolution approving the decision of the City Planning Commission on Application No. N 090302 ZRX, for an amendment of the Zoning Resolution of the City of New York, relating to Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area); Article VIII, Chapter 7 establishing the Special Harlem River Waterfront District; and Article XII, Chapter 3 (Special Mixed Use District) specifying a Special Mixed Use District (MX-13) and amending related sections of the Zoning Resolution, Borough of the Bronx (L.U. No. 1117).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on May 27, 2009 its decision dated May 20, 2009 (the "Decision"), pursuant to Section 201 of the New York City Charter, regarding an application submitted by the Department of City Planning, for an amendment of the Zoning Resolution of the City of New York, relating to Article VI, Chapter 2 (Special Regulations Applying in the Waterfront Area); Article VIII, Chapter 7 establishing the Special Harlem River Waterfront District; and Article XII, Chapter 3 (Special Mixed Use District) specifying a Special Mixed Use District (MX-13) and amending related sections of the Zoning Resolution, Application No. N 090302 ZRX, Community District 1, Borough of the Bronx (the "Application");

WHEREAS, the Application is related to ULURP Application Numbers C 090303 ZMX (L.U. No. 1127), an amendment to the Zoning Map and C 090166 MMX (L.U. No. 1116), an amendment to the City Map to establish a park along the Harlem River;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on May 8, 2009 (CEQR No. 08DCP071X).

RESOLVED:

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

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

(2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the Canal/Rider Retention Alternative as identified in the FEIS is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable;

(3) The adverse environmental impacts disclosed in the FEIS with respect to the Canal/Rider Retention Alternative will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable; and

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

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

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

- Matter in underline is new, to be added;
- Matter in ~~strikeout~~ is to be deleted;
- Matter with ## is defined in Section 12-10;
- * * * indicates where unchanged text appears in the Zoning Resolution

* * *

**Article I
General Provisions**

**Chapter 1
Title, Establishment of Controls and Interpretation of Regulations**

* * *

**11-12
Establishment of Districts**

* * *

Establishment of the Special Grand Concourse Preservation District

* * *

Establishment of the Special Harlem River Waterfront District

In order to carry out the special purposes of this Resolution as set forth in Article VIII Chapter 7, the #Special Harlem River Waterfront District# is hereby established.

* * *

**Chapter 2
Construction of Language and Definitions**

* * *

**12-10
DEFINITIONS**

* * *

Special Harlem River Waterfront District

The "Special Harlem River Waterfront District" is a Special Purpose District designated by the letter "HRW" in which special regulations set forth in Article VIII Chapter 7 apply. The #Special Harlem River Waterfront District# appears on the #zoning maps# superimposed on other districts and its regulations supplement and supersede those of the districts on which it is superimposed.

* * *

**Article II
Residence District Regulations**

**Chapter 3
Bulk Regulations for Residential Buildings in Residence Districts**

* * *

**23-144
In designated areas where the Inclusionary Housing Program is applicable**

In #Inclusionary Housing designated areas#, as listed in the following table, the maximum permitted #floor area ratios# shall be as set forth in Section 23-942 (In Inclusionary Housing designated areas). The locations of such districts are specified in Section 23-922 (Inclusionary Housing designated areas).

Community District	Zoning District
<u>Community District 1, Bronx</u>	<u>R6A R7-2 R7A R7X R8A</u>
Community District 1, Brooklyn	R6 R6A R6B R7A
Community District 2, Brooklyn	R7A
Community District 3, Brooklyn	R7D
Community District 7, Brooklyn	R8A
Community District 6, Manhattan	R10
Community District 7, Manhattan	R9A
Community District 2, Queens	R7X

* * *

**23-90
INCLUSIONARY HOUSING**

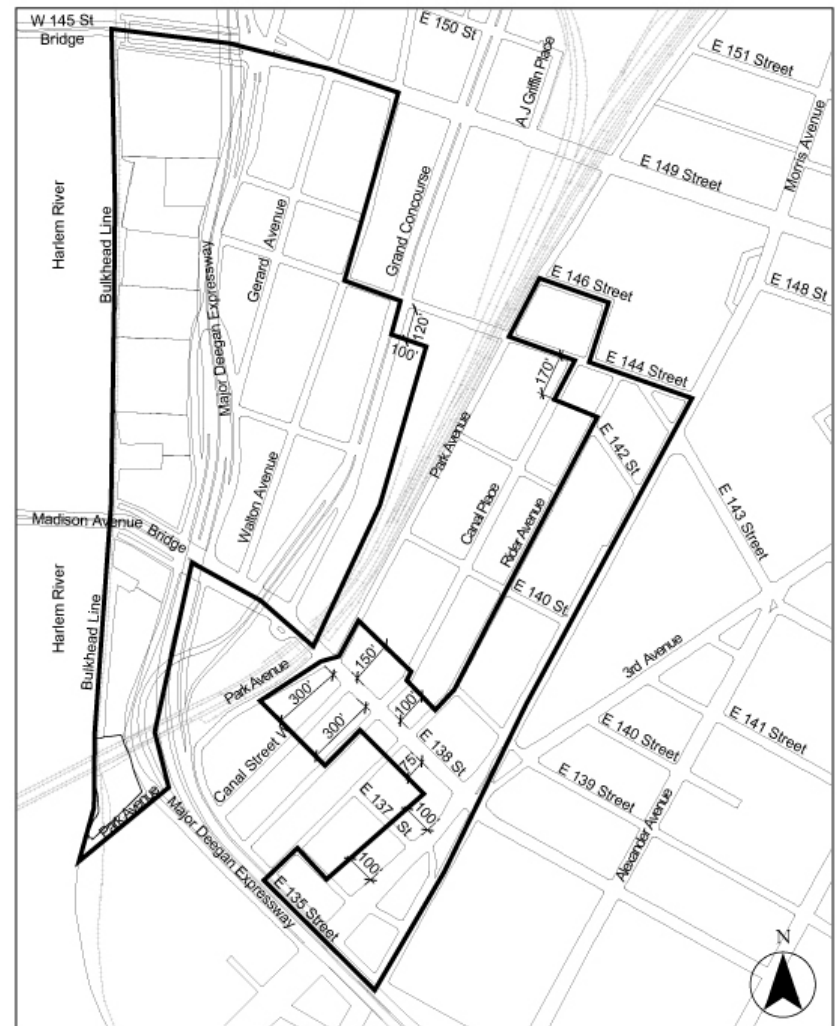
* * *

**23-922
Inclusionary housing designated areas**

The Inclusionary Housing Program shall apply in the following areas:

* * *

(17) In Community District 1, in the Borough of the Bronx, in the R6A, R7-2, R7A, R7X and R8A Districts within the areas shown on the following Map 17:



Map 17. Portion of Community District 1, Bronx

* * *

Article IV

Manufacturing District Regulations

**Chapter 2
Use Regulations**

* * *

**42-10
USES PERMITTED AS-OF-RIGHT**

* * *

**42-12
Use Groups 3A, 6A, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16**

M1 M2 M3

Use Group 3A shall be limited to Museums that are ancillary to existing Motion Picture Production Studios or Radio or Television Studios, provided they are located within 500 feet of such studios and do not exceed 75,000 square feet of #floor area#.

Use Groups 6A except that foodstores, including supermarkets, grocery stores, or delicatessen stores, shall be limited to 10,000 square feet of #floor area# per establishment, 6B, 6D, 6F, 7B, 7C, 7D, 7E, 8, 9B, 9C, 10A, 10B, 10C, 11, 12A, 12C, 12D, 12E, 13, 14 and 16 as set forth in Sections 32-15 to 32-23, inclusive, and Section 32-25. However, in Community District 1, in the Borough of the Bronx, in M1-4 Districts, foodstores, including supermarkets, grocery stores, or delicatessen stores, shall be limited to 30,000 square feet of #floor area# per establishment.

* * *

**Article VI
Special Regulations Applicable to Certain Areas**

* * *

**Chapter 2
Special Regulations Applying in the Waterfront Area**

* * *

**62-90
WATERFRONT ACCESS PLANS**

* * *

**62-92
Borough of The Bronx**

The following Waterfront Access Plans are hereby established within the Borough of the Bronx. All applicable provisions of Article VI, Chapter 2, remain in effect within the areas delineated by such plans, except as expressly set forth otherwise in the plans:

BX-1: Harlem River, in the #Special Harlem River Waterfront District#, as set forth in Section 87-60 (Harlem River Waterfront Access Plan).

* * *

Note: All text in Article VIII, Chapter 7 is new; it is not underlined.

**Article VIII
Special Purpose Districts**

**Chapter 7
Special Harlem River Waterfront District**

**87-00
GENERAL PURPOSES**

The "Special Harlem River Waterfront District" established in this Resolution is designed to promote and protect public health, safety and general welfare. These general goals include, among others, the following specific purposes:

- (a) maintain and reestablish physical and visual public access to and along the waterfront;

- (b) create a lively and attractive built environment that will provide amenities and services for the use and enjoyment of area residents, workers and visitors;
- (c) promote the pedestrian orientation of ground floor uses in appropriate locations, and thus safeguard a traditional quality of higher density areas of the City;
- (d) encourage well-designed new development that complements the built character of the neighborhood;
- (e) take advantage of the Harlem River waterfront and provide an open space network comprised of parks, public open space and public access areas;
- (f) provide flexibility of architectural design within limits established to assure adequate access of light and air to streets and public access areas, and thus to encourage more attractive and economic building forms; and
- (g) promote the most desirable use of land and building development in accordance with the District Plan for the Harlem River waterfront.

**87-01
Definitions**

Parcel 1 Building Line

The "Parcel 1 Building Line" shall be:

- (a) in the event that the portion of the Major Deegan Expressway traversing Parcel 1 has been widened after (effective date of amendment), a line 22 feet west of and parallel to the as-built western edge of such expressway structure; or
- (b) in the event that the portion of the Major Deegan Expressway traversing Parcel 1 has not been widened after (effective date of amendment), a line connecting the points described below.
 - (1) a point located on the southern #street line# of East 149th Street that is 47 feet west of its intersection with Exterior Street; and
 - (2) a point on the southern boundary of Parcel 1 that is 107 feet west of its intersection with Exterior Street.

**87-02
General Provisions**

In harmony with the general purpose and intent of this Resolution and the general purposes of the #Special Harlem River Waterfront District#, the regulations of the #Special Harlem River Waterfront District# shall apply to all #developments#, #enlargements#, alterations and changes of #use# within the #Special Harlem River Waterfront District#, except as otherwise provided in this Chapter. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

**87-03
District Plan and Maps**

The regulations of this Chapter are designed to implement the #Special Harlem River Waterfront District# Plan as set forth in the Appendix to this Chapter. The plan area has been divided into parcels consisting of tax blocks and lots as established on (effective date of amendment), as follows:

- Parcel 1: Block 2349, Lot 112
- Parcel 2: Block 2349, Lot 100
- Parcel 3: Block 2349, Lots 46, 47 & 146
- Parcel 4: Block 2349, Lot 38
- Parcel 5: Block 2349, Lots 15 & 20
- Parcel 6: Block 2349, Lots 3 & 4

- Parcel 7: Block 2323, Lot 43
- Parcel 8: Block 2323, Lot 28
- Parcel 9: Block 2323, Lots 5, 13 & 18

The District Plan includes the following maps:

- Map 1 #Special Harlem River Waterfront District# and Parcels
- Map 2 Waterfront Access Plan: Public Access Elements

87-04
Applicability of Article I, Chapter 1

Within the #Special Harlem River Waterfront District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection of the City of New York stating:

- (a) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or
- (b) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

87-05
Applicability of Article VI, Chapter 2

Parcels 1, 2, 3 and 4, as shown on Map 1 (Special Harlem River District and Parcels) shall be considered #waterfront zoning lots#, notwithstanding the mapping of any #streets# on such parcels after (effective date of amendment).

87-06
Modification of Use and Bulk Regulations for Parcels Containing Newly Mapped Streets

In the event that #streets# are mapped on Parcels 1, 2, 3 and 4 after (effective date of amendment), the area within such #streets# may continue to be considered part of the #zoning lot# for the purposes of applying all #use# and #bulk# regulations of this Zoning Resolution.

87-10
SPECIAL USE REGULATIONS

The #use# regulations of the underlying districts are modified in Sections 87-11 through 87-24, inclusive.

As used in this Section, “ground floor level” shall mean the finished floor level within five feet of an adjacent public sidewalk or any other publicly accessible open area.

87-11
Vehicle Storage Establishments

Commercial or public utility vehicle storage, open or enclosed, including #accessory# motor fuel pumps as listed in Use Group 16C shall be a permitted #use# on Parcel 5, provided that:

- (a) such #use# is the primary #use# on the parcel;
- (b) no more than 10,000 square feet of #floor area# shall be provided on Parcel 5, and
- (c) a #shore public walkway# is provided as set forth in paragraph (a) of Section 87-61 (Public Access Provisions by Parcel).

The streetscape provisions of Section 87-13, the maximum width of establishment provisions of Section 87-23 and the special height and setback regulations of Section 87-30, inclusive, shall not apply to such #use#.

87-12
Location of Commercial Space

The provisions of Section 32-422 (Location of floors occupied by non-residential uses)

are modified to permit #residential uses# on the same #story# as a non-#residential use# provided no access exists between such #uses# at any level containing #residences# and provided any non-#residential uses# are not located directly over any #residential use#. However, such non-#residential uses# may be located over a #residential use# by authorization of the City Planning Commission upon a finding that sufficient separation of #residential uses# from non-#residential uses# exists within the #building#.

87-13
Streetscape Regulations

- (a) Ground floor #use#

All #uses# shall have a depth of at least 25 feet from #building walls# facing a #shore public walkway#, #park# or #upland connection#. Lobbies and entrances may not occupy more than 20 feet or 25 percent of such #building wall# width, whichever is less. The level of the finished ground floor shall be located not higher than two feet above nor lower than two feet below the as-built level of the adjacent public sidewalk or other publicly accessible open area.

For #buildings# on Parcels 1 through 6 that face a #shore public walkway#, #park# or #upland connection#, not less than 20 percent of the ground floor level #floor area# of such portions of #buildings#, to a depth of 25 feet shall consist of #uses# from Use Groups 6A, 6C, 6F, 8A, 8B and 10A, as set forth in Article III, Chapter 2.

- (b) Transparency

Any #building wall# containing ground floor level #commercial# and #community facility uses# that faces a #shore public walkway#, #park# or #upland connection# shall be glazed with transparent materials which may include show windows, glazed transoms or glazed portions of doors. Such glazing shall occupy at least 70 percent of the area of each such ground floor level #building wall#, measured to a height of ten feet above the level of the adjoining public sidewalk or other publicly accessible open area or #base plane#, whichever is higher. Not less than 50 percent of the area of each such ground floor level #building wall# shall be glazed with transparent materials and up to 20 percent of such area may be glazed with translucent materials.

- (c) Security Gates

All security gates that are swung, drawn or lowered to secure commercial or community facility premises shall, when closed, permit visibility of at least 75 percent of the area covered by such gate when viewed from the #street# or publicly accessible open area, except that this provision shall not apply to entrances or exits to parking garages.

87-14
Location of Underground Uses

Notwithstanding the provisions of Section 62-332 (Rear yards and waterfront yards), underground #uses#, such as parking garages, shall not be allowed in #waterfront yards#.

87-20
SPECIAL FLOOR AREA REGULATIONS

The #Special Harlem River Waterfront District# shall be an #Inclusionary Housing designated area#, pursuant to Section 12-10 (DEFINITIONS), for the purpose of making the Inclusionary Housing Program regulations of Section 23-90 (INCLUSIONARY HOUSING), inclusive, applicable as modified within the Special District.

87-21
Special Residential Floor Area Regulations

The base #floor area ratio# for any #zoning lot# containing #residences# shall be 3.0. Such base #floor area ratio# may be increased to a maximum of 4.0 through the provision of #lower income housing# pursuant to the provisions for #Inclusionary Housing designated areas# in Section 23-90 (INCLUSIONARY HOUSING), except that the height and setback regulations of paragraph (b) of Section 23-942 (In Inclusionary Housing designated areas) shall not apply. In lieu thereof, the height and setback regulations of this Chapter shall apply.

87-22**Special Retail Floor Area Requirement**

For each square foot of #commercial floor area# in a #building# from the #uses# listed in paragraph (a) of this Section, an equal or greater amount of #residential#, #community facility# or #commercial floor area# from #uses# listed in paragraph (b) of this Section shall be provided.

(a) Use Groups 6A and 6C, except for:

Docks for ferries, other than #gambling vessels#, limited to an aggregate operational passenger load, per #zoning lot#, of 150 passengers per half hour, and

Docks for water taxis with vessel capacity limited to 99 passengers, and

Docks or mooring facilities for non-commercial pleasure boats;

The following from Use Group 10:

Carpet, rug, linoleum or other floor covering stores, with no limitation on #floor area# per establishment

Clothing or clothing accessory stores, with no limitation on #floor area# per establishment

Department stores

Dry goods or fabric stores, with no limitation on #floor area# per establishment

The following from Use Group 12:

Billiard parlor or pool halls

Bowling alleys or table tennis halls, with no limitation on number of bowling lanes per establishment

Eating or drinking establishments with entertainment and a capacity of more than 200 persons, or establishments of any capacity with dancing

The following retail establishments:

Antique stores

Art gallery, commercial

Book stores

Candy or ice cream stores

Cigar and tobacco stores

Delicatessen stores

Drug stores

Gift shops

Jewelry or art metal craft shops

Music stores

Photographic equipment stores

Record stores

Stationery stores

Toy stores

(b) All #residential uses# in Use Groups 1 and 2

All #community facility uses# from Use Group 3, 4A, and 4B, except cemeteries

All #commercial uses# from Use Groups 5A, 6B and 8A

However, the City Planning Commission may authorize a modification or waiver of this provision upon finding that such #building# includes:

- (1) a superior site plan that enables safe and efficient pedestrian connectivity to and between establishments and publicly accessible open areas;
- (2) a superior parking and circulation plan that reduces conflicts between pedestrian and vehicular traffic, minimizes open parking lots, and limits conflicts between curb cuts;
- (3) a design that enhances and is integrated with publicly accessible open areas including provision of a public entrance fronting on a #waterfront public access area#;
- (4) a variety of retail establishments; and
- (5) #uses# that do not unduly affect the #residential uses# in the nearby area or conflict with future land use and #development# of adjacent areas.

The City Planning Commission may prescribe appropriate conditions and safeguards to minimize adverse effects of any such #uses# on publicly accessible open areas.

87-23**Maximum Width of Establishments**

On Parcels 5 and 6, the width of any ground floor level #commercial# or #community facility# establishments facing a #shore public walkway# or #upland connection#, shall be limited to 60 feet for each #street wall# facing such #shore public walkway# or #upland connection#.

87-24**Location of Building Entrances**

On Parcels 1, 2, 3 and 4, the main front entrance of at least one #building#, as the term "main front entrance" is used in the New York City Fire Code, Section 502.1 (FRONTAGE SPACE), shall be located facing the #shore public walkway#. Such main front entrance of a #building# shall be:

(a) on Parcel 1, located no less than 120 feet from 149th Street;

(b) on Parcel 2, located no less than 95 feet from a #park#; and

(c) on Parcels 3 and 4, located no less than 45 feet from an #upland connection#.

87-30**SPECIAL HEIGHT AND SETBACK REGULATIONS**

The underlying height and setback regulations shall not apply. In lieu thereof, the special height and setback regulations of this Section 87-30, inclusive, shall apply. For the purposes of applying such regulations:

- (a) a #shore public walkway#, #park#, #upland connection# or fire apparatus access road, as required by the New York City Fire Code, shall be considered a #street# and its boundary shall be considered a #street line#. However, the following shall not be considered #streets# for the purposes of applying the #street wall# location provisions of paragraph (a) of Section 87-32:

- (1) Exterior street, and
 - (2) That portion of any other #street#, #park#, #upland connection# or fire apparatus access road that is located east of the #Parcel 1 Building Line#.
- (b) the height of all #buildings# or other structures# shall be measured from the #base plane#.

**87-31
Permitted Obstructions**

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings#, except that elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a maximum height limit, provided that either:

- (a) the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage; or
- (b) the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c) of Section 23-621 (Permitted obstructions in certain districts).

**87-32
Street Wall Location and Building Base**

- (a) #Street wall# location

The #street wall# of the #development# or #enlargement# shall be located within five feet of the #street line# and extend along the entire frontage of the #zoning lot#, except that:

- (1) ground floor level recesses up to three feet deep shall be permitted for access to building entrances; and
- (2) to allow for corner articulation, the #street wall# may be located anywhere within an area bounded by intersecting #street lines# and lines 15 feet from and parallel to such #street lines#; and
- (3) for #buildings# that are required to locate at least one main front entrance facing a #shore public walkway#, pursuant to Section 87-24 (Location of Building Entrances), no portion of the #street wall# containing such entrance shall be closer to the #shore public walkway# than the main front entrance; and
- (4) no portion of a #building# facing a #shore public walkway#, except on Parcel 1, shall exceed a width of 300 feet.

However, on Parcel 1, in order to accommodate a sewer easement located within an area bounded by the eastern boundary of the #shore public walkway#, East 149th Street, a line 120 feet south of and parallel to East 149th Street and a line 120 feet east of and parallel to the #shore public walkway#, no #street wall# shall be required along that portion of East 149th Street and any fire apparatus access road within such easement area. Such area not #developed# as a fire apparatus access road and open to the sky shall be at least 35 percent planted and shall not be used for parking or loading. Furthermore, in the event such area contains a driveway, it shall be screened from the #shore public walkway# and East 149th Street, except for curb cuts and pedestrian paths, with densely planted evergreen shrubs maintained at a height of three feet.

- (b) Minimum and Maximum Base Heights

The #street wall# of a #development# or #enlargement# shall rise without setback to a minimum base height of six #stories# or 60 feet, or the height of the #building#, whichever is less, and a maximum base height of eight #stories# or 85 feet, whichever is less, before a setback is required. However, on Parcels 5 and 6, for #street walls# facing a #shore public walkway#, the minimum base height shall be 20 feet and the maximum base height shall be four #stories# or 40 feet, whichever is less, before a setback is required. Any portion of a #building# or other structure# that does

not exceed such maximum base heights shall hereinafter be referred to as a "building base".

All portions of #buildings# that exceed the maximum base heights set forth in this paragraph, (b), shall be set back from the #street wall# of the #building# at least ten feet along a #shore public walkway#, #park# and Exterior Street, and at least 15 feet along an #upland connection#.

For #developments# or #enlargements# that exceed a height of eight #stories# or 85 feet, except on Parcels 5, 6, 7 and 9, not more than 40 percent of the #aggregate width of street walls# facing a #shore public walkway# shall rise without setback to at least a height of six #stories# or 60 feet, whichever is less, and at least 40 percent of the #aggregate width of street walls# facing a #shore public walkway# shall rise without setback to at least a height of eight #stories# or 85 feet, whichever is less.

Above the level of the second #story#, up to 30 percent of the #aggregate width of street walls# may be recessed, provided no recesses are located within 15 feet of an adjacent #building# or within 30 feet of the intersection of two #street lines#, except where corner articulation is provided as set forth in subparagraph (a)(1) of this Section.

- (c) Transition heights

All #street walls#, except on Parcels 5 and 6, may rise to a maximum transition height of 115 feet, provided that, except on Parcel 7, not more than 60 percent of the #aggregate width of street walls# facing a #shore public walkway# exceeds a height of 85 feet. On Parcels 5 and 6, a #street wall# may rise to a maximum transition height of 85 feet, without limitation.

All portions of #buildings# that exceed the transition heights set forth in this paragraph, (c), shall comply with the tower provisions of Section 87-33.

**87-33
Towers**

All #stories# of a #development# or #enlargement# located partially or wholly above the applicable transition height set forth in paragraph (c) of Section 87-32 shall be considered a "tower" and shall comply with the provisions of this Section. For #zoning lots# with less than 130,000 square feet of #lot area#, only one tower shall be permitted. For #zoning lots# with 130,000 square feet of #lot area# or more, not more than two towers shall be permitted.

- (a) Maximum tower height

For #zoning lots# with 100,000 square feet of #lot area# or less, the maximum height of a #building# shall be 300 feet. The maximum height of #buildings# on #zoning lots# with more than 100,000 square feet of #lot area# shall be 400 feet; however, for #zoning lots# with two towers, such maximum #building# height of 400 feet shall apply to not more than one tower, a maximum #building# height of 260 feet shall apply to the second tower, and there shall be a height differential of at least 40 feet between both towers.

- (b) Location rules for #zoning lots# adjacent to #parks#

Where a tower is provided on a #zoning lot# adjacent to a #park#, such tower or portion thereof shall be located within 85 feet of such #park#, and if two towers are provided on such #zoning lot#, the second tower or portion thereof shall be located either within 120 feet of East 149th Street or within 45 feet of an #upland connection#. Where two towers are provided on a #zoning lot# adjacent to a #park#, the shorter of the towers shall be located nearer the #park#.

- (c) Maximum tower size

The outermost walls of each #story# located entirely above the applicable transition height shall be inscribed within a rectangle. The maximum length of any side of such rectangle shall be 135 feet. Each #story# of a tower located entirely above the applicable transition height shall not exceed a gross area of 8,800 square feet.

- (d) Tower top articulation

All #buildings# that exceed a height of 200 feet shall provide articulation in accordance with at least one of following provisions:

- (1) Setbacks on each tower face
- (i) For #buildings# less than 260 feet in height, the highest three #stories#, or as many #stories# as are located entirely above a height of 200 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#.
- (ii) For #buildings# 260 feet or more in height, the highest four #stories#, or as many #stories# as are located entirely above a height of 260 feet, whichever is less, shall have a #lot coverage# of at least 50 percent of the #story# immediately below such #stories#, and a maximum #lot coverage# of 80 percent of the #story# immediately below such #stories#.

Such reduced #lot coverage# shall be achieved by one or more setbacks on each face of the tower, where at least one setback on each tower face has a depth of at least four feet, and a width that, individually or in the aggregate, is equal to at least 10 percent of the width of such respective tower face. For the purposes of this subparagraph (1), each tower shall have four tower faces, with each face being the side of a rectangle within which the outermost walls of the highest #story# not subject to the reduced #lot coverage# provisions have been inscribed. The required setbacks shall be measured from the outermost walls of the #building# facing each tower face. Required setback areas may overlap.

- (2) Three setbacks facing Harlem River

The upper #stories# of a tower shall provide setbacks with a minimum depth of 15 feet measured from the west facing wall of the #story# immediately below. Such setbacks shall be provided at the level of three different #stories#, or as many #stories# as are located entirely above a height of 230 feet, whichever is less. The lowest level at which such setbacks may be provided is 230 feet, and the highest #story# shall be located entirely within the eastern half of the tower.

87-40 SPECIAL REQUIREMENTS FOR CERTAIN ROADS AND SIDEWALKS

87-41 Fire Apparatus Access Roads

Where a fire apparatus access road is provided as required by the New York City Fire Code, such road shall comply with the following requirements.

- (a) The width of a paved road bed shall be 34 feet, constructed to minimum Department of Transportation standards for public #streets#, including curbs and curb drops.
- (b) Curbs shall be provided along each side of the entire length of such road.
- (c) A minimum 13 foot paved sidewalk shall be provided adjacent to and along the entire length of the required curb.
- (d) For the purposes of making the #street# tree requirements of Section 26-41 applicable to fire apparatus access roads, a fire apparatus access road shall be considered a #street#.
- (e) All such roads shall be constructed with lighting, signage, materials and crosswalks to minimum Department of Transportation standards for public #streets#.

87-42 Sidewalks

In the event that Parcel 1 is #developed# with #mixed-use buildings#, sidewalks shall be provided on Parcel 1 as follows:

- (a) Sidewalks with a depth of at least 15 feet, measured perpendicular to the curb of a #street#, shall be provided along the entire Exterior Street and

149th Street frontage of a #zoning lot#. In locations where the width of the sidewalk within the #street# is less than 15 feet, a sidewalk widening shall be provided on the #zoning lot# so that the combined width of the sidewalk within the #street# and the sidewalk widening equals 15 feet. However, existing #buildings# to remain on the #zoning lot# need not be removed in order to comply with this requirement.

- (b) A 22 foot wide walkway shall extend east of and along the #Parcel 1 Building Line#, linking East 149th Street and a #park#, or fire apparatus access road if such road is #developed# adjacent to the #park#. In the event that a parking lot is #developed# east of such walkway, the easternmost seven feet of such walkway shall be densely planted with evergreen shrubs maintained at a maximum height of three feet above the adjoining walkway. Such walkway and planting strip may be interrupted to allow vehicular or pedestrian access.
- (b) Any driveway located east of the #Parcel 1 Building Line# that extends along a sewer easement and intersects Exterior Street shall have curbs and sidewalks with a minimum width of 13 feet along each curb, which may be interrupted to allow for vehicular access to a parking lot.

All sidewalks and sidewalk widenings shall be constructed or improved to Department of Transportation standards, shall be at the same level as the adjoining public sidewalks, and shall be accessible to the public at all times.

87-50 SPECIAL PARKING REGULATIONS

The following provisions shall apply to all parking facilities:

- (a) Use of parking facilities

All #accessory# off-street parking spaces may be made available for public use; any such space, however, shall be made available to the occupant of a #residence# to which it is accessory within 30 days after written request therefore is made to the landlord.

- (b) Off-site parking

The off-site parking location provisions of Sections 36-42 and 36-43 shall not apply. In lieu thereof, all permitted or required off-#street# parking spaces may be provided on a #zoning lot# other than the same #zoning lot# to which such spaces are #accessory#, provided the lot to be used for parking is within the #Special Harlem River Waterfront District#.

- (c) Location requirements for parking facilities

No parking facility, open or enclosed, shall front upon or be visible from

- (1) a #shore public walkway#, except as provided for in paragraph (e) for Parcel 5;
- (2) any #upland connection# or #park#, or portion thereof, that is located west of the #Parcel 1 Building Line#.

- (d) Design requirements for enclosed off-street parking facilities

All enclosed off-street parking facilities shall be located either entirely below the level of any #street# or publicly accessible open area upon which such facility fronts, or when located above grade, in compliance with the following provisions:

- (1) The provisions of this subparagraph (1) shall apply to facilities facing a #shore public walkway#, #upland connection#, #park#, or northern #street line# of 138th Street.

Such facilities shall be located at every level above-grade, behind #commercial#, #community facility# or #residential floor area# with a minimum depth of 25 feet as measured any #building wall# facing a #shore public walkway#, or facing that portion of an #upland connection# or #park# located west of the #Parcel 1 Building Line# so that no portion of such parking facility is visible from the #shore public walkway#, #upland connection# or #park#. All such parking facilities shall be exempt from the definition of #floor area#.

On Parcel 6, the ground floor of a #building# within 60 feet of the intersection of Exterior Street and East 138th Street shall be

occupied to a depth of 25 feet with #commercial#, #community facility# or #residential floor area# so that no portion of a parking facility is visible from such portion of Exterior Street or East 138th Street.

- (2) The provisions of this subparagraph (2) shall apply to facilities not facing a #shore public walkway#, or that portion of an #upland connection# or #park# located west of the #Parcel 1 Building Line#, or northern #street line# of East 138th Street.

Such facilities shall be designed so that:

- (i) any non-horizontal parking desk structures are not visible from the exterior of the #building# in elevation view;
- (ii) opaque materials are located on the exterior #building wall# between the bottom of the floor of each parking desk and no less than three feet above such deck; and
- (iii) a total of at least 50 percent of such exterior #building wall# with adjacent parking spaces consists of opaque materials which may include permitted #signs#, graphic or sculptural art, or living plant material.

- (e) Open parking lots

The requirements of Section 37-90 (PARKING LOTS) and screening requirements for open parking lots of Article VI Chapter 2 (Special Regulations Applying in the Waterfront Area) are modified as set forth in this paragraph (e).

For the purposes of applying the requirements of Section 37-90 (PARKING LOTS), a fire apparatus access road shall be considered a #street#.

On Parcel 1, for parking lots or portions thereof located east of the #Parcel 1 Building Line#, no landscaping shall be required. Such parking lots shall be screened from #streets# and any other publicly accessible areas by ornamental fencing, excluding chain link fencing, with a surface area at least 50 percent open and not more than four feet in height. However, along that portion of Exterior Street located between East 149th Street and a sewer easement, a seven foot wide strip, densely planted with evergreen shrubs maintained at a height of three feet shall be provided.

On Parcel 5, if a commercial or public utility vehicle storage #use# , as listed in Use Group 16C, is #developed# or #enlarged# as the primary #use# on the parcel, the screening requirements applicable to open parking lots set forth in Article VI, Chapter 2 shall not apply. In lieu thereof, such open parking lot shall be screened from the adjacent #shore public walkway# and #upland connection# with a wall or fence, other than a chain link fence, not more than 50 percent opaque, and at least five feet in height, but not more than six feet in height.

- (f) Roof parking

Any roof of a facility containing off-street parking spaces, not otherwise covered by a #building#, which is larger than 400 square feet shall be landscaped. Up to five percent of such roof area may be used for mechanical equipment, provided that such mechanical equipment is screened from view by a fence which is at least 75 percent opaque or by at least three feet of dense planting. Up to 25 percent of such roof area may be accessible solely from an adjacent #dwelling unit# and the remaining roof area shall be accessible for the recreational use of the occupants of the building in which it is located. Hard surfaced areas shall not cover more than 60 percent of such roof area.

**87-51
Curb Cut Restrictions**

On Parcels 1, 2, 3 and 4, no curb cuts shall be provided facing a #shore public walkway# and, further, on Parcel 2, no curb cuts shall be provided facing a #park#.

**87-60
HARLEM RIVER WATERFRONT ACCESS PLAN**

Map 2 (Waterfront Access Plan: Public Access Elements) in the Appendix to this Chapter shows the boundaries of the area comprising the Harlem River

Waterfront Access Plan and the location of certain features mandated or permitted by the Plan.

**87-61
Special Public Access Provisions**

The provisions of 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) shall apply as follows:

- (a) Shore public walkways

- (1) The #shore public walkway# shall be constructed at an elevation of two feet above the highest level of the Oak Point Rail Link, except that:

- (i) on Parcels 6 and 7, no such elevation requirement shall apply.
- (ii) on Parcel 5, if commercial or public utility vehicle storage, as listed in Use Group 16C, is #developed# or #enlarged# as the primary #use# on the #zoning lots#, such elevation requirement shall not apply. However, if commercial or public utility vehicle storage, as listed in Use Group 16C, is not #developed# or #enlarged# as the primary #use# on the #zoning lots#, such elevation requirement shall only apply along the westernmost section of the #shore public walkway# to a depth of 40 feet.
- (iii) on all #zoning lots#, a #shore public walkway# shall be required to meet the grade of an existing adjacent #street#, which may include deviating from such elevation requirement where necessary.

- (2) A dead-end fire apparatus access road turnaround, as defined in the New York City Fire Code Section 503.2.5 (Dead-ends), may by certification extend into a designated #shore public walkway# as set forth in Section 87-73 (Certification to Allow Fire Apparatus Access Road Turnaround in Shore Public Walkways).

- (3) In the event that a portion of a #waterfront zoning lot# is within 40 feet of the #shoreline#, yet does not abut the #shoreline# because of an intervening #zoning lot#, a #shore public walkway# shall be provided on such upland portion. The width of the #shore public walkway# on such portion shall be 40 feet measured from the #shoreline# of the intervening #zoning lot# and shall include the width of the intervening #zoning lot#. The portion of such #shore public walkway# located upland of the intervening #zoning lot# shall be improved with a circulation path at least ten feet wide, and any required planted screening buffer shall have a width of at least four feet.

- (4) On Parcel 5, if a commercial or public utility vehicle storage #use# is #developed# or #enlarged# as the primary #use# on the parcel, the #shore public walkway# requirements set forth in Section 62-62 shall apply except that:

- (i) the required width of the #shore public walkway# may be reduced to a minimum of 20 feet along the northern edge of the inlet and may be reduced to a minimum of 30 feet along the eastern edge of the inlet.
- (ii) the circulation path required in paragraph (a)(1) of Section 62-62 shall be modified to a minimum width of 10 feet along the northern and eastern edge of the inlet,
- (iii) the screening provisions of paragraph (c)(2) of Section 62-62 shall not apply. In lieu thereof, a planted screening buffer with a width of four feet shall be provided. Such planted buffer shall consist of densely planted shrubs or multi-stemmed screening plants, with at least 50 percent being evergreen species. Shrubs shall have a height of at least four feet at the time of planting; and
- (iv) in the event that the #upland connection# on Parcel 6 has not been #developed#, a ten foot wide pedestrian walkway between the #shore public walkway# and Exterior Street shall be provided on Parcel 5 adjacent to such #upland connection# location.

(b) Upland connections

#Upland connections# shall be located on Parcels 3, 4 and 6, as designated on Map 2 in the Appendix to this Chapter.

The provisions of Sections 62-50 (GENERAL REQUIREMENTS FOR VISUAL CORRIDORS AND WATERFRONT PUBLIC ACCESS AREAS) are modified as follows:

- (1) Parcel 3 may provide the #upland connection# at either of the two optional locations indicated on Map 2 in the Appendix to this Chapter.
- (2) The required width for an #upland connection# on Parcel 6, as indicated on Map 2, is reduced to 12 feet. Such #upland connection# shall be subject only to the applicable pedestrian path provisions.

(c) Supplemental public access areas

#Supplemental public access areas# pursuant to this Plan shall be provided on Parcels 1 and 2, as indicated on Map 2 in the Appendix to this Chapter, however, the requirement may be waived by certification by the Chairperson of the City Planning Commission as set forth in Section 87-62 (Certification to Waive Supplemental Public Access Area Requirement).

(d) Visual Corridors

#Visual corridors# shall be located within Parcels 1 and 4, and the #park#, as indicated on Map 2 in the Appendix to this Chapter.

87-62**Certification to Waive Supplemental Public Access Area Requirement**

For Parcels 1 and 2, the requirement to provide a designated #supplemental public access area#, as indicated on Map 2 in the Appendix to this Chapter, may be waived by the Chairperson of the City Planning Commission upon finding that:

- (a) the site plan includes a vehicular connection through the #zoning lot# pursuant to the design guidelines set forth in Section 87-41 (Fire Apparatus Access Roads); and
- (b) a declaration of restrictions has been provided pursuant to Section 87-64 (Declaration of Restrictions); and
- (c) the design meets all applicable connection requirements set forth in Section 87-66 (Connection with adjacent zoning lots); and
- (d) such a vehicular connection either:
 - (1) on Parcel 1, provides access between East 149th Street and Exterior Street, serving all #buildings# along the #shore public walkway# and #park#; or
 - (2) on Parcel 2, provides a bidirectional connection between Exterior Street at its intersection with East 144th Street and the southernmost #lot line# of the #development#.

87-63**Certification to Allow Fire Apparatus Access Road Turnaround in Shore Public Walkways**

On Parcels 2, 3 and 4, a dead-end fire apparatus access road turnaround, as defined in the New York City Fire Code Section 503.2.5 (Dead-ends), may by certification, extend into the designated #shore public walkway#, provided that:

- (a) a declaration of restrictions has been provided pursuant to Section 87-64; and
- (b) a fire apparatus access road abutting the shared #zoning lot line# between the #development# seeking certification under this section and Parcels 2, 3 or 4 does not exist; and

- (c) the fire apparatus access road serves as a segment of a bidirectional loop road along the #shore public walkway#, providing a connection to Exterior Street at the northeast corner of Parcel 2 and a connection to Exterior Street at the southeast corner of Parcel 4.

Such turnaround shall have a diameter of 70 feet and be located at the end of the fire apparatus access road, abutting the adjacent #lot line#. At no point may the turnaround extend into the #shore public walkway# for a distance greater than 23 feet. Sidewalks shall not be required adjacent to the turnaround. The portion of the turnaround that lies within a #shore public walkway# shall remain clear of obstacles, shall be composed of permeable materials, and shall meet all applicable requirements set forth in the New York City Fire Code Section 503.1.1 (Fire apparatus access roads). In addition, the roadbed material of a fire apparatus access road leading to a vehicular turnaround may be extended into the turnaround provided the area of the turnaround paved with such material is not wider than the roadbed leading to the turnaround. The remaining portions of the turnaround shall be paved with distinct materials to facilitate pedestrian usage. In addition, the level of the area within the turnaround shall be raised to be flush of the level of adjoining sidewalks.

87-64**Declaration of Restrictions**

For any fire apparatus access road proposed for certification pursuant to Sections 87-62 or 87-63, a declaration of restrictions shall be provided to guarantee the construction, improvement, operation, maintenance and repair of such road, to guarantee that such road remains open, unobstructed and accessible to all members of the public, except as necessary to avoid public dedication, and to ensure compliance with all applicable provisions. Such declaration of restrictions shall be prepared in a form acceptable to the Department of City Planning, shall be filed and duly recorded in the Borough Office of the Register of the City of New York and indexed against the property. Filing and recording of the declaration of restrictions shall be a precondition for the Chairperson's certification under Section 87-62 and 87-63, where applicable.

For certifications proposed pursuant to Section 87-63, at the time a declaration of restrictions has been provided by the adjacent #development#, pursuant to this section, permitting vehicular connection between #zoning lots#, the #zoning lot# containing a previously constructed fire apparatus access turnaround shall be responsible for the following actions on the portion of the connection on such #zoning lot#:

- (a) deconstructing the fire apparatus access road turnaround; and
- (b) re-landscaping the area that had extended into the #shore public walkway#, so as to create the conditions of the immediately surrounding #shore public walkway#, which may include any combination of tree planting, laying sod, removing pavers, or any other required landscaping action; and
- (c) extending all required sidewalks that had remained short of the #lot line# to the shared #lot line# to connect to the required adjacent sidewalks and enable pedestrian movement across #developments#; and
- (d) complying with all applicable waterfront rules, street regulations and the New York City Fire Code.

87-65**Applicability of Waterfront Regulations**

In the event that #streets# are mapped on Parcels 1, 2, 3 and 4 after (effective date of amendment), the area within such #streets# may continue to be considered part of the #zoning lot# for the purposes of applying all waterfront regulations of the Zoning Resolution.

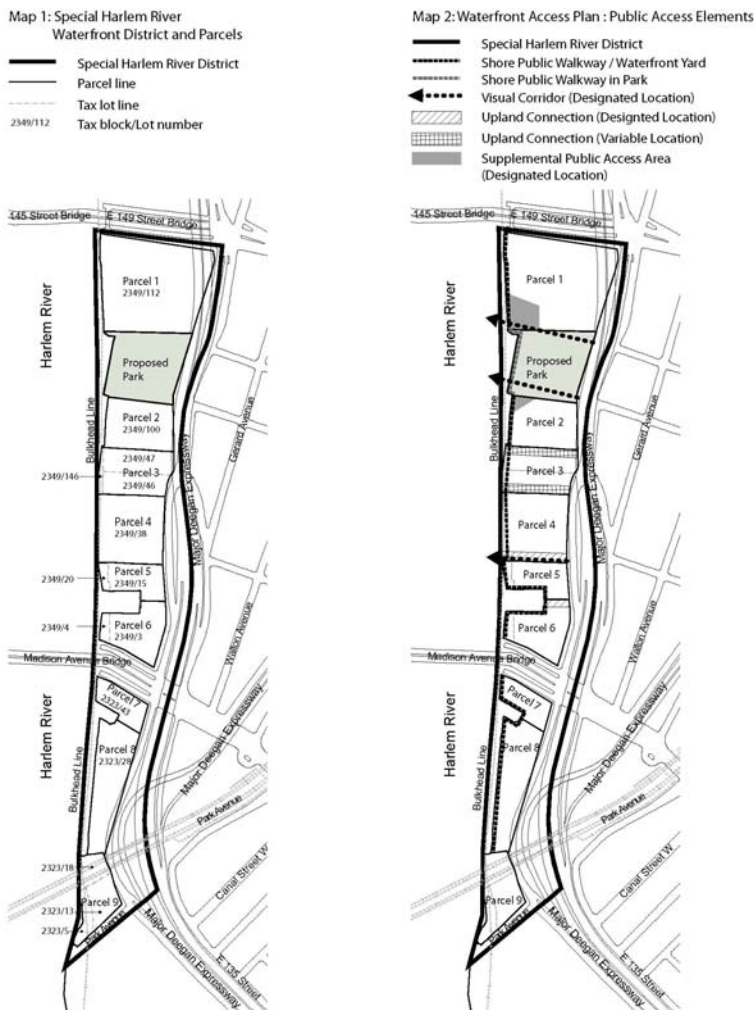
87-66**Connection with Adjacent Zoning Lots**

The following provisions apply to #developments# pursuing certification pursuant to either Section 87-62 (Certification to Waive Supplemental Public Access Area Requirement) or Section 87-63 (Certification to Allow Fire Apparatus Access Road Turnaround in Shore Public Walkways).

On each of Parcels 2, 3 and 4, and only among Parcels 2, 3 and 4, a #development# shall provide a connection for bidirectional vehicular travel at an adjacent #zoning lot line# if such adjacent #zoning lot# has previously constructed a connection that terminates at the shared #lot line#. Any connection of fire apparatus access roads across a shared #zoning lot line# must meet the grade of and maintain the street width of the existing adjacent private street. In addition to such physical shared #lot line# connection, a private road declaration shall be provided pursuant to the provisions of Section 87-74 of this Chapter. A connection need not be opened unless and until such declaration of restrictions, in accordance with 87-74, has been recorded against the adjacent #zoning lot#.

When no connection for vehicular travel terminating at the opposite side of a shared #zoning lot line# exists, one may, by certification pursuant to Section 87-63, construct a dead-end fire apparatus access road turnaround that may extend into the designated #shore public walkway#. Such certification is also contingent upon providing a declaration of restrictions, in accordance with Section 87-64.

APPENDIX



* * *

Note: Only underlined text is new in the following Section.

Article XII - Special Purpose Districts

* * *

Chapter 3

Special Mixed Use District

* * *

123-66

Height and Setback Regulations

* * *

123-662

All buildings in Special Mixed Use Districts with R6, R7, R8, R9 and R10 District designations

* * *

TABLE B

* * *

In addition, in #Special Mixed-Use District# 13 in the Borough of The Bronx, at least 70 percent of the #aggregate width of street walls# shall be located within eight feet of the #street line# and shall extend to at least the minimum base height specified for the applicable district as set forth in Table B above, or the height of the #building#, whichever is less. The remaining 30 percent of the #aggregate width of street walls# may be located beyond eight feet of the #street line#. Existing #buildings# may be vertically #enlarged# by up to one #story# or 15 feet without regard to the #street wall# location provisions of this paragraph.

* * *

123-90

SPECIAL MIXED USE DISTRICTS SPECIFIED

The #Special Mixed Use District# is mapped in the following areas:

* * *

#Special Mixed Use District# - 13: (effective date)

Lower Concourse, Bronx

The #Special Mixed Use District# - 13 is established in the Lower Concourse in The Bronx as indicated on the #zoning maps#.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1118

Report of the Committee on Land Use in favor of approving Application no. 20095459 HKQ (N 090369 HKQ), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No. 411, LP-2316) by the Landmarks Preservation Commission of Jamaica High School located at 167-01 Gothic Drive, Council District no. 24.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2363) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

QUEENS CB - 8

20095459 HKQ (N 090369 HKQ)

Designation by the Landmarks Preservation Commission of (List No. 411, LP-2316) pursuant to Section 3020 of the New York City Charter of the landmark designation of Jamaica High School located at 167-01 Gothic Drive (Block 9858, Lot 100), as an historic landmark.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2070

Resolution affirming the designation by the Landmarks Preservation Commission of Jamaica High School located at 167-01 Gothic Drive (Block 9858, Lot 100), Borough of Queens, Designation List No. 411, LP-2316 (L.U. No. 1118; 20095459 HKQ; N 090369 HKQ).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on April 1, 2009 a copy of its designation dated March 24, 2009 (the "Designation"),

of Jamaica High School located at 167-01 Gothic Drive, Community District 8, Borough of Queens, as a landmark and Tax Map Block 9858, Lot 100, as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on June 15, 2009 its report on the Designation dated June 3, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on June 23, 2009; and

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

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1119

Report of the Committee on Land Use in favor of approving Application no. 20095460 HKR (N 090370 HKR), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No. 411, LP-2211) by the Landmarks Preservation Commission of the Rutan-Journey House located at 7647 Amboy Road, Council District no. 51.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2363) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

STATEN ISLAND CB - 3 20095460 HKR (N 090370 HKR)

Designation by the Landmarks Preservation Commission of (List No. 411, LP-2211), pursuant to Section 3020 of the New York City Charter of the landmark designation of the Rutan-Journey House located at 7647 Amboy Road (Block 8050, Lot 13), as an historic landmark.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2071

Resolution affirming the designation by the Landmarks Preservation Commission of the Rutan-Journey House located at 7647 Amboy Road (Block 8050, Lot 13), Borough of Staten Island, Designation List No. 411, LP-2211 (L.U. No. 1119; 20095460 HKR (N 090370 HKR).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on April 1, 2009 a copy of its designation dated March 24, 2009 (the "Designation"), of the Rutan-Journey House located at 7647 Amboy Road, Community District 3, Borough of Staten Island, as a landmark and Tax Map Block 8050, Lot 13, as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on May 22, 2009 its report on the Designation dated May 20, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on June 23, 2009; and

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

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1120

Report of the Committee on Land Use in favor of approving Application no. 20095461 HKX (N 090371 HKX), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No. 411, LP-2311) by the Landmarks Preservation Commission of the New York Botanical Garden Museum, Fountain of Life and Tulip Tree Allee, Watson drive and Garden Way, Council District no 11..

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2363) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

BRONX CB - 6, 7, 12 20095461 HKX (N 090371 HKX)

Designation by the Landmarks Preservation Commission of (List No. 411, LP-2311), pursuant to Section 3020 of the New York City Charter of the landmark designation of New York Botanical Garden Museum (now Library) Building, Fountain of Life, and Tulip Tree Allee, Watson Drive and Garden Way, New York Botanical Garden, Bronx Park (Tax Map Block 3272, Lot 1 in part), as an historic landmark.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2072

Resolution affirming the designation by the Landmarks Preservation Commission of the New York Botanical Garden Museum (now Library) Building, Fountain of Life and Tulip Tree Allee, Watson Drive and Garden Way, New York Botanical Garden, Bronx Park (Tax Map (Block 3272, Lot 1 in part), Borough of the Bronx, Designation List No. 411, LP-2311 (L.U. No. 1120; 20095461 HKX (N 090371 HKX).

By Council Members Katz and Lappin.

WHEREAS, the Landmarks Preservation Commission filed with the Council on April 1, 2009 a copy of its designation dated March 24, 2009 (the "Designation"), of the New York Botanical Garden Museum (now Library) Building, Fountain of Life and Tulip Tree Allee, Watson Drive and Garden Way, New York Botanical Garden, Bronx Park, Community Districts 6, 7, and 12, Borough of the Bronx, as a landmark and Tax Map Block 3272, Lot 1 in part, as its landmark site pursuant to Section 3020 of the New York City Charter;

WHEREAS, the Designation is subject to review by the Council pursuant to Section 3020 of the City Charter;

WHEREAS, the City Planning Commission submitted to the Council on May 22, 2009 its report on the Designation dated May 20, 2009 (the "Report");

WHEREAS, upon due notice, the Council held a public hearing on the Designation on June 23, 2009; and

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

RESOLVED:

Pursuant to Section 3020 of the City Charter, and on the basis of the information and materials contained in the Designation and the Report, the Council affirms the Designation.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1121

Report of the Committee on Land Use in favor of approving Application no. 20095653 HHR pursuant to §7385 (6) of the Enabling Act, concerning the lease agreement of property on the campus of Sea View Hospital Rehabilitation Center and Home, Council District no 50.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2364) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

STATEN ISLAND CB - 2

20095653 HHR

Application submitted by the New York Health and Hospitals Corporation pursuant to §7385(6) of its Enabling Act requesting the approval of the lease of a parcel of land located on the campus of Sea View Hospital Rehabilitation Center and Home to Amethyst House, Inc. to facilitate the development and operation of a community residential facility.

INTENT

To facilitate the development and operation of a community residential facility.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2073

Resolution approving the lease of a parcel of land located on the Campus of Sea View Hospital Rehabilitation Center and Home to Amethyst House, Inc., Borough of Staten Island (Non-ULURP No. 20095653 HHR; L.U. No. 1121).

By Council Members Katz and Lappin.

WHEREAS, the New York City Health and Hospitals Corporation, filed with the Council on May 29, 2009 notice of the Board of Directors authorization dated May 19, 2009 of the leasing of a parcel of land on the Campus of the Sea View Hospital Rehabilitation Center and Home located at 460 Brielle Avenue (Block 955, Lot 1) to Amethyst House, Inc., to facilitate the development of a 30-bed residential treatment facility for women, upon the terms and conditions set forth in the Health and Hospitals Corporation resolution authorizing the leasing, a copy of which is attached hereto (the "Leasing"), Community District 2, Borough of Staten Island;

WHEREAS, the Leasing is subject to review and action by the Council pursuant to Section 7385(6) of the Health and Hospitals Corporation Act;

WHEREAS, upon due notice, the Council held a public hearing on the Leasing on June 23, 2009; and

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

RESOLVED:

Pursuant to Section 7385(6) of the Health and Hospitals Corporation Act, the Council approves the Leasing upon the terms and conditions set forth in the Board of Directors' resolution authorizing the Leasing, a copy of which is attached hereto.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1123

Report of the Committee on Land Use in favor of approving Application no. 20095371 SCK, a proposed site for a new 900 seat primary school facility serving CSD 13 and 15, to be located at Old P.S. 133, (Block 940, Lot 1, 16 and 65), Council District No. 33, Borough of Brooklyn. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2364) the annexed Land Use resolution, respectfully

REPORTS:**SUBJECT****BROOKLYN CB - 6****20095371 SCK**

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 900-seat primary school replacement facility for P.S. 133-Brooklyn, located at 375 Butler Street (Block 940, Lots 1, 16, and 65), serving pre-kindergarten through 5th grade, in Community School District Nos. 13 and 15.

INTENT

To facilitate the development of a new 900-seat primary school replacement facility.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION****DATE:** June 30, 2009

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

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

Res. No. 2074

Resolution approving the site plan for a primary school replacement facility at P.S. 133 located at 375 Butler Street (Tax Block 940, Tax Lots 1, 16, and 65), Borough of Brooklyn (Non-ULURP No. 20095371 SCK; L.U. No. 1123).

By Council Members Katz and Lappin.

WHEREAS, the New York City School Construction Authority submitted to the Council on June 18, 2009, a site plan dated June 18, 2009, pursuant to Section 1732 of the New York State Public Authorities Law for a Primary School Replacement Facility at P.S. 133, Brooklyn, located at 375 Butler Street (Tax Block 940, Tax Lots 1, 16, and 65), Borough of Brooklyn, Community Board No. 6, Borough of Brooklyn, Community School District Nos. 13 and 15 (the "Site Plan");

WHEREAS, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

WHEREAS, upon due notice, the Council held a public hearing on the Site Plan on June 23, 2009;

WHEREAS, the Council has considered the relevant environmental review (SEQR Project No. 09-011) and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on June 12, 2009;

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

RESOLVED:

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

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

(2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action to be approved is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable; and

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

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

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1124

Report of the Committee on Land Use in favor of approving Application no. C 090313 ZMK submitted by the Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 17d, 23a, 23c and 23d.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2365) the annexed Land Use resolution, respectfully

REPORTS:**SUBJECT****BROOKLYN CB - 18****C 090313 ZMK**

City Planning Commission decision approving an application submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 17d, 23a, 23c and 23d.

INTENT

To rezone a portion of the Canarsie neighborhood in Brooklyn.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION****DATE:** June 25, 2009

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

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

Res. No. 2075

Resolution approving the decision of the City Planning Commission on ULURP No. C 090313 ZMK, a Zoning Map amendment (L.U. No. 1124).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on June 5, 2009 its decision dated June 3, 2009 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map, to rezone all or

portions of 250 blocks in the Canarsie neighborhood in the Borough of Brooklyn (ULURP No. C 090313 ZMK) (the "Application");

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration, which was issued on February 17, 2009. The CEQR declaration included an (E) designation for hazardous materials and air quality, the placement of the (E) designation (E-230) on the zoning map would eliminate the potential for significant adverse impact on those sites and would ensure that appropriate testing and/or remediation, if needed, would be undertaken (CEQR No. 09DCP052K);

RESOLVED:

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

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 090313 ZMK, incorporated by reference herein, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section Nos. 17d, 23a, 23c and 23d:

1. eliminating from an existing R4 District a C1-1 District bounded by Avenue L, East 95th Street, a line 200 feet southeasterly of Avenue L, and East 93rd Street;
2. eliminating from an existing R4 District a C1-2 District bounded by:
 - a. a line 200 feet southeasterly of Farragut Road, Rockaway Parkway, Glenwood Road, a line midway between Rockaway Parkway and East 98th Street, Conklin Avenue, Rockaway Parkway, a line 150 feet southeasterly of Flatlands Avenue, and East 96th Street,
 - b. a line 150 feet northwesterly of Flatlands Avenue, East 89th Street, Flatlands Avenue, and a line midway between East 88th Street and East 89th Street;
 - c. a line 150 feet northwesterly of Avenue L, East 95th Street, Avenue L, East 93rd Street, a line 150 feet southeasterly of Avenue L, and East 91st Street;
 - d. Avenue N, Rockaway Parkway, Seaview Avenue, and a line midway between East 96th Street and Rockaway Parkway;
3. eliminating from an existing R5 District a C1-2 District bounded by:
 - a. Ralph Avenue, East 79th Street, a line 100 feet easterly of Ralph Avenue, a line 100 feet northeasterly East 78th Street, a line perpendicular to the northeasterly street line of East 78th Street distant 80 feet southeasterly (as measured along the street line) from the point of intersection of the northeasterly street line of East 78th Street and the easterly street line of Ralph Avenue, and East 78th Street;
 - b. Ralph Avenue, East 77th Street, a line 150 feet southeasterly of Ralph Avenue, East 76th Street, and Glenwood Road,
 - c. East 88th Street, a line 150 feet northwesterly of Flatlands Avenue, a line midway between East 88th Street and East 89th Street, and Flatlands Avenue;
 - d. a line 150 feet northwesterly of Glenwood Road, East 105th Street, Glenwood Road, and East 103rd Street;
 - e. a line 100 feet northwesterly of Seaview Avenue, East 98th Street, Seaview Avenue, a line 450 feet northeasterly of Rockaway

- Parkway, a line 200 feet southeasterly of Seaview Avenue, Rockaway Parkway, Skidmore Avenue, a line 350 feet southwesterly of Rockaway Parkway, St. Jude Place, Seaview Avenue, and Rockaway Parkway;
- f. Schenck Street, Rockaway Parkway, a line 100 feet southeasterly of Schenck Street, and a line 215 feet southwesterly of Rockaway Parkway;
4. eliminating from an existing R4 District a C 2-1 District bounded by a line 150 feet northwesterly of Avenue L, Rockaway Parkway, a line 320 feet southeasterly of Avenue L, East 96th Street, a line 150 feet southeasterly of Avenue L, and East 95th Street;
 5. eliminating from an existing R5 District a C2-1 District bounded by:
 - a. Avenue M, East 98th Street, a line 360 feet southeasterly of Avenue M, and Rockaway Parkway; and
 - b. Flatlands Avenue, a line 325 feet northeasterly of 108th Street, the northwesterly prolongation of a U.S. Pierhead and Bulkhead Line, the southwesterly prolongation of a U.S. Pierhead and Bulkhead Line, and East 108th Street;
 6. eliminating from an existing R4 District a C2-2 District bounded by:
 - a. Foster Avenue, East 98th Street, a line 150 feet southeasterly of Foster Avenue, and Rockaway Avenue;
 - b. a line 200 feet northwesterly of Farragut Road, a line midway between Rockaway Parkway and East 98th Street and its southeasterly prolongation, Glenwood Road, Rockaway Parkway, a line 200 feet southeasterly of Farragut Road, a line midway between East 96th Street and Rockaway Parkway, a line 150 feet northwesterly of Farragut Road, and Rockaway Parkway;
 - c. Conklin Avenue, a line midway between East 92nd Street and East 93rd Street, a line 150 feet southeasterly of Flatlands Avenue, East 91st Street, Flatlands Avenue, and a line 150 feet southwesterly of East 92nd Street;
 7. eliminating from an existing R5 District a C2-2 District bounded by:
 - a. a line 100 feet northwesterly of Flatlands Avenue, East 83rd Street, Flatlands Avenue, East 81st Street, a line 100 feet southeasterly of Flatlands Avenue, East 76th Street, Flatlands Avenue, and the northwesterly centerline prolongation of East 77th Street; and
 - b. Skidmore Avenue, Rockaway Parkway, Schenck Street, and East 96th Street;
 8. changing from an R5 District to an R3-1 District property bounded by a line 100 feet southeasterly of Avenue L, East 105th Street, a line 100 feet northwesterly of Avenue M, and a line midway between East 100th Street and East 101st Street;
 9. changing from an R5 District to an R3X District property bounded by a line 100 feet southeasterly of Avenue L, a line midway between East 100th Street and East 101st Street, a line 100 feet northwesterly of Avenue M, East 105th Street, Avenue L, a line 100 feet northeasterly of East 105th Street, a line midway between Avenue L and Flatlands 5th Street, East 108th Street, the northeasterly centerline prolongation of Flatlands 6th Street, a line 150 feet northeasterly of East 108th Street, the northeasterly centerline prolongation of Avenue M, East 108th Street, Seaview Avenue, a line midway between East 104th Street and East 105th Street, Avenue N, East 105th Street, a line 175 feet southeasterly of Avenue M, a line midway between East 102nd Street and East 103rd Street, a line 100 feet northwesterly of Avenue N, East 102nd Street, Avenue N, a line midway between East 101st Street and East 102nd Street, a line 175 feet northwesterly of Avenue N, a line midway between East 100th Street and East 101st Street, a line 100 feet southeasterly of Avenue M, and East 99th Street;
 10. changing from an R5 District to an R4 District property bounded by:
 - a. Glenwood Road, East 103rd Street, Flatlands Avenue, East 102nd Street, a line 100 feet southeasterly of Flatlands Avenue, East 101st Street, Avenue K, East 102nd Street, Avenue L, East 104th Street, Avenue K, East 103rd Street, Avenue J, East 104th Street, Flatlands 1st Street and its southwesterly centerline prolongation, a line 100

- feet northeasterly of East 105th Street, Flatlands 3rd Street, East 105th Street, a line 100 feet southeasterly of Avenue L, East 99th Street, a line 100 feet northwesterly of Avenue L, a line midway between East 98th Street and East 99th Street, a line 225 feet southeasterly of Avenue K, Rockaway Parkway, a line 400 feet southeasterly of Avenue J, a line 100 feet southwesterly of East 98th Street, a line 200 feet northwesterly of Avenue J, East 98th Street, a line 375 feet southeasterly of Flatlands Avenue, East 99th Street, Flatlands Avenue, and a line midway between East 101st Street and East 102nd Street; and
- b. Avenue M, East 99th Street, a line 100 feet southeasterly of Avenue M, a line midway between East 100th Street and East 101st Street, a line 175 feet northwesterly of Avenue N, a line midway between East 101st Street and East 102nd Street, Avenue N, East 101st Street, Seaview Avenue, East 98th Street, a line 100 feet northwesterly of Seaview Avenue, and a line midway between East 98th Street and East 99th Street;
11. changing from an R4 District to an R4-1 District property bounded by:
- a. Krier Place, East 92nd Street, a line 100 feet southeasterly of Foster Avenue, a line midway between East 92nd Street and East 93rd Street, a line 100 feet northwesterly of Farragut Road, East 92nd Street, Farragut Road, East 93rd Street, a line 250 feet southeasterly of Farragut Road, a line midway between East 92nd Street and East 93rd Street, a line 100 feet northwesterly of Flatlands Avenue, a line midway between East 88th Street and East 89th Street, a line 175 feet southeasterly of Foster Avenue and its southwesterly prolongation, and a line 100 feet northeasterly of Remsen Avenue;
- b. Foster Avenue, a line midway between East 95th Street and East 96th Street, a line 275 feet southeasterly of Foster Avenue, East 96th Street, a line 175 feet southeasterly of Foster Avenue, a line midway between East 96th Street and Rockaway Parkway, a line 100 feet northwesterly of Flatlands Avenue, East 96th Street, a line 100 feet southeasterly of Flatlands Avenue, Rockaway Parkway, a line 225 feet southeasterly of Avenue K, East 95th Street, Avenue K, East 94th Street, a line 100 feet northwesterly of Avenue L, East 91st Street, a line perpendicular to the southwesterly street line of East 91st Street distant 100 feet southeasterly (as measured along the street line) from the point of intersection of the southwesterly street line of East 91st Street and the southeasterly street line of Avenue K, Remsen Avenue, a line 100 feet northwesterly of Avenue J, a line midway between East 88th Street and East 89th Street, Flatlands Avenue, East 91st Street, a line 100 feet southeasterly of Flatlands Avenue, East 93rd Street, a line 100 feet northwesterly of Flatlands Avenue, and a line midway between East 94th Street and East 95th Street;
- c. Foster Avenue, East 99th Street, a line 200 feet southeasterly of Farragut Road, a line midway between Rockaway Parkway and East 98th Street, a line 200 feet southeasterly of Foster Avenue, East 98th Street;
- d. Glenwood Road, East 100th Street, a line 75 feet northwesterly of Flatlands Avenue, East 99th Street, Flatlands Avenue, Rockaway Parkway, Conklin Avenue, and a line midway between Rockaway Parkway and East 98th Street;
- e. a line 100 feet southeasterly of Avenue L, Remsen Avenue, a line 100 feet southeasterly of Avenue M, a line midway between East 88th Street and East 89th Street, a line 100 feet northwesterly of Avenue M, and East 89th Street;
- f. a line 100 feet southeasterly of Avenue L, Rockaway Parkway, Seaview Avenue, a line midway between East 95th Street and East 96th Street, a line 250 feet northwesterly of Seaview Avenue, East 95th Street, Avenue N, a line midway between East 92nd Street and East 93rd Street and its northwesterly prolongation, a line 100 feet northwesterly of Seaview Avenue, East 92nd Street, Seaview Avenue, Remsen Avenue, a line 75 feet northwesterly of Seaview Avenue, a line midway between East 89th Street and Remsen Avenue, a line 150 feet southeasterly of Avenue N, Remsen Avenue, Avenue N, and East 91st Street;
12. changing from an R5 District to an R4-1 District property bounded by:
- a. a line 100 feet southeasterly of Foster Avenue, a line midway between East 88th Street and East 89th Street, a line 100 feet northwesterly of Flatlands Avenue, East 85th Street, a line 100 feet southeasterly of Glenwood Road, East 86th Street, a line 100 feet southeasterly of Farragut Road, and East 88th Street;
- b. a line 100 feet southeasterly of Flatlands Avenue, East 88th Street, Flatlands Avenue, a line midway between East 88th Street and East 89th Street, a line 100 feet northwesterly of Avenue J, and East 86th Street;
- c. a line 100 feet northwesterly of Avenue M, a line midway between East 88th Street and East 89th Street, a line 100 feet southeasterly of Avenue M, East 88th Street, Avenue N, and East 87th Street;
- d. Flatlands Avenue, East 99th Street, a line 375 feet southeasterly of Flatlands Avenue, and East 98th Street;
- e. a line 100 feet southeasterly of Avenue L, East 99th Street, Avenue M, a line midway between East 98th Street and East 99th Street, a line 100 feet northwesterly of Seaview Avenue, East 98th Street, Seaview Avenue, Rockaway Parkway, Avenue M, and a line midway between Rockaway Parkway and East 98th Street;
- f. a line 175 feet southeasterly of Avenue M, East 105th Street, Avenue N, a line midway between East 104th Street and East 105th Street, Seaview Avenue, East 103rd Street, a line 100 feet northwesterly of Avenue N, and a line midway between East 102nd Street and East 103rd Street;
- g. Flatlands 4th Street, East 108th Street, a line midway between Avenue L and Flatlands 5th Street, a line 100 feet northeasterly of East 105th Street, a line midway between Flatlands 4th Street and Avenue L, and a line 250 feet northeasterly of East 105th Street;
- h. East 108th Street, the northeasterly centerline prolongation of Avenue M, a line 100 feet northeasterly of East 108th Street, a line midway between the northeasterly centerline prolongation of Avenue M and Flatlands 7th Street and its northeasterly prolongation, a U.S. Pierhead and Bulkhead Line, and Flatlands 9th Street and its northeasterly centerline prolongation;
13. changing from a C8-1 District to an R4-1 District property bounded by:
- a. Farragut Road, a line midway between East 99th Street and East 100th Street, a line 200 feet southeasterly of Farragut Road, and East 99th Street;
- b. a line 50 feet northwesterly of Glenwood Road, a line 80 feet northeasterly of East 99th Street, Glenwood Road, and a line midway between Rockaway Parkway and East 98th Street;
14. changing from an R4 District to an R4A District property bounded by:
- a. a line 330 feet northwesterly of Foster Avenue, East 94th Street, Foster Avenue, a line midway between East 94th Street and East 95th Street, a line 100 feet northwesterly of Flatlands Avenue, a line midway between East 92nd Street and East 93rd Street, a line 250 feet southeasterly of Farragut Road, East 93rd Street, Farragut Road, East 92nd Street, a line 100 feet northwesterly of Farragut Road, a line midway between East 92nd Street and East 93rd Street, a line 100 feet southeasterly of Foster Avenue, East 92nd Street, Foster Avenue, and East 93rd Street;
- b. a line perpendicular to the southwesterly street line of East 91st Street distant 100 feet southeasterly (as measured along the street line) from the point of intersection of the southwesterly street line of East 91st Street and the southeasterly street line of Avenue K, East 91st Street, a line 100 feet southeasterly of Avenue L, East 89th Street, a line 100 feet northwesterly of Avenue M, a line midway between East 88th Street and East 89th Street, a line 100 feet southeasterly of Avenue K, and Remsen Avenue;
- c. Avenue K, East 95th Street, a line 225 feet southeasterly of Avenue K, Rockaway Parkway, a line 100 feet northwesterly of Avenue L, and East 94th Street;
15. changing from an R5 District to an R4A District property bounded by:
- a. a line 100 feet southeasterly of Avenue K, a line midway between East 88th Street and East 89th Street, a line 100 feet northwesterly of Avenue M, East 87th Street, a line 175 feet northwesterly of

- Avenue M, a line midway between East 86th Street and East 87th Street, a line 100 feet southeasterly of Avenue L, East 87th Street, Avenue L, a line midway between East 86th Street and East 87th Street, a line 275 feet northwesterly of Avenue L, and East 87th Street;
- b. a line 225 feet southeasterly of Avenue K, a line midway between East 98th Street and East 99th Street, a line 100 feet northwesterly of Avenue L, East 99th Street, a line 100 feet southeasterly of Avenue L, a line midway between Rockaway Parkway and East 98th Street, Avenue M, and Rockaway Parkway;
16. changing from an R4 District to an R5 District property bounded by:
- a. Avenue N, Remsen Avenue, a line 150 feet southeasterly of Avenue N, a line midway between East 89th Street and Remsen Avenue, a line 75 feet northwesterly of Seaview Avenue, Remsen Avenue, Seaview Avenue, and a line midway between East 88th Street and East 89th Street, and
- b. Avenue N, East 95th Street, a line 250 feet northwesterly of Seaview Avenue, a line midway between East 95th Street and East 96th Street, Seaview Avenue, East 92nd Street, a line 100 feet northwesterly of Seaview Avenue, and a line midway between East 92nd Street and East 93rd Street and its northwesterly prolongation;
17. changing from a C3 District to an R5 District property bounded by the southwesterly centerline prolongation of Paerdegat 12th Street, Paerdegat Avenue North, a northwesterly boundary line of Canarsie Beach Park, and a U.S. Pierhead and Bulkhead Line;
18. changing from an R4 District to an R5B District property bounded by :
- a. a line 100 feet northwesterly of Foster Avenue, East 93rd Street, Foster Avenue, and East 92nd Street;
- b. a line 100 feet northwesterly of Foster Avenue, East 96th Street, Foster Avenue, a line midway between East 96th Street and Rockaway Parkway, a line 175 feet southeasterly of Foster Avenue, East 96th Street, a line 275 feet southeasterly of Foster Avenue, a line midway between East 95th Street and East 96th Street, Foster Avenue, and East 94th Street; and
- c. a line 100 feet northwesterly of Avenue J, Remsen Avenue, a line 100 feet southeasterly of Avenue K, a line midway between East 88th Street and East 89th Street, Avenue K, a northeasterly boundary line of Canarsie Cemetery and its northwesterly and southeasterly prolongations, Church Lane and its southwesterly centerline prolongation, and a line midway between East 88th Street and East 89th Street;
19. changing from an R5 District to an R5B District property bounded by:
- a. a line 200 feet southeasterly of Foster Avenue, East 85th Street, a line 100 feet southeasterly of Foster Avenue, East 88th Street, a line 100 feet southeasterly of Farragut Road, East 86th Street, a line 100 feet southeasterly of Glenwood Road, East 85th Street, a line 100 feet northwesterly of Flatlands Avenue, a line 100 feet southwesterly of East 78th Street, Flatlands Avenue, the southeasterly centerline prolongation of East 77th Street, Glenwood Road, Ralph Avenue, East 79th Street, Glenwood Road, East 80th Street, Farragut Road, and East 81st Street;
- b. a line 100 feet southeasterly of Flatlands Avenue, East 81st Street, Flatlands Avenue, East 84th Street, a line 100 feet southeasterly of Flatlands Avenue, East 85th Street, Flatlands Avenue, East 86th Street, a line 100 feet northwesterly of Avenue J, a line midway between East 88th Street and East 89th Street, Church Lane and its southwesterly centerline prolongation, a northeasterly boundary line of Canarsie Cemetery and its northwesterly and southeasterly prolongations, Avenue K, a line midway between East 88th Street and East 89th Street, a line 100 feet southeasterly of Avenue K, East 87th Street, a line 275 feet northwesterly of Avenue L, a line midway between East 86th Street and East 87th Street, Avenue L, East 85th Street, Avenue M, East 82nd Street, Avenue K, a line midway between East 81st Street and East 82nd Street, Avenue J, East 80th Street, a line midway between Paerdegat 2nd Street and Paerdegat 3rd Street, a line perpendicular to the northwesterly street line of Paerdegat 2nd Street distant 250 feet southwesterly (as measured along the street line) from the point of intersection of the southwesterly street line of East 80th Street and the northwesterly street line of Paerdegat 2nd Street, a line midway between Paerdegat 1st Street and Paerdegat 2nd Street, Paerdegat Avenue, and East 76th Street;
- c. a line 100 feet southeasterly of Flatlands Avenue, East 103rd Street, Flatlands Avenue, East 104th Street, a line 100 feet southeasterly of Flatlands Avenue, East 106th Street, Flatlands Avenue, East 107th Street, Avenue J, East 108th Street, Flatlands 1st Street and its southwesterly centerline prolongation, East 104th Street, Avenue J, East 103rd Street, Avenue K, East 104th Street, Avenue L, East 102nd Street, Avenue K, and East 101st Street;
- d. a line 100 feet northwesterly of Avenue N, East 103rd Street, Seaview Avenue, East 101st Street, Avenue N, and East 102nd Street;
20. changing from an R4 District to an R5D District property bounded by:
- a. Foster Avenue, East 98th Street, a line 200 feet southeasterly of Foster Avenue, a line midway between Rockaway Parkway and East 98th Street, Conklin Avenue, Rockaway Parkway, a line 100 feet southeasterly of Flatlands Avenue, East 96th Street, a line 100 feet northwesterly of Flatlands Avenue, and a line midway between East 96th Street and Rockaway Parkway;
- b. a line 100 feet northwesterly of Flatlands Avenue, East 93rd Street, a line 100 feet southeasterly of Flatlands Avenue, East 91st Street, Flatlands Avenue, and a line midway between East 88th Street and East 89th Street; and
- c. a line 100 feet northwesterly of Avenue L, Rockaway Parkway, a line 100 feet southeasterly of Avenue L, and East 91st Street;
21. changing from an R5 District to an R5D District property bounded by:
- a. a line 100 feet northwesterly of Flatlands Avenue, a line midway between East 88th Street and East 89th Street, Flatlands Avenue, East 88th Street, a line 100 feet southeasterly of Flatlands Avenue, East 86th Street, Flatlands Avenue, East 85th Street, a line 100 feet southeasterly of Flatlands Avenue, East 84th Street, Flatlands Avenue, East 81st Street, a line 100 feet southeasterly of Flatlands Avenue, East 76th Street, Flatlands Avenue, and a line 100 feet southwesterly of East 78th Street;
- b. Flatlands Avenue, East 98th Street, a line 100 feet southeasterly of Flatlands Avenue, and Rockaway Parkway;
- c. Flatlands Avenue, East 103rd Street, a line 100 feet southeasterly of Flatlands Avenue, and East 102nd Street;
- d. Flatlands Avenue, East 106th Street, a line 100 feet southeasterly of Flatlands Avenue, and East 104th Street;
- e. Flatlands Avenue, a line 325 feet northeasterly of East 108th Street, a line 100 feet southeasterly of Flatlands Avenue, and East 108th Street;
22. establishing within a proposed R4-1 District a C1-3 District bounded by:
- a. Avenue N, Rockaway Parkway, a line 100 feet northwesterly of Seaview Avenue, East 98th Street, Seaview Avenue, and a line midway between East 96th Street and Rockaway Parkway;
- b. Glenwood Road, a line midway between East 96th Street and Rockaway Parkway, a line 100 feet southeasterly of Glenwood Road, and East 96th Street; and
- c. a line 100 feet southeasterly of Avenue L, a line midway between East 93rd Street and East 94th Street, a line 150 feet southeasterly of Avenue L, and East 93rd Street;
23. establishing within an existing R5 District a C1-3 District bounded by:
- a. Seaview Avenue, a line 450 feet northeasterly of Rockaway Parkway, a line 200 feet southeasterly of Seaview Avenue, Rockaway Parkway, Skidmore Avenue, a line 350 feet southwesterly of Rockaway Parkway, and St. Jude Place; and
- b. a line 100 feet northwesterly of Glenwood Road, East 105th Street, Glenwood Road, and East 103rd Street;

24. establishing within a proposed R5B District a C1-3 District bounded by:
- Ralph Avenue, East 79th Street, a line 100 feet easterly of Ralph Avenue, a line 100 feet northeasterly of East 78th Street, a line perpendicular to the northeasterly street line of East 78th Street distant 80 feet southeasterly (as measured along the street line) from the point of intersection of the easterly street line of Ralph Avenue and the northeasterly street line of East 78th Street, and East 78th Street; and
 - Ralph Avenue, East 77th Street, a line 150 feet easterly of Ralph Avenue, East 76th Street, and Glenwood Road; and
25. establishing within a proposed R5D District a C1-3 District bounded by:
- a line 100 feet northwesterly of Flatlands Avenue, East 89th Street, Flatlands Avenue, and East 88th Street;
 - Glenwood Road, a line midway between Rockaway Parkway and East 98th Street, Conklin Avenue, Rockaway Parkway, a line 100 feet southeasterly of Flatlands Avenue, East 96th Street, a line 100 feet northwesterly of Flatlands Avenue, a line midway between East 96th Street and Rockaway Parkway, a line 200 feet southeasterly of Farragut Road, and Rockaway Parkway; and
 - a line 100 feet northwesterly of Avenue L, East 95th Street, a line 100 feet southeasterly of Avenue L, and East 91st Street;
26. establishing within a proposed R4-1 District a C2-3 District bounded by:
- Avenue M, East 98th Street, a line 360 feet southeasterly of Avenue M, and Rockaway Parkway;
 - a line 50 feet northwesterly of Glenwood Road, a line 200 feet northeasterly of Rockaway Parkway, Glenwood Road, and a line 100 feet northeasterly of Rockaway Parkway;
 - Conklin Avenue, a line midway between East 92nd Street and East 93rd Street, a line 100 feet northwesterly of Flatlands Avenue, and a line 150 feet southwesterly of East 92nd Street; and
 - a line 100 feet southeasterly of Avenue L, Rockaway Parkway, a line 220 feet southeasterly of Avenue L, and East 96th Street;
27. establishing within a proposed R4A District a C2-3 District bounded by a line 150 feet northwesterly of Avenue L, East 96th Street, a line 100 feet northwesterly of Avenue L, and East 95th Street;
28. establishing within an existing R5 District a C2-3 District bounded by:
- Flatlands Avenue, East 108th Street, a line 100 feet southeasterly of Flatlands Avenue, the northwesterly prolongation of a U.S. Pierhead and Bulkhead Line, the southwesterly prolongation of a U.S. Pierhead and Bulkhead Line, East 108th Street, a line 400 feet southeasterly of Flatlands Avenue, and East 107th Street; and
 - Skidmore Avenue, Rockaway Parkway, Schenck Street, and East 96th Street;
29. establishing within a proposed R5D District a C2-3 District bounded by:
- a line 100 feet northwesterly of Flatlands Avenue, East 88th Street, a line 100 feet southeasterly of Flatlands Avenue, East 86th Street, Flatlands Avenue, East 85th Street, a line 100 feet southeasterly of Flatlands Avenue, East 84th Street, Flatlands Avenue, East 81st Street, a line 100 feet southeasterly of Flatlands Avenue, East 76th Street, Flatlands Avenue, and a line 100 feet southwesterly of East 78th Street;
 - a line 100 feet northwesterly of Flatlands Avenue, a line 125 feet northeasterly of Remsen Avenue, Flatlands Avenue, and East 89th Street,
 - a line 100 feet northwesterly of Flatlands Avenue, East 93rd Street, a line 100 feet southeasterly of Flatlands Avenue, East 91st Street, Flatlands Avenue, and a line 150 feet southwesterly of East 92nd Street;

- Foster Avenue, East 98th Street, a line 200 feet southeasterly of Foster Avenue, and Rockaway Avenue;
- a line midway between East 96th Street and Rockaway Parkway, a line 225 feet northwesterly of Farragut Road, Rockaway Parkway, a line 200 feet northwesterly of Farragut Road, a line midway between Rockaway Parkway and East 98th Street and its southeasterly prolongation, and Glenwood Road;
- Flatlands Avenue, East 98th Street, a line 100 feet southeasterly of Flatlands Avenue, and Rockaway Parkway;
- a line 100 feet northwesterly of Avenue L, Rockaway Parkway, a line 100 feet southeasterly of Avenue L, and East 94th Street;
- Flatlands Avenue, East 103rd Street, a line 100 feet southeasterly of Flatlands Avenue, and East 102nd Street;
- Flatlands Avenue, East 106th Street, a line 100 feet southeasterly of Flatlands Avenue, and East 104th Street; and
- Flatlands Avenue, a line 325 feet northeasterly of East 108th Street, a line 100 feet southeasterly of Flatlands Avenue, and East 108th Street;

as shown on a diagram (for illustrative purposes only) dated February 17, 2009 and which includes CEQR Designation E-230, Community District 18, Borough of Brooklyn.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1125

Report of the Committee on Land Use in favor of approving Application no. 20095554 HKX (N 090392 HKX), pursuant to §3020 of the Charter of the City of New York, concerning the designation (List No.412, LP-2322) by the Landmarks Preservation Commission of the New York Public Library, Woodstock Branch (Block 2657, Lot 30) Council District no 17.

The Committee on Land Use, to which was referred on June 10, 2009 (Minutes, page 2365) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

BRONX CB - 1

20095554 HKX (N 090392 HKX)

Designation by the Landmarks Preservation Commission of (List No. 412, LP-2322), pursuant to Section 3020 of the New York City Charter of the landmark designation of New York Public Library, Woodstock Branch, located at 761 East 160th Street (Block 2657, Lot 30), as an historic landmark.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

INTENT

To facilitate new development in the Lower Concourse area of the Bronx.

Report Summary:**COMMITTEE RECOMMENDATION AND ACTION**

DATE: June 30, 2009

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

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

Res. No. 2078

Resolution approving the decision of the City Planning Commission on ULURP No. C 090303 ZMX, a Zoning Map amendment (L.U. No. 1127).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on May 22, 2009 its decision dated May 20, 2009 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment to the Zoning Map, to facilitate new development in the Lower Concourse area of the Bronx (ULURP No. C 090303 ZMX) (the "Application");

WHEREAS, the Application is related to ULURP Application Numbers C 090166 MMX (L.U. No. 1116), an amendment to the City Map to establish a park along the Harlem River and N 090302 ZRX (L.U. No. 1117), a zoning text amendment to establish a Special Mixed Use District and a Special Harlem River Waterfront District;

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 23, 2009;

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

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (FEIS) for which a Notice of Completion was issued on May 8, 2009 (CEQR No. 08DCP071X).

RESOLVED:

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

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) Consistent with social, economic and other essential considerations, from among the reasonable alternatives thereto, the action is one which minimizes or avoids adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts disclosed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable;
- (4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and

consideration described in this report, C 090303 ZMX, incorporated by reference herein, the Council approves the Decision.

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended by changing the Zoning Map, Section No. 6a:

1. changing from an M2-1 District to an R7-2 District property bounded by a line 190 feet southerly of a park and its easterly prolongation, Major Deegan Expressway, Park Avenue and its northeasterly and southwesterly prolongations, and a U.S. Pierhead and Bulkhead Line;
2. changing from an M1-2 District to a C4-4 District property bounded by East 149th Street, Morris Avenue, East 144th Street, Canal Place, East 146th Street, Park Avenue, East 144th Street, and the easterly street line of former Anthony J. Griffin Place and its northerly and southerly prolongations;
3. changing from an M2-1 District to a C4-4 District property bounded by:
 - a. East 149th Street, Major Deegan Boulevard, the northerly boundary of a park and its easterly and westerly prolongations, and a U.S. Pierhead and Bulkhead Line; and
 - b. the southerly boundary line of a park and its easterly and westerly prolongations, Major Deegan Expressway, a line 190 feet southerly of a park and its easterly prolongation, and a U.S. Pierhead and Bulkhead Line;
4. changing from an M1-2 District to a C6-2A District property bounded by East 144th Street, Grand Concourse, a line 120 feet southerly of East 144th Street, a line 100 feet easterly of Grand Concourse, the easterly prolongation of the southerly street line of East 140th Street, the westerly boundary line of the Metro North Rail Road (Harlem Division) right-of-way, East 138th Street, Major Deegan Boulevard, a line 100 feet northerly of East 138th Street, and Walton Avenue;
5. changing from an M2-1 District to a C6-2A District property bounded by a line 100 feet northerly of East 138th Street, Major Deegan Boulevard, East 138th Street, and Major Deegan Expressway;
6. changing from an M1-2 District to an M1-4 District property bounded by:
 - a. a line 75 feet southwesterly of East 138th Street, a line 100 feet northwesterly of Third Avenue, East 136th Street, and Rider Avenue; and
 - b. East 138th Street, Park Avenue and its southwesterly centerline prolongation, and an easterly service road of the Major Deegan Expressway;
7. changing from an M2-1 District to an M1-4 District property bounded by a line 75 feet southwesterly of East 138th Street, Rider Avenue and its southwesterly centerline prolongation, East 135th Street, the northeasterly centerline prolongation of Park Avenue, Major Deegan Expressway, East 138th Street, an easterly service road of the Major Deegan Expressway, Park Avenue and its southwesterly centerline prolongation, a line 300 feet southwesterly of East 138th Street, and Canal Place;
8. changing from an M1-2 District to an M1-4/R6A District property bounded by:
 - a. East 146th Street, Canal Place, East 144th Street, Rider Avenue, a line 275 feet northerly of East 141st Street, Canal Place, East 144th Street, and Park Avenue; and
 - b. a line 200 feet southerly of East 144th Street, Walton Avenue, a line 100 feet northerly of East 138th Street, Major Deegan Boulevard, and Gerard Avenue and its southerly centerline prolongation;
9. changing from an M2-1 District to an M1-4/R6A District property bounded by the westerly centerline prolongation of East 140th Street, Major Deegan Boulevard, a line 100 feet northerly of East 138th Street, and Major Deegan Expressway;
10. changing from an R6 District to an M1-4/R7A District property bounded by East 142nd Street, Morris Avenue, East 140th Street, and Rider Avenue;
11. changing from an M1-2 District to an M1-4/R7A District property bounded by:
 - a. East 144th Street, Morris Avenue, East 142nd Street, and Rider Avenue;

- b. East 140th Street, Morris Avenue, a line 100 feet northeasterly of East 138th Street, and Rider Avenue; and
- c. a line 75 feet southwesterly of 138th Street, Lincoln Avenue, Major Deegan Expressway, Rider Avenue and its southwesterly centerline prolongation, East 136th Street, and a line 100 feet northwesterly of Third Avenue;
12. changing from an M1-2 District to an M1-4/R7X District property bounded by Park Avenue, a line 150 feet northeasterly of East 138th Street, Canal Place, a line 100 feet northeasterly of East 138th Street, Morris Avenue, Third Avenue, Lincoln Avenue, a line 75 feet southwesterly of East 138th Street, Rider Avenue, and East 138th Street;
13. changing from an M2-1 District to an M1-4/R7X District property bounded by Park Avenue, East 138th Street, Rider Avenue, a line 75 feet southwesterly of East 138th Street, Canal Place, and a line 300 feet southwesterly of East 138th Street;
14. changing from a C4-4 District to an M1-4/R8A District property bounded by East 149th Street, Walton Avenue, a line midway between East 144th Street and East 146th Street, and Gerard Avenue;
15. changing from an M1-2 District to and M1-4/R8A District property bounded by East 149th Street, Gerard Avenue, a line midway between East 144th Street and East 146th Street, Walton Avenue, a line 200 feet southerly of East 144th Street, Gerard Avenue and its southerly centerline prolongation, and Major Deegan Boulevard;
16. changing from an M2-1 District to an M1-4/R8A District property bounded by Major Deegan Boulevard, the westerly centerline prolongation of East 140th Street, and Major Deegan Expressway;
17. establishing within a proposed R7-2 District a C2-4 District bounded by a line 190 feet southerly of a park, Major Deegan Expressway, Park Avenue and its southwesterly and northeasterly centerline prolongations, and a U.S. Pierhead and Bulkhead Line;
18. establishing a Special Harlem River Waterfront District (HRW) bounded by East 149th Street, Major Deegan Expressway, Park Avenue and its southwesterly and northeasterly centerline prolongations, and a U.S. Pierhead and Bulkhead Line;
19. establishing a Special Mixed Use District (MX-13) bounded by:
- a. East 149th Street, Walton Avenue, a line 100 feet northerly of East 138th Street, Major Deegan Expressway, Major Deegan Boulevard, the easterly centerline prolongation of East 149th Street, and the southerly centerline prolongation of River Avenue; and
- b. East 146th Street, Canal Place, East 144th Street, Morris Avenue, Third Avenue, Lincoln Avenue, Major Deegan Expressway, Rider Avenue and its southwesterly centerline prolongation, East 136th Street, a line 100 feet northwesterly of Third Avenue, a line 75 feet southwesterly of East 138th Street, Canal Place, a line 300 feet southwesterly of East 138th Street, Park Avenue, East 138th Street, Park Avenue, a line 150 feet northeasterly of East 138th Street, Canal Place, a line 100 feet northeasterly of East 138th Street, Rider Avenue, a line 275 feet northerly of East 141st Street, Canal Place, East 144th Street, and Park Avenue;

as shown on a diagram (for illustrative purposes only), dated February 2, 2009, modified by the City Planning Commission on May 20, 2009, and which includes CEQR Designation E-227, Community District 1, Borough of the Bronx.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1128

Report of the Committee on Land Use in favor of approving Application no. 20095663 pursuant to section 1301 (2) (f) of the New York City Charter concerning the proposed lease amendment for the Howland Hook Marine Terminal between the Department of Small Business Services and the Port Authority of New York and New Jersey.

The Committee on Land Use, to which was referred on June 19, 2009 (Minutes, page 2754) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

STATEN ISLAND CB - 1

20095663 PNR

Application pursuant to Section 1301(2)(f) of the New York City Charter concerning the proposed lease amendment for the Howland Hook Marine Terminal between the Department of Small Business Services and the Port Authority of New York and New Jersey.

INTENT

To approve the lease amendment.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2079

Resolution approving an amended maritime lease agreement for the Howland Hook Marine Terminal, Staten Island (20095663 PNR; L.U. No. 1128).

By Council Members Katz and Lappin.

WHEREAS, the Department of Small Business Services filed with the Council on June 10, 2009, pursuant to Sections 1301(2)(f) and (g) of the New York City Charter, an amended lease agreement between the City of New York acting by and through its Department of Small Business Services and the Port Authority of New York and New Jersey for the Howland Hook Marine Terminal, located in Staten Island, upon terms and conditions set forth in the Amended Lease Agreement, a copy of which is attached hereto (the "Amended Lease"), Community District 1, Borough of Staten Island;

WHEREAS, the Amended Lease Agreement is subject to review and action by the Council pursuant to Sections 1301(2)(f) and (g) of the New York City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Amended Lease on June 23, 2009;

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

RESOLVED:

Pursuant to Sections 1301(2)(f) and (g) of the New York City Charter, the Council approves the Amended Lease and upon the terms and conditions set forth in the Amended Lease Agreement by the Department of Small Business Services, a copy of which is attached hereto.

ATTACHMENT: Amendment of Lease

AMENDMENT OF LEASE

between

THE CITY OF NEW YORK, Landlord

And

THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, Tenant

THIS AMENDMENT OF LEASE (this "2009 Amendment"), made as of the th day of , 2009, by and between THE CITY OF NEW YORK, acting by and through its Department of Small Business Services successor in interest to the Department of Ports and Terminals and Department of Ports and Trade, as landlord, (the "Landlord" or the "City"), having an address at 110 William Street, 7th Floor, New York, New York 10038 and THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, a body corporate and politic created by and between the States of New York and New Jersey with the consent of the Congress of the United States of America, having an office at 225 Park Avenue South, New York, New York 10003 (the "Tenant" or the "Port Authority").

WITNESSETH

WHEREAS, the City and United States Lines, Inc. ("United States Lines, Inc.") entered into an agreement of lease dated as of December 21, 1973. By amendment and restatement dated June 30, 1983 (the "1983 Lease"), the City leased and United States Lines, Inc. hired and took from the City land and improvements (the "Facility", the "Premises", the "premises", the "Demised Premises" or the "Terminal" as it may be referred to from time to time) in the Borough of Staten Island, in the County of Richmond, in the City and State of New York, all as described in the Lease for a term set forth therein, with rights to extend the letting;

WHEREAS, the 1983 Lease was assigned by United States Lines, Inc. to the Port Authority and amended by a certain agreement dated June 11, 1985, made by and among the City, the Port Authority, and United States Lines, Inc. (the "1985 Amendment");

WHEREAS, the 1983 Lease, as amended by the 1985 Amendment, required the Port Authority to sublease the Premises thereunder to United States Lines, Inc. and pursuant thereto the Lessee and United States Lines, Inc. entered into an agreement of sublease dated June 19, 1985 (the "Sublease");

WHEREAS, subsequent to the execution of the Sublease, United States Lines, Inc. filed a voluntary petition in bankruptcy and disaffirmed the Sublease;

WHEREAS, by Agreement dated as of May 10, 1990, the Port Authority and the City amended the 1983 Lease, as amended by the 1985 Amendment, to reflect the bankruptcy of

United States Lines, Inc. and the disaffirmance of the Sublease, and otherwise amended the terms of the 1983 Lease, as amended by the 1985 Amendment (the "1990 Amendment"; the 1983 Lease, as amended by the 1985 Amendment and the 1990 Amendment, collectively, the "Lease");

WHEREAS, the City and Port Authority wish to further amend the Lease as follows to adjust a number of the terms including but not limited to the term, the rent structure, and the capital investment; and

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, the City and the Port Authority hereby agree as follows:

- Definitions.** All capitalized terms used herein shall have the meanings ascribed to them in the Lease, unless otherwise specifically set forth herein to the contrary. For the purposes of this 2009 Amendment,

"Base Rent" shall include Original Term Base Rent, Extended Term Base Rent, additional rent and all other sums due and owing to the City in connection with the letting of the Terminal.

"Business Days" shall exclude Saturdays, Sundays and all days observed by the State of New York or Federal Government as legal holidays.

"Capital Investment" shall have the meaning provided in Section 7(a) below.

"Capital Investment Work" shall have the meaning provided in Section 7(a) below.

"Governmental Authority(ies)" means the United States of America, the State of New York, City, and any agency, department, commission, board, bureau, instrumentality or political subdivision of any of the foregoing, now existing or hereafter created, having jurisdiction over the Terminal or any portion thereof or any berth, channel, street, road, avenue or sidewalk comprising a part of, adjacent to or in front of, the Terminal, but only to the extent any of the foregoing is acting in its governmental capacity.

"Gross Revenue(s)" means all revenues, amounts, monies, and income of every kind paid or payable to the Port Authority or otherwise derived by the Port Authority (without any deductions therefrom) from or in connection with the operations permitted under the Lease as amended, including but not limited to all such amounts paid or payable to the Port Authority by any sublessee or other third party; provided, however, that any taxes imposed by law which are separately stated to and paid by the customer and directly payable to the taxing authority by the Port Authority, shall be excluded therefrom. For the avoidance of doubt, the parties hereto hereby acknowledge that "Gross Revenue(s)" shall in no event include any revenues, amounts, monies, and income of any kind derived or arising from the Port Ivory premises, adjacent to the Terminal.

"Hazardous Substances" means any material or substance regulated from time to time as

a toxic or hazardous waste or substance under any applicable federal, state, or local law, regulation, rule, or ordinance, because of its potential risk to human health or the environment, including, but not limited to any material or substance that:

(i) Contains any of the hazardous characteristics or constituents set forth in 40 C.F.R. Sec. 261.20 et seq., as replaced or amended;

(ii) Is listed as a hazardous waste pursuant to 40 C.F.R. Sect. 261.30 et seq., as replaced or amended;

(iii) Is defined as a hazardous substance in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq., as replaced or amended;

(iv) Is defined as a toxic or hazardous waste in the Solid Waste Disposal Act, 42 U.S.C. Sect. 6901 et seq., as replaced or amended; or

(v) Is defined as a hazardous waste or hazardous substance under the statutes and regulations of the State, including the Environmental Conservation Law, Section 27, as replaced or amended, or constitutes petroleum as defined within the Navigation Law, Article 12.

Hazardous Substances shall also mean "hazardous waste", "Regulated Medical Waste", "hazardous material", "hazardous substance", "radioactive material"; and "Regulated Medical Waste" and "petroleum product and by-product" as defined in the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Hazardous Material Transportation Act, the Federal Water Pollution Control Act and the Superfund Amendments and Reauthorization Act of 1986, the National Oil and Hazardous Substances Pollution Contingency Plan, the New York State Environmental Conservation Law, the New York State Navigation Law, and the New York City Charter, Administrative Code and Rules and Regulations, and any laws relating to underground storage tanks, and any similar or successor federal law, state law or local statutes and ordinances and any rules, regulations and policies promulgated thereunder, as any of such federal, state and local statutes, ordinances and regulations may be amended from time to time (collectively, "Environmental Laws").

"Improvements" means any and all channel or berth deepening, structures or other improvements and appurtenances of every kind and description now existing on the Terminal or hereafter erected, constructed or placed upon the Terminal or any portion thereof (other than trade fixtures), and any and all alterations, replacements and substitutions thereof, including, but not limited to, the Capital Investment Work, repairs and all equipment incorporated in or attached to the Terminal at any time during the Term as hereinafter defined, including but not limited to the Capital Investment Work.

"Lease Administrator" means the New York City Economic Development Corporation ("NYCEDC") until such time as the Lease Administrator is changed, and its agent the Apple Industrial Development Corp.

"Lease as amended" shall mean the Lease as amended by the 1985 Amendment, 1990 Amendment, and this 2009 Amendment, except where the context clearly indicates to the

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contrary.

"Lease Year" shall mean a period of twelve (12) consecutive full calendar months commencing with January 1, 2009 and the succeeding anniversaries thereof.

"Mean Low Water" shall mean the mean low water as most recently at the Effective Date determined by observations of the United States Coast and Geodetic Survey.

"Person" shall mean any individual or any entity, whether a trustee, corporation, general partnership, limited liability company, limited liability partnership, joint stock company, trust, estate, unincorporated organization, business association, tribe, firm, joint venture, any federal, state, county or municipal government, or any bureau, department or agency thereof, any governmental authority, governmental instrumentality, any fiduciary acting in such capacity on behalf of any of the foregoing, or otherwise.

"Rental" or "Rent" or "rent" or "rental" as it is referred to from time to time throughout the Lease as amended, shall include but not be limited to, the Base Rent, Percentage Rent, as defined in Section 5(b)(1)(ii), and additional rent.

"Representatives" means the employees, agents, servants, officers, president, members, consultants, independent contractors, subcontractor and authorized personnel of a Person or entity.

"Requirement(s)" shall mean:

Any and all present and future laws, rules, regulations, orders, ordinances, statutes, codes, executive orders, and requirements of all Governmental Authorities applicable to the Terminal or any street, road, avenue, or sidewalk comprising a part of, or in front of, the Terminal or any vault in, or under the Premises (including, without limitation, the Building Code of New York City and the laws, rules, regulations, orders, ordinances, statutes, codes, and requirements of any applicable Fire Rating Bureau or other body exercising similar functions);

"Substantial Completion", "Substantially Complete", "Substantially Completed" - and other form variations of the phrase - means, with respect to all work constructed by the Port Authority in accordance with the Lease as amended, including, without limitation, the Capital Investment Work, that the City has determined that the following conditions have been satisfied: (a) the Governmental Authority having jurisdiction over the Terminal has issued a temporary certificate (or certificates) of occupancy or completion, or chairman's certificate with respect to waterfront zoning as the case may be or the like as applicable, for the Terminal; (b) all utilities, as applicable, are connected; (c) the Port Authority may use and occupy the entire Premises for the use and purpose authorized by this Lease, (d) all work, as applicable, has been completed in accordance with the plans and specifications, all systems of the Terminal are operating and such work and systems have been accepted by the Port Authority (as evidenced by controlled inspection reports to be submitted by the Port Authority to the City, if such type of work is customarily subjected to testing under controlled conditions), except for minor repairs, corrections, and adjustments of a "punch list" nature which can be completed promptly and with minimal interference to the occupancy and use of the Terminal by the Port Authority; and (e) the architect, the Port Authority, the contractor and the City have approved in writing a final punch

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list of such minor repairs, corrections and adjustments; it being agreed, however, that construction shall not be deemed Substantially Complete notwithstanding the issuance or reissuance of a temporary certificate of occupancy if the Terminal cannot reasonably be operated for the purposes set forth in the Lease on account of such outstanding work.

“Term” shall mean the term of the Lease as amended.

2. Amendment of Lease.

This 2009 Amendment shall be annexed to and is hereby made a part of the Lease. Notwithstanding the foregoing, in the event any provision in this 2009 Amendment conflicts with any provision in the Lease, the terms of this 2009 Amendment shall supersede and govern.

3. Effective Date. This 2009 Amendment is effective as of the date hereof (the “Effective Date”).

4. Modification of Term. As of the Effective Date, the “Initial Term” section of the Lease and Article 2 of the 1985 Amendment shall be modified as follows:

(a) Term. The term of the letting under the Lease is hereby extended, in accordance with the terms of Lease as amended, until June 30, 2058 at 11:59 p.m. subject to earlier termination in accordance with the terms of the Lease as amended.

(b) Option to Terminate. In the event the Port Authority fails to make the full Capital Investment in the Terminal as set forth in Section 6 herein, provided that (x) the Lease as amended shall then be in full force and effect in accordance with its terms, (y) there shall not then exist any uncured default hereunder at the time of exercise of the Option to Terminate, hereinafter defined, and at the effective date of termination and (z) the Port Authority named herein is the tenant under the Lease as amended and either it or its subtenant is occupying all of the Terminal, the Port Authority shall have the option to terminate the Lease as amended and the term of letting thereunder effective as of July 18, 2023 (the “Option to Terminate”) by giving written notice to the City of its election no later than January 18, 2022. The Port Authority and the City hereby mutually acknowledge that it is their intention that the Port Authority’s exercise of the Option to Terminate constitutes the same exercise of option to terminate referred to in Section 2(c) of Port Authority Lease No. BP-311 between the Port Authority and NYCEDC dated as of January 1, 2009 for the Brooklyn Cruise Terminal, such that, in accordance with the provisions of the said Section 2(c), upon the Port Authority’s exercise of the Option to Terminate, NYCEDC will no longer have the option to extend the term of the letting under the said Lease No. BP-311 beyond December 31, 2029.

5. Modification of Rent. As of the Effective Date, Section 3 of the 1990 Amendment is hereby modified as follows:

(a) Original Term Base Rent. In lieu of the rental set forth in paragraphs “A.” and “B.” of Article Fourth of the Lease and Sections 3(a) and (b) of the 1990 Amendment, for the period starting with July 1, 2008 through December 31,

2023, the Port Authority shall pay to the City a basic rental for each Lease Year at the annual rate of \$3,377,052.84, payable in advance in quarterly installments of \$844,263.21 on each January 1, April 1, July 1, and October 1 during such period (the “Original Term Base Rent”);

(b) Extended Term Base Rent. For the period from January 1, 2024 through June 30, 2058, the Port Authority shall pay to the City a basic rental (the “Extended Term Base Rent”) as follows:

(1) If the Capital Investment has been fully made by July 18, 2023, the Port Authority shall pay to the City for each Lease Year, the period from January 1, 2024 through June 30, 2058, the following:

(i) a fixed rental for each Lease Year at the annual rate of \$1,000,000.00, payable in advance in quarterly installments of \$250,000.00 on each January 1, April 1, July 1, and October 1 during such period, plus

(ii) a percentage rental (“Percentage Rent”) in the amount of twenty-five (25%) percent of total Gross Revenues generated to the Port Authority from the Terminal that exceeds the minimum revenue threshold stated in Exhibit A attached hereto, payable in advance in estimated quarterly installments on each January 1, April 1, July 1, and October 1 during such period, each installment in an amount based on the Gross Revenues for the same quarter in the previous Lease Year. Following the end of each Lease Year, a reconciliation, as required, shall be made based on the actual Gross Revenues for such Lease Year as set forth in Section 5(c) below.

(2) If the Capital Investment has not been fully made by July 18, 2023 and the Port Authority has not duly exercised its Option to Terminate, the Port Authority shall pay to the City for each Lease Year for the period from July 1, 2023 through June 30, 2058, the following:

(i) a fixed rent at the annual rate of \$4,500,509.00, payable in advance in quarterly installments of \$1,125,127.25 on each January 1, April 1, July 1, and October 1 during such period, and

(ii) for each Lease Year thereafter, at an annual rate equal to 102% of the annual rate theretofore payable, payable in advance in equal quarterly installments on each January 1, April 1, July 1, and October 1 during such period.

(c) Gross Revenue Quarterly Report; Gross Revenue Annual Report.

Commencing from when the provisions of Section 5(b)(1)(ii) relating to Percentage Rent apply, a Gross Revenue Quarterly Report as defined hereinafter shall be due pursuant to the terms set forth in this Section 5(c) as follows:

(1) Within forty-five days following each calendar quarter commencing

with the calendar quarter ending on March 31, 2024, the Port Authority shall render to the Lease Administrator a statement (the “Gross Revenue Quarterly Report”) certified by a responsible officer of the Port Authority, showing the Gross Revenues for the preceding quarter and the cumulative Gross Revenues from the date of the commencement of the Lease Year for which the Gross Revenue Quarterly Report is made through the last day of such preceding quarter. The Gross Revenue Quarterly Report made for the last quarter of each Lease Year shall include a reconciliation of the amount of the Percentage Rent payable for the preceding Lease Year and the Port Authority shall pay, within fifteen (15) days of rendering such Gross Revenue Quarterly Report any amount of the Percentage Rent then owed to the City. In the event that the aforesaid reconciliation shall show that the Port Authority has paid in excess of the Percentage Rent owed for such Lease Year, the difference shall be credited against the Rentals next payable under the Lease as amended.

(2) Upon any termination of the letting (even if stated to have the same effect as expiration), the Port Authority shall within sixty (60) days after the effective date of termination render to the Lease Administrator a statement certified by a responsible officer of the Port Authority setting forth the information required to be set forth in the Gross Revenue Quarterly Report pursuant to the provisions of subparagraph (1) of Section 5(c), with respect to the last quarter of the Lease Year through the effective date of termination except that (i) the statement shall set forth the Gross Revenues for the quarter period or portion thereof through the effective date of termination and, if not already set forth therein, the cumulative Gross Revenues from the date of the commencement of the Lease Year in which the effective date of termination occurred through the effective date of termination, and (ii) the final calculation of the Percentage Rent shall be made for the period from the first day of the Lease Year in which the effective date of termination shall occur through the effective date of termination. Any amount of the Percentage Rent determined to be owed to the Port Authority pursuant to such final calculation shall be paid by the Port Authority within fifteen (15) days of rendering the statement such Gross Revenue Quarterly Report.

(d) Place and Manner of Payment; Prorations.

(1) All Rent payable under the Lease as amended shall be paid to Apple Industrial Development Corp., as the Lease Administrator, at c/o New York City Development Corporation, 110 William Street, New York, New York 10038, Attn.: Accounting, or to such other entity or person and at such other address as the City may designate by written notice. The Port Authority agrees to pay all Rent due pursuant to this Lease as amended in lawful money of the United States which shall be legal tender in payment

of all debts and dues, public and private, at the time of payment, without any set off or deduction whatsoever.

- (2) Base Rent shall be paid in quarterly installments in advance on the first day of each quarter during that term regardless of receipt of an invoice or another form of request for payment. All Base Rent due for less than a payment period specified herein shall be pro-rated and appropriately apportioned on the basis of twelve (12) equal monthly installments per year; and for any period less than a month, appropriately apportioned on the basis of the number of calendar days in such month.

(c) Late Charges:

If the Port Authority fails to pay any amount required under the Lease as amended when due to the City, including without limitation any payment of Rent or any payment of utility fees or charges, or other charges or fees, or if any such amount is found to be due as the result of an audit, then, in such event, the City may impose (by statement, bill or otherwise) a late charge with respect to each such unpaid amount for each late charge period herein below described during the entirety of which such amount remains unpaid, each such late charge not to exceed an amount equal to eight-tenths of one percent of such unpaid amount for each late charge period ("Late Charge Rate"). There shall be twenty-four late charge periods during each calendar year; each late charge period shall be for a period of at least fifteen (15) calendar days except one late charge period each calendar year may be for a period of less than fifteen (but not less than thirteen) calendar days. Without limiting the generality of the foregoing, late charge periods in the case of amounts found to have been owing to the City as the result of audit findings shall consist of each late charge period following the date the unpaid amount should have been paid under the Lease as amended. Each late charge shall be payable immediately upon demand made at any time there for by the City. No acceptance by the City of payment of any unpaid amount or of any unpaid late charge amount shall be deemed a waiver of the right of the City to payment of any late charge or late charges payable under the provisions of this Section, with respect to such unpaid amount. Each late charge shall be and become additional rent, recoverable by the City in the same manner and with like remedies as if it were originally a part of the Rent as set forth in the Lease as amended. Nothing in this Section is intended to, or shall be deemed to, affect, alter, modify or diminish in any way (i) any rights of the City under the Lease as amended, including without limitation the City's rights of specific performance and termination or (ii) any obligations of the Port Authority under the Lease as amended. Further, no failure by the City to insist upon the strict performance by the Port Authority of its obligations to pay Late Charges shall constitute a waiver by the City of its right to enforce the provisions of this Section 5(e) in any instance thereafter occurring. The provisions of this Section 5(e) shall not be construed in any way to extend the grace periods or notice periods provided for in any default section in the Lease as amended. In the event that any late charge imposed pursuant to this Section shall exceed a legal maximum applicable to such late charge, then, in such event, each such late charge payable under this Agreement shall be payable instead at such legal maximum.

wastes or substances which may be found at the Terminal or in its berths and channels. The Port Authority will perform all work, except as otherwise authorized herein, including but not limited to the Capital Investment Work and general maintenance work, as referenced below, at its own cost and expense. The Port Authority will pursue Congressional and other governmental approvals required for the deepening work herein and to maintain the channels generally.

- (b) Annual Capital Investment Report. By March 31 of each Lease Year through and including the Lease Year occurring during 2023, the Port Authority shall provide an annual report, certified by a responsible officer of the Port Authority, to the City of the prior calendar year's Capital Investment expenditure for the benefit of the Terminal (the "Annual Capital Investment Report"), setting forth the amount of the Capital Investment Work performed by the Port Authority's employees, agents, Representatives, contractors and subcontractors during the preceding Lease Year, showing separately each project performed, a project description, the projected cost of each such project, and the amount paid by the Port Authority on account of such costs. The Port Authority shall provide additional information upon request. The Annual Capital Investment Report shall also include (or there shall be separately provided upon their becoming available) long term capital spending plans at or around the Terminal ("Long Term Capital Plans" or "Long Term Capital Project(s)") and planned capital projects for the Terminal over the next five years. The Port Authority shall update the information and provide a status (including, as available, the information relating to the Long Term Capital Plans) each year in the Annual Capital Investment Report next due and shall provide any scope, location, and cost estimate for each such project as the same is available.

Notwithstanding the above, the Annual Capital Investment Report for January 2009 through December 31, 2009 shall also include, but not be limited to, the required information set forth in Section 7(b) with regard to the period from January 1, 2008 through December 31, 2008.

- (c) As-Builts. Within three (3) months of completion of each Capital Investment Work and/or Long Term Capital Plan project, the Port Authority shall submit "as built" drawings to the City for its files.
- (d) Intentionally deleted.
- (e) Access. In lieu of the access provision set forth the first sentence of Article TWENTY-EIGHTH of the 1983 Lease and the last sentence of Section 4(a) of the 1990 Amendment, from and after the Effective Date, the Port Authority agrees, on reasonable advance notice from the City, to permit the City, by its employees, agents and Representative, during regular business hours, to inspect the Terminal, and, during the last six months of the Term, shall permit inspection thereof by or on behalf of prospective future lessees accompanied by employees or Representatives of the City or as otherwise approved by the parties. Notwithstanding the foregoing, in the event of exigent circumstances, the City shall be permitted entry at any time without notice or with reasonable notice considering the circumstances. The Port Authority also agrees, on

(f) Abatement, Deduction, Counterclaim and Offsets. It is the intention of the City and the Port Authority that except as provided herein (a) the Base Rent shall be absolutely net to Landlord without any abatement, diminution, reduction, deduction, counterclaim, setoff or offset whatsoever, so that each Lease Year of the Term shall yield, net to Landlord, all the Base Rent, and additional rent as demanded pursuant to the terms set forth herein, and (b) the Port Authority pay all costs, expenses and charges of every kind relating to the Terminal that may arise or become due or payable during or after (but attributable to a period falling within) the term of letting under the Lease as amended.

6. Condition of the Premises. As of the Effective Date, Article FOURTEENTH of the 1983 Lease shall be modified by adding the following paragraph as a new paragraph following to the first paragraph:

Without otherwise limiting the generality of Article FOURTEENTH of the 1983 Lease, from and after the Effective Date, the Port Authority shall continue to accept the Terminal "as is" and without any representations or warranties of any kind or nature by the City, except as otherwise provided in the Lease as amended, agree not to make any claim that the Terminal is not suitable for the uses set forth in the Lease as amended, and agree not to make any claim regarding the condition of the Terminal.

7. Capital Investment, Improvements, Access and Maintenance and Repairs. As of the Effective Date, Section 4 of the 1990 Amendment is hereby modified as follows:

(a) Improvements under Capital Investment. The parties acknowledge that the improvements set forth in Articles Sixth and Seventh of the 1985 Amendment and Section 4(a)-(d) of the 1990 Amendment have been completed. From January 1, 2008 through July 18, 2023, it is the Port Authority's intention to spend an amount not less than One Hundred Ten Million Dollars and No Cents (\$110,000,000.00) (the "Capital Investment") on Improvement work for the benefit of the Terminal (the "Capital Investment Work") to be performed through its employees, agents, Representatives, contractors and subcontractors. The Capital Investment Work shall include capital improvements made for the benefit of the Terminal, including, but not be limited to, external and internal roadway improvements constructed to benefit the Terminal, the deepening of the access channels serving the Terminal (as shown on the site map attached hereto as Exhibit B) to a depth of fifty (50) feet below Mean Low Water, or, in the event of development of the land adjacent to the Terminal, deepening the access channels to such adjacent site to 50 feet while deepening the remainder of the access channels serving the Terminal to a depth of 45 feet, and any environmental remediation performed in connection therewith. The Capital Investment Work shall not include any dredging to maintain the berths at the Terminal at agreed upon depths, any dredging to maintain the access channels to the Terminal (as opposed to dredging to deepen the access channels and berths beyond agreed upon depths), or any work to clean up or mitigate any environmentally hazardous

reasonable advance written notice from the City, to permit the City by its employees and Representatives to examine and audit such books and records of the Port Authority during normal business hours which pertain to the performance of all work at the Terminal including, but not limited to, the Capital Investment Work and will substantiate the amounts spent by the Port Authority on such work. The Port Authority will, upon the City's reasonable request, provide materials and information to substantiate the amounts spent by the Port Authority on the Capital Investment Work

- (f) Inspection. The Port Authority shall inspect the Terminal on a regular basis in accordance with the Port Authority's normal procedures as set forth in the Port Authority manual # A145-1.07 attached hereto as Exhibit C which may be amended from time to time. The Port Authority shall provide a copy of each inspection report to the City. Upon request, the Port Authority shall permit the City to contact the inspector with additional questions and provide additional information.

- (g) Maintenance and Repairs. Notwithstanding the provisions of Paragraph B. of Article TWELFTH of the 1985 Amendment, and without otherwise limiting the generality thereof and Article FIFTEENTH of the 1983 Lease, from and after the Effective Date, the Port Authority shall, at its own cost and expense, keep and maintain in reasonably good and safe order and condition, ordinary wear and tear excepted, and repair, operate and take good care of (or cause to be repaired, maintained, operated and taken good care of) every part of the Terminal. The Port Authority shall neither commit nor suffer, and shall use all reasonable precaution to prevent, waste, damage or injury to the Terminal. All repairs made by or caused to be made by the Port Authority shall be equal in quality and class to the industry standard and shall be made in compliance with applicable law. As used in this Section, the term "repairs" shall include all necessary (a) replacements, (b) removals, (c) alterations, and (d) additions. The Port Authority shall have sole responsibility, and the City shall have none, for the maintenance and repairs of the Terminal, including but not limited to the Improvements, berths and access channels, and repairs of or replacements to the Improvements, including but not limited to the structure of the pier and the decking, fender system, backing logs, and standard fixed mooring devices. The work described in this paragraph shall be the responsibility and sole cost of the Port Authority and shall be performed based on the condition of the Terminal or upon the reasonable request of the City, and, where required, subject to the approval of the Port Authority's Board of Commissioners, the recommendation of which approval shall not be unreasonably withheld or delayed by the staff of the Port Authority.

If the Port Authority fails, after twenty (20) days notice (or without notice in the case of an emergency) from the City or other, to proceed with due diligence to make repairs required to be made by the Port Authority, the repairs may be, but shall not be obligated to be, made by the City at the expense of the Port Authority, and the reasonable expenses thereof incurred by the City as well as for the payment of those repairs to the Terminal shall be collectible, in addition to the Base Rent as additional rent, within 15 days after

rendition of a bill or statement therefor.

- (h) Force Majeure. The Force Majeure provision set forth in Section 4 (b) of the 1990 Amendment, shall be modified and set forth in this Section 8(h) as follows:

The Port Authority shall not be liable for any failure, delay or interruption in performing its obligation under the Lease as amended, caused by unavoidable casualty, national emergency, governmental restrictions, enemy action, civil commotion, strikes, lockouts, labor troubles, inability to obtain labor or materials, failure of power, riots, insurrection, wars or national defense pre-emptions, an act of God, injunctions or stays issued by any Court having jurisdiction over the City or the Port Authority or any other similar event beyond the reasonable control of and not caused by the Port Authority (a "Force Majeure Event"). Unavailability of funds shall not be deemed a Force Majeure Event.

- (i) Law. In lieu of Section 4(c) of the 1990 Amendment and Article SEVENTH of the 1985 Amendment, the Port Authority agrees that in all matters of operating the Terminal and performance of work, including but not limited to Capital Investment Work, environmental remediation, repair, maintenance and the like during the letting of the Terminal, the Port Authority will conform with all Requirements, provided, however, that it is specifically understood and agreed that no local law, enactment, ordinance, rule or regulation, permit or requirement of the City shall apply to such operation of the Terminal and performance of work under the Lease as amended so long as the Port Authority is the Tenant. Notwithstanding the foregoing, the Port Authority, as a matter of policy, will conform to the enactments, ordinances, resolutions, and regulations of the City and its various departments, boards, and bureaus in regard to the construction and maintenance of the improvements and structures and in regard to health and fire protection as if the Port Authority were a private corporation, to the extent that the Port Authority finds it practicable to do so, without interfering with, impairing, or affecting the efficiency or economy of the Terminal, or its ability to operate the Terminal, or its obligations, duties, and responsibilities to the States of New York and New Jersey, its bondholders, and the general public, but the decision of the Port Authority as to whether it is practicable to do so shall be controlling and conclusive. The above notwithstanding, the Port Authority will obtain a Certificate(s) of Completion or its equivalent, for all improvements or structures currently on the Terminal and to be built on the Terminal in the future, no later than three years prior to the expiration of the letting under this Lease as amended. Nothing contained herein shall be deemed an acceptance by the Port Authority to the application to itself of any local law, enactment, ordinance, rule, or regulation, permit or requirement of the City, nor an acceptance by the City of the immunity of the Port Authority from any local law, enactment, ordinance, rule, or regulation, permit or requirement of the City.

Further, subject to the foregoing, the Port Authority shall comply or cause to be complied with all applicable federal, state, and local laws related to the health and safety of its employees.

8. Security. The Port Authority shall procure and pay for all security for the Terminal, as is reasonable and customary for like properties and required by law.
9. Insurance. As of the Effective Date of this 2009 Amendment, Section 6 of the 1985 Amendment and Article Seventeenth of the Lease are hereby modified as follows:

Section 9.01. Insurance Requirements. At all times during the remainder of the Term, the Port Authority, at its sole cost and expense, shall carry and maintain in full force and effect, or cause to be carried and maintained in full force and effect, insurance coverage of the following types or insuring the described risks and in the minimum limits set forth below:

(a) Insurance During Any Construction Work: Builder's Risk Property, Liability and Statutory Coverage. In addition to the amounts of coverage specified herein, from the time of the commencement of any work, including but not limited to the Capital Investment Work, at the Terminal throughout the Term which construction has a cost in excess of fifty thousand (\$50,000.00) dollars, and until the architect has certified to the City that the construction has been Substantially Completed, or upon Substantial Completion of any other work which does not require the supervision of the architect, the Port Authority at its sole cost and expense shall carry or cause to be carried:

(i) Builder's Risk Insurance. Builder's Risk Insurance (standard "All Risk" or equivalent coverage), in the amount of not less than one hundred percent (100%) of the replacement cost of the Improvements which are to be constructed (which shall be deemed to be equal to the stipulated sum set forth in the construction contract). The Builder's Risk Insurance shall be written on a completed value (non-reporting) basis, naming the Port Authority as a named insured. In addition, such insurance policy (A) shall contain a written acknowledgement (annexed to the policy) by the insurance company that its right of subrogation has been waived with respect to the City and Lease Administrator, and any holders of mortgages named in such policy and, if required by the City, an endorsement stating that "permission is granted to complete and occupy"; (B) if any off-site storage location is used, shall cover, for full insurable value, all materials and equipment on or about any such off-site storage location intended, or while in transit, for use with respect to the improvement and/or betterments and/or the Terminal; (C) shall cover (w) the same perils covered by the ISO Special form or its equivalent; (x) loss of materials, equipment, machinery and supplies, or of any temporary structure, hoist, or scaffolding; (y) soft costs, plans, specifications, blueprints and models; and (z) demolition and increased cost of construction, including increased costs arising from changes in the Requirements at the time of restoration and coverage for operation of building laws, all subject to a sub-limit satisfactory to the City; and (D) unless approved by the City, shall contain no exclusions other than those that are reasonable and customary in Builder's Risk insurance policies issued in connection with work similar in

all material respects to the Improvements, Capital Investment Work, repairs and any other work being performed.

(ii) Liability Insurance Coverage.

(A) Commercial General Liability Insurance. Commercial General Liability Insurance, on an occurrence basis, written on the ISO Form CG 00 01 (or its equivalent), including, without limitation, all applicable coverages enumerated herein with the addition of the following coverages to the extent not already set forth herein: contractual liability coverage (covering, to the maximum extent permitted by law, the Port Authority's, and/or their contractor's or subcontractor's, as applicable, obligation to indemnify the City and Lease Administrator, as required under the indemnity provisions of this Lease, any sublease and any construction contracts applicable to the Terminal), completed operations coverage, broad form property damage endorsement covering the operations of all contractors, subcontractors, and consultants and with no exclusions that are not part of the ISO Form CG 00 01 (or its equivalent), and the completed operations coverage shall protect the City and Lease Administrator as additional insureds on form CG 20-37 (or its equivalent), unless specifically approved in writing in each instance by the City at its sole discretion and providing that the contractors, subcontractors, the Port Authority, the City, and, at the City's election, the City's construction manager (if any), including their respective Representatives, are named as additional insured, all on a primary and non contributory basis, and providing liability limits as reasonably required by the City from time to time, taking into account the hazards associated with any work, but in any event, not less than at least twenty five million dollars (\$25,000,000) per occurrence during any work including but not limited to Capital Investment Work and repairs. This limit of liability can be secured through a combination of General Liability and Umbrella/Excess Liability coverage.

(B) Automobile Liability. Automobile liability covering owned, non-owned and hired vehicles with limits as reasonably required by the City and/or Lease Administrator from time to time, but, in any event, with limits not less than a combined single limit per occurrence for bodily injury and property damage of two million dollars (\$2,000,000) with respect to bodily and personal injury, death and property damage. This limit can be secured through a combination of Automobile Liability and Umbrella/Excess Liability coverage.

(C) Pollution/Environmental Liability Insurance - To the extent certain work may involve pollution/environmental exposure, Pollution/Environmental Liability Insurance covering bodily injury and property damage, including loss of use of damaged property or property that has not been physically injured, which in any event shall not be less than five million dollars (\$5,000,000) per occurrence unless otherwise approved in writing by the City which approval will not be unreasonably withheld or delayed. Such insurance shall provide coverage for actual, alleged or threatened emission, discharge, dispersal, seepage, release or escape of pollutants (including, without limitation, any Hazardous Substances), including any loss, cost or expense incurred as a result of any cleanup of pollutants (including, without limitation, any Hazardous Substances) or in the investigation, settlement or defense of any claim, suit or proceeding against any of the Additional Insureds (as defined in Section 9.16, including, without limitation, the City

and the Fee Owner) arising from the activities and operations under this Lease. Such insurance shall name the Additional Insureds (as defined in Section 9.16, including, without limitation the City and the Lease Administrator) as additional insureds on a primary and non contributory basis. The City reserves the right, based upon its reasonable evaluation of the risk and exposures from the proposed use, Improvements, work, including but not limited to Capital Investment Work, and/or repairs and/or during work on such and to require, from time to time, an additional increase, when commercially available, in the amount of the minimum limits of the Pollution/Environmental Liability Insurance as warranted by the risk and exposure.

(E) Professional Liability Insurance, which in any event shall not be less than five million dollars (\$5,000,000) per occurrence, to the extent applicable to the activities and operations at the Terminal, including but not limited to the berths and access channels, performed by or on behalf of the Port Authority or its contractors, subcontractors and consultants, for a period from the Effective Date until three (3) years after the completion of the professional services rendered, as applicable.

(F) Umbrella Liability Coverage. The City reserves the right, based upon its reasonable evaluation of the risk and exposures from the proposed Improvements, work, including but not limited to Capital Investment Work and/or repairs to require additional liability limits of coverage to protect the Additional Insureds (as defined in Section 9.16, including, without limitation, the City and the Lease Administrator) secured by Umbrella Liability coverage. Such Umbrella Liability coverage must be in compliance with all the provisions of the primary coverages, including, without limitation, the specified coverage for all insureds and additional insureds required to be named as insureds and additional insureds hereunder.

(G) Statutory Insurance. Worker's Compensation Insurance and Employer's Liability Insurance, New York State disability benefits and other statutory forms of insurance in form and limits as required by law covering contractors or subcontractors with respect to all of their employees.

(H) Wrap Up Insurance, OCIP and CCIP. To the extent applicable, the Port Authority (directly or through the Port Authority's contractor) may to procure and maintain (or cause to be procured and maintained), to the extent permitted under applicable law, a wrap up insurance policy through an Owner Controlled Insurance Program (OCIP) or through a Contractor Controlled Insurance Program (CCIP) which will satisfy the requirements of the foregoing Section pertaining to Commercial General Liability Insurance, Builder's Risk Insurance, Workers' Compensation/Disability/Employer's Liability, Pollution/Environmental Liability Insurance, and, to the extent commercially available, Professional Liability Insurance, during periods of construction, provided that the terms and limits of coverage provided thereunder generally conform to the requirements of this Section and are otherwise reasonably acceptable to the City.

(I) Marine Protection and Indemnity Insurance. If applicable in light of the nature of the business activities of the subtenant, licensee, permittee or concessionaire, Marine protection and indemnity insurance in an amount not less than ten million dollars

(\$10,000,000), per occurrence. Coverage must be in compliance with all the provisions of the primary coverages, including, without limitation, the specified coverage for all insureds and Additional Insureds required to be named as insureds and Additional Insureds hereunder.

(J) Miscellaneous Insurance. Such other insurance, in such amounts as from time to time reasonably may be required by the City.

(K) Self Insurance. In lieu of providing coverage for the risks described in Section 9.01 (a) above, the Port Authority may elect to provide by self-insurance, in whole or in part, for itself and its contractors, agents, subtenants and other representatives, primary coverage for such risks upon the same terms and conditions as would be provided by an insurance carrier. The Port Authority agrees that in the event of a loss, it shall make available out of its own funds such amounts as would be paid by an insurance carrier providing the coverage which the Port Authority has elected to provide by self-insurance and its obligation to pay any loss hereunder shall not be limited other than by limitations on coverage what would have been made available from such insurance carrier. If the Port Authority elects to provide any insurance coverage pursuant to this paragraph (K) it shall provide a letter to the City which (i) shall be signed by a duly authorized officer of the Port Authority, (ii) shall attest to the existence of the Port Authority's self-insurance program (iii) shall identify the coverage or coverages which the Port Authority elects to provide pursuant to this paragraph (K).

(b) Insurance Upon Substantial Completion of Commercial Improvements. "All Risk" property damage insurance protecting the Port Authority and the City against loss of or damage to the Terminal by fire and all other risks of physical loss or damage now or hereafter embraced by ISO Cause of Loss – Special Form in the amount of not less than the full Replacement Value of the Terminal (without depreciation or obsolescence clause) and all improvements, protecting the Port Authority and the City against loss to the Improvements, work, including but not limited Capital Investment Work, and repairs and meeting all of the standards, limits, minimums and requirements described in Section 9.08. For purposes of the Lease as amended, "All Risk" shall have the meaning provided in Section 9.14. Such insurance shall designate the City and the Lease Administrator as loss payee and shall include the following coverages and clauses:

- (i) if not otherwise included within the "All Risk" coverage specified above, coverage against damage by explosion caused by steam pressure-fired vessels, by earthquake and/or by hurricane;
- (ii) contingent liability from operation of building laws;
- (iii) demolition cost for undamaged portion coverage;
- (iv) intentionally deleted;
- (v) increased cost of construction coverage specifying that the proceeds of such insurance shall be available to pay all costs of dredging, demolition, including the costs of debris removal, grading and fencing and all increased costs of construction in the event that any insured hazard results in a

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loss;

- (vi) an agreed or stipulated amount endorsement negating any co-insurance requirements
- (vii) flood coverage to the maximum extent available under the National Flood Insurance Act of 1968, as amended, with a sublimit of not less than ten percent (10%) of the value of the Improvements, work, including but not limited Capital Investment Work, and repairs;
- (viii) intentionally deleted;
- (ix) coverage for piers, docks, wharfs, slips and other related improvements for such structures.

If the Port Authority elects to insure the Port Authority's trade fixtures and other personal property used in connection with the Terminal, the Replacement Value shall be increased in the amount of such personal property, and payments on the Port Authority's claims for loss of personal property shall be paid to Port Authority after notice to the City and/or Lease Administrator.

- (c) Intentionally deleted.
- (d) Statutory Workers' Compensation and Disability Benefits Insurance. Statutory Workers' Compensation including but not limited to Employers' Liability coverage and New York Disability Benefits Insurance, and, if applicable, Jones Act Insurance, U.S. Harbor Worker's Insurance and Long Shoremen's Compensation Insurance, in statutory amounts, as required by applicable law, and any other insurance required by law covering all persons employed by the Port Authority, contractors, subcontractors, or any entity performing work on or for the Premises.

(e) Boiler and Machinery Insurance. Boiler and Machinery Insurance, covering all boilers, ventilation, heating, unfired pressure vessels, air conditioning equipment, elevators, piping and wiring, located on any portion of the Premises, whether or not same is a trade fixture, all steam, mechanical and electrical equipment, including, without limitation, in all its applicable forms, including Broad Form, boiler explosion, extra expense and loss of use in an amount not less than the full replacement cost of such equipment, and which shall designate the City and Lease Administrator as additional insured and as loss payees for the benefit of the City and the Port Authority, as their interests may appear.

(f) Automobile Liability Insurance. Automobile Liability insurance covering owned and non-owned vehicles with limits as reasonably designated by the City from time to time but in any event with limits of not less than Two Million Dollars (\$2,000,000) combined single limit per occurrence with respect to personal and bodily injury, death and property damage which shall designate the City and Lease Administrator as Additional Insureds.

- (g) Intentionally deleted.

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(h) Marine Protection and Indemnity Insurance. Marine Protection and Indemnity Insurance incorporating U.K. Rules or the equivalent shall be provided with a limit of liability of not less than ten million dollars (\$10,000,000) per occurrence, at all times when the Port Authority or any of its contractors or subcontractors utilizes floating equipment, barges or floats, or performs marine-related construction, covering any and all claims for personal injury, death and property damage arising out of or in connection with the Terminal.

(i) Environmental/Pollution Insurance. To the extent environmental exposure is an issue for the business operations in connection with the Terminal of the Port Authority or any subtenant, licensee or concessionaire, Pollution Liability Insurance policy, on an occurrence basis, providing coverage for bodily injury liability, property damage or environmental damage caused by pollution conditions with a limit of liability of not less than five million dollars (\$5,000,000) per occurrence and in the aggregate. The policy shall include coverage for environmental clean-up on land, in air and on water. The policy shall include coverage for gradual and sudden and accidental pollution coverage, with a time element of no less than seven (7) days' notice and thirty (30) days' reporting. The policy shall not contain a sunset provision, or any other provision, which would prohibit the reporting of a claim and the subsequent defense and indemnity that would normally be provided by the policy. The policy shall provide coverage including but not limited to:

- (i) transportation coverage for the hauling of hazardous materials from the Premises to the final disposition location.
- (ii) Such other insurance, in such amounts as from time to time commercially available and reasonably may be required by the City.
- (iii) contain no exclusion for waterfront activities;
- (iv) contain no exclusion for Water Damage or Sprinkler Leakage Legal Liability or any other hazard customarily covered by such insurance.
- (v) contain no exclusions, except as specifically authorized herein, and contain no deductibles unless specifically approved in each instance by The City.

(j) Intentionally deleted.

(k) Intentionally deleted.

(l) Commercial General Liability Insurance. Commercial general liability insurance written on coverage form ISO CG 00 01 or its equivalent with respect to the Terminal and the Improvements, work, including but not limited Capital Investment Work, and repairs, and the operations related thereto, whether conducted at the Terminal or access channels and berths related thereto, in an amount of not less than ten million dollars (\$10,000,000) per occurrence, \$10,000,000 annual per location General Aggregate, designating the Port Authority as named insured and the City, the

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City's Agent and the Lease Administrator as Additional Insureds. Such insurance shall meet all of the standards, limits, minimums and requirements described in Section 9.07.

(m) Additionally, the Port Authority shall cause any individual, company, corporation or entity, including, but not limited to subtenants, licensees and concessionaires, subletting or otherwise occupying space on the Terminal or docking at or on the Pier to procure and maintain the following insurance policies:

(i) Commercial General Liability Insurance. Commercial general liability insurance in an amount to be approved by the City and/or the Lease Administrator prior to the commencement of the relevant sublease, license, permit or concession taking into account the nature and scope of the business of such individual, company, corporation or entity at the Premises, and the amount of space to be occupied by the same, which amount shall be not less than five million (\$5,000,000), five million (\$5,000,000) annual aggregate, per location. Such insurance shall meet all of the standards, limits, minimums and requirements described in Section 9.07.

(ii) Automobile Liability. Automobile liability for a combined single limit per occurrence for bodily injury and property damage of not less than one million dollars (\$1,000,000).

(iii) Statutory Worker's Compensation and Employer's Liability Insurance.

(iv) Marine Protection and Indemnity Insurance. If applicable in light of the nature of the business activities of the subtenant, licensee, permittee or concessionaire, Marine protection and indemnity insurance in an amount not less than ten million dollars (\$10,000,000), per occurrence. The policy must designate the City, the City's Agent and the Lease Administrator as Additional Insureds on a primary and non-contributory basis.

(v) Liquor Legal Liability. If the retail activities of the tenant, subtenant, licensee and/or concessionaire (as applicable) shall include but not be limited to the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages, Liquor Legal liability coverage in an amount not less than five million dollars (\$5,000,000), per occurrence. The policy must designate the City, the City's Agent and the Lease Administrator as Additional Insureds on a primary and non-contributory basis.

(vi) Miscellaneous Insurance. Such other insurance, in such amounts as from time to time reasonably may be required by the City.

(n) Self Insurance. In lieu of providing coverage for the risks described in Section 9.01 (b) above, the Port Authority may elect to provide by self-insurance, in whole or in part, for itself and its contractors, agents, subtenants and other representatives, primary coverage for such risks upon the same terms and conditions as would be provided by an insurance carrier. The Port Authority agrees that in the event of a loss, it shall make available out of its own funds such amounts as would be paid by an insurance carrier providing the coverage which the Port Authority has elected to provide by self-insurance and its obligation to pay any loss hereunder

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shall not be limited other than by limitations on coverage what would have been made available from such insurance carrier. If the Port Authority elects to provide any insurance coverage pursuant to this paragraph (n) it shall provide a letter to the City which (i) shall be signed by a duly authorized officer of the Port Authority, (ii) shall attest to the existence of the Port Authority's self-insurance program (iii) shall identify the coverage or coverages which the Port Authority elects to provide pursuant to this paragraph (n).

Section 9.02. Treatment of Proceeds.

(a) Proceeds of Insurance in General. Insurance proceeds payable with respect to a loss covered by the policy outlined in 9.01(b) above shall be paid jointly to all loss payees to be held for the purpose of paying for the cost of the restoration, and such proceeds shall be applied to the payment of the cost of such restoration. The City and/or Lease Administrator shall apply any insurance proceeds so received in accordance with the provisions of the Lease as amended. The City and the Port Authority hereby irrevocably appoint Lease Administrator as attorney-in-fact with the power to endorse any instrument respecting loss proceeds to the order of the City or Lease Administrator for deposit and disposition in accordance with provisions of this Section 9. The City and/or Lease Administrator shall have no liability with regard to any proceeds received by it and retained in good faith and in accordance with the provisions of the Lease as amended. If the Port Authority believes that the City and/or Lease Administrator has not applied the insurance proceeds in accordance with the Lease as amended, the Port Authority's sole remedy shall be to bring an action to have the proceeds applied in accordance with the Lease as amended. Insurance proceeds payable with respect to a property loss on account of trade fixtures shall be payable to the Port Authority.

(b) Cooperation in Collection of Proceeds. The Port Authority and the City and/or Lease Administrator shall cooperate in connection with the collection of any insurance moneys that may be due in the event of loss, and the Port Authority and the City and/or Lease Administrator shall execute and deliver such proofs of loss and other instruments as may be required of the Port Authority, its subtenants or the City and/or Lease Administrator, respectively, for the purpose of obtaining the recovery of any such insurance moneys.

Section 9.03. General Requirements Applicable to Policies.

(a) Insurance Companies and Required Forms. All of the insurance policies required by this Section shall be procured from companies licensed or authorized to do business in the State of New York that have a rating in the latest edition of "Bests Key Rating Guide" of "A-VII" or better or another comparable rating reasonably acceptable to The City. All references to forms and coverages in this Section shall be those used by the Insurance Services Office of New York or equivalent forms satisfactory to the City and/or Lease Administrator all material respects.

(b) Term. The Port Authority shall procure or cause to be carried policies for all insurance required by the Lease as amended for periods of not less than one (1) year and shall keep and maintain such insurance at all times during the Term. The Port Authority shall provide the City and/or Lease Administrator evidence of

renewals thereof from time to time and as soon as is practicable.

(c) Waiver of Subrogation. All policies of insurance required under this Lease shall include a waiver of the right of subrogation with respect to all the named insureds and additional insureds as allowed by law.

(d) Required Insurance Policy Clauses. Each policy of insurance required to be carried pursuant to the provisions of this Section shall contain (i) a provision that no act or omission of the Port Authority, including, without limitation, any use or occupation of the Terminal for any purpose or purposes more hazardous than those permitted by the policy, shall invalidate the policy or affect or limit the obligation of the insurance company to pay the amount of any loss sustained by the City and/or Lease Administrator, (ii) an agreement by the insurer that such policy shall not be cancelled, materially modified in a manner that would compromise the coverage theretofore provided under the policy, or denied renewal without at least thirty (30) days' prior written notice to the City and Lease Administrator, including, cancellation or non-renewal for non-payment of premium, and (iii) a provision that notice of accident or claim to the insurer by the first named insured ("First Named Insured") shall be deemed notice by all Persons having rights in said policy.

(e) Notices from the insurer or the Port Authority to the City and Lease Administrator shall be (i) personally delivered to the party or to the duly designated officer or representative of such party during regular business hours, or (ii) or, if directed to the Port Authority, delivered to the Premises during regular business hours, or (iii) forwarded to such party, officer or representative at the office address by registered mail. All notices and correspondences from the insurer to the City must be delivered to the following addresses or to such other addresses as the City or Lease Administrator may notify the insurer of from time to time:

To The City:

Commissioner
New York City Department of Small Business Services
110 William Street
New York, New York 10038

with a copy to:

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

To Lease Administrator:

New York City Economic Development Corporation
Asset Management Department
110 William Street
New York, New York 10038

Attention: Senior Vice President for Asset Management

(f) Primary Protection. All insurance policies required by this Section 9 shall be primary protection. The City and Lease Administrator shall not be called upon to contribute to any loss.

(g) Adjustments of Claims. All insurance policies required by this Section 9 shall provide that all adjustments of claims with the insurers shall be made by or cause to be made by the Port Authority and/or any associated subtenants. All other insurance policies required by this Section 9 shall provide that an adjustment of claims will be made with The City, the Port Authority and any associated subtenants, all of whom shall act reasonably.

Section 9.04. Evidence of Insurance. Prior to the Port Authority entering into possession of the Terminal and at least thirty (30) days prior to the expiration of any of the policies to be maintained or caused to be maintained by the Port Authority, the Port Authority shall deliver or cause to be delivered to the City and/or the Lease Administrator certificates of insurance, in standard Acord form or its equivalent, providing for thirty (30) days' prior written notice to the City and Lease Administrator by the insurance company of cancellation or non-renewal of a policy or replacement or renewal of any policies expiring during the Term. At the City's or Lease Administrator's request, Port Authority shall deliver a copy of each entire original policy required hereby. All certificates issued must reflect that the certificate holder is an additional insured on all liability policies shown on the certificate.

Section 9.05. Compliance With Policy Requirements. The Port Authority shall not violate or permit to be violated any of the conditions, provisions or requirements of any insurance policy required by this Section 9. The Port Authority shall perform, satisfy and comply with or cause to be performed, satisfied and complied with all conditions, provisions and requirements of all such insurance policies on the Port Authority's part to be performed, and, shall give and shall cause its contractors to give, the insurer, the City and Lease Administrator notice of all claims, accidents and losses promptly, but in any event no later than ten (10) days after the Port Authority, or any of its contractors, as the case may be, acquires actual knowledge of the same.

Section 9.06. Intentionally deleted.

Section 9.07. Increases in Coverage and Additional Insurance. The City shall have the right, at any time and from time to time, to reasonably modify, increase or supplement the insurance coverages, limits, sublimits, minimums and standards required by this Section 9 to conform such requirements to the insurance coverages, limits, sublimits, minimums and standards that at the time are commonly carried by owners of premises comparable to the Terminal, or are commonly carried by businesses of the size and nature of the business conducted at the Terminal. From time to time, the City may require the Port Authority to increase or cause to be increased the amount of coverage provided under the policies of insurance required hereunder, or change the types of insurance required hereunder, provided that in any such event, the City reasonably demonstrates the need for such increase of coverage. The

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amount of any such increased coverage shall not exceed the amount of similar coverage that are commonly carried by owners of comparable property or in connection with similar businesses.

Section 9.08. No Representation as to Adequacy of Coverage. The requirements set forth herein with respect to the nature and amount of insurance coverage to be maintained or caused to be maintained by the Port Authority hereunder shall not constitute a representation or warranty by the City that such insurance is in any respect adequate.

Section 9.09. Blanket and/or Master Policies. The insurance required by the provisions of this Section 9 may, at the Port Authority's option, be effected by blanket and/or umbrella policies issued to the Port Authority and/or its subtenant(s) covering the Terminal and other properties owned or leased by the Port Authority and/or its subtenant(s), provided such policies otherwise comply with the provisions of the Lease as amended and allocate to the Terminal the specified coverage, including, without limitation, the specified coverage for all insureds required to be named as "named insureds" or "additional insureds" hereunder, without possibility of reduction or coinsurance by reason of, or because of damage to, any other properties named therein. If the insurance required by the Lease as amended shall be effected by any such blanket or umbrella policies, upon the City's (or Lease Administrator's) request, the Port Authority shall furnish to the City and Lease Administrator certified copies of such policies together with schedules annexed thereto setting forth the amount of insurance applicable to the Terminal and proof reasonably satisfactory to the City that the premiums for at least the first (1st) year of the term of each of such policies (or installment payments then required to have been paid on account of such premiums) shall have been paid.

Section 9.10. Intentionally deleted.

Section 9.11. Other Insurance Not Required Under this Lease. The Port Authority may effect for its own account any insurance not required under the provisions of the Lease as amended, provided same shall not directly or indirectly result in a diminution of the insurance coverage specified in Section 9.01 hereof. If any such insurance, as permitted above, shall affect the City's insurance coverage, prior to purchase thereof, the Port Authority shall provide a summary of the anticipated coverage to the City for its approval.

Section 9.12. Modification By Insurer. Without limiting any of the Port Authority's obligations or the City's rights under this Section 9, in the event that an insurer modifies, in any material respect, any insurance policy that the Port Authority is required to maintain in accordance with the Lease as amended, the Port Authority shall give notice to the City and Lease Administrator of such modification within thirty (30) days after the Port Authority's receipt of notice thereof.

Section 9.13. Interpretation. All insurance terms used in this Section 9 shall have the meanings ascribed by the Insurance Services Offices.

Section 9.14. Determination of Replacement Value.

(a) Definition. The current replacement value of the Terminal (the "Replacement Value") shall be the full cost of replacing the Terminal, including, without limitation, all hard costs of construction as well as the costs of post-casualty debris

removal, and soft costs, including without limitation, architect's and development fees. Replacement Value shall be determined periodically by an appraiser, selected and paid by the Port Authority and reasonably approved by the City, initially on the Substantial Completion Date and thereafter on each Revaluation Date and at such additional times as the City, may reasonably request. If the insurance required by Section 9.01 above is not sufficient to cover the Replacement Value, then within fifteen (15) days after such appraisal, said insurance shall be increased or supplemented to fully cover such Replacement Value. In no event shall such Replacement Value be reduced by depreciation or obsolescence of the Improvements.

(b) Adjustment. The amount of Replacement Value shall be adjusted on each anniversary of the initial determination of Replacement Value and of each subsequent decennial redetermination of Replacement Value throughout the Term by a percentage equal to the percentage change in the Building Index in effect on such anniversary date as compared to the Building Index in effect on the date of Substantial Completion or prior redetermination, whichever is latest.

(c) Building Index. As used herein, the "Building Index" shall mean the Dodge Building Cost Index or such other published index of construction costs which shall be selected from time to time by the City and reasonably agreed to by the Port Authority, provided that such index shall be a widely recognized measure of construction costs in the insurance industry and appropriate to the type and location of the Terminal

Section 9.15. Unavailability.

If any of the insurance required to be carried under the Lease as amended shall not, after diligent efforts by the Port Authority, and through no act or omission on the part of the Port Authority, be obtainable from domestic carriers customarily insuring premises similar to the Terminal and business operations of a size, nature and character similar to the size, nature and character of the business operations being conducted by the Port Authority at the Terminal, then the Port Authority shall promptly notify the City of the Port Authority's inability to obtain such insurance and the City shall have the right, but not the obligation, to arrange for the Port Authority to obtain such insurance. If the City shall be able to arrange for the Port Authority to obtain such insurance, the Port Authority shall obtain the same up to the maximum limits provided for herein. If the City shall be unable to arrange for the Port Authority to obtain the insurance required hereunder, the Port Authority shall promptly obtain the maximum insurance obtainable, and in such case, the failure of the Port Authority to carry the insurance which is unobtainable shall not be a default hereunder for as long as such insurance shall remain unobtainable. Types or amounts of insurance shall be deemed unobtainable if such types or amounts of insurance are (a) actually unobtainable, or (b) virtually unobtainable as a result of commercially unreasonable premiums for such insurance with respect to premises similar to the Terminal, located in New York City and used for purposes similar to those for which the Terminal are used.

Section 9.16. Definitions. For purposes of this Section 9 pertaining to Insurance, the following definitions shall apply:

(a) the term "Additional Insureds" shall mean the City, Lease

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Administrator (currently, the New York City Economic Development Corporation and Apple Industrial Development Corp.), their successors or assigns and shall include all of their respective Representatives, and further may, at the City's election, also include additional parties upon written notice to the Port Authority, as their respective interests appear; and

(b) the term "Improvements" shall mean all "improvements" as commonly defined or described in the insurance industry and/or as ascribed by the Insurance Service Offices, and shall also include, if not already included therein, the Improvements (as defined in the Lease as amended) including, without limitation, Capital Investment Work and repairs.

10. Use; Hazardous Substances.

The Port Authority shall not cause or permit, as the result of any act or omission on the part of the Port Authority and/or its subtenants, and/or their respective Representatives, occupants, invitees and licensees, the release of Hazardous Substances in, from, at or onto any portion of the Terminal in violation of any Environmental Laws. The Port Authority shall assume all liability for Hazardous Substances (in connection with its tenancy) at the Terminal for the Term including but not limited to the disturbance of any pre-existing conditions. In the event any Hazardous Substances shall be found within, under, or upon the Terminal, the Port Authority shall take or cause to be taken any action required by under any applicable environmental laws with respect to such Hazardous Substances. The expense for such action shall be the sole responsibility of the Port Authority unless otherwise set forth in Section 8(b) of the 1990 Amendment or a certain Dredging Agreement between the parties dated as of June 19, 1995, and the parties hereby acknowledge and agree that the parties do not intend, and nothing in this 2009 Amendment (including without limitation the definition of "Hazardous Substances" herein) shall, narrow, broaden, serve to interpret or elaborate on, or otherwise modify the understandings and agreements set forth in such Section 8(b) and the Dredging Agreement. Notwithstanding the above, the Port Authority shall have the right to challenge and defer compliance with such Requirement if no dangerous or hazardous condition then exists or would be caused by such deferral and the Port Authority complies with the reasonable Requirements of the City regarding the Hazardous Substances at issue. All action with respect to any Hazardous Substances on the Terminal shall be performed in accordance with all Requirements. In addition, prior to commencing any work of removal, repair, restoration or any other construction work under this section, the Port Authority shall submit or cause to be submitted to the City a schedule indicating the estimated dates on which the various phases of all such work will be commenced and completed. The Port Authority shall have the right to amend and change such schedule without prejudice and, upon each such amendment or change, shall provide the City with an updated schedule. The Port Authority shall comply with or cause to be complied with all applicable federal, state and local laws (including but not limited to and as well as any applicable FDA and/or CDC standards) concerning any Hazardous Substance, that the Port Authority or

occupant of the Terminal produces, brings on, keeps, uses, stores, disposes or treats in, at or about the Terminal or transported from the Terminal.

11. Cooperation. The City and the Port Authority agree that they will cooperate and act reasonably in all respects of the arrangement under the Lease as amended, regardless of which party has the obligation to discharge a particular task. The Port Authority agrees that, subject to a certain Agreement of Lease between the Port Authority and the Howland Hook Container Terminal dated as of June 30, 1995 as it has been amended and assigned from time to time ("NYCT Sublease"), it will demand the same cooperation of its subtenants at the Terminal. Notwithstanding the above, if the NYCT Sublease does not contain the appropriate cooperation provision, the Port Authority will take all necessary steps to include such language in the next amendment of the NYCT Sublease or renewal thereof, as the case may be.

12. Approvals. The terms of this 2009 Amendment are subject to the approval of the Board of Commissioners of the Port Authority and the City Council pursuant to Section 1301(2)(f) of the New York City Charter. Further, this 2009 Amendment is made subject to permission from the Federal Maritime Commission, except in the event it is determined that this 2009 Amendment is not subject to its jurisdiction. The parties hereto shall, after execution of this 2009 Amendment pursuant to authorization from their respective governing bodies, diligently and expeditiously seek such approval and determination.

13. Indemnification. As of the Effective Date, Article FOURTEENTH of the 1985 Amendment is hereby modified as follows:

The second sentence of paragraph A shall be modified to add the term " defend" after the word "indemnify on the second line. Further, the word "gross" shall be added after the term "caused by the" on the tenth line.

Subsection A.(v) shall be modified as follows:

"(v) Any failure on the part of the Port Authority to pay rental or to perform or comply with any of the covenants, agreements, terms or conditions contained in the Lease as amended on its part to be performed or complied with and the exercise by the City of any remedy provided in the Lease as amended with respect thereto."

Subsection "E" and "F" shall be added after subsection D and shall state as follows:

"E. The provisions of this Article shall extend to the Lease Administrator and the City's and Lease Administrator's agents and Representatives.

F. The Port Authority shall, subject to a certain Agreement of Lease between the Port Authority and the Howland Hook Container Terminal dated as of June 30, 1995 as it has been amended and assigned from time to time ("NYCT Sublease"), require its subtenants to provide the City and its Lease Administrator with the same or greater indemnification. Notwithstanding the above, if the NYCT Sublease does not contain the appropriate indemnification provision, the

Port Authority will take all necessary steps to include such language in the next amendment of the NYCT Sublease or renewal thereof, as the case may be."

14. Governing Law. The Lease as amended and its performance shall be governed by and construed in accordance with the laws of the State of New York, excluding New York's rules regarding conflict of laws and any rule requiring construction against the party drafting the Lease as amended.

15. Department of Small Business Services. All references to New York City Departments of Ports and Terminals and New York City Department of Ports and Trades, are replaced by the New York City Department of Small Business Services.

16. Notices.

(a) Notices to be in Writing. Except as otherwise provided in this Lease as amended, all demands and notices or other communications (collectively, "Notices") which any party may be required or may desire to give to any other party relating to this Agreement, including any change to an address specified below, shall be effective only if in writing and either (i) mailed by certified or registered mail, return receipt requested, postage prepaid or (ii) personally delivered or (iii) delivered by Federal Express or other nationally known overnight courier service, in each event to the receiving party with a copy to such party's counsel, addressed as follows:

To The City:

Commissioner
New York City Department of Small Business Services
110 William Street
New York, New York 10038

with a copy to:

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

To Lease Administrator:

New York City Economic Development Corporation
Asset Management Department
110 William Street
New York, New York 10038
Attention: Senior Vice President for Asset Management

New York City Economic Development Corporation
Legal Department

110 William Street
New York, New York 10038
Attention: General Counsel

To the Port Authority:

The Port Authority of New York and New Jersey
225 Park Avenue South, 11th Floor
New York, New York 10003

Attention: Director, Port Commerce Department

with a copy to:

The Port Authority of New York and New Jersey
225 Park Avenue South, 15th Floor
New York, New York 10003

Attention: General Counsel

(b) Effectiveness. All Notices shall be deemed given and effective as of the date and time received, as evidenced by the written receipt therefor; and in the event delivery of a notice is refused, such notice shall be deemed given and effective as of the date and time delivery was attempted.

17. Unenforceability. If any term or provision of this 2009 Amendment shall be invalid and unenforceable, the remainder of this 2009 Amendment shall be valid and enforceable to the fullest extent permitted by law.

18. Entire Agreement and No Oral Modification. All prior statements, understandings, representations and agreements between the parties, oral or written, are superseded by and merged in this 2009 Amendment, which alone fully and entirely expresses the agreement between them in connection with this transaction and which is entered into after full investigation, neither party relying upon any statement, understanding, representation or agreement made by the other not embodied in this 2009 Amendment. This 2009 Amendment may not be altered, modified or amended in any manner whatsoever except by a written instrument signed by the City and the Port Authority.

19. Signatures in Counterparts. This 2009 Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

20. Ratification and Continuation. The terms and conditions of the Lease as heretofore amended are hereby ratified and reaffirmed and shall continue in full force and effect without any change or modification and shall apply for the balance of the Term.

IN WITNESS WHEREOF, the Tenant and Landlord have executed this 2009 Amendment as of the date and year first above written.

[Signatures appear on the following page]

TENANT:

By: _____
Name:
Title:

LANDLORD:

By: _____
Name:
Title:

Exhibit A

Schedule A

Minimum Revenue Threshold

Minimum Revenue Threshold

March 18, 2009

<u>Year</u>	<u>Minimum Revenue Threshold</u>
2024	\$25,000,000
2025	\$26,000,000
2026	\$27,000,000
2027	\$28,000,000
2028	\$29,000,000
2029	\$30,000,000
2030	\$31,000,000
2031	\$35,500,000
2032	\$36,210,000
2033	\$36,934,200
2034	\$37,672,884
2035	\$38,426,342
2036	\$39,194,869
2037	\$39,978,766
2038	\$40,778,341
2039	\$41,593,908
2040	\$42,425,786
2041	\$43,274,302
2042	\$44,139,788
2043	\$45,022,584
2044	\$45,923,035
2045	\$46,841,496
2046	\$47,778,326
2047	\$48,733,893
2048	\$49,708,570
2049	\$50,702,742
2050	\$51,716,797
2051	\$52,751,133
2052	\$53,806,155
2053	\$54,882,278
2054	\$55,979,924
2055	\$57,099,522
2056	\$58,241,513
2057	\$59,406,343
2058	\$60,594,470


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Exhibit B

The drawing is a technical specification for a bridge, showing a complex truss structure. It includes a main plan view of the bridge deck and truss, along with several detailed views of individual components such as joints, members, and connections. The drawing is annotated with numerous dimensions, material grades, and construction notes. The bridge is identified as 'GOTHALS BRIDGE' at the bottom. The drawing is oriented vertically on the page.

Exhibit C
Inspection Manual

JUN-04-2009 14:00 NYMT PA P.02



THE PORT AUTHORITY OF NY & NJ
AI 45-1.07
Office of the Executive Director
Revised: July 11, 2008

STRUCTURAL INTEGRITY PROGRAM

I. Introduction

This Administrative Instruction applies to the structural integrity of buildings and structures that are operated and maintained by the Port Authority and Port Authority tenants or permittees ("Structural Assets").

II. Definition

"Structural Integrity" is defined as a condition in which a Structural Asset, during the period of its construction and subsequent use, does not present a substantial risk of harm to the public or other users or in the case of an unused structure (such as an unoccupied building or pier), does not pose a substantial risk of structural failure. This condition results from the integration of sound engineering with proper application of construction procedures, materials, and equipment as well as proactive and responsive operation and maintenance programs.

III. Instruction

A. The Chief Engineer, through the Engineering Department, is responsible for ensuring that Structural Assets are structurally sound, safe, and conform with applicable structural codes and Port Authority technical standards; for maintaining an evaluation system to communicate the condition of each asset; and for communicating information regarding Structural Integrity to other government bodies.

B. The Line Department Directors are responsible for:

1. Effectively managing Structural Assets throughout their lifecycle by:
 - a. Ensuring that Structural Assets are operated and maintained in a manner that will sustain their structural condition as "fair" or better;
 - b. Ensuring compliance by tenants and permittees with provisions of leases and permits relating to Structural Integrity, structural

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d. Poor	The structure system cannot be relied upon to continue to perform its original function without "immediate" and/or "priority" repair.
---------	---

2. Establishes minimum inspection frequencies and scope for in-depth inspections. Inspection cycles will be posted and updated on the Engineering Department Website.
3. Cyclically inspects and reports on the condition of Structural Assets and:
 - a. Recommends items for "immediate repairs," which are defined as conditions which require immediate action including possible closing of the structure or areas affected until remedial measures, such as shoring or removal of potentially unsafe structures (or elements), can be implemented.
 - b. Initiates and oversees all "immediate repairs" for Structural Assets for which the Port Authority is responsible for structural repair and/or structural maintenance.
 - c. Recommends remedial action as well as a schedule for "priority repairs" which represent conditions for which no immediate action is required but further investigation, design, and implementation of interim or long term repairs should be taken on a priority basis.
 - d. Establishes and maintains a list of priority repairs by Line Department with a recommended schedule by which priority repairs should be performed.
 - e. Recommends safety repairs as well as routine repairs, as necessary.
 - f. Develops and provides cost estimates for inspections to the Line Departments for inclusion in their budget.
4. Investigates reports made by the Line Departments or other staff about the possible existence of conditions in any Structural Asset that may represent a substantial risk of harm to the public or other users. Diagnoses problems, recommends remedial action, and follows up to ensure that remedial action is taken.
5. Follows up with Line Departments in completing recommended repairs according to the schedule provided. In addition, whenever there is risk

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repairs, structural maintenance, and operation and maintenance of Structural Assets;

- c. Ensuring compliance with Engineering Department recommendations regarding Structural Assets so they sustain a "fair" or better structural condition; and
- d. Establishing and maintaining a standard for the operation and maintenance of Structural Assets that meets or exceeds industry standards.

2. All communication with tenants, neighboring entities, and government bodies regarding operation and maintenance or projects involving Structural Assets, the facilitation of Engineering Department inspections, and other activities that may take place on Port Authority property to support this instruction, as well as for designating one or more representatives to act as central point of contact for communication with identified parties.

C. Port Authority tenants and permittees are responsible for managing Structural Assets in accordance with existing lease agreements and permits.

IV. Responsibilities

A. The Engineering Department

1. Establishes and applies an evaluation system that rates the overall condition of Structural Assets insofar as their Structural Integrity. The overall condition of each Structural Asset is determined by the Engineering Department during each structural integrity inspection and posted and updated as necessary on an internal Engineering Department Website. The evaluation system will include the following condition ratings:

a. Excellent	"As New" Condition
b. Good	The structure system is sound and performing its function, although it shows signs of wear and may require some minor repairs, mostly routine.
c. Fair	The structure system is still performing adequately, but needs "priority" and/or "routine" repair to prevent future deterioration and to restore it to Good condition.

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that the lack of completing such repairs will result in a degradation in condition of the Structural Asset from a condition of "fair" or better to a condition of "poor" or worse, or the continued rating of a building or structure as "poor" or worse, follows up on repairs not completed and advises the Chief Operating Officer and the Chief, Capital Planning.

6. Provides technical assistance to the Line Departments for development and execution of routine examinations and evaluations of the actual use of all buildings and structures to determine whether they are being used as intended and whether actual use may exceed loading criteria.

B. The Line Departments

1. Effectively manage Structural Assets throughout their lifecycle so as to ensure that the overall condition, as determined by the Engineering Department, is sustained by:
 - a. Facilitating the Engineering Department's access to Structural Assets for cyclical inspections through the provision of such things as lane closures, escorts, equipment, and tenant or permittee communication, as required.
 - b. Routinely examining and evaluating the actual use of Structural Assets to ascertain whether they are being used as intended and whether actual loadings may exceed expectations for the intended use. For all Structural Assets that are not being used as intended or for which actual loadings may exceed expectations for the intended use, the Line Department immediately notifies the Engineering Department.
 - c. Requesting technical assistance from the Engineering Department as required for such things as development and execution of routine usage evaluations for buildings and structures.
 - d. Identifying conditions that may represent a substantial risk of harm to the public or other users, or to the Structural Integrity of a Structural Asset, securing the area, and contacting the Engineering Department to evaluate the situation.
 - e. For Structural Assets for which the Port Authority is responsible for operation and maintenance, structural repair, and/or structural maintenance:

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1. Operating and maintaining Structural Assets in a manner that will not impair Structural Integrity;
2. Making timely determinations on the appropriate mechanisms to effectuate all Engineering Department recommendations for priority, safety, and routine repairs within the timeframe recommended by the Engineering Department; and
3. Creating and carrying out operation and maintenance programs which include structural maintenance practices that meet or exceed industry standards.

f. For Structural Assets for which tenants or permittees are responsible for operation and maintenance, structural repair, and/or structural maintenance:

1. Communicating directly to tenants and permittees repairs and maintenance recommended by the Engineering Department as a result of cyclical inspections;
2. Ensuring compliance with Engineering Department recommendations;
3. Taking appropriate action in response to inaction;
4. Reporting results (both action and inaction) to the Engineering Department;
5. Advocating and providing examples to tenants or permittees of operation and maintenance programs that include structural maintenance practices that meet or exceed industry standards.

V. Inspection Cycles

STRUCTURE	CYCLE
Buildings & Terminals	6 - 10 Years
Building Facades 72 Ft or Greater	5 Years
Bridges - Vehicle	2 Years
Bridges - Railroad	6 Years
Tunnels - Vehicle	2 Years
Tunnels - Railroad	3 - 6 Years
Signs & Lighting Structures	4 Years
Piers, Berths & Bulkheads	3 Years

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Railroad Stations	7 Years
Railroad Substations	8 years
AirTrain Guideway Structure	3 Years
Bus & Parking Level Slabs	2 Years
Rock Slopes	3 - 4 Years
PATH Open Air Structures	6 Years
Parking Garages	4 Years

Note: This AI combines former PAI 45-1.07, dated 3/4/87 entitled "Structural Integrity" and PAI 45-1.07.1, dated 3/22/88 entitled "Structural Integrity - Tenant Buildings and Structures" and updates the responsibilities of all departments.

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TOTAL P. 06
TOTAL P. 07

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MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT

JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1129

Report of the Committee on Land Use in favor of approving Application no. 20095462 SCQ, a proposed site for the Middle College High School, (Block 249, Lot 1), Council District No. 26, Borough of Queens.

The Committee on Land Use, to which was referred on June 19, 2009 (Minutes, page 2754) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

QUEENS CB - 2

20095462 SCQ

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a Middle College High School Facility at LaGuardia Community College, located on the block bounded by Van Dam Street, Queens Boulevard, 32nd Place and 47th Avenue (Block 249, Lot 1), Queens, Community School District No. 24.

INTENT

To facilitate the continuation of occupancy of Middle College High School.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 25, 2009

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

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

Res. No. 2080

Resolution approving the site plan for Middle College High School, Queens, at LaGuardia Community College, located on the block bounded by Van Dam Street, Queens Boulevard, 32nd Place and 47th Avenue (Block 249, Lot 1), Borough of Queens (Non-ULURP No. 20095462 SCQ; L.U. No. 1129).

Council Members Katz and Lappin.

WHEREAS, the New York City School Construction Authority submitted to the Council on June 18, 2009, a site plan dated June 18, 2009 pursuant to Section 1732 of the New York State Public Authorities Law for the proposed site selection for Middle College High School at LaGuardia Community College, located on the block bounded by Van Dam Street, Queens Boulevard, 32nd Place and 47th Avenue (Tax Block 249, Tax Lot 1), Community Board No. 2, Borough of Queens, Community School District No. 24 (the "Site Plan");

WHEREAS, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

WHEREAS, upon due notice, the Council held a public hearing on the Site Plan on June 23, 2009;

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

RESOLVED:

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report for L.U. No. 1130

Report of the Committee on Land Use in favor of approving Application no. 20095685 SCK, a proposed site for the All City Leadership Secondary School with approximately 400 students, (Block 3344, Lot 16), Council District No. 37, Borough of Brooklyn. This matter is subject to Council review and action pursuant Section 1732 of the New York State Public Authorities Law.

The Committee on Land Use, to which was referred on June 19, 2009 (Minutes, page 2754) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

BROOKLYN CB - 4

20095685 SCK

Application pursuant to Section 1732 of the New York School Construction Authority Act, concerning the proposed site selection for a new, approximately 400-seat school facility, known as the All-City Leadership Secondary School, to be located on the block bounded by Gates Avenue, Irving Avenue, Palmetto Street and Knickerbocker Avenue (Block 3344, Lot 16), Community School District No. 32.

INTENT

To facilitate the development of a new 420-seat intermediate/high school to accommodate students in sixth through twelfth grades.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 30, 2009

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

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

Res. No. 2081

Resolution approving the site plan for a new, approximately 420-Seat Intermediate/High School Facility to be located at 1474 Gates Avenue (Tax Block 3344, Tax Lot 16), Borough of Brooklyn (Non-ULURP No. 20095685 SCK; L.U. No. 1130).

By Council Members Katz and Lappin.

WHEREAS, the New York City School Construction Authority submitted to the Council on June 18, 2009, a site plan dated June 18, 2009, pursuant to Section 1732 of the New York State Public Authorities Law for a new, approximately 420-Seat Intermediate/High School Facility, known as All City Leadership Secondary School, to be located at 1474 Gates Avenue (Tax Block 3344, Tax Lot 16),

Community Board No. 4, Borough of Brooklyn, Community School District No. 32 (the "Site Plan");

WHEREAS, the Site Plan is subject to review and action by the Council pursuant to Section 1732 of the New York State Public Authorities Law;

WHEREAS, upon due notice, the Council held a public hearing on the Site Plan on June 23, 2009;

WHEREAS, the Council has considered the relevant environmental issues and the Negative Declaration issued on June 17, 2009 (SEQR Project Number 09-017); and

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

RESOLVED:

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

Pursuant to Section 1732 of the Public Authorities Law, the Council approves the Site Plan.

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

MELINDA R. KATZ, Chairperson; JOEL RIVERA, TONY AVELLA, CHARLES BARRON, LEROY G. COMRIE, SIMCHA FELDER, ROBERT JACKSON, HELEN SEARS, ALBERT VANN, ANNABEL PALMA, MARIA DEL CARMEN ARROYO, INEZ E. DICKENS, DANIEL R. GARODNICK, JESSICA S. LAPPIN, ROSIE MENDEZ, ELIZABETH CROWLEY, VINCENT M. IGNIZIO, Committee on Land Use, June 25, 2009.

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

Report of the Committee on Parks and Recreation

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

Report for Int. No. 1033

Report of the Committee on Parks and Recreation in favor of approving and adopting, a Local Law in relation to the naming of 41 thoroughfares and public places, Police Officer Deon Taylor Way, Borough of the Bronx, Sgt. Kimel L. Watt Way, Borough of Brooklyn, Run D.M.C JMJ Way, Borough of Queens, Nancy Cataldi Way, Borough of Queens, Frederick T. Haller, Jr. Way, Borough of Queens, Frank J. Verderame Way, Borough of Brooklyn, Sugar Ray Robinson Way, Borough of Manhattan, James Weldon Johnson Plaza, Borough of Manhattan, Robert M. Buonvino Place, Borough of Brooklyn, Dr. Thomas Tam Way, Borough of Manhattan, Professor Juan Bosch Way, Borough of Manhattan, Mr. Joe Marotta Way, Borough of Staten Island, John A. Nappi Flag Way, Borough of Staten Island, Sgt. Kenneth C. Amatrudo Way, Borough of Staten Island, James "Skippy" Prior Way, Borough of Staten Island, Jimmy O' Hanlon Way, Borough of Staten Island, NYPD Sgt. Ned Thompson Way, Borough of Staten Island, Lisa Moudatsos Way, Borough of Staten Island, Pfc. Ronald Jones Way, Borough of Staten Island, Police Officer Gerard L. Carter Avenue, Borough of Staten Island, Monsignor John T. Servodidio Way, Borough of Staten Island, Arielle Newman Run, Borough of Staten Island,

Firefighter Bobby Beddia Way, Borough of Manhattan, Robert “Mr. Lou” Williams Way, Borough of Brooklyn, Thomas L. Guess Place, Borough of the Bronx, Hector Lavoe Boulevard, Borough of the Bronx, Henry McKenzie Place, Borough of the Bronx, Donnette and Sean Sanz Place, Borough of the Bronx, Vincent Jackson Way, Borough of the Bronx, Rev. James B. Stagers Place, Borough of the Bronx, PFC Le Ron A. Wilson Way, Borough of Queens, Corporal Jonathan Rivadeneira Corner, Borough of Queens, Judge Ralph Sherman Way, Borough of Queens, Major Jeffrey Ray Calero Way, Borough of Queens, Alexander Felix Place, Borough of Manhattan and renaming six thoroughfares in the Borough of Queens, 163rd Road, 163rd Drive, 164th Avenue, 164th Road, 164th Drive, 165th Avenue and to amend the official map of the city of New York accordingly and the repeal of section 10 of local law number 25 for the year 2009, sections 36 and 38 of local law number 64 for the year 2008 and local law number 54 for the year 2008.

The Committee on Parks and Recreation, to which was referred on June 30, 2009 the annexed proposed local law, respectfully

REPORTS:

Comment:

On June 24, 2009, the Committee on Parks and Recreation will hold a hearing to consider a bill naming thoroughfares and public places. The Council acts upon the authority granted in subdivision (b) of section 25-102.1 of the New York City Administrative Code which states:

- b. Unless the local law specifically provides otherwise, any local law changing the name of a street, park, playground or portion thereof, or any facility or structure, located and laid out on the city map, that bears a name indicated on the city map shall not be construed to require a change in such name as it is indicated on the city map; provided, however, that in the case of a local law changing the name of a street or portion thereof, the name added by such local law shall be posted on a sign placed adjacent to or near a sign bearing the name of such street or portion thereof indicated on the city map.

The following street name changes are not to be construed as a change in the City Map, with the exception of sections 36, 37, 38, 39, 40 and 41 of the bill renaming Burlingham Court, James Court, McKee Avenue, Calhoun Road, Moncriff Drive and Lockwood Court and amending the official map of the city of New York accordingly.

Section 1. Police Officer Deon Taylor Way

Introduced by Council Member Arroyo

Died October 22, 2008

Police Officer Deon Taylor was a lifelong resident of the Bronx until his death while serving his second military tour in Afghanistan. He was admired both as a City Police Officer and as a soldier in the United States Army. In 2005, he joined the NYPD and worked in the Transit Bureau before joining the narcotics team. In his second deployment to Afghanistan, he served as a fire direction specialist.

Section 2. Sgt. Kimel L. Watt Way

Introduced by Council Member Barron

August 25, 1985 – June 3, 2007

Sgt. Kimel L. Watt emigrated to the United States from the West Indies at the age of six and attended P.S. 159 and I.S. 218. While he served in the United States Army, he received the medal of ARCOM, the Purple Heart Army Achievement Award, the Iraqi Campaign Medal Patch for participating in Operation Iraqi Freedom and a National Defense Ribbon. He was killed when an explosive device detonated near his vehicle.

Section 3. Run D.M.C JMJ Way

Introduced by Council Member Comrie

Run DMC is considered to be one of the most important and influential artists in hip-hop. This group was composed of three people until the death of Jam Master Jay on October 30, 2002.

Section 4. Nancy Cataldi Way

Introduced by Council Member Crowley

February 7, 1953 – October 29, 2008

Nancy Cataldi was a life-long Richmond Hill resident and co-founder of the Richmond Hill Historical Society. She was a cultural historian and active preservationist for the Victorian era homes in Richmond Hill, Woodhaven and Kew Gardens. She succeeded in securing the special designation of the Queens Historical Society's "Queensmarks" for twelve local homes thereby preserving their

architectural and historic value. She also worked as a photographer for the New York Rangers, Rolling Stone Magazine, the New York Times and People Magazine.

Section 5. Frederick T. Haller, Jr. Way

Introduced by Council Member Crowley

Died December 30, 2007

Frederick T. Haller, Jr. was an active Glendale community member all of his life. He organized the first Home School Association at Sacred Heart School, was a Charter Member of the Monsignor Sherman Council, Knights of Columbus and of the Greater Ridgewood Historical Society. In addition, he was the founder of the Greater Ridgewood YMCA, held several Board positions of the Glendale Kiwanis Club, was the Chairman of Queens Community Board 5 for more than ten years and served on the Board of Trustees of Wyckoff Heights Hospital for forty years.

Section 6. Frank J. Verderame Way

Introduced by Council Member de Blasio

Died December 17, 2008

Frank J. Verderame was a Corporal in the United States Army during the Korean War, a former New York State Assemblyman, an attorney and also an aide to former Mayor Beame as the Special Assistant to the Mayor for Education. In the 1970's he became a founding member of the Carroll Gardens Sports Association and Youth League. For many years he served as the Vice President of the Carroll Gardens Neighborhood Association and was an avid community activist involved with the Coalition for Respectful Development using his influence to develop recreational areas instead of housing.

Section 7. Sugar Ray Robinson Way

Introduced by Council Member Dickens

May 3, 1921 – April 12, 1989

Sugar Ray Robinson was born in Ailey, Georgia, and moved to New York with his family when he was a teenager to escape the prevalent prejudice in the South. It was in a Harlem gym that he was first introduced to boxing. When his future coach George Gainford watched him box for the first time, Gainford commented that the young boxer's style and fluid motions were sweet as sugar and the nickname stuck for the rest of his career. He won the New York Golden Gloves championship in 1940 and at the age of 19 turned pro and became the world welterweight champion in 1946. Sugar Ray's record was 128-1-2 with 84 knockouts at the pinnacle of his career. In over 200 fights, Sugar Ray was never physically knocked out although he did receive one technical KO. Altogether, he amassed 109 KOs, and finished with a record of 175-19-6 with two no-decisions and is considered one of the best boxers of all time.

Section 8. James Weldon Johnson Plaza

Introduced by Council Member Dickens

June 17, 1871 – June 26 1938

James Weldon Johnson was a songwriter, poet, novelist, journalist, critic, and autobiographer. He was a man who bridged several historical and literary trends. He was born in 1871, during the optimism of the Reconstruction period, in Jacksonville, Florida. In 1897, he became the first African-American admitted to the Florida bar since the end of the Reconstruction period in 1877. He co-composed songs with his brother John Rosamond such as Lift Every Voice and Sing, Louisiana Lize, Nobody's Lookin' but de Owl and de Moon, Under the Bamboo Tree and Congo Love Song and Lift Every Voice and Sing, which would later become known as the Negro National Anthem. He also served as a field secretary for the NAACP and as a publisher, diplomat, educator, translator, librettist, anthologist, and English professor. He was one of the prime movers of the Harlem Renaissance.

Section 9. Robert M. Buonvino Place

Introduced by Council Member Gentile

Died March 19, 2009

Robert M. Buonvino was a life-long resident of Brooklyn who served on Community Board 10 and founded the preservation group Friends of Historic New Utrecht, which is dedicated to the preservation of the New Utrecht cemetery. He was a longtime civic leader who served in the United States Navy and served his community through organizations such as the Kings County United War Veterans, Regina Pacis-Santa Rosalia Parish and the Neighborhood Improvement Association.

Section 10. Dr. Thomas Tam Way

Introduced by Council Member Gerson

Dr. Tam was a highly regarded educator who served Asian-American communities in many beneficial ways. He organized the first Asian-American Higher Education Council, comprising faculty and staff throughout CUNY and led efforts to establish the first Asian-American Asian Research Institute at CUNY. Dr. Tam's professional career reflected his devotion to education, particularly at the collegiate level, and a special emphasis on community healthcare and education, both in New York City and elsewhere.

Section 11. Professor Juan Bosch Way

Introduced by Council Member Martinez

June 30, 1909 – November 1, 2001

Professor Juan Bosch was the former President of the Dominican Republic. He has become a role model to generations through his narratives, novels and essays and received many awards for his works in his lifetime. His writings and teachings had a profound impact on literature and human and social development and are an influence on all students and individuals, especially the Dominican community.

Section 12. Mr. Joe Marotta Way

Introduced by Council Member Mitchell

Died November 2, 2008

Joe Marotta was a life-long Tompkinsville resident best known as a longtime mentor of Community Board 1, and its Chairman for eight years. He was appointed to the board in 1983 by former Borough President Anthony Gaeta, and was elected chairman in 1988. He stepped down as chairman in 1996, but remained active on the board. While on the Board, he addressed such issues as noisy businesses, saturation of social services, senior housing, transportation, the redevelopment of the former Stapleton Home Port and the creation of the Special Hillside Preservation District.

Section 13. John A. Nappi Flag Way

Introduced by Council Member Mitchell

February 6, 1924 – April 21, 2008

John A. Nappi was known as the “flag man” who was a strong supporter of Staten Island Veterans organizations. He enlisted in the United States Navy and served as a Chief Petty Officer and equipment operator with Seabees construction battalion during WWII. He was also a member of the Fleet Reserve Association, the North Shore Veterans of Foreign Wars, the Catholic War Vets Naval Enlisted Reserve Association and the Elks Lodge.

Section 14. Sgt. Kenneth C. Amatrudo Way

Introduced by Council Member Mitchell

Died August 10, 1969

Sgt. Kenneth C. Amatrudo was a member of the New York Army National Guard who became a true hero when he observed a boat capsizing in Arthur Kill off Staten Island. One adult and four children were on board. Sgt. Kenneth C. Amatrudo and a companion swam to their aid. However due to the treacherous currents and darkness, he could not find his way back to shore and drowned while saving others.

Section 15. James “Skippy” Pryor Way

Introduced by Council Member Mitchell

Died October 9, 2008

James “Skippy” Prior retired from the NYPD as a Detective First Grade and went on to serve the public as Inspector General for the NYS Division of Probation and Director of Investigations for the NYC Department of Corrections. Additionally, he was a community leader by expanding AOH to one of the largest in New York State. He also served as president of the Richmond County Democratic Organization.

Section 16. Jimmy O’ Hanlon Way

Introduced by Council Member Mitchell

February 4, 1949 – August 21, 2006

Jimmy O’ Hanlon was a former Marine and Port Authority Police Officer who was a member of Team Romeo at Ground Zero rescue and recovery operations. He also volunteered for local political organizations and charities.

Section 17. NYPD Sgt. Ned Thompson Way

Introduced by Council Member Mitchell

July 29, 1968 – March 9, 2008

Sgt. Ned Thompson was appointed to the NYPD in November 1992 and was promoted to sergeant by 1994. He served nine years as the commanding officer of the Street Narcotics Unit in the 6th Precinct and served as supervisor for the Washington Square Park Enforcement Unit. In 2006, he was the recipient of the Police Commissioner’s Award for Excellence. He was also a first responder on September 11th and worked at Ground Zero for several days.

Section 18. Lisa Moudatsos Way

Introduced by Council Member Mitchell

Died February 16, 2008

Lisa Moudatsos was a lifelong Staten Islander who worked as a second-grade teacher for 12 years at St. Peter’s Elementary School until she was appointed principal in 2000. She was praised for her caring and selflessness and her capacity for working with her students.

Section 19. Pfc. Ronald Jones Way

Introduced by Council Member Mitchell

December 2, 1946 – July 15, 1967

Ronald Jones was a member of the 173rd Airborne Division who gave his life for his country. He was killed on duty in 1967 while serving in Vietnam.

Section 20. Police Officer Gerard L. Carter Avenue

Introduced by Council Member Mitchell

April 3, 1970 - July 31, 1998

Gerard L. Carter served on the NYPD since 1993. He was stationed in the Staten Island Public Housing Unit in South Beach where he was known for befriending children who lived in the housing developments, serving as a role model for them. He was only an officer for five years yet was responsible for 76 arrests, received two commendations and was named outstanding officer of the year by the Staten Island Chamber of Commerce. He was killed in the line of duty on July 26, 1998.

Section 21. Monsignor John T. Servodidio Way

Introduced by Council Member Mitchell

November 27, 1926 – March 22, 2009

Monsignor John T. Servodidio was named Monsignor and appointed pastor of St. Joseph’s Church in 1983. He served on numerous boards and was the recipient of many honors and awards. He received the Terence Cardinal Cooke Distinguished Priest Award from the St. Joseph Seminary Alumni Society and the Eleanor and Paul Proske Award for Distinguish Service to the Poor from Project Hospitality.

Section 22. Arielle Newman Run

Introduced by Council Member Mitchell

Died April 3, 2007

Arielle Newman was a promising Notre Dame Academy senior who won numerous awards in her brief athletic career. She died from lethal amounts of methyl salicylate, the active ingredient found in common muscle rubs like BenGay. Her death brought attention to all young athletes about the dangers of using excessive amounts of those types of products.

Section 23. Firefighter Bobby Beddia Way

Introduced by The Speaker Council Member Quinn

Bobby Beddia was a 23-year veteran of the FDNY. He was killed in the line of duty on August 18, 2007 while fighting a fire at 130 Liberty Street, the former Deutsche Bank building.

Section 24. Robert “Mr. Lou” Williams Way

Introduced by Council Member Recchia, Jr.

This was a Street Co-naming that was done in Local Law 64 for the year 2008. This request will change the location of the naming from West 32nd Street to West 33rd Street between Surf Avenue and Mermaid Avenue.

Section 25. Thomas L. Guess Place

Introduced by Council Member Rivera

Thomas L. Guess was an advocate and leader on issues and services affecting the Bronx community. He was the founder of The Tremont Community Senior Citizen Center, Inc. which is regarded as one of the most outstanding and progressive senior centers in the City of New York. He also served on the Self Help Works Federal Credit Union, board of directors for the Washington Avenue Daycare Center and the Bronx Club of the National Association of Negro Business and Professional Women’s Clubs, Inc.

Section 26. Hector Lavoe Boulevard

Introduced by Council Member Rivera

September 30, 1946 - June 29, 1993

Hector Lavoe was called “El Cantante de los Cantantes”, and his talent took him from his hometown of Ponce, Puerto Rico to the limelight of New York. Lavoe was one of the best known Latino musicians. He is one of the most influential singers in salsa music and has inspired the Latino community in the Bronx.

Section 27. Henry McKenzie Place

Introduced by Council Member Rivera

July 4, 1936 – October 12, 2006

Henry McKenzie was a WWII veteran and was known as the Mayor of Prospect Avenue. He lived on Prospect Avenue from 1968 until the day of his death where he repaired broken bicycles for the children in his community and worked as a mechanic at “The Tire Shop.”

Section 28. Donnette and Sean Sanz Place

Introduced by Council Member Rivera

Donnette Sanz was a Traffic Enforcement Agent who was killed when she was struck by a car. She was pregnant with her son Sean at the time and gave birth in the hospital after the accident. However, both passed away several days later.

Section 29. Vincent Jackson Way

Introduced by Council Member Rivera

Vincent Jackson was a sergeant in the New York City Health and Hospital Corporation hospital police when he retired in 1992. Later on, he

became interested in politics and became an advocate for housing and social programs that would improve the lives of members of his community. He received a commendation from the Bronx Democratic State Committee for his dedication and commitment to the people of the Bronx. He was also recognized by the New York City Employees Union with an Award of Excellence for 23 years of service.

Section 30. Rev. James B. Stagers Place

Introduced by Council Member Rivera
December 11, 1925 – September 18, 2008

Rev. James B. Stagers served as pastor of the New Tabernacle Baptist Church for thirty-eight years during which time he led the church to new heights of achievement. He obtained the 501(c)(3) not-for-profit certification for the Church, affording many benefits to the church and community, established a food pantry in the Church and opened clothing, drug and alcohol programs for the community.

Section 31. PFC Le Ron A. Wilson Way

Introduced by Council Member Sanders, Jr.
Died July 6, 2007

Le Ron A. Wilson became a resident of Springfield Gardens when he immigrated to the United States at the age of eleven. After graduating Thomas Edison High School, he enlisted in the United States Army and was assigned to Fort Stewart, Georgia. He was deployed to Iraq where he was killed on July 6, 2007, when an IED exploded near his vehicle.

Section 32. Corporal Jonathan Rivadeneira Corner

Introduced by Council Members Sears

This was a Street Co-naming that was done in Local Law 64 for the year 2008. This request will change the location of the naming from the northwest corner of 75th Street and 37th Avenue to the northeast corner of 75th Street and 37th Avenue.

Section 33. Judge Ralph Sherman Way

Introduced by Council Member Weprin
Died April 1, 2007

Ralph Sherman became involved with the Democratic Party after he served in WWII. Throughout his life, he was very dedicated to his community. He was a Civil Court Judge in Queens County and a New York State Supreme Court Justice. In addition, he was the Democratic District Leader for the 24th Assembly District, President of the Eastern Queens Democratic Club, President of three Civic Associations, President of the Mid-Queens Boys Club, Chancellor Commander of the Knights of Pythias and President of the Queens County Jewish War Veterans.

Section 34. Major Jeffrey Ray Calero Way

Introduced by Council Member Weprin
Died October 29, 2007

Jeffrey Ray Calero had a distinguished career in the Special Forces Command of the United States Army. He was killed while serving in Operation Enduring Freedom in Iraq.

Section 35. Alexander Felix Place

Introduced by Council Member Jackson

This was a Street Co-naming that was done in Int. No. 931-A, Local Law 25 for the year 2009. This request will change the location of the naming from the southwest corner of West 161st Street and Riverside Drive to at the intersection of West 161st Street and Riverside Drive.

Section 36. 163rd Road

Introduced by Council Member Ulrich

This section of the bill would rename what is now called “Burlingham Court,” in Queens, “as 163rd Road” and amend the official map of the City of New York accordingly.

Section 37. 163rd Drive

Introduced by Council Member Ulrich

This section of the bill would rename what is now called “James Court,” in Queens, “as 163rd Drive” and amend the official map of the City of New York accordingly.

Section 38. 164th Avenue

Introduced by Council Member Ulrich

This section of the bill would rename what is now called “McKee Avenue,” in Queens, “as 164th Avenue” and amend the official map of the City of New York accordingly.

Section 39. 164th Road

Introduced by Council Member Ulrich

This section of the bill would rename what is now called “Calhoun Road” in Queens, “as 164th Road” and amend the official map of the City of New York accordingly.

Section 40. 164th Drive

Introduced by Council Member Ulrich

This section of the bill would rename what is now called “Moncriff Drive” in Queens, “as 164th Drive” and amend the official map of the City of New York accordingly.

Section 41. 165th Avenue

Introduced by Council Member Ulrich

This section of the bill would rename what is now called “Lockwood Court,” in Queens, “as 165th Avenue” and amend the official map of the City of New York accordingly.

Section 42. This section repeals Section 10 of Local Law number 25 for the year 2009.

Section 43. This section repeals Section 36 and 38 of Local Law number 64 for the year 2008.

Section 44. This section repeals Local Law number 54 for the year 2008.

(The following is from the text of the Fiscal Impact Statement for Int. No. 1033:)

FISCAL IMPACT STATEMENT:

	Effective FY 10	FY Succeeding Effective FY 11	Full Fiscal Impact FY 10
Revenues (+)	\$0	\$0	\$0
Expenditures (-)	(\$13,284)	\$0	(\$13,284)
Net	(\$13,284)	\$0	(\$13,284)

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

IMPACT ON EXPENDITURES: This legislation would require approximately 41 signs at \$74 each and an additional \$10,250 for the installation of these signs. The total cost of enacting this legislation would be approximately \$13,284.

SOURCE OF FUNDS TO COVER ESTIMATED COSTS: General Fund

SOURCE OF INFORMATION: City Council Finance Division

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

HISTORY: This legislation will be considered by the Committee on Parks and Recreation on June 24, 2009 and introduced and considered by the full Council on June 30, 2009.

Accordingly, Your Committee recommends its adoption.

(For text of the bill, please see the Introduction and Reading of Bills section printed in these Minutes.)

HELEN D. FOSTER, Chairperson; HELEN SEARS, LETITIA JAMES, ELIZABETH CROWLEY, Committee on Parks and Recreation, June 24, 2009.

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

Report for M-1433

Report of the Committee on Rules, Privileges and Elections in favor of approving the appointment of Burton Lehman as a member of the New York City Conflicts of Interest Board.

The Committee on Rules, Privileges and Elections, to which was referred on June 10, 2009 (Minutes, page) the annexed communication, respectfully

REPORTS:

New York City Conflicts of Interest Board – (Candidate for appointment by the Mayor upon advice and consent of the Council)

• **Burton Lehman [M-1433]**

The New York City Conflicts of Interest Board (“COIB”), which is mandated to meet at least once per month, primarily serves to provide clear guidance to public employees regarding prohibited conduct through training, education, and the issuance of advisory opinions. COIB is required to publish an index of its opinions and an annual report. COIB’s mandate covers Council as well as mayoral agency employees. COIB also collects and reviews financial disclosure reports. [*New York City Charter* (“Charter”) §§ 2602 and 2603.] COIB promulgates rules as necessary to implement and interpret the provisions of Chapter 68 of the *Charter* (“*Conflicts of Interest Code*” or the “*Code*”), consistent with the goal of providing clear guidance regarding prohibited conduct. [*Charter* § 2603(a).] COIB is authorized to hear and decide violations of the *Code*. Additionally, COIB is empowered to impose fines of up to \$10,000 and recommend suspensions or removals from City employment in appropriate cases.

COIB members are chosen for their independence, integrity, civic commitment and high ethical standards. Members are prohibited from holding public office, seeking election to any public office, being a public employee in any jurisdiction, holding political party office, or appearing as a lobbyist before the city. [*Charter* § 2602(b).]

COIB consists of five members who are appointed by the Mayor with the advice and consent of the City Council.⁷ The term of office for COIB members is six years. The Council must act on mayoral nominations to COIB within forty-five days of submission. [*Charter* § 2602(c).] If the Council fails to act within forty-five days of receipt of such nomination from the Mayor, the nomination is deemed to be confirmed. [*Charter* § 2602(c).] If the Mayor does not submit a nomination for appointment of a successor to the Council at least sixty days prior to the expiration of the term of the member whose term is expiring, the term of the member in office is extended for an additional year and the term of the eventual successor to such member is shortened by an equal amount of time. COIB members are prohibited from serving more than two consecutive six-year terms. [*Charter* § 2602(c).] Two members of COIB constitute a quorum and all acts of COIB must be by the affirmative vote of at least two members. [*Charter* § 2602 (h).]

Members of COIB serve until their successors have been confirmed. Any vacancy occurring other than by expiration of term is filled by nomination by the Mayor, made to the Council within sixty days of the creation of the vacancy, for the un-expired portion of the term of the member succeeded. If the Council fails to act within forty-five days of receipt of such nomination from the Mayor, the nomination is deemed to be confirmed. [*Charter* § 2602(e).]

COIB members may be removed by the Mayor for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of the COIB section of the *Charter*, after written notice and an opportunity for a reply. [*Charter* § 2602(f).]

Pursuant to the Charter, COIB is authorized to appoint a Counsel to serve at its pleasure and to employ or retain other such officers, employees and consultants as are necessary to exercise its powers and fulfill its obligations. The authority of the Counsel may be defined in writing, provided that neither the Counsel, nor any other officer, employee or consultant of COIB, shall be authorized to issue advisory opinions, promulgate rules, issue subpoenas, issue final determinations concerning violations of Chapter 68 of the *Charter*, or recommend or impose penalties. Also, COIB may, and has, delegated its authority to issue advisory opinions under *Charter* § 2604(e) to its Chair. [*Charter* § 2602(g), and as per COIB’s Executive Director.⁸]

for the Lower Ma—

⁷ At present, COIB’s members include: Steven B. Rosenfeld (Chair), Angela Mariana Freyre, Andrew Irving, Kevin B. Frawley, and Monica Blum.

⁸ Mark Davies currently serves as the COIB’s Executive Director.

By statute, members are entitled to receive per-diem compensation for each calendar day when performing the work of COIB. According to COIB’s Deputy Executive Director, the rate for members is \$250 per-diem, and the rate for the Chair is \$275 per-diem.

Mr. Lehman, a resident of Manhattan, is scheduled to appear before the Committee on Rules, Privileges and Elections on June 30, 2009. If appointed, Mr. Lehman, a resident of Manhattan, will be eligible to serve for the remainder of a six-year term that commenced on April 1, 2006 and will expire on March 31, 2012. Upon appointment, he will replace Kevin Frawley. Copies of Mr. Lehman’s résumé and report / resolution are annexed to this briefing paper.

After interviewing the candidate and reviewing the relevant material, this Committee decided to approve the appointment of nominee Burton Lehman.

Pursuant to § 2602 of the *New York City Charter*, the Committee on Rules, Privileges and Elections, hereby approves the appointment by the Mayor of **BURTON LEHMAN** as a member of the New York City Conflicts of Interest Board to serve for the remainder of a six-year term that expires on March 31, 2012.

The matter was referred to the Committee on June 10, 2009.

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

Res. No. 2082

Resolution approving the appointment by the Mayor of Burton Lehman as a member of the New York City Conflicts of Interest Board.

By Council Member Reyna

RESOLVED, that pursuant to § 2602 of the *New York City Charter*, the Committee on Rules, Privileges and Elections hereby approves the appointment by the Mayor of BURTON LEHMAN as a member of the New York City Conflicts of Interest Board for the remainder of a six-year term, which will expire on March 31, 2012

DIANA REYNA, Chairperson; JOEL RIVERA, MARIA BAEZ, LEROY G. COMRIE, ERIK MARTIN DILAN, LEWIS A. FIDLER, ROBERT JACKSON, MELINDA R. KATZ, LARRY B. SEABROOK, DAVID I. WEPRIN, VINCENT J. GENTILE, INEZ E. DICKENS, DANIEL R. GARODNICK, JAMES S. ODDO, CHRISTINE C. QUINN, Committee on Rules, Privileges and Elections, June 30, 2009.

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

GENERAL ORDER CALENDAR

Report for L.U. No. 1077 & Res. No. 2083

Report of the Committee on Land Use in favor of approving a Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 050260 ZSM (L.U. No. 1077), for the grant of a special permit pursuant to Section 82-33 of the Zoning Resolution to modify: (a) the height and setback requirements of Section 23-632 (Front setbacks in districts where front yards are not required); (b) the inner and outer court regulations of Section 23-841 (Narrow outer courts), Section 23-843 (Outer court recesses), Section 23-851 (Minimum dimensions of inner courts), Section 23-852 (Inner court recesses), Section 24-632 (Wide outer courts), Section 24-633 (Outer court recesses), Section 24-652 (Minimum distance between required windows and certain walls), and Section 23-863 (Minimum distance between legally required windows and any wall in an inner court); (c) the minimum distance between buildings on a zoning lot requirements of Section 23-711 (Standard minimum distance between buildings); and (d) the minimum distance between legally required windows and zoning lot lines requirements of Section 23-861 (General Provisions); Borough of Manhattan.

The Committee on Land Use, to which was referred on April 22, 2009 (Minutes, page 1738) and originally reported to the Council on June 10, 2009 (Minutes, page 2228) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 7 **C 050260 ZSM**

City Planning Commission decision approving an application submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 82-33 of the Zoning Resolution to modify:

- a. the height and setback requirements of Section 23-632 (Front setbacks in districts where front yards are not required);
- b. the inner and outer court regulations of Section 23-841 (Narrow outer courts), Section 23-843 (Outer court recesses), Section 23-851 (Minimum dimensions of inner courts), Section 23-852 (Inner court recesses), Section 24-632 (Wide outer courts), Section 24-633 (Outer court recesses), Section 24-652 (Minimum distance between required windows and certain walls), and Section 23-863 (Minimum distance between legally required windows and any wall in an inner court);
- c. the minimum distance between buildings on a zoning lot requirements of Section 23-711 (Standard minimum distance between buildings); and
- d. the minimum distance between legally required windows and zoning lot lines requirements of Section 23-861 (General Provisions);

in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District.

INTENT

To facilitate the proposed expansion of Fordham University, Lincoln Center Campus.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 10, 2009

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

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on June 16, 2009. The City Planning Commission filed a letter dated June 29, 2009, with the Council indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

ATTACHMENT to Committee Report:



CITY COUNCIL
LAND USE DIVISION
2009 JUN 29 P 5:15

CITY PLANNING COMMISSION
CITY OF NEW YORK
OFFICE OF THE CHAIR

June 29, 2009

City Council
City Hall
New York, NY 10007

Re: Application Nos. C 050260 ZSM, C 050269 ZSM and C 050271 ZSM
Related Application Nos. C 090173 ZSM, N 090170 ZRM, N 090171 ZAM and N 0901752 ZAM
Community District 7
Borough of Manhattan

Honorable Members of the Council:

In accordance with Section 197-d(d) of the New York City Charter, the City Planning Commission (the "Commission") has received the attached correspondence, dated June 16, 2009, from the City Council regarding proposed modifications to the above-referenced applications submitted by Fordham University in connection with the facilitation of a proposed master plan expansion of Fordham's Lincoln Center Campus.

The Land Use Committee of the City Council recommended that the approval of the above-referenced applications be expressly conditioned on the following:

1. The maximum height of the residential tower at Amsterdam & 62nd Street (Site 4) would be lowered from 630 feet to 598.
2. Option 1 of the two massing options for the Columbus Avenue buildings (Sites 1 and 2) would be eliminated.
3. Certain modifications to the Restrictive Declaration for applications C 050260 ZSM, C 050269 ZSM, and C 050271 ZSM, execution of which is a condition to development under the Special Permits granted under those applications.

Pursuant to 197-d(d), the Commission offers the following recommendations concerning the proposed Council modifications, as well as proposed amendments to the proposed Council modifications, as follows:

Amanda M. Burden, FAICP Chair
22 Rensselaer Street, New York, NY 10007-1216
(212) 720-3200 FAX (212) 720-3219
nyc.gov/planning

Application Nos. C 050260 ZSM, C 050269 ZSM and C 050271 ZSM Page 2
Related Application Nos. C 090173 ZSM, N 090170 ZRM, N 090171 ZAM and N 0901752 ZAM

C 050271 ZSM (Garage C Special Permit)

Under the Master Plan, substantial completion of Garage C is not anticipated until 2014, at the end of Phase I, which is after the four year term of the Special Permit. During the ULURP process, Fordham requested that the Department of City Planning consider an extension of the term of the permit in order to conform it to the Master Plan schedule; such extensions may be authorized pursuant to the provisions of ZR 11-42 (c), which provides that:

Upon a showing that a longer time period for substantial construction is required for a phased construction of a multi-building complex, the Commission may, at the time of granting an authorization or special Permit, extend the period set forth in paragraph (a) of this Section [four years] to a period not to exceed ten years.

An extension was inadvertently omitted from the Special Permit as approved by the City Planning Commission on April 22, 2009. Accordingly, the Commission recommends that the resolution for application C 050271 be amended to add a new condition as follows:

11. This Special Permit shall lapse if substantial construction in accordance with the plans and drawings has not been completed within five and one half years following the [effective date] hereof.

The extension of the term of the Special Permit does not affect Fordham's obligation, pursuant to the proposed new Section 2.4 of the Restrictive Declaration, discussed below, to file applications with the City Planning Commission to allow a parking garage in the area allocated to Garage C that is accessed by a curb cut located on West 60th Street.

Modifications to Restrictive Declaration Provisions Relating to Applications C050260 ZSM and C 050271 ZSM

a. Architectural and Aesthetic Design Review of the Site 3 and 4 Buildings

Under the Council modifications, the Restrictive Declaration associated with the Special Permit granted under Section 82-33 of the Zoning Resolution under Application No. C 050260 ZSM, would be modified to add new provisions (Section 2.2 (m) and (n)) that would: i. Require Fordham to include in any contract for the sale or lease of either of Sites 3 or 4, the right to approve or disapprove the architectural design of those buildings; and ii. Require Fordham to establish a Fordham University Residential Design Review Committee (the "Residential Sites DRC"), having as its purpose the review of the proposed design of the Site 3 and Site 4 Buildings, including such matters as exterior materials, the shape of the envelopes, facades, curtain walls, windows, applied decoration, color and "any other matter affecting the aesthetic character or architectural design of the Residential Buildings." The Borough President and the local

Application Nos. C 050260 ZSM, C 050269 ZSM and C 050271 ZSM Page 3
 Related Application Nos. C 090173 ZSM, N 090170 ZRM, N 090171 ZAM and N 0901752 ZAM

Councilmember, acting jointly, would appoint two voting members of the seven-member Residential Sites DRC.

The Commission notes first that a Restrictive Declaration is a tool utilized by the City to establish administrative controls, conditions and safeguards as necessary to ensure proper implementation of the land use approval and environmental mitigations. The terms of a Restrictive Declaration operate as conditions of the Special Permit and, for that reason, are governed by the same planning and legal standards that govern other aspects of the land use approval.

In that regard, the Commission notes that Special Permits granted under Section 82-33 of the Zoning Resolution do not provide for review and approval of the architectural and aesthetic elements which the proposed modification makes subject to review by the Residential Sites DRC. Rather, Section 82-33 allows for modification of height and setback and other zoning bulk regulations. Among the findings required for such bulk modifications is that they are necessary to "facilitate good design." Thus, while the Special Permit is intended to further "good design", it does so through modification of zoning building massing and the site plan. The Special Permit findings do not relate to such matters as materials, windows, applied decoration and color, and a requirement to establish a post-ULURP process to review such matters is not a condition or safeguard necessary to ensure that the findings will continue to be met.

The Commission recognizes that the architectural and aesthetic review of the building designs would be performed by a body consisting primarily of members chosen by Fordham University, rather than the City, but this does not eliminate the concern because the obligation to form a Residential Sites DRC to approve or disapprove the specified design features would exist solely by virtue of a Restrictive Declaration made a condition of the ULURP approval. The Commission likewise understands that Fordham would execute the Restrictive Declaration and thereby agree to abide by its terms, but this also does not obviate the fact that execution of the Declaration is a governmental requirement for exercise of the Special Permit. The participation of members appointed by the Borough President and the City Councilmember also gives the Residential Sites DRC and its review process a City imprimatur. To the extent that these members may act as representatives of their appointing authorities, further issues would be raised concerning the land use review process.

The Commission is bringing this matter to the Council's attention to highlight the distinction generally followed under the New York City Zoning Resolution between regulation of bulk and architectural design review. With limited exception, the provisions of the Zoning Resolution governing buildings regulate building form, and not architectural detailing such as materials, colors and the like. Section 82-33 follows this pattern. Whether the zoning in New York City should be revised to move in a direction of providing a greater role for architectural and aesthetic review is a complex issue upon which planners, neighborhood residents, and owners/developers are likely to differ. These issues should be discussed further among the Department of City Planning, the

Application Nos. C 050260 ZSM, C 050269 ZSM and C 050271 ZSM Page 4
 Related Application Nos. C 090173 ZSM, N 090170 ZRM, N 090171 ZAM and N 0901752 ZAM

Commission, and the City Council, rather than having architectural design review made a condition of ULURP approval in the absence of a foundation in the Zoning Resolution.

b. New Land Use Applications for Garage C

The modifications to the Restrictive Declaration also include a provision associated with Application C 050271 ZSM (new Section 2.4), which would require Fordham to seek a new special permit and authorization pursuant to ZR Secs. 13-561 and 13-553, respectively, to allow for a parking garage in the area allocated to Garage C under Application No. C 050269 ZSM to be accessed by a curb cut located on West 60th Street, west of McMahan Hall. However, Fordham's obligation to pursue these applications would expire "... if any litigation challenging the Approvals is commenced by any resident or unit owner of the Alfred Condominium or any constituent member of Fordham Neighbors United, any resident of any of the eight buildings represented by Fordham Neighbors United or any member or affiliate of the foregoing."

The Commission is concerned that compliance with land use conditions not be made subject to whether identified private parties commence litigation. To the extent that the City believes that a condition reflects appropriate land use, it should be made applicable regardless of whether litigation is brought and the benefit to the community provided via the land use condition should not depend upon the conduct of third parties.

In this case, the Commission understands that Fordham's commitment under Section 2.4 relates to follow-up actions which it would not otherwise have any obligation to pursue, and that no aspect of the current Approvals is conditioned upon whether litigation is brought. For that reason, the Commission does not believe that Section 2.4 directly presents the issues noted above. The Commission hopes that, working together, the Department of City Planning, Commission and the City Council can work to ensure that such provisions do not become a feature of future land use approvals.

c. Public Amenities

The proposed modifications to the Restrictive Declaration associated with Application C 050260 ZSM also include a provision (new section 4.3) requiring Fordham to design and construct a public atrium at the corner of Columbus Avenue and West 62nd Street. The public atrium will be located on the ground floor of the new Fordham building on Site 1 and must have a minimum size of 3,500 square feet.

The Commission understands that pursuant to discussions between Fordham and the City Council, the minimum height of the public atrium was to be proposed at 30 feet, but that the Council letter inadvertently referred to a height of 35 feet. The Commission therefore recommends that new Section 4.3 of the Restrictive Declaration be amended as follows:

Section 4.3 **Public Amenities.** (a) In connection with the construction of a New building on Site 1, Fordham shall cause the design and construction of (a) a publicly accessible atrium having a minimum area of 3500 square feet and a minimum height of

Application Nos. C 050260 ZSM, C 050269 ZSM and C 050271 ZSM Page 5
 Related Application Nos. C 090173 ZSM, N 090170 ZRM, N 090171 ZAM and N 0901752 ZAM

[35] 30 feet in the ground floor of the building at the intersection of Columbus Avenue and West 62nd Street (the "Atrium") [new material in bold; deletions in brackets] . . .

With regard to retail uses in the atrium, the proposed modification states: "The Atrium shall be capable of supporting retail uses, but shall be open and accessible to the public and contain a facility for non-alcoholic beverage and light refreshment service, as well as seating with tables." The proposed modification also provides that the "design of the Indoor Public Spaces [i.e., the public atrium and the escalator area], including the signage announcing the availability of the Atrium for public access and the hours of operation ..." is subject to the advisory Design Review and Consultation Process described in Section 2.2 of the Restrictive Declaration.

In order to further ensure the active use of the atrium as a public amenity, the Commission recommends that the language of the fifth sentence of new proposed Section 4.3(a) be amended as follows:

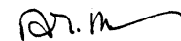
The design of the Indoor Public Spaces, including the signage announcing the availability of the Atrium for public access [and]; the hours of operation; **the size, configuration, location within the Atrium, signage and hours of operation of the required non-alcoholic beverage and light refreshment service; and the amount and type of seating and tables,** shall be subject to the design review process described in Section 2.2 (but not including the process described in Section 2.2 (m)). [new material in bold; deletions in brackets]

The Commission also notes that the Special Permit granted under Section 82-33 of the Zoning Resolution (C 050260 ZSM) contains a requirement for ground-floor retail use at the corner of Columbus Avenue and West 62nd Street in the Site 1 building. As specified on Approved Drawings Z-13 and Z-13.1, for the first 30 feet of Columbus Avenue frontage south of West 62nd Street and the first 30 feet of West 62nd Street frontage west of Columbus Avenue, permitted ground-floor uses are limited to the retail uses listed in Use Groups 6A and 6C, with further limitations as noted on the drawings. The Commission wishes to highlight this requirement of the Special Permit in light of Section 4.3(b) of the Restrictive Declaration, which allows Fordham, after the atrium has been open to the public for three years, to determine that the atrium is a "public nuisance," "either because it has attracted users who threaten the health, safety or well-being of other members of the public or users of the Campus . . . or because it is not regularly used by a significant number of members of the public," and in consequence allows Fordham to alter the atrium's use, layout, and/or hours of access. In view of the foregoing, should Fordham decide to close or limit public access to the atrium under this provision, or otherwise deviate substantially from the requirements regarding the atrium in the Restrictive Declaration, the retail use requirement under Special Permit C 050260 ZSM will continue to govern the corner of Columbus Avenue and West 62nd Street.

Application Nos. C 050260 ZSM, C 050269 ZSM and C 050271 ZSM Page 6
 Related Application Nos. C 090173 ZSM, N 090170 ZRM, N 090171 ZAM and N 0901752 ZAM

The Commission respectfully requests that the Council give careful consideration to the proposed amendments and recommendations set forth above. The modifications raise no land use or environmental issues requiring further review.

Sincerely,



Amanda M. Burden

This letter adopted by unanimous vote of the City Planning Commission at its June 29, 2009 Review Session.

c: R. Barth A. Wolff
 D. Karnovsky A. Meagher
 L. Parnes G. Friedman
 C. Grossman

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

Res. No. 2083

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 050260 ZSM (L.U. No. 1077), for the grant of a special permit pursuant to Section 82-33 of the Zoning Resolution to modify: (a) the height and setback requirements of Section 23-632 (Front setbacks in districts where front yards are not required); (b) the inner and outer court regulations of Section 23-841 (Narrow outer courts), Section 23-843 (Outer court recesses), Section 23-851 (Minimum dimensions of inner courts), Section 23-852 (Inner court recesses), Section 24-632 (Wide outer courts), Section 24-633 (Outer court recesses), Section 24-652 (Minimum distance between required windows and certain walls), and Section 23-863 (Minimum distance between legally required windows and any wall in an inner court); (c) the minimum distance between buildings on a zoning lot requirements of Section 23-711 (Standard minimum distance between buildings); and (d) the minimum distance between legally required windows and zoning lot lines requirements of Section 23-861 (General Provisions); Borough of Manhattan.

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on April 27, 2009 its decision dated April 22, 2009 (the "Decision"), on the application submitted by Fordham University, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Section 82-33 of the Zoning Resolution to modify:

- a. the height and setback requirements of Section 23-632 (Front setbacks in districts where front yards are not required);
- b. the inner and outer court regulations of Section 23-841 (Narrow outer courts), Section 23-843 (Outer court recesses), Section 23-851 (Minimum dimensions of inner courts), Section 23-852 (Inner court recesses), Section 24-632 (Wide outer courts), Section 24-633 (Outer court recesses), Section 24-652 (Minimum distance between required windows and certain walls), and Section 23-863 (Minimum distance between legally required windows and any wall in an inner court);
- c. the minimum distance between buildings on a zoning lot requirements of Section 23-711 (Standard minimum distance between buildings); and
- d. the minimum distance between legally required windows and zoning lot lines requirements of Section 23-861 (General Provisions);

in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, (ULURP No. C 050260 ZSM), Community District 7, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 050269 ZSM (L.U. No. 1078), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 68 spaces; C 050271 ZSM (L. U. No. 1079), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 137 spaces (pursuant to Section 11-42(c), additional time to complete the garage is also requested); and N 090170 ZRM (L.U. No. 1081), a zoning text amendment to Section 82-50 (Off-Street Parking and Off-Street Loading Regulations, Special Lincoln Square District) to clarify the regulations regarding curb cuts on wide streets for off-street loading berths;

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

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 82-33 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on May 12, 2009;

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

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 05DCP020M) and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on April 10, 2009;

RESOLVED:

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

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) From among the reasonable alternatives thereto, the action, with the modifications set forth and analyzed in Chapter 27 of the FEIS, is one that avoids adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable; and

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

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 050260 ZSM, incorporated by reference herein, the Council approves the Decision with the following modifications:

Matter in double underline is new; to be added by City Council;
 Matter in [brackets] is old, to be deleted by the City Council.

- 1. The application that is the subject of this application (C 050260 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Cooper, Robertson & Partners (CRP), Pei Cobb Freed & Partners (PCF), and Lee Weintraub Landscape Architecture (LWLA), filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
[Z-7] <u>Z-7</u>	Site Plan -- Proposed (CRP) [April 22, 2009] <u>June 30, 2009</u>	
Z-11	Zoning Analysis (CRP) April 22, 2009	
[Z-12] <u>Z-12</u>	Site Plan: Diagrammatic Building Envelopes (CRP) [April 22, 2009] <u>June 30, 2009</u>	
[Z-13] <u>Z-13</u>	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009] <u>June 30, 2009</u>	
[Z-13.1] <u>Z-13.1</u>	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009] <u>June 30, 2009</u>	
[Z-13.2] <u>Z-13.2</u>	Block Sections: Diagrammatic Building Envelopes and Illustrative Massing (CRP) [April 22, 2009] <u>June 30, 2009</u>	
[Z-14] <u>Z-14</u>	Encroachment Diagrams (CRP) [April 22, 2009] <u>June 30, 2009</u>	
[Z-14.1] <u>Z-14.1</u>	Encroachment Diagrams (CRP) [April 22, 2009] <u>June 30, 2009</u>	
Z-14.2	Encroachment Diagrams (CRP) April 22, 2009	
Z-15	Encroachment Diagrams (CRP) April 22, 2009	
[Z-15.1] <u>Z-15.1</u>	Encroachment Diagrams (CRP) [April 22, 2009] <u>June 30, 2009</u>	
Z-18	Parking and Loading -- Garage A (CRP) April 22, 2009	
Z-18.2	Parking and Loading -- Garage C (CRP) April 22, 2009	
—	Interim Stair Plan & Section (PCF) April 22, 2009	
ZL-0.0	Illustrative Plan (LWLA) April 22, 2009	
ZL-0	Survey (LWLA) April 22, 2009	
ZL-0.1	Site Demolition & Protection Plan (LWLA) April 22, 2009	
ZL-1	Materials Plan (LWLA) April 22, 2009	
ZL-2	Dimensions, Elevations and Drainage Plan (LWLA) April 22, 2009	
ZL-3	Planting Plan (LWLA) April 22, 2009	
ZL-4	Lighting Plan (LWLA) April 22, 2009	
ZL-5	Illustrative Sections (LWLA) April 22, 2009	
ZL-6	Illustrative Sections & Entry Sign Detail (LWLA) April 22, 2009	
ZL-7	Site Details (LWLA) April 22, 2009	
ZL-8	Bench Details & Site Furnishings (LWLA) April 22, 2009	

* * *

- 8. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration, as dated on June 30, 2009, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed by Fordham University and recorded in the Office of the Register of the City of New York, County of New York.

Amended Drawings

The Drawings, both as listed in the Special Permits and the Restrictive Declaration, shall be amended as follows:

- Drawing Z-7: Eliminate Site 1 Option 1 and Site 2 Option 1. Modify height limitation on Site 4 to reduce from 630 feet to 598 feet.
- Drawing Z-12: Eliminate Sites 1 and 2 Option 1 height references. Modify maximum envelope heights on Site 4 to reduce from 630 to 598 feet.
- Drawing Z-13: Eliminate Option 1 (Elevation I). Show public access area at corner of 62nd and Columbus (area of a minimum of 3,500 square feet with a minimum height of 35 feet). Show area for installation of escalator. On Elevation IV (both options) reduce envelope height for Site 4 building to 598 feet (adjust elevation accordingly).
- Drawing Z-13.1: Modify Elevation III to show public access zone at intersection of West 62nd Street and Columbus (area of a minimum of 3,500 square feet with a minimum height of 35 feet). Modify height of Site 4 building to show maximum envelope of 598 feet.
- Drawing Z-13.2: Adjust outlines of buildings shown behind all elevations to correct heights. Relabel buildings to reflect elimination of massing option.
- Drawing Z-14: Eliminate Site 1 Option 1.
- Drawing Z-14.1: Eliminate Site 2, Option 1.
- Drawing Z-15.1: Modify Z-15.1 to reduce height of Site 4 envelope to 598 feet in all encroachment drawings.

Restrictive Declaration

The restrictive declaration is amended as follows:

Design Review. Amend Section 2.2 of the Restrictive Declaration by adding a new subsection 2.2(m) to read as follows:

- (m) The provisions of this subsection (m) of Section 2.2 shall apply to the development of the proposed residential buildings to be constructed on Sites 3 and 4 (as shown on Drawings Z-7 and Z-12)(the “**Residential Buildings**”), and the other procedures for design review set forth in this Section 2.2 shall not apply to the development of the design of the Sites 3 and 4 residential buildings:
- a. Within ten (10) days after Declarant closes on a contract for the sale or lease of either of Site 3 or Site 4 with a private developer, Declarant shall notify the Councilmember and the Borough President of its intent to form a Fordham University Residential Sites Design Review Committee (the “**Residential Sites DRC**”) consisting of at least seven (7) members to review the proposed design of each of the residential buildings to be constructed on either of Site 3 or Site 4 (the “**Site 3 Building**” or the “**Site 4 Building**” as the case may be, or, collectively, the “**Residential Buildings**”), and shall request that the Borough President and Councilmember, acting jointly, designate two members of the Residential Sites DRC. Such members shall be persons with design or planning experience having not fewer than ten years of experience and shall have no conflicts of interest (as determined by each such member’s completion of the standard conflict of interest form signed by Fordham trustees) and shall be neither a member of a Community Board nor an employee or member of any governmental agency, commission or other body (the “**Community Members**”). Such Community Members shall participate in all meetings of the Residential Sites DRC that concern the design of either the Site 3 Building or the Site 4 Building, shall be entitled to one (1) vote each (equal to the vote of each other committee member) on any design matter that comes before the Residential Sites DRC requiring a vote and shall in all respects be treated as bona fide members of the Residential Sites DRC. The Community Members shall be entitled to the same notice that all members of the Residential Sites DRC receive regarding any meeting the subject of which will touch upon or concern either the Site 3 Building or Site 4 Building including their exterior materials, the shape of their envelopes, (including, without limitation, height, setbacks, location of street walls), façades, curtain walls, windows, applied decoration, color and any other matter affecting the aesthetic character or architectural design of the Residential Buildings. As used in this Section 2.2(m), the term “Declarant” means Fordham University and its agents, officers, employees, trustees and representatives only.

Section 2.2 of the Restrictive Declaration shall be amended by adding thereto a new subsection (n) that provides:

- (n) In any contract for the sale or lease of either of Sites 3 or 4 (as shown in Drawings Z-7 and Z-12), Declarant shall reserve the right to approve or disapprove the architectural design of the Site 3 Building or the Site 4 Building, as applicable.

Section 2.2 of the Restrictive Declaration is amended by adding thereto a new subsection 2.2(o) that provides:

- (o) The DRCP shall have the authority to review and comment on the proposed layout of any retail uses to be located in Sites 3, 3a and 4 along the Amsterdam frontage of the Property, as well as to consider and make recommendations regarding the types of retail uses to be provided in such locations.

Parking Garage. Article II of the Restrictive Declaration is amended by adding thereto a new Section 2.4 that provides:

Section 2.4. Declarant shall, after expiration of the time provided by law for filing an Article 78 proceeding to challenge the Approvals, promptly file with the City Planning Commission an application for a special permit pursuant to Z.R. §§13-561 to allow a parking garage in the area allocated to Garage C, as shown on Drawing 18.2, that is accessed by a curb cut located on West 60th Street, west of McMahon Hall, together with an application for an authorization pursuant to Z.R. §13-553 for a new curb cut to permit such access (the “**Garage C Applications**”). If, and at such time as, the Garage C Applications are granted, Declarant shall not exercise the Approval granted under ULURP #N050271ZSM and shall provide a letter to the Department of City Planning, copied to the Speaker of the City Council, irrevocably surrendering such an Approval. Declarant shall diligently and in good faith pursue the relief sought in the Garage C Applications, except that, if the Garage C Applications are not acted upon by the City Planning Commission within six months after the date Declarant formally files and pays an application fee to the DCP, then Declarant shall have no further obligations under this Section 2.4 and may rely upon the Garage C Approval granted under ULURP #N050271ZSM. Declarant shall have no obligations under Section 2.4, if any litigation challenging the Approvals is commenced by any resident or unit owner of the Alfred Condominium or any constituent member of Fordham Neighbors United, any resident of any of the eight buildings represented by Fordham Neighbors United or any member or affiliate of the foregoing.

Environmental Matters. A new section 3.3 is added to the Restrictive Declaration:

3.3 For each New Building to be constructed by Declarant on Sites 1, 2, 3a, 6 and 7, Declarant shall design, build and operate each New Building, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Gold Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Gold Certification. For each New Building to be constructed by Declarant on Sites 5 and 5a, Declarant shall design, build and operate the School of Law, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Silver Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Silver Certification. For each New Building to be constructed on either of Sites 3 or 4, Declarant shall require the designated developer of each site to design, build and operate the New Building on each such site in accordance with the standards required to achieve LEED NC v. 3 Certification and shall require such developers to apply for and use good faith efforts to obtain LEED NC v. 3 Certification. Should any LEED NC

v. 3 Gold, Silver or basic Certification criterion, or elements thereof, change materially (including the adoption of any new rating or guideline systems as successor to the foregoing), and Declarant reasonably determines that compliance with the new standards will materially increase the costs of construction of New Buildings not designed as of the date of the change beyond the cost premium associated with implementation of the standards in LEED NC v.3 as it exists today, Declarant may, in its sole discretion, elect to design, build and operate New Buildings not designed or constructed as of the date of the change according to the LEED NC v.3 standard or the modified standard and, in the event it elects to proceed under the standards in effect prior to the change in criterion or element, shall not be required to seek LEED NC v.3 Gold or Silver Certification and shall not require its designated developers to seek LEED NC v. 3 Certification.

Section 4.3 is renumbered as Section 4.4 and a new Section 4.3 is inserted as follows:

Section 4.3. **Public Amenities.** (a) In connection with the construction of a New Building on Site 1, Fordham shall cause the design and construction of (a) a publicly accessible atrium having a minimum area of 3500 square feet and a minimum height of 30 feet in the ground floor of the building at the intersection of Columbus Avenue and West 62nd Street (the “**Atrium**”), and (b) a

publicly accessible enclosed escalator adjacent to the northern side of the 61st Street Access Stair and leading from the level of the street to the level of the Plaza (the “Escalator Area”), both as shown on Drawings Z-7 within notes, Z-12 within notes, Z-13 with notes and Z-13.1 with notes (each, an “Indoor Public Space” and both, together, the “Indoor Public Spaces”). The Atrium shall be capable of supporting retail uses, but shall be open and accessible to the public and contain a facility for non-alcoholic beverage and light refreshment service, as well as seating with tables. The Atrium may contain other programmatic elements related to the Fordham University program, provided that each is open and accessible to the public and is installed without permanent walls that obstruct the visual openness of the Atrium space. Other obstructions shall be permitted in the Atrium and the Escalator Area in accordance with the provisions of Section 37-726(a) of the Zoning Resolution, adapted for an indoor space. The design of the Indoor Public Spaces, including the signage announcing the availability of the Atrium for public access; the hours of operation, the size, configuration, location within the Atrium, signage and hours of operation of the required non-alcoholic beverage and light refreshment service; and the amount and type of seating and tables, shall be subject to the design review process described in Section 2.2 (but not including the process described in Section 2.2(m)). Fordham University shall be responsible for the maintenance of the Atrium and Escalator Area, including but not limited to litter control, management of rodents, maintenance of lighting and the care and replacement of furnishings and plantings. Fordham University shall have sole discretion over the form and management of security in the Indoor Public Spaces, so long as security measures are not used to deny members of the public free access to such spaces.

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

Report for L.U. No. 1078 & Res. No. 2084

Report of the Committee on Land Use in favor of approving a Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 050269 ZSM (L.U. No. 1078), for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 68 spaces on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed-use building (Site 4, Garage A) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, Borough of Manhattan.

The Committee on Land Use, to which was referred on April 22, 2009 (Minutes, page 1739) and originally reported to the Council on June 10, 2009 (Minutes, page 2230) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 7

C 050269 ZSM

City Planning Commission decision approving an application submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 68 spaces on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed-use building (Site 4, Garage A) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District.

INTENT

To facilitate the proposed expansion of Fordham University, Lincoln Center Campus.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 10, 2009

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

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on June 16, 2009. The City Planning Commission filed a letter dated June 29, 2009, with the Council indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

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

Res. No. 2084

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 050269 ZSM (L.U. No. 1078), for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 68 spaces on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed-use building (Site 4, Garage A) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, Borough of Manhattan.

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on April 27, 2009 its decision dated April 22, 2009 (the "Decision"), on the application submitted by Fordham University, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 68 spaces on portions of the ground floor, cellar, and sub-cellar levels of a proposed mixed-use building (Site 4, Garage A) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, (ULURP No. C 050269 ZSM), Community District 7, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 050260 ZSM (L.U. No. 1077), a special permit pursuant to Section 82-33 to modify regulations governing height and setback, minimum distance between buildings, courts, and minimum distance between legally required windows and walls/lot lines for a development in the Special Lincoln Square District; C 050271 ZSM (L. U. No. 1079), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 137 spaces (pursuant to Section 11-42(c), additional time to complete the garage is also requested); and N 090170 ZRM (L.U. No. 1081) a zoning text amendment to Section 82-50 (Off-Street Parking and Off-Street Loading Regulations, Special Lincoln Square District) to clarify the regulations regarding curb cuts on wide streets for off-street loading berths;

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

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 13-561 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on May 12, 2009;

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

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 05DCP020M) and the Final Environmental Impact Statement (“FEIS”) for which a Notice of Completion was issued on April 10, 2009;

RESOLVED:

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

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) From among the reasonable alternatives thereto, the action, with the modifications set forth and analyzed in Chapter 27 of the FEIS, is one that avoids adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable; and
- (4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 050269 ZSM, incorporated by reference herein, the Council approves the Decision with following modifications:

1. The application that is the subject of this application (C 050260 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Cooper, Robertson & Partners (CRP), Pei Cobb Freed & Partners (PCF), and Lee Weintraub Landscape Architecture (LWLA), filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
[Z-7] Z-7	Site Plan – Proposed (CRP) [April 22, 2009]	<u>June 30, 2009</u>
Z-11	Zoning Analysis (CRP) April 22, 2009	
[Z-12] Z-12	Site Plan: Diagrammatic Building Envelopes (CRP) [April 22, 2009]	<u>June 30, 2009</u>
[Z-13] Z-13	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009]	<u>June 30, 2009</u>
[Z-13.1] Z-13.1	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009]	<u>June 30, 2009</u>
[Z-13.2] Z-13.2	Block Sections: Diagrammatic Building Envelopes and Illustrative Massing (CRP) [April 22, 2009]	<u>June 30, 2009</u>
[Z-14] Z-14	Encroachment Diagrams (CRP) [April 22, 2009]	<u>June 30, 2009</u>
[Z-14.1] Z-14.1	Encroachment Diagrams (CRP) [April 22, 2009]	<u>June 30, 2009</u>
Z-14.2	Encroachment Diagrams (CRP) April 22, 2009	
Z-15	Encroachment Diagrams (CRP) April 22, 2009	
[Z-15.1] Z-15.1	Encroachment Diagrams (CRP) [April 22, 2009]	<u>June 30, 2009</u>
Z-18	Parking and Loading – Garage A (CRP) April 22, 2009	

Z-18.2	Parking and Loading – Garage C (CRP) April 22, 2009
—	Interim Stair Plan & Section (PCF) April 22, 2009
ZL-0.0	Illustrative Plan (LWLA) April 22, 2009
ZL-0	Survey (LWLA) April 22, 2009
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ZL-2	Dimensions, Elevations and Drainage Plan (LWLA) April 22, 2009
ZL-3	Planting Plan (LWLA) April 22, 2009
ZL-4	Lighting Plan (LWLA) April 22, 2009
ZL-5	Illustrative Sections (LWLA) April 22, 2009
ZL-6	Illustrative Sections & Entry Sign Detail (LWLA) April 22, 2009
ZL-7	Site Details (LWLA) April 22, 2009
ZL-8	Bench Details & Site Furnishings (LWLA) April 22, 2009

* * *

8. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration, as dated on June 30, 2009, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed by Fordham University and recorded in the Office of the Register of the City of New York, County of New York.

Amended Drawings

The Drawings, both as listed in the Special Permits and the Restrictive Declaration, shall be amended as follows:

- Drawing Z-7: Eliminate Site 1 Option 1 and Site 2 Option 1. Modify height limitation on Site 4 to reduce from 630 feet to 598 feet.
- Drawing Z-12: Eliminate Sites 1 and 2 Option 1 height references. Modify maximum envelope heights on Site 4 to reduce from 630 to 598 feet.
- Drawing Z-13: Eliminate Option 1 (Elevation I). Show public access area at corner of 62nd and Columbus (area of a minimum of 3,500 square feet with a minimum height of 30 feet). Show area for installation of escalator. On Elevation IV (both options) reduce envelope height for Site 4 building to 598 feet (adjust elevation accordingly).
- Drawing Z-13.1: Modify Elevation III to show public access zone at intersection of West 62nd Street and Columbus (area of a minimum of 3,500 square feet with a minimum height of 30 feet). Modify height of Site 4 building to show maximum envelope of 598 feet.
- Drawing Z-13.2: Adjust outlines of buildings shown behind all elevations to correct heights. Relabel buildings to reflect elimination of massing option.
- Drawing Z-14: Eliminate Site 1 Option 1.
- Drawing Z-14.1: Eliminate Site 2, Option 1.
- Drawing Z-15.1: Modify Z-15.1 to reduce height of Site 4 envelope to 598 feet in all encroachment drawings.

Restrictive Declaration

The restrictive declaration is amended as follows:

Design Review. Amend Section 2.2 of the Restrictive Declaration by adding a new subsection 2.2(m) to read as follows:

- (m) The provisions of this subsection (m) of Section 2.2 shall apply to the development of the proposed residential buildings to be constructed on Sites 3 and 4 (as shown on Drawings Z-7 and Z-12)(the “**Residential Buildings**”), and the other procedures for design review set forth in this Section 2.2 shall not apply to the development of the design of the Sites 3 and 4 residential buildings:

- b. Within ten (10) days after Declarant closes on a contract for the sale or lease of either of Site 3 or Site 4 with a private developer, Declarant shall notify the Councilmember and the Borough President of its intent to form a Fordham University Residential Sites Design Review Committee (the “**Residential Sites DRC**”) consisting of at least seven (7) members to review the proposed design of each of the residential buildings to be constructed on either of Site 3 or Site 4 (the “**Site 3 Building**” or the “**Site 4 Building**” as the case may be, or, collectively, the “**Residential Buildings**”), and shall request that the Borough President and Councilmember, acting jointly, designate two members of the Residential Sites DRC. Such members shall be persons with design or planning experience having not fewer than ten years of experience and shall have no conflicts of interest (as determined by each such member’s completion of the standard conflict of interest form signed by Fordham trustees) and shall be neither a member of a Community Board nor an employee or member of any governmental agency, commission or other body (the “**Community Members**”). Such Community Members shall participate in all meetings of the Residential Sites DRC that concern the design of either the Site 3 Building or the Site 4 Building, shall be entitled to one (1) vote each (equal to the vote of each other committee member) on any design matter that comes before the Residential Sites DRC requiring a vote and shall in all respects be treated as bona fide members of the Residential Sites DRC. The Community Members shall be entitled to the same notice that all members of the Residential Sites DRC receive regarding any meeting the subject of which will touch upon or concern either the Site 3 Building or Site 4 Building including their exterior materials, the shape of their envelopes, (including, without limitation, height, setbacks, location of street walls), façades, curtain walls, windows, applied decoration, color and any other matter affecting the aesthetic character or architectural design of the Residential Buildings. As used in this Section 2.2(m), the term “Declarant” means Fordham University and its agents, officers, employees, trustees and representatives only.

Section 2.2 of the Restrictive Declaration shall be amended by adding thereto a new subsection (n) that provides:

- (n) In any contract for the sale or lease of either of Sites 3 or 4 (as shown in Drawings Z-7 and Z-12), Declarant shall reserve the right to approve or disapprove the architectural design of the Site 3 Building or the Site 4 Building, as applicable.

Section 2.2 of the Restrictive Declaration is amended by adding thereto a new subsection 2.2(o) that provides:

- (p) The DRCP shall have the authority to review and comment on the proposed layout of any retail uses to be located in Sites 3, 3a and 4 along the Amsterdam frontage of the Property, as well as to consider and make recommendations regarding the types of retail uses to be provided in such locations.

Parking Garage. Article II of the Restrictive Declaration is amended by adding thereto a new Section 2.4 that provides:

Section 2.4. Declarant shall, after expiration of the time provided by law for filing an Article 78 proceeding to challenge the Approvals, promptly file with the City Planning Commission an application for a special permit pursuant to Z.R. §§13-561 to allow a parking garage in the area allocated to Garage C, as shown on Drawing 18.2, that is accessed by a curb cut located on West 60th Street, west of McMahan Hall, together with an application for an authorization pursuant to Z.R. §13-553 for a new curb cut to permit such access (the “**Garage C Applications**”). If, and at such time as, the Garage C Applications are granted, Declarant shall not exercise the Approval granted under ULURP #N050271ZSM and shall provide a letter to the Department of City Planning, copied to the Speaker of the City Council, irrevocably surrendering such an Approval. Declarant shall diligently and in good faith pursue the relief sought in the Garage C Applications, except that, if the Garage C Applications are not acted upon by the City Planning Commission within six months after the date Declarant formally files and pays an application fee to the DCP, then Declarant shall have no further obligations under this Section 2.4 and may rely upon the Garage C Approval granted under ULURP #N050271ZSM. Declarant shall have no obligations under Section 2.4, if any litigation challenging the Approvals is commenced by any resident or unit owner of the Alfred Condominium or any constituent member of Fordham Neighbors United, any resident of any of the eight buildings represented by Fordham Neighbors United or any member or affiliate of the foregoing.

Environmental Matters. A new section 3.3 is added to the Restrictive Declaration:

3.3 For each New Building to be constructed by Declarant on Sites 1, 2, 3a, 6 and 7, Declarant shall design, build and operate each New Building, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Gold Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Gold Certification. For each New Building to be constructed by Declarant on Sites 5 and 5a, Declarant shall design, build and operate the School of Law, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Silver Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Silver Certification. For each New Building to be constructed on either of Sites 3 or 4, Declarant shall require the designated developer of each site to design, build and operate the New Building on each such site in accordance with the standards required to achieve LEED NC v. 3 Certification and shall require such developers to apply for and use good faith efforts to obtain LEED NC v. 3 Certification. Should any LEED NC

v. 3 Gold, Silver or basic Certification criterion, or elements thereof, change materially (including the adoption of any new rating or guideline systems as successor to the foregoing), and Declarant reasonably determines that compliance with the new standards will materially increase the costs of construction of New Buildings not designed as of the date of the change beyond the cost premium associated with implementation of the standards in LEED NC v.3 as it exists today, Declarant may, in its sole discretion, elect to design, build and operate New Buildings not designed or constructed as of the date of the change according to the LEED NC v.3 standard or the modified standard and, in the event it elects to proceed under the standards in effect prior to the change in criterion or element, shall not be required to seek LEED NC v.3 Gold or Silver Certification and shall not require its designated developers to seek LEED NC v. 3 Certification.

Section 4.3 is renumbered as Section 4.4 and a new Section 4.3 is inserted as follows:

Section 4.3. **Public Amenities.** (a) In connection with the construction of a New Building on Site 1, Fordham shall cause the design and construction of (a) a publicly accessible atrium having a minimum area of 3500 square feet and a minimum height of 30 feet in the ground floor of the building at the intersection of Columbus Avenue and West 62nd Street (the “**Atrium**”), and (b) a publicly accessible enclosed escalator adjacent to the northern side of the 61st Street Access Stair and leading from the level of the street to the level of the Plaza (the “**Escalator Area**”), both as shown on Drawings Z-7 within notes, Z-12 within notes, Z-13 with notes and Z-13.1 with notes (each, an “**Indoor Public Space**” and both, together, the “**Indoor Public Spaces**”). The Atrium shall be capable of supporting retail uses, but shall be open and accessible to the public and contain a facility for non-alcoholic beverage and light refreshment service, as well as seating with tables. The Atrium may contain other programmatic elements related to the Fordham University program, provided that each is open and accessible to the public and is installed without permanent walls that obstruct the visual openness of the Atrium space. Other obstructions shall be permitted in the Atrium and the Escalator Area in accordance with the provisions of Section 37-726(a) of the Zoning Resolution, adapted for an indoor space. The design of the Indoor Public Spaces, including the signage announcing the availability of the Atrium for public access; the hours of operation, the size, configuration, location within the Atrium, signage and hours of operation of the required non-alcoholic beverage and light refreshment service; and the amount and type of seating and tables, shall be subject to the design review process described in Section 2.2 (but not including the process described in Section 2.2(m)). Fordham University shall be responsible for the maintenance of the Atrium and Escalator Area, including but not limited to litter control, management of rodents, maintenance of lighting and the care and replacement of furnishings and plantings. Fordham University shall have sole discretion over the form and management of security in the Indoor Public Spaces, so long as security measures are not used to deny members of the public free access to such spaces.

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

Report for L.U. No. 1079 & Res. No. 2085

Report of the Committee on Land Use in favor of approving a Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 050271 ZSM (L.U. No. 1079), for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 137 spaces on portions of the ground floor, cellar, sub-cellar, and 2nd sub-cellar levels of a proposed mixed-use building (Site 3a/3, Garage C) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, Borough of Manhattan.

The Committee on Land Use, to which was referred on April 22, 2009 (Minutes, page 1739) and originally reported to the Council on June 10, 2009 (Minutes, page 2231) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 7

C 050271 ZSM

City Planning Commission decision approving an application submitted by Fordham University pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 137 spaces on portions of the ground floor, cellar, sub-cellar, and 2nd sub-cellar levels of a proposed mixed-use building (Site 3a/3, Garage C) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District.

INTENT

To facilitate the proposed expansion of Fordham University, Lincoln Center Campus.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 10, 2009

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

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on June 16, 2009. The City Planning Commission filed a letter dated June 29, 2009, with the Council indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

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

Res. No. 2085

Resolution approving with modifications the decision of the City Planning Commission on ULURP No. C 050271 ZSM (L.U. No. 1079), for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 137 spaces on portions of the ground floor, cellar, sub-cellar, and 2nd sub-cellar levels of a proposed mixed-use building (Site 3a/3, Garage C) in connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District, Borough of Manhattan.

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on April 27, 2009 its decision dated April 22, 2009 (the "Decision"), on the application submitted by Fordham University, pursuant to Sections 197-c and 201 of the New York City Charter, for the grant of a special permit pursuant to Sections 82-50 and 13-561 of the Zoning Resolution to allow an attended accessory parking garage with a maximum capacity of 137 spaces on portions of the ground floor, cellar, sub-cellar, and 2nd sub-cellar levels of a proposed mixed-use building (Site 3a/3, Garage C) in

connection with the proposed expansion of Fordham University, Lincoln Center Campus, bounded by Amsterdam Avenue, West 62nd Street, Columbus Avenue, West 60th Street, Amsterdam Avenue, West 61st Street, a line 200 feet easterly of Amsterdam Avenue, and a line 90 feet southerly of West 62nd Street (Block 1132, Lots 1, 20, and 35), in a C4-7 District, within the Special Lincoln Square District (ULURP No. C 050271 ZSM), Community District 7, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 050260 ZSM (L.U. No. 1077), a special permit pursuant to Section 82-33 to modify regulations governing height and setback, minimum distance between buildings, courts, and minimum distance between legally required windows and walls/lot lines for a development in the Special Lincoln Square District; C 050269 ZSM (L.U. No. 1078), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 68 spaces; and N 090170 ZRM (L.U. No. 1081) a zoning text amendment to Section 82-50 (Off-Street Parking and Off-Street Loading Regulations, Special Lincoln Square District) to clarify the regulations regarding curb cuts on wide streets for off-street loading berths;

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

WHEREAS, the City Planning Commission has made the findings required pursuant to Section 13-561 of the Zoning Resolution of the City of New York;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on May 12, 2009;

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

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 05DCP020M) and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on April 10, 2009;

RESOLVED:

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

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) From among the reasonable alternatives thereto, the action, with the modifications set forth and analyzed in Chapter 27 of the FEIS, is one that avoids adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable; and
- (4) The Decision and the FEIS constitute the written statement of facts, and of social, economic and other factors and standards that form the basis of the decision, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, C 050271 ZSM, incorporated by reference herein, the Council approves the Decision with the following modifications:

Matter in double underline is new; to be added by City Council;
Matter in [brackets] is old, to be deleted by the City Council.

1. The application that is the subject of this application (C 050260 ZSM) shall be developed in size and arrangement substantially in accordance with the dimensions, specifications, and zoning computations indicated on the following plans, prepared by Cooper, Robertson & Partners (CRP), Pei Cobb Freed & Partners (PCF), and Lee Weintraub Landscape Architecture (LWLA), filed with this application and incorporated in this resolution:

<u>Drawing No.</u>	<u>Title</u>	<u>Last Date Revised</u>
[Z-7] Z-7	Site Plan – Proposed (CRP) [April 22, 2009] <u>June 30, 2009</u>	
Z-11	Zoning Analysis (CRP) April 22, 2009	
[Z-12] Z-12	Site Plan: Diagrammatic Building Envelopes (CRP) [April 22, 2009] <u>June 30, 2009</u>	
[Z-13] Z-13	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009] <u>June 30, 2009</u>	
[Z-13.1] Z-13.1	Block Elevations: Diagrammatic Building and Illustrative Massing (CRP) [April 22, 2009] <u>June 30, 2009</u>	
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[Z-14] Z-14	Encroachment Diagrams (CRP) [April 22, 2009] <u>June 30, 2009</u>	
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Z-18	Parking and Loading – Garage A (CRP) April 22, 2009	
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ZL-7	Site Details (LWLA) April 22, 2009	
ZL-8	Bench Details & Site Furnishings (LWLA) April 22, 2009	

* * *

8. Development pursuant to this resolution shall be allowed only after the Restrictive Declaration, as dated on June 30, 2009, with such administrative changes as are acceptable to Counsel to the Department of City Planning, has been executed by Fordham University and recorded in the Office of the Register of the City of New York, County of New York.

* * *

11. This Special Permit shall lapse if substantial construction in accordance with the plans and drawings has not been completed within five and one half years following the [effective date] hereof.

Amended Drawings

The Drawings, both as listed in the Special Permits and the Restrictive Declaration, shall be amended as follows:

- Drawing Z-7: Eliminate Site 1 Option 1 and Site 2 Option 1. Modify height limitation on Site 4 to reduce from 630 feet to 598 feet.
- Drawing Z-12: Eliminate Sites 1 and 2 Option 1 height references. Modify maximum envelope heights on Site 4 to reduce from 630 to 598 feet.

Drawing Z-13: Eliminate Option 1 (Elevation I). Show public access area at corner of 62nd and Columbus (area of a minimum of 3,500 square feet with a minimum height of 30 feet). Show area for installation of escalator. On Elevation IV (both options) reduce envelope height for Site 4 building to 598 feet (adjust elevation accordingly).

Drawing Z-13.1: Modify Elevation III to show public access zone at intersection of West 62nd Street and Columbus (area of a minimum of 3,500 square feet with a minimum height of 30 feet). Modify height of Site 4 building to show maximum envelope of 598 feet.

Drawing Z-13.2: Adjust outlines of buildings shown behind all elevations to correct heights. Relabel buildings to reflect elimination of massing option.

Drawing Z-14: Eliminate Site 1 Option 1.

Drawing Z-14.1: Eliminate Site 2, Option 1.

Drawing Z-15.1: Modify Z-15.1 to reduce height of Site 4 envelope to 598 feet in all encroachment drawings.

Restrictive Declaration

The restrictive declaration is amended as follows:

Design Review. Amend Section 2.2 of the Restrictive Declaration by adding a new subsection 2.2(m) to read as follows:

- (m) The provisions of this subsection (m) of Section 2.2 shall apply to the development of the proposed residential buildings to be constructed on Sites 3 and 4 (as shown on Drawings Z-7 and Z-12) (the “**Residential Buildings**”), and the other procedures for design review set forth in this Section 2.2 shall not apply to the development of the design of the Sites 3 and 4 residential buildings:

- c. Within ten (10) days after Declarant closes on a contract for the sale or lease of either of Site 3 or Site 4 with a private developer, Declarant shall notify the Councilmember and the Borough President of its intent to form a Fordham University Residential Sites Design Review Committee (the “**Residential Sites DRC**”) consisting of at least seven (7) members to review the proposed design of each of the residential buildings to be constructed on either of Site 3 or Site 4 (the “**Site 3 Building**” or the “**Site 4 Building**” as the case may be, or, collectively, the “**Residential Buildings**”), and shall request that the Borough President and Councilmember, acting jointly, designate two members of the Residential Sites DRC. Such members shall be persons with design or planning experience having not fewer than ten years of experience and shall have no conflicts of interest (as determined by each such member’s completion of the standard conflict of interest form signed by Fordham trustees) and shall be neither a member of a Community Board nor an employee or member of any governmental agency, commission or other body (the “**Community Members**”). Such Community Members shall participate in all meetings of the Residential Sites DRC that concern the design of either the Site 3 Building or the Site 4 Building, shall be entitled to one (1) vote each (equal to the vote of each other committee member) on any design matter that comes before the Residential Sites DRC requiring a vote and shall in all respects be treated as bona fide members of the Residential Sites DRC. The Community Members shall be entitled to the same notice that all members of the Residential Sites DRC receive regarding any meeting the subject of which will touch upon or concern either the Site 3 Building or Site 4 Building including their exterior materials, the shape of their envelopes, (including, without limitation, height, setbacks, location of street walls), façades, curtain walls, windows, applied decoration, color and any other matter affecting the aesthetic character or architectural design of the Residential Buildings. As used in this Section 2.2(m), the term “Declarant” means Fordham University and its agents, officers, employees, trustees and representatives only.

Section 2.2 of the Restrictive Declaration shall be amended by adding thereto a new subsection (n) that provides:

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Section 2.2 of the Restrictive Declaration is amended by adding thereto a new subsection 2.2(o) that provides:

- (q) The DRCP shall have the authority to review and comment on the proposed

layout of any retail uses to be located in Sites 3, 3a and 4 along the Amsterdam frontage of the Property, as well as to consider and make recommendations regarding the types of retail uses to be provided in such locations.

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Section 2.4. Declarant shall, after expiration of the time provided by law for filing an Article 78 proceeding to challenge the Approvals, promptly file with the City Planning Commission an application for a special permit pursuant to Z.R. §§13-561 to allow a parking garage in the area allocated to Garage C, as shown on Drawing 18.2, that is accessed by a curb cut located on West 60th Street, west of McMahon Hall, together with an application for an authorization pursuant to Z.R. §13-553 for a new curb cut to permit such access (the “**Garage C Applications**”). If, and at such time as, the Garage C Applications are granted, Declarant shall not exercise the Approval granted under ULURP #N050271ZSM and shall provide a letter to the Department of City Planning, copied to the Speaker of the City Council, irrevocably surrendering such an Approval. Declarant shall diligently and in good faith pursue the relief sought in the Garage C Applications, except that, if the Garage C Applications are not acted upon by the City Planning Commission within six months after the date Declarant formally files and pays an application fee to the DCP, then Declarant shall have no further obligations under this Section 2.4 and may rely upon the Garage C Approval granted under ULURP #N050271ZSM. Declarant shall have no obligations under Section 2.4, if any litigation challenging the Approvals is commenced by any resident or unit owner of the Alfred Condominium or any constituent member of Fordham Neighbors United, any resident of any of the eight buildings represented by Fordham Neighbors United or any member or affiliate of the foregoing.

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3.3 For each New Building to be constructed by Declarant on Sites 1, 2, 3a, 6 and 7, Declarant shall design, build and operate each New Building, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Gold Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Gold Certification. For each New Building to be constructed by Declarant on Sites 5 and 5a, Declarant shall design, build and operate the School of Law, in accordance with the standards required to achieve a minimum of LEED NC v. 3 Silver Certification and shall apply for and use good faith efforts to obtain LEED NC v. 3 Silver Certification. For each New Building to be constructed on either of Sites 3 or 4, Declarant shall require the designated developer of each site to design, build and operate the New Building on each such site in accordance with the standards required to achieve LEED NC v. 3 Certification and shall require such developers to apply for and use good faith efforts to obtain LEED NC v. 3 Certification. Should any LEED NC

v. 3 Gold, Silver or basic Certification criterion, or elements thereof, change materially (including the adoption of any new rating or guideline systems as successor to the foregoing), and Declarant reasonably determines that compliance with the new standards will materially increase the costs of construction of New Buildings not designed as of the date of the change beyond the cost premium associated with implementation of the standards in LEED NC v.3 as it exists today, Declarant may, in its sole discretion, elect to design, build and operate New Buildings not designed or constructed as of the date of the change according to the LEED NC v.3 standard or the modified standard and, in the event it elects to proceed under the standards in effect prior to the change in criterion or element, shall not be required to seek LEED NC v.3 Gold or Silver Certification and shall not require its designated developers to seek LEED NC v. 3 Certification.

Section 4.3 is renumbered as Section 4.4 and a new Section 4.3 is inserted as follows:

Section 4.3. **Public Amenities.** (a) In connection with the construction of a New Building on Site 1, Fordham shall cause the design and construction of (a) a publicly accessible atrium having a minimum area of 3500 square feet and a minimum height of 30 feet in the ground floor of the building at the intersection of Columbus Avenue and West 62nd Street (the “**Atrium**”), and (b) a publicly accessible enclosed escalator adjacent to the northern side of the 61st Street Access Stair and leading from the level of the street to the level of the Plaza (the “**Escalator Area**”), both as shown on Drawings Z-7 within notes, Z-12 within notes, Z-13 with notes and Z-13.1 with notes (each, an “**Indoor Public Space**” and both, together, the “**Indoor Public Spaces**”). The Atrium shall be capable of supporting retail uses, but shall be open and accessible to the public and contain a facility for non-alcoholic beverage and light refreshment service, as well as seating with tables. The Atrium may contain other programmatic elements related to the Fordham University program, provided that each is open and accessible to the public and is installed without permanent walls that obstruct the visual openness of the Atrium space. Other obstructions shall be permitted in the Atrium and the Escalator Area in accordance with the provisions of Section 37-726(a) of the Zoning Resolution, adapted for an indoor space. The design of the Indoor Public Spaces, including the signage announcing the availability of the Atrium for public access; the hours of

operation, the size, configuration, location within the Atrium, signage and hours of operation of the required non-alcoholic beverage and light refreshment service; and the amount and type of seating and tables, shall be subject to the design review process described in Section 2.2 (but not including the process described in Section 2.2(m)). Fordham University shall be responsible for the maintenance of the Atrium and Escalator Area, including but not limited to litter control, management of rodents, maintenance of lighting and the care and replacement of furnishings and plantings. Fordham University shall have sole discretion over the form and management of security in the Indoor Public Spaces, so long as security measures are not used to deny members of the public free access to such spaces.

(b) If, after each of the Indoor Public Spaces has been open for public use for a period of three (3) years, Fordham determines that either of the Indoor Public Spaces has become a public nuisance, either because it has attracted users who threaten the health, safety or well-being of other members of the public or users of the Campus (as evidenced by incident reports filed with the local police precinct or with campus security) or because it is not regularly used by a significant number of members of the public, Fordham may give notice to the Committee of its intent to alter the use or layout of an Indoor Public Space or the hours of access thereto. The Committee may request a meeting with Fordham to discuss alternative uses or other matters relating to the reprogramming of an Indoor Public Space. The Committee’s views shall be advisory only. In making any such reprogramming decision, Fordham will endeavor to maintain public access to and use of the Indoor Public Spaces in a manner consistent with the public’s health, safety and well-being and to improve the extent of public use of such spaces.

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

Report for L.U. No. 1081 & Res. No. 2086

Report of the Committee on Land Use in favor of approving a Resolution approving the decision of the City Planning Commission on Application No. N 090170 ZRM, for an amendment of the Zoning Resolution of the City of New York, relating to Article VIII, Chapter 2, concerning Section 82-50 (Off-Street Parking and Off-Street Loading Regulations), to modify the requirements for curb cuts on wide streets for off-street loading berths in the Special Lincoln Square District, Borough of Manhattan (L.U. No. 1081).

The Committee on Land Use, to which was referred on April 22, 2009 (Minutes, page 1740) and originally reported to the Council on June 10, 2009 (Minutes, page 2233) the annexed Land Use resolution, respectfully

REPORTS:

SUBJECT

MANHATTAN CB - 7

N 090170 ZRM

City Planning Commission decision approving an application submitted by Fordham University pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York, Article VIII, Chapter 2, concerning Section 82-50 (Off-Street Parking and Off-Street Loading Regulations), to modify the requirements for curb cuts on wide streets for off-street loading berths in the Special Lincoln Square District.

INTENT

To facilitate the proposed expansion of Fordham University, Lincoln Center Campus.

Report Summary:

COMMITTEE RECOMMENDATION AND ACTION

DATE: June 10, 2009

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

FILING OF MODIFICATIONS WITH THE CITY PLANNING COMMISSION

The Committee's proposed modifications were filed with the City Planning Commission on June 16, 2009. The City Planning Commission filed a letter dated June 29, 2009, with the Council indicating that the proposed modifications are not subject to additional environmental review or additional review pursuant to Section 197-c of the City Charter.

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

Res. No. 2086

Resolution approving the decision of the City Planning Commission on Application No. N 090170 ZRM, for an amendment of the Zoning Resolution of the City of New York, relating to Article VIII, Chapter 2, concerning Section 82-50 (Off-Street Parking and Off-Street Loading Regulations), to modify the requirements for curb cuts on wide streets for off-street loading berths in the Special Lincoln Square District, Borough of Manhattan (L.U. No. 1081).

By Council Members Katz and Avella.

WHEREAS, the City Planning Commission filed with the Council on April 27, 2009 its decision dated April 22, 2009 (the "Decision"), on the application submitted by Fordham University pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article VIII, Chapter 2, concerning Section 82-50 (Off-Street Parking and Off-Street Loading Regulations), to modify the requirements for curb cuts on wide streets for off-street loading berths in the Special Lincoln Square District (Application No. N 090170 ZRM), Community District 7, Borough of Manhattan (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 050260 ZSM (L.U. No. 1077), a special permit pursuant to Section 82-33 to modify regulations governing height and setback, minimum distance between buildings, courts, and minimum distance between legally required windows and walls/lot lines for a development in the Special Lincoln Square District; C 050269 ZSM (L.U. No. 1078), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 68 spaces; and C 050271 ZSM (L. U. No. 1079), a special permit pursuant to Sections 82-50 and 13-561 to allow an accessory parking garage with a maximum of 137 spaces (pursuant to Section 11-42(c), additional time to complete the garage is also requested);

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

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on May 12, 2009;

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

WHEREAS, the Council has considered the relevant environmental review (CEQR No. 05DCP020M) and the Final Environmental Impact Statement ("FEIS") for which a Notice of Completion was issued on April 10, 2009;

RESOLVED:

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

- (1) The FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) From among the reasonable alternatives thereto, the action, with the modifications set forth and analyzed in Chapter 27 of the FEIS, is one that avoids adverse environmental impacts to the maximum extent practicable;
- (3) The adverse environmental impacts revealed in the FEIS will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval, those mitigative measures that were identified as practicable; and

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

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application, and based on the environmental determination and consideration described in this report, N 090170 ZRM, incorporated by reference herein, the Council approves the Decision.

RESOLVED:

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

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

- Matter underlined is new, to be added;
- Matter within # # is defined in Section 12-10;
- Matter in ~~strikeout~~ is text to be deleted;
- *** indicates where unchanged text appears in the zoning resolution

Article VIII - Special Purpose Districts

**Chapter 2
Special Lincoln Square District**

**82-50
OFF-STREET PARKING AND OFF-STREET LOADING REGULATIONS**

The regulations of Article I, Chapter 3 (Comprehensive Off-Street Parking Regulations in Community Districts 1, 2, 3, 4, 5, 6, 7 and 8 in the Borough of Manhattan and a portion of Community Districts 1 and 2 in the Borough of Queens) and the applicable underlying district regulations of Article III, Chapter 6, relating to Off-Street Loading Regulations, shall apply in the #Special Lincoln Square District# except as otherwise provided in this Section. In addition, the entrances and exits to all off-street loading berths shall not be located on a #wide street# except by authorization as set forth in this Section.

- a) #Accessory# off-street parking spaces
 - #Accessory# off-street parking spaces are permitted only by special permit of the City Planning Commission pursuant to Section 13-561 (Accessory off-street parking spaces).
- b) Curb cuts
 - The City Planning Commission may authorize curb cuts within 50 feet of the intersection of any two #street lines#, or on #wide streets# where such curb cuts are needed ~~exclusively~~ for ~~required~~ off-street loading berths, provided the location of such curb cuts meets the findings in Section 13-553 ~~and the loading berths are arranged so as to permit head in and head out truck movements to and from the #zoning lot#.~~
- c) Waiver of loading berth requirements
 - The City Planning Commission may authorize a waiver of the required off-street loading berths where the location of the required curb cuts would:
 - (1) be hazardous to traffic safety;
 - (2) create or contribute to serious traffic congestion or unduly inhibit vehicular and pedestrian movement; or
 - (3) interfere with the efficient functioning of bus lanes, specially designated streets or public transit facilities.

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

Resolution approving various persons Commissioners of Deeds**By the Presiding Officer –**

Resolved, that the following named persons be and hereby are appointed Commissioners of Deeds for a term of two years:

Approved New Applicant's Report

Brendan Atwood	1384 Bedford Avenue #5A Brooklyn, NY 11216	35
Cordell R. Hackshaw	1166 Pacific Street #2C Brooklyn, NY 11216	35
Katelyn Williams	600 Park Place #9 Brooklyn, NY 11238	35
Margaret J. Brooks-Brown	756 Stanley Avenue #6E Brooklyn, NY 11207	42
Valerie Butler	67 Manhattan Avenue Brooklyn, NY 11206	34
Karen Campbell	260 Gates Avenue #2D Brooklyn, NY 11238	36
Jamila Pringle	314 MacDonough Street Brooklyn, NY 11233	36
Marcia Whittaker	1346 Bergen Street #2A Brooklyn, NY 11213	36
Afiya DeCoteau	425 44th Street Brooklyn, NY 11220	38
Sandra Fajiram	1600 Ocean Parway #1C Brooklyn, NY 11230	44
Stacy Frigerio	59 Seasongood Road Queens, NY 11375	29
Lesbia Guzman	4395 Broadway #1C New York, NY 10040	7
Keith Howard	120 Sunset Blvd Bronx, NY 10473	18
Hilary Hudson	425 East 65th Street #11 New York, NY 10065	5
Claudia Myrie	217-18 134th Road Queens, NY 11413	31
Yvette Pagan	82 Rutgers Slip #21D New York, NY 10002	1
Sandra Portnoy	62 Gary Court Staten Island, NY 10314	50
Patricia J. Safina	84-24 Doran Avenue Queens, NY 11385	30
Caitlin Schnur	300 Atlantic Avenue #3 Brooklyn, NY 11201	33
Beverly A. Smith	2681 West 2nd Street #4K Brooklyn, NY 11223	47
Wondra R. Trower	2675 West 36th Street #13C Brooklyn, NY 11224	47
Shalini Tripathi	201 West 108th Street #37 New York, NY 10025	8
Tara Umbrino	40 West 135th Street #14C New York, NY 10037	9

Approved New Applicants and Reapplicants

Richard Albrecht	42-10 212th Street #3G Queens, NY 11361	19
Lisa Inciardi	33-19 164th Street 1st Floor Flushing, NY 11385	19
Deidra Mellis	3-05 149th Place Whitestone, NY 11357	19
George Mihaltses	220-31 43rd Avenue Bayside, NY 11361	19

Beverly J. Ali	234 West 122nd Street #3B New York, NY 10027	9
Sylvia Maury-Rosa	137 West 110th Street #1E New York, NY 10026	9
Rosemarie Almanzar	1957 Chatterton Avenue Bronx, NY 10472	18
Betty Gonzalez	2215 Gleason Avenue Bronx, NY 10462	18
Jo-Anne D. Muhammad	1526 Beach Avenue #20 Bronx, NY 10460	18
Frank Amato	225 Seigel Street Brooklyn, NY 11206	34
Grace Franco	240 Leonard Street #2 Brooklyn, NY 11211	34
Nydia Gonzalez	165 Ten Eyck Walk #1 Brooklyn, NY 11206	34
Mark Rahmings	48 Stanhope Street Brooklyn, NY 11221	34
Sylvia Arizmendi	67-04 Parsons Blvd #5A Queens, NY 11365	24
Michelle Brown	89-15 Parsons Blvd #12M Queens, NY 11432	24
Mara Ferizi	67-14 Parsons Blvd Queens, NY 11265	24
Damaris Saunders	147-44 Village Road Queens, NY 11435	24
Sotirios Assimacopoulos	32-15 35th Street #B Queens, NY 11106	22
Lisa Darby	34-20 24th Street Long Island City, NY 11106	22
John Livadaros	21-20 30th Avenue Queens, NY 11102	22
Frances Benjamin	1181 Tinton Avenue Bronx, NY 10456	16
Iris Davis	1750 Sedgwick Avenue #9H Bronx, NY 10453	16
Enrique Figueroa	1100 Clay Avenue #3C Bronx, NY 10456	16
Madelyn Ramos	500 East 171st Street #9E Bronx, NY 10457	16
Melicia Blakney	95 Old Broadway New York, NY 10027	7
Kennetha Robinson	385 Edgecombe Avenue #56 New York, NY 10031	7
Margarita Velez	510 West 157th Street New York, NY 10032	7
Jaime Bocanumenth	37-25 81st Street #3D Queens, NY 11372	21
Albana Bollati	48 MacFarland Avenue # 1 Staten Island, NY 10305	49
Allen Bortnick	7119 Shore Road Brooklyn, NY 11209	43
Fred Schneider	8320 15th Avenue 2 F Brooklyn, NY 11228	43
Kezia L. Bridges	234 Sands Street #13A Brooklyn, NY 11201	35
Perlese E. Steed	672 Empire Blvd #5A Brooklyn, NY 11213	35
Bonnie Renee Briggman- Robinson	107-50 129th Street Queens, NY 11419	28
Eva Broit	525 Neptune Avenue Brooklyn, NY 11224	47
Adam Scott Roth	2040 80th Street #2R Brooklyn, NY 11214	47
Annette Wesley	2850 West 24 Street Brooklyn, NY 11224	47
Deborah Ariela Carabaloso	15 West 106th Street New York, NY 10025	8
Vanessa Clark	865 Columbus Avenue #16C	8

Tarsha Gilmore	New York, NY 10025 80 East 116th Street #409 New York, NY 10029	8
Rasheen Odom	4 East 107th Street # 10G New York, NY 10029	8
Lucy Cecere	51 MacDougal Street New York, NY 10012	3
Bruce McDougald	258 West 22nd Street #5H New York, NY 10011	3
Michael Cheathom	115-32 174th Street Queens, NY 11434	27
Althea Flowers	194-14 122nd Avenue Queens, NY 11413	27
Danielle Greenwood	114-30 204th Street Saint Albans, NY 11412	27
Carolyn Cibelli	191 Chesterton Avenue Staten Island, NY 10306	51
Marietta M. Cirillo	496 Alverson Avenue Staten Island, NY 10309	51
Josephine Garcia	459 Manhattan Street Staten Island, NY 10307	51
Carole Sue Lavino	194 Brighton Street Staten Island, NY 10307	51
Randi Linder	350 Jefferson Blvd. Staten Island, NY 10312	51
Joann Otterbeck	515 Barclay Avenue Staten Island, NY 10312	51
Yolanda Tucker	106 Bennett Place Staten Island, NY 10312	51
Wanda A. Clemons	130-67 224th Street Queens, NY 11413	31
Felix Milan Jr.	147-21 Weller Lane Rosedale, NY 11422	31
Jannie L. Poullard	131-28 233rd Street Queens, NY 11422	31
Pauline Colon	2663 Heath Avenue # 10F Bronx, NY 10463	14
Veronica Davis	150 West 225th Street #20H Bronx, NY 10463	14
Christina Conti	69-14 66th Place Glendale, NY 11385	30
Constance J. Davis	66-60 80th Street Middle Village, NY 11379	30
Michael K. Walker	51-35 66th Street Queens, NY 11377	30
Alexandra L. Wenz	66-26 Hull Avenue Queens, NY 11378	30
Francis A. DeCoteau	705 Shephard Avenue Brooklyn, NY 11208	42
Winston L. Hoppie	884 East 95th Street Brooklyn, NY 11236	42
Virgilia Diaz	34-32 92nd Street Jackson Heights, NY 11372	25
Esperanza T. Mallari	76-12 35th Avenue #4 Queens, NY 11372	25
Onaj ite Edah	1150 Intervale Avenue #2A Bronx, NY 10459	17
Isabella Gadson	825 Boynton Avenue #8K Bronx, NY 10473	17
Arabella M. Poveriet	834 Cauldwell Avenue Bronx, NY 10456	17
Daisy Velez	3000 Park Avenue #6F Bronx, NY 10451	17
Consula J. Edwards	1800 Albemarle Road Brooklyn, NY 11226	40
Carl V. Jameson	15 Maple Street Brooklyn, NY 11225	40
Josephine Gervias	2131 Belmont Avenue Bronx, NY 10457	15
Molly Golden	14 Stuyvesant Avenue Brooklyn, NY 11221	36

Ojean Lilly	303 Putnam Avenue #3A Brooklyn, NY 11216	36
Delores White	1302 Park Place Brooklyn, NY 11213	36
Sharon Hahn	1321 Shore Pkwy Brooklyn, NY 11214	50
Petal Harlow-Orcel	758 East 83rd Street 2nd Floor Brooklyn, NY 11236	46
Tigran Sahakyan	2049 East 29th Street Brooklyn, NY 11229	46
Norma Hernandez	714 60th Street #3R Brooklyn, NY 11220	38
Facunda Hernandez	17 Fort George Hill New York, NY 10040	10
Tavorys W. Mazara	4648 Broadway #51 New York, NY 10040	10
Leah Ife	488 State Street Brooklyn, NY 11217	33
Blanca I. Irizarry	25 Montgomery Street New York, NY 10002	1
Mai L. Sommerfield	10 Catherine Slip #16E New York, NY 10038	1
Helen Jackson	133 West 90th Street #9D New York, NY 10024	6
Seth O. Kaye	4525 Henry Hudson Pkwy #605 Bronx, NY 10471	11
Josh J. Neustein	3001 Arlington Avenue Bronx, NY 10463	11
Peter J. Labella	158 18 82nd Street Queens, NY 11414	32
Vincent Labella	158-24 81 Street Howard Beach, NY 11414	32
Shivonne Marrow	744 MacDonough Street #3R Brooklyn, NY 11233	41
Linda Rhodes	92 East 46th Street Brooklyn, NY 11203	41
Mary A. Roberts	129 East 51st Street Brooklyn, NY 11203	41
Kevin J. McGuire	4115 44th Street Long Island City, NY 11104	26
Amandah Pasha	1551 Williams Bridge Road Bronx, NY 10461	13
Marie D. Pearson	89 Christopher Avenue #8D Brooklyn, NY 11212	37
William Rogers	119-40 Union Turnpike Queens, NY 11415	29
Irwin Shanberg	1877 East 19 Street Brooklyn, NY 11229	48

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

**ROLL CALL ON GENERAL ORDERS FOR THE DAY
(Items Coupled on General Order Calendar)**

- (1) **M 1433 & Res 2082 -** **Burton Lehman** - As a member of the New York City Conflicts of Interest Board
- (2) **Int 1022 -** Establishment of a panel on regulatory review.
- (3) **Int 1030 -** Enforcement of etching acid legislation.
- (4) **Int 1033 -** A Local Law in relation to the naming of 41 thoroughfares and public places.
- (5) **Int 1041 -** Resolution of outstanding default judgments issued by the environmental control board.

- (6) **Res 2061 -** Approving the new designation and changes in the designation of certain organizations to receive funding in the fiscal 2008, 2009 and 2010 expense budget. (Transparency Resolution, June 30, 2009).
- (7) **L.U. 1077 & Res 2083** ULURP Application no. **C 050260 ZSM** with modifications, a special permit, Community Board 7, Manhattan
- (8) **L.U. 1078 & Res 2084** ULURP Application no. **C 050269 ZSM** with modifications, a special permit, Community Board 7, Manhattan
- (9) **L.U. 1079 & Res 2085** ULURP Application no. **C 050271 ZSM** with modifications, a special permit, Community Board 7, Manhattan
- (10) **L.U. 1081 & Res 2086 -** Application no. **N 090170 ZRM** with modifications, amendment to the Zoning Resolution, Community Board 7, Manhattan
- (11) **L.U. 1083 & Res 2065 -** App **C 090283 ZMQ** Zoning Map, Section No.14a; by changing from an R1-2 District to an R1-2A District.
- (12) **L.U. 1084 & Res 2066 -** App. **N 090304 ZRQ** subdistricts of the Special Long Island City Mixed Use District.
- (13) **L.U. 1111 & Res 2062 -** Westbeth Corporation Housing Development fund Company Inc. 463 West Street, Manhattan, Council District No. 3
- (14) **L.U. 1114 & Res 2067 -** App. **N 0 090306 ZRM** east side of battery place between Second Place and Third Place.
- (15) **L.U. 1116 & Res 2068 -** App. **C 090166 MMX** establishment of a waterfront Park, Major Deegan Boulevard, the Harlem River.
- (16) **L.U. 1117 & Res 2069 -** App. **C 090302 ZRX** establishing the Special Harlem River Waterfront District; and Article XII, Chapter 3.
- (17) **L.U. 1118 & Res 2070 -** App. **20095459 HKQ** (N 090369 HKQ), Jamaica High School located at 167-01 Gothic Drive, Council District no. 24.
- (18) **L.U. 1119 & Res 2071 -** App. **20095460 HKR** (N 090370 HKR), Rutan-Journeay House located at 7647 Amboy Road, Council District no. 51.
- (19) **L.U. 1120 & Res 2072 -** App. **20095461 HKX** (N 090371 HKX), New York Botanical Garden Museum, Fountain of Life and Tulip Tree Allee, CD 11.
- (20) **L.U. 1121 & Res 2073 -** App. **20095653 HHR** Sea View Hospital Rehabilitation Center and Home, Council District no 50.
- (21) **L.U. 1123 & Res 2074 -** App. **20095371 SCK**, 900 seat primary school facility serving CSD 13 and 15, to be located at Old P.S. 133.
- (22) **L.U. 1124 & Res 2075 -** App. **C 090313 ZMK** Zoning Map, Section Nos. 17d, 23a, 23c and 23d.
- (23) **L.U. 1125 & Res 2076 -** App. **20095554 HKX** (N 090392 HKX), New York Public Library, Woodstock Branch Council District no 17.
- (24) **L.U. 1126 & Res 2077 -** App. **20095555 HKX** (N 090393 HKX), New York Public Library, Hunts Point Branch, Council District no 17.
- (25) **L.U. 1127 & Res 2078 -** App. **C 090303 ZMX** amendment of the Zoning Map, Section No.6a.
- (26) **L.U. 1128 & Res 2079 -** App. **20095663** proposed lease amendment for the Howland Hook Marine Terminal between.
- (27) **L.U. 1129 & Res 2080 -** App. **20095462 SCQ**, Middle College High School, (Block 249, Lot 1), Council District No. 26, Borough of Queens.
- (28) **L.U. 1130 & Res 2081 -** App. **20095685 SCK**, All City Leadership Secondary School with approximately 400 students, CD 37, Brooklyn.
- (29) **L.U. 1134 & Res 2063 -** 368 East 8th Street, Manhattan, Council District No. 2
- (30) **L.U. 1135 & Res 2064 -** 72 Clinton Street, Manhattan, Council District No.1
- (31) **Resolution approving various persons Commissioners of Deeds.**

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

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

The General Order vote recorded for this Stated Meeting was 50-0-0 as shown above with the exception of the votes for the following legislative items:

The following was the vote recorded for **Int No. 1030:**

Affirmative – –Arroyo, Avella, Baez, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Lappin, Liu, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **48**.

Negative – Barron and Mark-Viverito – **2**.

The following was the vote recorded for **Int No. 1033:**

Affirmative –Arroyo, Avella, Baez, Barron, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, James, Katz, Koppell, Liu, Mark-Viverito, Mealy, Mendez, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **49**.

Negative – Lappin - **1**.

The following was the vote recorded for **LU No. 1123 & Res No. 2074**

Affirmative –Arroyo, Baez, Brewer, Comrie, Crowley, DeBlasio, Dickens, Dilan, Eugene, Felder, Ferreras, Fidler, Foster, Garodnick, Gennaro, Gentile, Gerson, Gioia, Gonzalez, Ignizio, Jackson, Katz, Koppell, Lappin, Liu, Mark-Viverito, Mealy, Mitchell, Nelson, Palma, Recchia, Reyna, Sanders, Seabrook, Sears, Stewart, Ulrich, Vacca, Vallone, Jr., Vann, Weprin, White, Yassky, Oddo, Rivera, and the Speaker (Council Member Quinn) – **46**.

Negative – Avella, Barron, James and Mendez – **4**.

The following 4 Introductions were sent to the Mayor for his consideration and approval: Int Nos. 1022, 1030, 1033, and 1041.

For **Introduction and Reading of Bills**, see the material following the **Resolutions** section below:

RESOLUTIONS
Presented for voice-vote

The following are the respective Committee Reports for each of the Resolutions referred to the Council for a voice-vote pursuant to Rule 8.50 of the Council:

Report for voice-vote Res. No. 1281-A

Report of the Committee on Education in favor of approving, as amended, a Resolution calling upon the New York City Department of Education to incorporate the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha as observed school holidays in the school calendar for the city school district of the city of New York, and calling upon the State legislature to pass, and the Governor to sign into law, A.8108/S.5837, an Act to amend the education law, in relation to requiring that Eid Ul-Fitr and Eid Ul-Adha be school holidays in the city school district of the city of New York.

The Committee on Education, to which was referred on February 27, 2008 (Minutes, page 790) the annexed amended resolution, respectfully

REPORTS:

On Thursday, June 18, 2009, the City Council's Committee on Education, chaired by Council Member Robert Jackson, will vote on Proposed Resolution No. 1281-A. A prior hearing was held on September 26, 2008, and the Committee heard testimony from many educators, parents, advocates and unions in support of the Proposed Resolution. A copy of the Proposed Resolution is attached.

Background

In the aftermath of the September 11, 2001 attack on the World Trade Center, many Muslims in New York City suffered from acts of discrimination and bigotry in a backlash against their community. Muslim students in City public schools feel increased alienation since 9/11 and continue to experience harassment and discrimination, including ethnic slurs and taunts, such as offensive remarks about articles of clothing like the hijab or headscarf worn by girls.⁹ According to a recent survey of Muslim students in City schools, Arab students, in particular, were twice as likely as other students to experience a bigoted offense in school.¹⁰

Currently, New York City public schools are closed on several Christian and Jewish religious holidays, including Christmas, Good Friday, Rosh Hashanah and Yom Kippur, while there is no similar recognition of Muslim holidays. The Coalition for Muslim School Holidays (Coalition), comprised of over 50 labor, religious, community and advocacy organizations brought this issue to the attention of the Committee. In March 2007, the Coalition released a report entitled "Acceptance, not Exclusion: A Case for Muslim Holidays in NYC Public Schools," which calls on the Department of Education (DOE) to recognize Eid-Ul-Fitr and Eid-Ul-Adha as official school holidays in order to ensure that Muslim students do not continue to face problems of religious accommodation in the public school system on their tradition's holiest days.

Eid Ul-Fitr and Eid Ul-Adha are two of the most important in the Muslim calendar. Eid Ul-Fitr marks the end of the month-long fast of Ramadan. It is celebrated with communal prayers and other social activities. The prayers mark the beginning of the Eid Ul-Fitr along with social visits seeking to strengthen the bonds of the community. The holiday extends for three days, the most important of which is the first day. Eid Ul-Adha marks the culmination of Hajj, the annual pilgrimage to Mecca. It serves to remind Muslims of the continuity of their faith throughout history and connects them with the Great Prophet Abraham. The holiday lasts four days, the most important being the first day.

At present, Chancellor's Regulation A-630 states that New York City public schools "must make reasonable accommodation for students to be able to exercise their religious rights."¹¹ In essence, students are permitted to take off religious holidays as an excused absence after submitting a written request for permission signed by a parent. However, many parents are unaware of students' rights of religious observance under A-630 and the procedures for exercising those rights. It is especially difficult for limited English proficient parents to submit a written request for their children to observe these holidays. Regardless of whether such absence is excused or unexcused, Muslim students are forced to miss valuable instructional time and are prevented from achieving 100% attendance.

More than a decade ago, the City acknowledged the diversity of New Yorkers, by formalizing recognition of the Muslim holy days through inclusion of them in the calendar for suspension of alternate-side parking. Interested stakeholders believe that recognition of Muslim holidays in the DOE's public school calendar would similarly reflect the diversity of the current student population and provide equal recognition of their sacred days of worship.

Proposed Resolution No. 1281-A

Proposed Resolution No. 1281-A would point out that the "Muslims in New York City Project," an initiative through Columbia University's Middle East Institute, estimates that approximately 600,000 Muslims live in New York City, and

for the Lower Ma_____

⁹ Cristillo, Louis, "Religiosity Education and Civic Belonging: Muslim Youth in New York City Public Schools," Teachers College Columbia University, April 30, 2008.

¹⁰ *Id.*

¹¹ Department of Education (DOE), Chancellor's Regulation A-630, 2/19/03 at 1.

represent one of the fastest growing religious communities in the City. The Proposed Resolution would note that, according to the Coalition for Muslim School Holidays ("the Coalition"), approximately 12% of New York City public school students are Muslim.

Proposed Resolution No. 1281-A would also point out that the Coalition reported that 95% of Muslim school-age children residing in New York City attend public schools. The Proposed Resolution, however, would also note that, despite this growing population, two important Muslim holidays, Eid Ul-Fitr and Eid Ul-Adha, are not recognized as school holidays in the New York City public school system.

Proposed Resolution No. 1281-A would acknowledge that Eid Ul-Fitr is a time of joy and thanksgiving that is celebrated at the completion of Ramadan and involves various celebrations and special services. Further, the Proposed Resolution would note that Eid Ul-Adha or the "Feast of Sacrifice" is the second most important festival on the Muslim calendar, and is a day of remembrance.

Proposed Resolution No. 1281-A would indicate that currently, New York City public schools are closed on several religious holidays, including Christmas, Good Friday, Rosh Hashanah and Passover. The Proposed Resolution would note that, Chancellor's Regulation A-630 puts forth guidelines regarding the provision of reasonable accommodations for religious observance and practices for public school students. Proposed Resolution No. 1281-A would note that, pursuant to the Regulation, reasonable accommodations include excused absences for religious observance outside of school grounds, as well as in-school provisions such as time for praying or sitting separately in the cafeteria during periods in which a student may fast. The Proposed Resolution would also point out that, despite the intentions behind this Regulation, many parents, students and advocates have expressed concern that Muslim students are still left at a disadvantage, having to choose between missing school, which can result in falling behind their peers and affecting their attendance record, or participating in an important holiday.

Proposed Resolution No. 1281-A would point out that, according to the Coalition, other localities with growing Muslim populations have incorporated Eid Ul-Fitr and Eid Ul-Adha into their school holiday calendar. The Proposed Resolution would note that such localities include Dearborn, Michigan and several New Jersey cities and townships including Irvington, Atlantic City, Trenton and Paterson.

Proposed Resolution No. 1281-A would point out that New York City is a diverse and dynamic locality in which tolerance and acceptance are central values, and incorporation of Eid Ul-Fitr and Eid Ul-Adha as public school holidays would serve as an important embodiment of this tolerance and acceptance. The Proposed Resolution would also point out that Assembly Member Michael Benjamin and State Senator Bill Perkins have introduced State legislation (A.8108/S.5837) that would require the New York City school district to close schools on the first day of both Muslim holidays.

Proposed Resolution No. 1281-A would note that the New York City Department of Education has authority over the school calendar for the city school district of the city of New York and, pending passage of the State legislation (A.8108/S.5837), can as a matter of policy incorporate the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha as observed holidays in the city school district of the city of New York.

Finally, Proposed Resolution No. 1281-A would state that the Council of the City of New York calls upon the New York City Department of Education to incorporate the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha as observed school holidays in the school calendar for the city school district of the city of New York, and calls upon the State legislature to pass, and the Governor to sign into law, A.8108/S.5837, an Act to amend the education law, in relation to requiring that Eid Ul-Fitr and Eid Ul-Adha be school holidays in the city school district of the city of New York.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1281-A:)

Res. No. 1281-A

Resolution calling upon the New York City Department of Education to incorporate the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha as observed school holidays in the school calendar for the city school district of the city of New York, and calling upon the State legislature to pass, and the Governor to sign into law, A.8108/S.5837, an Act to amend the education law, in relation to requiring that Eid Ul-Fitr and Eid Ul-Adha be school holidays in the city school district of the city of New York.

By Council Members Jackson, Mark-Viverito, Foster, Gonzalez, Arroyo, Palma, James, Comrie, Dickens, Mendez, Stewart, Vann, White, Recchia, Rivera, Barron, Gentile, Seabrook, Yassky, Mealy, Liu, Weprin, Baez, Vacca, Avella, Martinez, Eugene, Sears, Nelson, Gennaro, Vallone Jr., Ferreras, de Blasio, Crowley and Mitchell.

Whereas, The "Muslims in New York City Project," an initiative through Columbia University's Middle East Institute, estimates that approximately 600,000

Muslims live in New York City, and represent one of the fastest growing religious communities in the City; and

Whereas, According to the Coalition for Muslim School Holidays (“the Coalition”), approximately 12% of New York City public school students are Muslim; and

Whereas, Furthermore, the Coalition reported that 95% of Muslim school-age children residing in New York City attend public schools; and

Whereas, Despite this growing population, two important Muslim holidays, Eid Ul-Fitr and Eid Ul-Adha, are not recognized as school holidays in the New York City public school system; and

Whereas, Eid Ul-Fitr is a time of joy and thanksgiving that is celebrated at the completion of Ramadan and involves various celebrations and special services; and

Whereas, Eid Ul-Adha, or the “Feast of Sacrifice,” is the second most important festival on the Muslim calendar, and is a day of remembrance; and

Whereas, Currently, New York City public schools are closed on several religious holidays, including Christmas, Good Friday, Rosh Hashanah and Passover; and

Whereas, It should be noted that Chancellor’s Regulation A-630 puts forth guidelines regarding the provision of reasonable accommodations for religious observance and practices for public school students; and

Whereas, Pursuant to the Regulation, reasonable accommodations include excused absences for religious observance outside of school grounds, as well as in-school provisions such as time for praying or sitting separately in the cafeteria during periods in which a student may fast; and

Whereas, Despite the intentions behind this Regulation, many parents, students and advocates have expressed concern that Muslim students are still left at a disadvantage, having to choose between missing school, which can result in falling behind their peers and affecting their attendance record, or participating in an important holiday; and

Whereas, It should be noted that according to the Coalition, other localities with growing Muslim populations have incorporated Eid Ul-Fitr and Eid Ul-Adha into their school holiday calendar; and

Whereas, Such localities include Dearborn, Michigan and several New Jersey cities and townships including Irvington, Atlantic City, Trenton and Paterson; and

Whereas, New York City is a diverse and dynamic locality in which tolerance and acceptance are central values, and incorporation of Eid Ul-Fitr and Eid Ul-Adha as public school holidays would serve as an important embodiment of this tolerance and acceptance; and

Whereas, Assembly Member Michael Benjamin and Senator Bill Perkins have introduced State legislation (A.8108/S.5837) that would require the New York City school district to close schools on the first day of both Muslim holidays; and

Whereas, The New York City Department of Education itself has authority over the school calendar for the city school district of the city of New York and, as a matter of policy can incorporate the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha as observed holidays in such school district pending the passage of the state legislation (A.8108/S.5837); now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to incorporate the Muslim holidays of Eid Ul-Fitr and Eid Ul-Adha as observed school holidays in the school calendar for the city school district of the city of New York, and calling upon the State legislature to pass, and the Governor to sign into law, A.8108/S.5837, an Act to amend the education law, in relation to requiring that Eid Ul-Fitr and Eid Ul-Adha be school holidays in the city school district of the city of New York.

Res. No. 1891

Resolution calling upon the New York State Legislature to pass Bill No. A06138, which would authorize the City of New York to privately sell certain property that cannot be independently developed.

By Council Members Ignizio, Sears, Oddo, Gentile and Weprin.

Whereas, The Department of Citywide Administrative Services (“DCAS”) is responsible for selling the City’s real estate holdings; and

Whereas, DCAS is required by New York State law to sell city-owned property through public auctions or other competitive bidding processes; and

Whereas, DCAS has identified approximately 1,000 lots of land throughout the five boroughs that cannot be independently developed because of size, shape, zoning, configuration and topography; and

Whereas, These lots - mostly small strips of land - generally go unused and are not well maintained, consequently detracting from the beauty of the neighborhoods in which they are located; and

Whereas, In some cases, adjacent property owners use the land without permission from the City; and

Whereas, Because of the size, shape, zoning, configuration and topography of these lots, the land can only be fully utilized by adjacent property owners; and

Whereas, DCAS therefore believes it is in the city’s interest to forego the public auction process for such parcels, and, instead, sell these properties directly to the abutting property owners; and

Whereas, During public auctions, bidders who do not own property adjacent to the lot being auctioned may outbid those who live adjacent to the property so that they can re-sell the land at a higher price on the private market; and

Whereas, The City stands to benefit more in the long term from selling the land directly to adjacent property owners than at public auction because adjacent property owners have a stake in using the land to not merely make money, but also to improve their neighborhoods; and

Whereas, Since selling these lots directly to adjacent property owners is beneficial to both property owners and the people of the City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass Bill No. A06138, which would authorize the City of New York to privately sell certain property that cannot be independently developed.

ROBERT JACKSON, Chairperson; BILL DEBLASIO, SIMCHA FELDER, LEWIS A. FIDLER, HELEN D. FOSTER, MELINDA R. KATZ, JOHN C. LIU, DOMENIC M. RECCHIA JR., ALBERT VANN, DAVID YASSKY, MARIA DEL CARMEN ARROYO, DANIEL R. GARODNICK, JESSICA S. LAPPIN, Committee on Education, June 18, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 1281-A** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 1783

Report of the Committee on Aging in favor of approving, as amended, a Resolution calling upon the United States Congress to pass and the President to sign H.R. 1670/S.683, legislation known as “The Community Choice Act,” which would reduce reliance by senior citizens and persons with disabilities on nursing home care by increasing their access to community-based services.

The Committee on Aging, to which was referred on January 28, 2009 (Minutes, page 297) the annexed amended resolution, respectfully

REPORTS:

On Monday June 29, 2009, the Committee on Aging, chaired by Council Member Maria del Carmen Arroyo, will conduct a vote on Proposed Res. No.1783-A. The Proposed Resolution would call upon the United States Congress to pass and the President to sign H.R. 1670/S.683, legislation known as “The Community Choice Act,” which would reduce reliance by senior citizens and persons with disabilities on nursing home care by increasing their access to community-based services. The Committee on Aging, jointly with the Committee on Mental Health, Mental Retardation, Alcoholism, Drug Abuse & Disability Services, first considered this resolution during a hearing held on June 17, 2009.

PROPOSED RES. NO. 1783-A

Proposed Resolution No. 1783-A would indicate that, according to the Centers for Disease Control and Prevention’s (CDC) National Center for Health Statistics, there are approximately 1.6 million persons who are cared for in nursing homes each year. Additionally, the Proposed Resolution would recognize that many individuals who may currently require nursing home care would prefer to have more care options, such as community-based care, so that they can remain in their own homes or communities.

The Proposed Resolution would note that The Community Choice Act, H.R.1670/S.683, is currently before the United States Congress and would increase access to community-based services and other supports for persons with disabilities and senior citizens. The Proposed Resolution would indicate that according to the National Council For Community Behavioral Healthcare (NCCBH), The Community Choice Act would provide individuals who are eligible for nursing home services or other institutional care with equal access to community-based services, which would include attendant services and supports.

The Proposed Resolution would further note that The National Association of the Physically Handicapped (NAPH) indicates that The Community Choice Act would provide people real choice in long-term care options by reforming Title XIX of the Social Security Act (Medicaid), thereby eliminating the current bias for institutional care by Title XIX. The Proposed Resolution would also indicate that according to the Center for Disability Rights (CDR), The Community Choice Act would allow those eligible to use reimbursement funding under Title XIX access to various services and supports which would make remaining in the community a real option. The Proposed Resolution would point out that The Community Choice Act would also provide enhanced federal matching funds to help states develop long-

term care infrastructure and fiscal programs to promote home and community-based services.

Furthermore, the Proposed Resolution would note that The Community Choice Act would create a demonstration project to evaluate service coordination and cost-sharing approaches for those eligible for both Medicaid and Medicare services.

The Proposed Resolution would also indicate that according to the NAPH, The Community Choice Act would also provide individuals eligible for nursing facility services with new choices for care, and would also offer those eligible for Intermediate Care Facility Services for the Mentally Retarded (ICF-MR) many new alternatives for their care and treatment.

Finally, the Proposed Resolution would call upon the United States Congress to pass and the President to sign H.R. 1670/S.683, legislation known as “The Community Choice Act,” which would reduce reliance by senior citizens and persons with disabilities on nursing home care by increasing their access to community-based services.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1783-A:)

Res. No. 1783-A

Resolution calling upon the United States Congress to pass and the President to sign H.R. 1670/S.683, legislation known as “The Community Choice Act,” which would reduce reliance by senior citizens and persons with disabilities on nursing home care by increasing their access to community-based services.

By Council Members Nelson, Avella, Comrie, Felder, Fidler, Foster, Gerson, Jackson, James, Koppell, Mealy, Seabrook, White, Brewer, Barron, Gentile, Stewart, Liu, Gonzalez, Yassky, Baez, Arroyo, Vacca, Mark-Viverito, Palma, Eugene, Ferreras, Dickens, Sanders and the Public Advocate (Ms. Gotbaum).

Whereas, According to The Centers for Disease Control and Prevention’s (CDC) National Center for Health Statistics, there are approximately 1.6 million persons who are cared for in nursing homes each year; and

Whereas, Many individuals who may currently require nursing home care would prefer to have more care options, such as community-based care, so that they can remain in their own homes; and

Whereas, The Community Choice Act, H.R.1670/S.683, is currently before the United States Congress and would increase access to community-based services and other supports for persons with disabilities and senior citizens; and

Whereas, Specifically, according to the National Council For Community Behavioral Healthcare (NCCBH), the Community Choice Act would provide individuals who are eligible for nursing home services or other institutional care with equal access to community-based services, which would include attendant services and supports; and

Whereas, The National Association of the Physically Handicapped (NAPH) indicates that the Community Choice Act would provide people real choice in long-term care options by reforming Title XIX of the Social Security Act (Medicaid), thereby eliminating the current bias for institutional care by Title XIX; and

Whereas, According to the Center for Disability Rights (CDR), the Community Choice Act would allow those eligible to use reimbursement funding under Title XIX access to various services and supports which would make remaining in the community a real option; and

Whereas, The Community Choice Act would also provide enhanced federal matching funds to help states develop long-term care infrastructure and fiscal programs to promote home and community-based services; and

Whereas, The Community Choice Act would create a demonstration project to evaluate service coordination and cost-sharing approaches for those eligible for both Medicaid and Medicare services; and

Whereas, According to the NAPH, the Community Choice Act would also provide individuals eligible for nursing facility services with new choices for care, and would also offer those eligible for Intermediate Care Facility Services for the Mentally Retarded (ICF-MR) many new alternatives for their care and treatment; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Congress to pass and the President to sign H.R. 1670/S.683, legislation known as “The Community Choice Act,” which would reduce reliance by senior citizens and persons with disabilities on nursing home care by increasing their access to community-based services.

MARIA DEL CARMEN ARROYO, Chairperson; GALE A. BREWER, HELEN D. FOSTER, KENDALL STEWART, VINCENT J. GENTILE, MELISSA MARK-VIVERITO, JAMES VACCA, MATHIEU EUGENE, JULISSA FERRERAS, Committee on Aging, June 29, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 1783-A** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 1832-A

Report of the Committee on Consumer Affairs in favor of approving, as amended, a Resolution calling upon the United States Congress to protect homeowners from the national foreclosure crisis by amending Section 109(h) of the United States Bankruptcy Code in order to expand the availability of automatic stay.

The Committee on Consumer Affairs, to which was referred on February 26, 2009 (Minutes, page 609) the annexed amended resolution, respectfully

REPORTS:

I. INTRODUCTION

On Monday, June 29, 2009, the Committee on Consumer Affairs, chaired by Council Member Leroy G. Comrie, will vote on Proposed Resolution No. 1832-A (“Proposed Res. 1832-A”), which calls upon the United States Congress to protect homeowners from the national foreclosure crisis by amending Section 109(h) of the United States Bankruptcy Code in order to expand the availability of automatic stay. The Committee previously held a hearing on Res. 1832-A on June 18, 2009.

II. BACKGROUND

Proposed Res. 1832-A calls upon the United States Congress to protect homeowners from the national foreclosure crisis by amending Section 109(h) of the United States Bankruptcy Code in order to expand the availability of automatic stay. Current federal bankruptcy law provides filers with an automatic stay from creditors’ claims, including a stay on all foreclosure actions, during the pendency of their case. This protects the filer from answering to creditors while going through the bankruptcy process. 2005 changes to the bankruptcy code, however, require all filers to obtain counseling prior to filing a petition. If a filer does not obtain the required counseling his or her case is dismissed with cause. Once a case has been dismissed with cause, a filer’s subsequent cases, if filed within a year of the first, do not receive the benefit of an automatic stay during the case’s pendency, but rather for only 30 days from the date of filing, unless the filer can demonstrate their later case was commenced in good faith. Thus, those who obtain counseling and then re-file are required to negotiate with their creditors even while they are going the bankruptcy process. Those who do not comply with the pre-filing counseling requirement tend to be independent filers who may not be able to afford the assistance of an attorney—and may be facing foreclosure—among a myriad of other issues. Proposed Res. 1832-A calls on Congress to amend the bankruptcy code to ensure the protections afforded by the automatic stay are available to those most in need.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Res. No. 1832-A:)

Res. No. 1832-A

Resolution calling upon the United States Congress to protect homeowners from the national foreclosure crisis by amending Section 109(h) of the United States Bankruptcy Code in order to expand the availability of automatic stay.

By Council Members Nelson, Comrie, James, Crowley, Eugene, Ferreras, Gentile, Gonzalez, Koppell, Martinez, Mark-Viverito, Mealy, Mitchell, Palma, Reyna, Sanders, Stewart, White, Jackson and Weprin.

Whereas, America is currently experiencing its greatest financial crisis since the Great Depression and at the epicenter of the present recession are plummeting housing prices and a rise in home foreclosures nationwide; and

Whereas, The Center for Responsible Lending estimates that 2.25 million homes may be lost to foreclosure over the next few years, and, moreover, in February of 2009, the National Association of Consumer Bankruptcy Attorneys estimated that 6,600 American families are losing their homes to foreclosure each day, and

Whereas, One way to stabilize the housing market and solve the foreclosure crisis is to amend Section 109(h)(1) of the United States Bankruptcy Code, 11 U.S.C. 109(h)(1), which was added to the Bankruptcy Code pursuant to the

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Pub. L. 109-8); and

Whereas, Section 109(h)(1) provides that an individual may not file a petition for protection under the Bankruptcy Code unless such individual has, within 180 days before the petition date, received credit counseling and assistance in performing a budget analysis; and

Whereas, Section 109(h)(3)(A) provides that an individual who files a bankruptcy petition on an emergency basis may obtain such counseling after the petition is filed, provided that the debtor requested such counseling before the date of his or her bankruptcy petition, and obtains such counseling no later than 30 days after the petition, unless the court, for cause, extends the time for obtaining counseling; and

Whereas, Section 109(h)(4) provides that a debtor is exempt from the credit counseling requirement, if the debtor is unable to meet the requirement because of incapacity, disability, or active military duty in a combat zone; and

Whereas, Under any other circumstance, the failure to obtain such counseling on a timely basis will result in dismissal of the debtor's bankruptcy case; and

Whereas, Many individual debtors who cannot afford the services of a bankruptcy lawyer are unaware of the pre-filing credit counseling requirement; and

Whereas, The dismissal of an individual's bankruptcy petition may have catastrophic consequences because Section 362(c)(3)(C) provides that if an individual debtor's case is dismissed for cause and the individual files a subsequent bankruptcy petition, the automatic stay of actions with respect to debts or property securing such debts, including foreclosure actions, presumptively terminates on the 30th day after the filing of the second case unless the individual is able to demonstrate that the filing of the later case is in good faith; and

Whereas, The automatic stay of actions against the debtor and the debtor's property for the pendency of his or her case is a fundamental protection provided by the Bankruptcy Code; and

Whereas, One of the most crucial protections provided by the automatic stay is the stay of foreclosure actions; and

Whereas, Many individual debtors lack the knowledge or resources to demonstrate that their second case was commenced in good faith; and

Whereas, Many individual debtors are facing foreclosure, among other issues; and

Whereas, Because of the predatory lending tactics of certain mortgage lenders that sold large and complex mortgages with adjustable interest rates to financially unqualified Americans, millions of Americans have lost substantial portions of their life savings that were invested in their homes; and

Whereas, Foreclosures further depress housing values in the neighborhoods where they occur, resulting in further instability in the housing market; and

Whereas, The Federal Government can accelerate our nation's economic recovery and keep more families in their homes by offering every American- even those in bankruptcy - every possible opportunity to avoid foreclosure by permitting such debtors to work out their financial difficulties while under bankruptcy court protection; now, therefore, be it

Resolved, The Council of the City of New York calls upon the United States Congress to protect homeowners from the national foreclosure crisis by amending Section 109(h) of the United States Bankruptcy Code in order to expand the availability of automatic stay.

LEROY G. COMRIE, Chairperson; JAMES F. GENNARO, G. OLIVER KOPPELL, JOHN C. LIU, Committee on Consumer Affairs, June 29, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 1832-A** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 1891-A

Report of the Committee on Governmental Operations in favor of approving, as amended, a Resolution calling upon the New York State Legislature to pass Bill No. A06138, which would authorize the City of New York to privately sell certain property that cannot be independently developed.

The Committee on Governmental Operations, to which was referred on April 2, 2009 (Minutes, page 1168) the annexed amended resolution, respectfully

REPORTS:

(For text of report, please see the section on Res No. 1891-A in the Report of the Committee on Governmental Operation for Int No. 1022 printed in these Minutes)

Accordingly, Your Committee recommends the adoption of Res No. 1891-A.

HELEN SEARS, Chairperson; ERIK MARTIN DILAN, SIMCHA FELDER, DOMENIC M. RECCHIA JR., LARRY B. SEABROOK, PETER F. VALLONE JR., INEZ E. DICKENS, Committee on Governmental Operations, June 29, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing no objections, the President Pro Tempore (Council Member Rivera) declared **Res. No. 1891** to be adopted.

Adopted unanimously by the Council by voice vote.

Report for voice-vote Res. No. 2002-A

Report of the Committee on General Welfare in favor of approving, as amended, a Resolution calling on the New York State Legislature to pass S. 5605-A/A.8353-D, which would amend the social services law, in relation to financial contributions by recipients of temporary housing assistance.

The Committee on General Welfare, to which was referred on June 10, 2009 (Minutes, page 2316) the annexed amended resolution, respectfully

REPORTS:

On Tuesday, June 30, 2009, the Committee on General Welfare will vote on Proposed Resolution No. 2002-A, which calls on the New York State Legislature to pass S.5605-A/A.8353-D, which would amend the State Social Services Law, in relation to financial contributions by recipients of temporary housing assistance.

Background

To comply with State law and regulations, the Department of Homeless Services ("DHS") recently instituted a requirement that homeless families with children who have earned income must contribute to the costs of shelter. DHS implemented this policy on May 1, 2009, but the State temporarily suspended it on May 21 due to "technical issues with the calculation amounts for families who receive public assistance and reside in shelter."¹ It is not yet clear when the suspension will end. Assemblyman Keith Wright and Senator Daniel Squadron introduced legislation (S.5605-A/A.8353-D) that would eliminate the requirement for families in New York City. The New York State Assembly passed A.8353-D on June 22, 2009, and S.5605-A is currently pending in the Senate. On June 10, 2009, Speaker Christine Quinn and Council Member Bill de Blasio introduced Resolution 2002 in support of legislation such as S.5605/A.8353-A (an earlier version of the state legislation). On June 24, 2009, the General Welfare Committee held a hearing on Resolution 2002, which was subsequently amended. The amended version, Proposed Resolution 2002-A, will be voted on today.

Income Contribution Requirement for Homeless Families with Children

A 1997 provision of the New York State Social Services Law requires that homeless families in shelter with earned income contribute toward the costs of shelter. It specifically directs local social services officials to provide public assistance to the needy "less any available income or resources which are not required to be disregarded."² State regulations further provide that "to the extent that a resident family has income, the family must pay for the actual costs of its care," pursuant to budgeting requirements set forth in the regulations.³ Moreover, social services districts must discontinue a family's temporary housing assistance if the district determines "that the person or family is required to, but is not applying income and/or using available resources to reduce or eliminate the need for temporary housing assistance."⁴

Until recently, New York City had not been implementing these legal requirements. The State audited a case sample of families who resided in the New York City shelter system in 2005 and found that the New York City Human Resources Administration ("HRA") and DHS had not offset shelter costs with residents' income as mandated by the State. As a result, on February 15, 2007, the State Office of Temporary and Disability Assistance ("OTDA") issued a final audit report that required the City to pay over \$2.4 million,⁵ which in turn prompted the City to begin enforcing the requirement.⁶ As DHS Commissioner Robert Hess testified at the March 23, 2009, General Welfare Committee Preliminary Budget Hearing,

This is a fee for shelter initiative, in accordance with State regulations, that we have chosen not to do. . . . the State last year withheld some \$1.5 million of funding to us as a penalty for not implementing the fee for shelter. And so we were forced last fall, to begin a pilot on fee for shelter, which we did. We have serious concerns about this because at the end of the day, if the family doesn't pay, then it's with that amount of money is withheld from the provider's budget. And that's a problem. And so this is

something we would prefer not to do. But the State has put us in the position that we have to move forward with it, and so we're preparing to do that.⁷

For the last several months, DHS has corresponded with OTDA to obtain approval of the Statement of Client Rights and Client Code of Conduct (the "Statement"), the policy that, among other things, will implement the income contribution requirement. The Statement applies to homeless families with children and sets forth standards for staying in shelter.⁸ According to DHS, the Statement represents a uniform set of standards that aims to ensure both (i) safety in shelters and (ii) that residents and shelter providers work together to move people from emergency housing to a home as quickly as possible.⁹

The Statement sets forth the rights of shelter residents, as well as acts of misconduct or violations that may lead to the loss of shelter. The Statement indicates that "Compliance with Public Assistance and Client Contribution is a Requirement for Staying in Shelter."¹⁰ More specifically, eligible residents must apply for and keep an open public assistance ("PA") case with HRA and must cooperate to determine what other resources may be available to "reduce or eliminate the need for shelter."¹¹ In addition, clients with income "are required to pay towards the cost of [their] stay in temporary shelter."¹² HRA determines the amount of contribution based on family size, food and other needs, and the amount of earned income, and families may be required to pay up to 50% of their income.¹³

On April 14, 2009, OTDA approved the Statement, finding that it "is consistent with New York State regulatory requirements governing client rights and responsibilities."¹⁴ DHS asked each family shelter provider to revise its operating plan to include the standards set forth in the Statement, which were to be submitted to OTDA for approval prior to implementation of the Statement. In addition, OTDA expected that they would need to conduct site visits at some shelters to ensure that those shelters could accommodate certain provisions of the Statement, and therefore asked DHS to stagger submission of the revised plans to allow OTDA time to review them.¹⁵

On May 1, the City began enforcing the income contribution requirement for homeless families, which affected over 500 families who were told to begin paying rent.¹⁶ DHS began the requirement for families who were new to shelters, and intended to phase in the policy system wide over the next several months.¹⁷ According to both flyers that DHS posted in shelters and an Income Contribution Requirement ("ICR") "Fact Sheet," families who do not contribute could lose their temporary shelter. Those who wish to appeal their contribution requirement may request a State Fair Hearing.¹⁸ A media report in *The New York Times* described two families who planned on contesting the rent contribution. One mother was required to contribute 42% of her income toward rent, while another was told to pay nearly 65% of her monthly income.¹⁹ In response to the perceived injustice of the new policy, two state lawmakers introduced legislation that would eliminate the ICR, which is described in more detail below.

On May 21, three weeks after the policy was rolled out, DHS alerted providers that the State suspended implementation due to "technical issues with the calculation amounts for families who receive public assistance and reside in shelter."²⁰ Shelter providers were required to return any money that was collected from families and DHS could not withhold reimbursement to providers for these amounts.²¹ According to OTDA, some of the notices that shelter residents received contained errors due to a "technical glitch," and some did not receive notices at all.²² Approximately 190 of the 500 families who were meant to contribute received notices with errors, some of which were caused by HRA.²³ It is unclear when the City will resume implementation.

Issues and Concerns

Eroding work opportunities, increased costs of living, low stock of affordable housing units, poverty, and the declining value of public assistance are the prevalent causes of homelessness.²⁴ Unfortunately, these factors do not appear to be improving; as described in one media report, "[s]kyrocketing rents, rising unemployment, a foreclosure crisis, long lines at food pantries and soup kitchens – the list goes on and on – are now very much a part of life in New York City."²⁵ In the midst of these problems, many advocates and elected officials have expressed concern that requiring the homeless to pay rent for their temporary shelter places an undue burden on the most vulnerable members of our society.²⁶ According to Assemblyman Keith Wright, the ICR "will undoubtedly result in more families who need to save money to get out of the rundown and unsecured shelter system, having to spend half of their income for the displeasure of staying there."²⁷ In addition, consequences of the policy may include: forcing homeless families to decide between purchasing necessities versus paying for shelter; shelter providers becoming landlords or "bill collectors" instead of social services providers; delays in exits to permanent housing from shelter; increased numbers of evictions from shelter to the streets; and children suffering more severe forms of homelessness—street homelessness—and possibly being removed from their parents' custody.²⁸

Families in shelter have to provide clothing and other basic necessities for school or work, including the cost of childcare. For families that are struggling to survive, the ICR would mean having to decide between providing these necessities and paying for shelter. In addition, a common misconception about shelter is that room (housing) and board (meals) are always provided together, yet room and board services are only provided in some shelters. Families living in hotels or cluster sites do not receive board services. Forty-one percent of families living in shelters throughout the city live in hotels and cluster sites, which represents 3,830 families and includes at least 7,180 children.²⁹ Therefore, many families have to make their own meals and are only provided with housing. Those who forgo paying the shelter cost requirement in order to purchase food could face eviction.³⁰

Shelter residents who already have difficulty securing permanent housing placements will have fewer resources with which to do so. Since they will have fewer savings it may hinder their ability to afford the rent, security deposits, and other fees that are a critical part of the housing search process.³¹ An advocate from the Partnership for the Homeless stated that "they [DHS] are taking money from them [shelter residents] that could otherwise be used to help themselves get out of the shelter system."³²

In addition, instead of focusing on moving the homeless into permanent housing options, shelter providers will have to shift resources and their focus on collecting rental payments from shelter residents.³³ If residents fail to pay in a timely fashion, shelter providers will be forced to process the residents' evictions. This threatens the very fabric of the relationship between needy shelter residents and shelter providers, who in effect become landlords instead of shelter providers.³⁴

Shelter providers also only expect to collect 60% of the payments from clients and believe that under this contribution program, they will lose money,³⁵ a concern that Commissioner Hess apparently shares. As he testified in March, "[w]e have serious concerns about this because at the end of the day, if the family doesn't pay, then it's with that amount of money is withheld from the provider's budget. And that's a problem."³⁶

Considering the high level of scrutiny families seeking shelter undergo, it is more likely than not that many families, if ejected from shelter—their last resort—will wind up living on the streets with their children. Before families are allowed to enter the shelter system, DHS investigators conduct a series of screening and eligibility determination processes to verify that families are truly in need of shelter and do not have another housing resource.³⁷ Since DHS determined that families had no other place to go when they entered the shelter system, it is reasonable to assume that most families who are evicted will have nowhere to go but the street. In turn, families would be subject to child protection cases that could be brought against them if the children are not living in a safe place.³⁸ Many women choose to enter the shelter system instead of staying on the streets and in parks with their children to avoid "the perceived threat of losing [their children] to forced foster care placements."³⁹ Increased numbers of street homeless children would likely create a heavier burden on the already distressed Child Protective Division of the Administration for Children's Services.⁴⁰

One advocate summarized the issue in the following words: "We're dealing with the poorest people, the people who are the most in need, and we're asking them to pay for a shelter of last resort. As a city and a state that has a history of social and economic justice, I think we can do better than that."⁴¹ As previously discussed, state law mandates this policy, but the City is in a unique position because over 80% of New York State's homeless are sheltered in the City, and the costs of living are much higher in the City than the rest of the State.⁴² Accordingly, some have argued that the City should not implement a procedure that will inhibit its ability to move people out of shelter more quickly, and that the City should lobby the State to exempt its residents from the requirement.

Proposed Res. No. 2002-A

Proposed Resolution No. 2002-A calls upon the New York State legislature to pass S.5605-A/A.8353-D, which would amend Section 131-a of the State Social Services Law to eliminate the requirement that homeless families in New York City contribute to the costs of shelter. As previously noted, Assemblyman Keith Wright and Senator Daniel Squadron introduced this legislation shortly after DHS implemented the ICR. The Assembly version of the bill passed on June 22, 2009, while the Senate version of the bill is pending. More specifically, S.5605-A/A.8353-D provides that all income (whether earned or unearned) for applicants and recipients of temporary housing assistance shall be disregarded in determining eligibility for public assistance and temporary housing assistance "in any social services district containing a city having a population of one million or more," and that "no recipient of temporary housing assistance shall be required to contribute to the cost of temporary housing assistance."⁴³

According to Senator Squadron's sponsor's memorandum in support, the purpose of S.5605 is to ensure that homeless families in shelter are not overburdened by the "unrealistic requirement" that they make rental payments.⁴⁴ The memorandum acknowledges that families are generally in shelter because they cannot afford to pay rent, and those who are working would be better served by allowing them to save money to expedite their exit from shelter. Further, "[f]orcing a client to pay rent for a shelter reduces the value of work while in the system and reduced the client's ability to save and regain self-sufficiency. The shelter system is very clearly a last resort and must be available for those that need it most without undue burdens."

Proposed Resolution 2002-A supports the passage of S.5605-A/A.8353-D, which would help homeless families leave shelter more quickly and effectively by keeping money in their pockets, which can then be applied toward permanent housing. Proposed Resolution 2002-A is an amended version of Resolution 2002. Technical amendments⁴⁵ were made to the legislation, and it was updated to reflect the amendments that were made to the State legislation after Resolution 2002 was introduced, and to directly support the passage of those versions (S.5605-A/A.8353-D). In addition, Proposed Resolution 2002-A reflects updated statistical information that was received after the original version was introduced. Specifically, it refers to DHS data from May of 2009 rather than April of 2009.

¹ Letter from Deputy Commissioner of Family Services Anne Heller, Department of Homeless Services, to Shelter Providers, May 21, 2009 (on file with the Committee on General Welfare).

² N.Y. Soc. Serv. Law § 131-a (2009). Examples of earned income that is disregarded for the purposes of this calculation are earned income of a dependent child who is a student, a portion of child support payments, or refunds provided under the earned income tax credit. *Id.* at (8)(a).

³ N.Y. Comp. Codes R. & Regs. tit. 18, § 900.18(a) (2009).

⁴ *Id.* at § 352.35.

⁵ State of New York, Office of Temporary & Disability Assistance, "Tier II Appropriate Income Budgeting Human Resources Administration Department of Homeless Final Report," February 15, 2007, at 3-5. The \$2.4 million figure represents recoupment from both DHS and HRA.

⁶ See Julie Bosman & Andy Newman, "New York Charges Rent for Working Homeless," *New York Times*, May 9, 2009 (stating that "City officials said the new rent requirement had been in the works since a 2007 state audit that [*sic*] forced them to pay back \$2.4 million in state housing aid that should have been covered by homeless families with income.")

⁷ Testimony of DHS Commissioner Hess before the Committee on General Welfare, March 23, 2009, at 359-60 (on file with the Committee on General Welfare).

⁸ DHS Statement of Client Rights and Client Code of Conduct (the "Statement"), p. 1 (on file with the Committee on General Welfare).

⁹ *Id.*; Letter from Commissioner Robert V. Hess, NYC Department of Homeless Services, to Commissioner David A. Hansell, Office of Temporary and Disability Assistance, March 6, 2009 (on file with the Committee on General Welfare).

¹⁰ Statement, *supra* note 8, at 3.

¹¹ *Id.*

¹² *Id.*

¹³ See NYC HRA/DSS Income Contribution Worksheet for Families in Temporary Housing, effective June 1, 2008 (on file with the Committee on General Welfare); see also NYC DHS, Income Contribution Requirement for Shelters Fact Sheet (on file with the Committee on General Welfare); Bosman & Newman, "New York Charges Rent for Working Homeless," *supra* note 6. According to the Statement, those who are ineligible for PA must contribute 30% of the family's gross income toward the cost of shelter.

¹⁴ Letter from Commissioner David A. Hansell, Office of Temporary & Disability Assistance, to Commissioner Robert V. Hess, NYC Department of Homeless Services, April 14, 2009, at 1 (on file with the Committee on General Welfare).

¹⁵ *Id.* The current status of these submissions is not clear.

¹⁶ Bosman & Newman, "New York Charges Rent for Working Homeless," *supra* note 6.

¹⁷ *Id.*

¹⁸ *Id.*; see also NYC DHS, ICR Fact Sheet, *supra* note 13.

¹⁹ Bosman & Newman, "New York Charges Rent for Working Homeless," *supra* note 6.

²⁰ Letter from Heller to Shelter Providers, dated 5/21/09, *supra* note 1.

²¹ *Id.*

²² Julie Bosman, "City Temporarily Stops Charging Rent to the Working Homeless," *New York Times*, May 22, 2009.

²³ *Id.*

²⁴ National Coalition for the Homeless, June 2008 <http://nationalhomeless.org/factsheets/why.html>; see also Albor Ruiz, "Mayor Is One For All – Except The Homeless," *New York Daily News*, May 17, 2009; Bosman & Newman, "New York Charges Rent for Working Homeless," *supra* note 6.

²⁵ Ruiz, "Mayor Is One For All – Except The Homeless," *supra* note 24.

²⁶ Bosman & Newman, "New York Charges Rent for Working Homeless," *supra* note 6; "City Comptroller Issues Statement On City's Temporary Decision To Stop Charging Rent To Working Families," *US Fed News*, May 23, 2009.

²⁷ Ruiz, "Mayor Is One For All – Except The Homeless," *supra* note 24.

²⁸ Patrick Markee, "How to Protect Homeless New Yorkers From Paying 'Rent' for Shelter and from Ejection from Shelter to the Streets," Coalition for the Homeless Briefing Paper, May 27, 2009.

²⁹ Department of Homeless Services, "Emergency Housing Services for Homeless Families: Monthly Report," May 2009.

³⁰ "NYC Must Notify Legal Aid About Shelter Evictions," *Associated Press Newswires*, June 4, 2009. See also Markee, "How to Protect Homeless New Yorkers From Paying 'Rent' For Shelter and From Ejection from Shelter to the Streets," *supra* note 28.

³¹ Markee, "How to Protect Homeless New Yorkers From Paying 'Rent' For Shelter And From Ejection From Shelter To The Streets," *supra* note 28.

³² Bosman & Newman, "New York Charges Rent for Working Homeless," *supra* note 6.

³³ Homeless Services United, "Impact of Department of Homeless Services FY2010 Budget Cuts to Family Providers," May 28, 2009, p. 9 (updated 6/16/09) (on file with the Committee on General Welfare).

³⁴ Markee, "How to Protect Homeless New Yorkers From Paying 'Rent' For Shelter And From Ejection From Shelter To The Streets," *supra* note 28.

³⁵ Homeless Services United, "Impact of Department of Homeless Services FY2010 Budget Cuts to Family Providers," *supra* note 33.

³⁶ Testimony of DHS Commissioner Hess before the Committee on General Welfare, March 23, 2009, at 359-60 (on file with the Committee on General Welfare).

³⁷ For further discussion of the intake process, see "Oversight: Department of Homeless Services' New Policy for Family Intake and Overnight Placements," Committee on General Welfare Briefing Paper, October 24, 2007, available at <http://webdocs.nyccouncil.info/attachments/80431.htm?CFID=1282011&CFTOKEN=77163984>

³⁸ Markee, "How to Protect Homeless New Yorkers From Paying 'Rent' For Shelter And From Ejection From Shelter To The Streets," *supra* note 28.

³⁹ Stephen Metraux & Dennis Culhane, "Family Dynamics, Housing, and Recurring Homelessness Among Women in New York City Shelters," *Journal of Family Issues*, Vol. 20 No. 3, May 1999, p. 373.

⁴⁰ Markee, "How to Protect Homeless New Yorkers From Paying 'Rent' For Shelter And From Ejection From Shelter To The Streets," *supra* note 28.

⁴¹ Bosman & Newman, "New York Charges Rent for Working Homeless," *supra* note 6.

⁴² U.S. Dep't of Housing & Urban Development, HUD's 2007 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations, available at <http://www.hudhre.info/index.cfm?do=viewHomelessRpts>

⁴³ New York State Senate Bill No. S5605-A (Squadron); New York State Assembly Bill No. 8353-D (Wright).

⁴⁴ New York State Senate Introducer's Memorandum in Support for S.5605.

⁴⁵ The language "it was reported that" was added to the section stating that affected families will be required to pay up to fifty percent of their income to shelter.

Accordingly, Your Committee recommends its adoption, as amended.

(The following is the text of Res. No. 2002-A:)

Res. No. 2002-A

Resolution calling on the New York State Legislature to pass S. 5605-A/A.8353-D, which would amend the social services law, in relation to financial contributions by recipients of temporary housing assistance.

By The Speaker (Council Member Quinn), and Council Member de Blasio, the Public Advocate (Ms. Gotbaum), Council Members Jackson, James, Mark-Viverito, Mealy, Palma, Sanders, Seabrook, Weprin, Lappin, Brewer, White, Ferreras, Dickens and Garodnick.

Whereas, According to the Department of Homeless Services (DHS), at the end of May, 2009, there were 9,323 homeless families living in DHS emergency housing; and

Whereas, According to DHS, as of May 31, 2009, on average homeless families spent over 276 days (over 9 months) in shelter prior to finding permanent housing; and

Whereas, According to the Preliminary Mayor's Management Report for Fiscal Year (FY) 2009, the number of families with children entering shelter rose by 38 percent in the first four months of FY 2009 compared to the first four months of FY 2008, which "mirrors national trends caused by job loss, foreclosure and other economic conditions;" and

Whereas, According to 2007 data from United States Department of Housing and Urban Development, over 80 percent of New York State's homeless families with children are in shelter in New York City; and

Whereas, The costs of housing in New York City are substantially higher than in the rest of New York State; and

Whereas, Pursuant to a 1997 provision of the New York State Social Services Law, homeless families are required to contribute to the costs of shelter; and

Whereas, The New York State Bureau of Audit and Quality Control (A&QC) performed an audit of homeless families in the shelter system with income in 2005 to determine whether income was appropriately budgeted; and

Whereas, The A&QC issued a final report on February 15, 2007, which found that the New York City Department of Social Services/Human Resources Administration (HRA) and DHS had not offset the cost of homeless shelter payments with client income, as required by the State; and

Whereas, The State recouped over \$2.4 million from HRA and DHS as a result of the audit; and

Whereas, As a result of the audit, on May 1, 2009, DHS began instituting a policy that requires homeless families in shelter with earned income to contribute to the cost of shelter; and

Whereas, Under the new policy, it has been reported that affected families will be required to pay up to fifty percent of their income to the shelter; and

Whereas, Under the new policy, if families do not make the required payments, they face ejection from shelter; and

Whereas, The New York State Office of Temporary and Disability Assistance (OTDA) suspended implementation of the policy temporarily on May 21, 2009, because the amount that some families were told to pay was miscalculated; and

Whereas, In order to exit shelter expeditiously and successfully, homeless families need to keep as much income in their pockets as possible, so that they can apply it to the costs of permanent housing; and

Whereas, The new policy will likely result in homeless families staying longer in shelter, because they will not be able to afford permanent housing; and

Whereas, If those families who do not pay are required to leave shelter, homeless families, including children, may be left with nowhere to go; and

Whereas, The policy has already been suspended based on poor implementation, which has caused unwarranted confusion to homeless families in shelter; and

Whereas, S.5605-A/A.8353-D would help homeless families leave the shelter system and find permanent, stable housing by amending the Social Services Law to stop the practice of charging rent to homeless families in shelter who have income; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass S.5605-A/A.8353-D, which would amend the Social Services Law, in relation to financial contributions by recipients of temporary housing assistance.

BILL DEBLASIO, Chairperson; GALE A. BREWER, HELEN D. FOSTER, ANNABEL PALMA, JESSICA S. LAPPIN, THOMAS WHITE JR., JULISSA FERRERAS, Committee on General Welfare, June 30, 2009.

Pursuant to Rule 8.50 of the Council, the President Pro Tempore (Council Member Rivera) called for a voice vote. Hearing those in favor, the President Pro Tempore (Council Member Rivera) declared **Res. No. 2002-A** to be adopted.

The following Council Members formally **objected** to the passage of this item:
Council Members Felder, Ignizio, Vallone Jr. and Oddo.

Adopted by the Council by voice-vote.

INTRODUCTION AND READING OF BILLS

Int. No. 1031

By the Speaker (Council Member Quinn) and Council Members Garodnick, Jackson, Recchia, Koppell, Lappin, Vallone Jr., Gennaro and Gerson.

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

Be it enacted by the Council as follows:

Section 1. Section 20-249 of the administrative code of the city of New York, as added by local law number 19 for the year 2007, is amended by adding a new subdivision j to read as follows:

j. "Registration plate" shall mean a unique identification tag issued by the commissioner pursuant to section 20-255.

§2. Section 20-251 of the administrative code of the city of New York is added to read as follows:

§20-251 *Applications for, and issuance of, registration plates. a. The commissioner shall commence accepting applications for registration plates, pursuant to section 20-255, on the fortieth day after enactment of the local law that added this section, and shall continue accepting applications for sixty consecutive days following such commencement. During such sixty day period, persons submitting applications for registration plates shall also submit applications for pedicab business licenses pursuant to section 20-252.*

b. The department has the authority to inspect pedicabs to determine whether the pedicabs are equipped with the features set forth in subdivision a of section 20-254 and comply with the requirement set forth in subdivision b of section 20-254.

c. The commissioner shall issue registration plates only to a person who has a valid pedicab business license.

d. The commissioner shall not issue registration plates to more than thirty pedicabs for any pedicab business. No pedicab business or pedicab owner shall hold more than thirty registration plates at any one time. A pedicab business shall be deemed to have more than thirty registration plates if:

(1) an owner of such pedicab business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty pedicab registration plates;

(2) a family member of the owner of such business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty registration plates;

(3) a person who has a direct or indirect beneficial interest in such pedicab business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty registration plates; or

(4) a family member of a person who has a direct or indirect beneficial interest in such pedicab business has a direct or indirect beneficial interest in one or more other pedicab businesses and the businesses together have more than thirty registration plates.

e. The commissioner shall issue registration plates only to a pedicab business or owner with respect to pedicabs listed and identified in accordance with paragraph (1) of subdivision (b) of section 20-250 on such business' or owner's application for a pedicab business license.

§3. Section 20-255 of the administrative code of the city of New York, as added by local law number 19 for the year 2007, is amended to read as follows:

§20-255 Inspection; [pedicab] registration plate.

a. It shall be unlawful for a pedicab business to operate or authorize the operation of, or for a pedicab driver to operate, a pedicab unless:

1. it has been inspected by the department;

2. it has been issued a registration plate that indicates on such plate[, or by a replaceable registration tag or decal,] the expiration date of the current registration; and

3. such registration is in effect.

b. The registration shall be valid for a period no longer than one year and the expiration date of such registration plate [or replaceable registration tag or decal] shall be a date specified by the commissioner by rule.

c. If the commissioner determines after such inspection that a pedicab is equipped with the features set forth in subdivision a of section 20-254, upon payment of the registration fee provided by section 20-250 of this subchapter, the department shall issue a registration plate [or replaceable registration tag or decal] to

the pedicab business that [leased or otherwise] authorized the operation of such pedicab.

d. Such registration plate shall be securely affixed by the department to a conspicuous and indispensable part of each pedicab.

e. [The registration plate may, in the discretion of the commissioner, be of a permanent nature with a replaceable registration tag or decal attached thereto, indicating the expiration date of the current registration tag or decal.]

[f.] The registration plate [and the replaceable registration tag or decal] shall be of such material, form, design and dimension and set forth such distinguishing number or other identification marks as the commissioner shall prescribe.

[g] *f.* A pedicab business shall pay an additional fifty-five dollars as the re-inspection fee for any pedicab that is determined upon inspection not to meet the requirements of this section and such business re-applies for a registration plate [or replaceable registration tag or decal].

g. It shall be unlawful for a person to whom a registration plate has been issued to transfer any interest in such plate to any other person unless:

1. the pedicab complies with all applicable requirements imposed by this subchapter;

2. such transfer will not result in a violation of subdivision d of section 20-251; and

3. the commissioner approves such transfer.

§4. The Commissioner shall have the authority to promulgate any rules necessary for the implementation of this local law.

§5. This local law shall take effect immediately, except that section three of this local law shall take effect one hundred days after it shall have become a law, and provided that section 20-251(a) of the administrative code of the city of New York, as added by section two of this local law, shall expire eighteen months from the date on which the first pedicab business license is issued pursuant to this subchapter.

Referred to the Committee on Consumer Affairs (preconsidered but laid over by the Committee on Consumer Affairs).

Int. No. 1032

By The Speaker (Council Member Quinn), and Council Members Jackson, Lappin, Brewer, Katz, Fidler, Oddo, Stewart, Vann, Mendez, James, Mealy, Liu, Seabrook, Mitchell, Nelson, White, Koppell, Reyna, Mark-Viverito, Gerson, Avella and Gentile.

A Local Law to amend the New York city charter, in relation to requiring the chancellor of the city school district to submit to the council an annual report concerning school enrollment, capacity and utilization.

Be it enacted by the Council as follow:

Section 1. Section 522 of chapter 20 of the New York city charter is amended by amending subdivision f and by adding a new subdivision g to read as follows:

f. Dissemination of information. The reporting required by [subdivision] subdivisions c and g of this section shall, in addition to being provided to the city council, be placed on the department's website and may be distributed by such other means as the chancellor, in his *or her* discretion, determines to be a reasonable method of providing such information to the public.

g. Capacity. Not later than the first day of November of the year two thousand and nine and on an annual basis thereafter, the chancellor of the city school district shall submit to the council a report on the enrollment, capacity and utilization data for the prior school year, to be utilized for the current and future five-year capital plan. Such report shall provide the following information regarding school capacity in New York city public schools:

1. The calculated capacity for each school building and each school within the building or structure that holds one or more schools, using the state mandated target class size for each respective grade level from kindergarten through twelfth, inclusive. For the purposes of this subdivision the term "school" shall include any elementary, middle or high school or any educational facility holding some combination thereof;

2. For each school building and each school within a building or structure that holds one or more schools, the number of cluster rooms, specialty rooms that have been converted or repurposed and are not or no longer used for any specialized instructional purposes for which the room was so intended. For the purposes of this subdivision, the term "cluster room" shall mean support rooms required for the teaching of subjects including but not limited to art, music, science, computers, and shops; the term "specialty room" shall mean instructional spaces used for the teaching of subjects including but not limited to art, music, science, and computers;

3. For each school building, and each school within a building or structure that holds one or more schools, the total number of full-sized cluster rooms or specialty rooms, used for the purpose of delivering specialized instruction in subject areas including but not limited to art, music, dance, science, and shops. For the purposes of this subdivision, "full-sized" shall mean any instructional space greater than four hundred ninety-nine square feet;

4. For each school building and each school within a building or structure that holds one or more schools, the percent of time each cluster room and each specialty room is used by each school or each program within a school;

5. For each school building, and each school within a building or structure that holds one or more schools, the total number of gyms within the building, the capacity of each gym, and the number of schools that utilize each such gym;

6. For each school building, and each school within a building or structure that holds one or more schools, the total number of libraries within the building, the capacity of each library, and the number of schools that utilize each such library;

7. For each school building, and each school within a building or structure that holds one or more schools, the total number of lunchrooms, the capacity of each lunchroom, the number of periods in which the lunchroom is utilized for the purpose of serving meals each day by each school;

8. For each school building, and each school within a building or structure that holds one or more schools, the total number of auditoriums within the building, the capacity of each auditorium and the number of schools that utilize each such auditorium;

9. For each theme-based school within a building or structure that holds one or more schools, the total number of cluster rooms and specialty rooms available for such theme-based instruction, the capacity of each such room, and the number of schools that utilize each such room. For the purposes of this subdivision, "theme-based school" shall mean any school or school program designed to emphasize instruction in a particular subject matter.

10. For each school building and each school within a building or structure that holds one or more schools, the total number of annexed spaces utilized by each school including but not limited to transportable classroom units and mini-schools, the capacity and location of such space and the number of schools utilizing such space;

11. For each school building and each school within a building or structure that holds one or more schools, the total number of leased spaces utilized by each school, the capacity and location of such leased space and the number of schools utilizing such space;

12. Disaggregated by community school district, council district and borough, the report shall also include the aggregate of the data required in subparagraphs one through eleven of this subdivision.

§2. This local law shall take effect immediately after its enactment into law.

Referred to the Committee on Education.

Int. No. 1033

By The Speaker (Council Member Quinn) and Council Members Arroyo, Barron, Comrie, Crowley, de Blasio, Dickens, Gentile, Gerson, Jackson, Martinez, Mitchell, Recchia, Rivera, Sanders, Jr., Sears, Ulrich and Weprin.

A Local Law in relation to the naming of 41 thoroughfares and public places, Police Officer Deon Taylor Way, Borough of the Bronx, Sgt. Kimel L. Watt Way, Borough of Brooklyn, Run D.M.C JMJ Way, Borough of Queens, Nancy Cataldi Way, Borough of Queens, Frederick T. Haller, Jr. Way, Borough of Queens, Frank J. Verderame Way, Borough of Brooklyn, Sugar Ray Robinson Way, Borough of Manhattan, James Weldon Johnson Plaza, Borough of Manhattan, Robert M. Buonvino Place, Borough of Brooklyn, Dr. Thomas Tam Way, Borough of Manhattan, Professor Juan Bosch Way, Borough of Manhattan, Mr. Joe Marotta Way, Borough of Staten Island, John A. Nappi Flag Way, Borough of Staten Island, Sgt. Kenneth C. Amatrudo Way, Borough of Staten Island, James "Skippy" Prior Way, Borough of Staten Island, Jimmy O' Hanlon Way, Borough of Staten Island, NYPD Sgt. Ned Thompson Way, Borough of Staten Island, Lisa Moudatsos Way, Borough of Staten Island, Pfc. Ronald Jones Way, Borough of Staten Island, Police Officer Gerard L. Carter Avenue, Borough of Staten Island, Monsignor John T. Servodidio Way, Borough of Staten Island, Arielle Newman Run, Borough of Staten Island, Firefighter Bobby Beddia Way, Borough of Manhattan, Robert "Mr. Lou" Williams Way, Borough of Brooklyn, Thomas L. Guess Place, Borough of the Bronx, Hector Lavoe Boulevard, Borough of the Bronx, Henry McKenzie Place, Borough of the Bronx, Donnette and Sean Sanz Place, Borough of the Bronx, Vincent Jackson Way, Borough of the Bronx, Rev. James B. Stagers Place, Borough of the Bronx, PFC Le Ron A. Wilson Way, Borough of Queens, Corporal Jonathan Rivadeneira Corner, Borough of Queens, Judge Ralph Sherman Way, Borough of Queens, Major Jeffrey Ray Calero Way, Borough of Queens, Alexander Felix Place, Borough of Manhattan and renaming six thoroughfares in the Borough of Queens, 163rd Road, 163rd Drive, 164th Avenue, 164th Road, 164th Drive, 165th Avenue and to amend the official map of the city of New York accordingly and the repeal of section 10 of local law number 25 for the year 2009, sections 36 and 38 of local law number 64 for the year 2008 and local law number 54 for the year 2008.

Be it enacted by the Council as follows:

Section 1. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Name	Present Name	Limits
Police Officer Deon Taylor Way	Simpson Street	Between East 163 rd Street and Westchester Avenue

§2. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Sgt. Kimel L. Watt Way	Hemlock Street	Between Blake Avenue and Dumont Avenue

§3. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Run D.M.C JMJ Way	None	At the intersection of 205 th Street and Hollis Avenue

§4. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Nancy Cataldi Way	None	At the intersection of 109 th Street and 86 th Avenue

§5. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Frederick T. Haller, Jr. Way	Union Turnpike	Between Woodhaven Boulevard and Myrtle Avenue

§6. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Frank J. Verderame Way	Second Place	Between Court Street and Smith Street

§7. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Sugar Ray Robinson Way	None	At the intersection of 124 th Street and Lenox Avenue

§8. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
James Weldon Johnson Plaza	None	At the intersection of 135 th Street and Adam Clayton Powell Jr. Boulevard

§9. The following intersection name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Robert M. Buonvino Place	None	At the intersection of 83 rd Street and 18 th Avenue

§10. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Dr. Thomas Tam Way	None	At the Southeast corner of Canal Street and Cortland Alley

§11. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Professor Juan Bosch Way	None	At the intersection of Amsterdam Avenue and 190 th Street

§12. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Mr. Joe Marotta Way	None	At the intersection of Victory Boulevard and St. Marks

§13. The following street name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
John A. Nappi Flag Way	None	At the northeast corner of Forest Avenue and Burnside Avenue

§14. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Sgt. Kenneth C. Amatrudo Way	None	At the intersection of Josephine Street and Manor Road

§15. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
James "Skippy" Pryor Way	None	At the intersection of Whitewood Avenue and Hart Avenue

§16. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Jimmy O' Hanlon Way	None	At the intersection of Harvest Avenue and North Burgher Avenue

§17. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
NYPD Sgt. Ned Thompson Way	St. Austins Place	Between Bard Avenue and Davis Avenue

§18. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Lisa Moudatsos Way	None	At the intersection of St. Peter's Place and Richmond Terrace

§19. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Pfc. Ronald Jones Way	None	At the intersection of Grandview Avenue and Richmond Terrace

§20. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Police Officer Gerard L. Carter Avenue	None	At the intersection of Pelton Avenue and

		Henderson Avenue
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§21. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Monsignor John T. Servodidio Way	None	At the intersection of Tompkins Avenue and St. Mary's Avenue

§22. The following intersection name, in the Borough of Staten Island, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Arielle Newman Run	None	At the intersection of Royal Oak Road and Rice Avenue

§23. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Firefighter Bobby Beddia Way	None	At the intersection of Bedford Street and Barrow Street

§24. The following street name, in the Borough of Brooklyn, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Robert "Mr. Lou" Williams Way	West 33 rd Street	Between Surf Avenue and Mermaid Avenue

§25. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Thomas L. Guess Place	Clinton Avenue	Between Oakland Place and East 180 th Street

§26. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Hector Lavoe Boulevard	East Tremont Avenue	Between Webster Avenue and Boston Road

§27. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Henry McKenzie Place	Prospect Avenue	Between East 183 rd Street and East 185 th Street

§28. The following intersection name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Donnette and Sean Sanz Place	None	At the intersection of East 188 th Street and Webster Avenue

§29. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Vincent Jackson Way	Clinton Avenue	Between East 181 st Street and East 182 nd Street

§30. The following street name, in the Borough of the Bronx, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Rev. James B. Staggers	East 181 st Street	Between Vyse Avenue and

Place	Bryant Avenue
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§31. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
PFC Le Ron A. Wilson Way	145 th Avenue	Between Farmers Boulevard and Arthur Street

§32. The following intersection name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Corporal Jonathan Rivadeneira Corner	None	At the northeast corner of 75 th Street and 37 th Avenue

§33. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Judge Ralph Sherman Way	77 th Avenue	Between Springfield Boulevard and Cloverdale Boulevard

§34. The following street name, in the Borough of Queens, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Major Jeffrey Ray Calero Way	Hollis Court Boulevard	Between Jamaica Avenue and Hillside Avenue

§35. The following intersection name, in the Borough of Manhattan, is hereby designated as hereafter indicated.

New Limits	Present Name	Limits
Alexander Felix Place	None	At the intersection of West 161 st Street and Riverside Drive

§36. The following street name, in the Borough of Queens, is hereby renamed as hereafter indicated and the official map of the City of New York is amended accordingly.

New Limits	Present Name	Limits
163 rd Road	Burlingham Court	Between 104 th and Hawtree Basin

§37. The following street name, in the Borough of Queens, is hereby renamed as hereafter indicated and the official map of the City of New York is amended accordingly.

New Limits	Present Name	Limits
163 rd Drive	James Court	Between 104 th Street and Hawtree Basin

§38. The following street name, in the Borough of Queens, is hereby renamed as hereafter indicated and the official map of the City of New York is amended accordingly.

New Limits	Present Name	Limits
164 th Avenue	McKee Avenue	Between 104 th Street and Hawtree Basin

§39. The following street name, in the Borough of Queens, is hereby renamed as hereafter indicated and the official map of the City of New York is amended accordingly.

New Limits	Present Name	Limits
164 th Road	Calhoun Road	Between 104 th Street and Hawtree Basin

§40. The following street name, in the Borough of Queens, is hereby renamed as hereafter indicated and the official map of the City of New York is amended accordingly.

New Limits	Present Name	Limits
164 th Drive	Moncriff Drive	Between 104 th Street and Hawtree Basin

§41. The following street name, in the Borough of Queens, is hereby renamed as hereafter indicated and the official map of the City of New York is amended accordingly.

New Limits	Present Name	Limits
165 th Avenue	Lockwood Court	Between 104 th Street and Hawtree Basin

§42. Section 10 of local law number 25 for the year 2009 is hereby REPEALED.

§43. Sections 36 and 38 of local law number 64 for the year 2008 is hereby REPEALED.

§44. Local law number 54 for the year 2008 is hereby REPEALED.

§45. This local law shall take effect immediately.

Adopted by the Council (preconsidered and approved by the Committee on Parks and Recreation).

Int. No. 1034

By Council Members Avella, James and Palma.

A Local Law to amend the administrative code of the city of New York, in relation to nominating a property for consideration by the Landmarks Preservation Commission.

Be it enacted by the Council as follows:

Section 1. Section 25-303 of the administrative code of the city of New York is amended by relettering subdivisions a through k as subdivisions b through l and adding a new subdivision a to read as follows:

a. Any person may nominate a property for landmark designation by filing a written request for evaluation containing such information as may be required by commission regulation. Every completed request for evaluation shall be calendared for consideration and action at a public meeting of the commission within ninety (90) days of its submission in final form, together with such commission staff comment and recommendations as may be deemed appropriate. At the public meeting of the commission, three affirmative votes by commission members present shall cause the scheduling of the nomination for landmark designation of the property for a public hearing before the commission, which shall be held within sixty (60) days thereafter, or on such date as a majority of the commission shall determine. A public record shall be maintained of all commission votes on requests for evaluations.

§2. Paragraph 1 of subdivision b, as relettered by Section 1 of this bill, is amended to read as follows:

1. to designate and, as herein provided in subdivision [j] k, in order to effectuate the purposes of this chapter, to make supplemental designations to, a list of landmarks which are identified by a description setting forth the general characteristics and location thereof;

§3. Subdivision f, as relettered by Section 1 of this bill is amended to read as follows:

f. Subject to the provisions of subdivisions [g] h and [h] i of this section, any designation or amendment of a designation made by the commission pursuant to the provisions of subdivisions [a] b, [b] c and [c] d of this section shall be in full force and effect from and after the date of adoption thereof by the commission.

§4. This local law shall take effect immediately.

Referred to the Committee on Land Use.

Int. No. 1035

By Council Members Avella, Barron, Gentile, James and Gerson.

A Local Law to amend the administrative code of the city of New York, in relation to city employees performing ordered military service.

Be it enacted by the Council as follows:

Section 1. Title 12 of the administrative code of the city of New York is amended by adding a new section 12-140 to read as follows:

§12-140 *City employees on active military duty.* a. For the purposes of this section, the following terms shall be defined as follows:

(1) "City employee" shall have the same meaning as "employee" as that term is defined in subdivision (6) of section 1-112 of title one of the administrative code of the city of New York.

(2) "Ordered military duty" shall mean any military duty performed in the service of the state of New York or of the United States, including but not limited to attendance at any service school or schools conducted by the armed forces of the United States, by a city employee as a member of any force of the organized militia or of any reserve force or reserve component of the armed forces of the United States, pursuant to orders issued by competent state or federal authority, with or without the consent of such city employee; provided, however, that such term shall not include participation in routine reserve officer training corps training except when performing advanced training duty as a member of a reserve component of the armed forces.

b. Any city employee who is a member of the organized militia or reserve forces or reserve components of the armed forces of the United States who serves on ordered military duty while he or she is employed by the city of New York shall remain on payroll in active pay status for as long as he or she shall remain in such military service. Such an employee shall not be required to repay to the city any portion of such salary or benefits.

c. Any city employee who received his or her salary from the city of New York pursuant to Personnel Order No. 2001/4 while serving on ordered military duty shall not be required to repay to the city any portion thereof.

§ 2. Title 12 of the administrative code of the city of New York is amended by adding a new section 12-141 to read as follows:

§12-141 *Line of duty death and line of duty injury.* a. Any injury sustained by an employee of the city of New York police department, fire department, or department of corrections while he or she serves on ordered military duty shall be deemed an injury in the line of duty for purposes of his or her receipt of city employment salary and benefits.

b. Any such employee who dies while he or she serves on ordered military duty shall be deemed to have died in the line of duty for purposes of his or her city death benefits.

§ 3. This law shall become effective immediately after it is submitted for the approval of the qualified electors of the city at the next general election held after its enactment and approved by a majority of such electors voting thereon.

Referred to the Committee on Civil Service and Labor.

Res. No. 2045

Resolution calling on the New York State Legislature to pass S.3798/A.6137, an act to amend the New York State Urban Development Corporation Act, in relation to establishing a Second Avenue subway construction economic development grant program and S.1393/A.3949, an act to amend the real property tax law in relation to creating tax abatements for certain commercial properties located within the Second Avenue subway project.

By Council Members Avella, James, Yassky and Garodnick.

Whereas, The New York State Legislature is considering S.3798/A.6137, an act to amend the New York State Urban Development Corporation Act, in relation to establishing a Second Avenue subway construction economic development program; and

Whereas, The New York State Legislature is also considering S.1393/A.3949, an act to amend the real property tax law in relation to creating tax abatements for certain commercial properties located within the Second Avenue subway project; and

Whereas, S.3798/A.6137 would provide financial and technical assistance to businesses located along the route of the Second Avenue subway construction project during the construction process; and

Whereas, Financial assistance may provide for capital improvements, marketing and advertising costs, endangered and terminal businesses, payroll, rent, utilities, insurance, and counseling assistance; and

Whereas, Technical assistance may be provided by third party service providers and grants for the grant program will be awarded through an application process; and

Whereas, S.1393/A.3949 would provide property tax abatements to eligible property owners impacted by the Second Avenue subway construction if they are able to sign or re-negotiate a reduced lease to current or prospective small business commercial tenants; and

Whereas, The January 25th, 2009 edition of Crain's New York Business reported that several businesses along Second Avenue north of 90th St. have gone out of business and that additional businesses project that they will be forced to close as well due to decreases in revenue; and

Whereas, According to the Second Avenue Business Association, business declined between 15% and 20% within the first six months of the construction process beginning; and

Whereas, The Second Avenue subway line will run along Second Avenue between 125th Street to Hanover Square; and

Whereas, Phase one of the Second Avenue subway construction is currently scheduled to be complete in 2015 and the expected completion date of the entire Second Avenue subway line is 2020; and

Whereas, The construction process is having a substantial negative impact on businesses located along Second Avenue and these businesses may continue to endure economic hardships until the completion of the Second Avenue subway line; and

Whereas, These bills would provide some relief to businesses along the route of the Second Avenue subway project; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass S.3798/A.6137, an act to amend the New York State Urban Development Corporation Act, in relation to establishing a Second Avenue subway construction economic development grant program and S.1393/A.3949, an act to amend the real property tax law in relation to creating tax abatements for certain commercial properties located within the Second Avenue subway project.

Referred to the Committee on Small Business.

Res. No. 2046

Resolution calling upon the New York State Legislature to pass Assembly Bill A7907 and Senate Bill S4778, legislation which would allow cultural institutions, hospitals and universities to access their endowments when the endowment's value has dropped below market value.

By Council Members Brewer, Garodnick, Jackson, James, Palma and Recchia.

Whereas, The Uniform Management of Institutional Funds Act of 1972 (UMIFA), is a uniform law which limits or prohibits non-profits, including cultural institutions, hospitals and universities, from spending money from an endowment fund that is "underwater," meaning its current market value is below what it was when it was given to the institution, also known as its "historic dollar value"; and

Whereas, The spending of endowment funds by a New York State Not-for-Profit Corporation is currently governed by UMIFA, as adopted in 1978 within the New York State Not-For-Profit Corporation Law (the N-PCL); and

Whereas, UMIFA is considered out-of-date, particularly with respect to management, investment and spending issues, especially given the current economic climate; and

Whereas, In 2006, the National Conference of Commissioners on Uniform State Laws, also known as the Uniform Law Commission, proposed the Uniform Prudent Management of Institutional Funds Act (UPMIFA) to amend the existing 1972 UMIFA, to allow states to adopt their own UPMIFA laws in order to give institutions more flexibility to spend money from endowment funds that are underwater, provided that their spending is prudent; and

Whereas, UPMIFA redefines the meaning of "prudent investing," making the preservation of the fund the top priority and taking into account other considerations, such as the state of the economy and the needs of the organization; and

Whereas, Universities, cultural institutions such as museums and other non-profits suffering from investment losses are pushing states to ease legal limits on spending so they can tap into their endowments to avoid imminent layoffs and deep cuts to programs; and

Whereas, *The Wall Street Journal* reported that at the end of June 2008, 39% of colleges and private secondary schools had endowments that were underwater, compared with 16% the year before, according to a survey of 628 institutions by Commonfund Inc., a Connecticut money manager; and

Whereas, New York City is recognized worldwide as the epicenter of the arts, and is home to hundreds of cultural institutions throughout the 5 boroughs; and

Whereas, There are approximately 70 hospitals and over 100 postsecondary institutions in New York City; and

Whereas, With the stock market in turmoil, a growing number of states are loosening restrictions that prohibit charities and other non-profit groups from spending money from endowment funds that have dropped in value; and

Whereas, Currently, 33 states and the District of Columbia have adopted UPMIFA; and

Whereas, Fourteen (14) states, including New York, introduced state legislation to adopt UPMIFA in 2009; and

Whereas, A7907, sponsored by New York State Assembly Member Jonathan L. Bing, and S4778, sponsored by New York State Senator Liz Krueger, were introduced in April 2009; and

Whereas, A7907 and S4778 would provide prudent oversight and necessary flexibility for charitable endowments by establishing important standards to govern their management and investment through the enactment in New York State of UPMIFA; and

Whereas, The New York State Legislature should adopt UPMIFA to make sure that non-profit organizations and charities are able to appropriately access their endowment funds in order for them to survive during the current economic downturn or any other fiscal crisis in the future; and

Whereas, The enactment of UPMIFA in New York State would be an important way in which the New York State Legislature and the Governor could readily assist cash-strapped non-profits and trusts at no cost to the State; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass Assembly Bill A7907 and Senate Bill S4778, legislation which would allow cultural institutions, hospitals and universities to access their endowments when the endowment's value has dropped below market value.

Referred to the Committee on Cultural Affairs, Libraries & International Intergroup Relations.

Res. No. 2047

Resolution calling upon the New York State Public Service Commission to include language in utility tariffs to prohibit the placement of utility meters in front of residential buildings throughout New York City.

By Council Members Crowley, Jackson, James, Koppell, Vann, Vacca and Nelson.

Whereas, The New York State Public Service Commission has exclusive regulatory authority over gas and electric utility companies; and

Whereas, Utility companies must file tariffs with the New York State Public Service Commission stating the rates charged to the utility's customers and detailing access and placement of the utility companies metering devices in and upon residential property; and

Whereas, Many residents of the City and community organizations have serious concerns related to residential neighborhoods being aesthetically degraded by the unsightly placement of utility meters in front of residential buildings; and

Whereas, Barring the unsightly placement of such utility meters in front of residential buildings would be a benefit to the aesthetics of residential neighborhoods throughout New York City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Public Service Commission to include language in utility tariffs to prohibit the placement of utility meters in front of residential buildings throughout New York City.

Referred to the Committee on Housing and Buildings.

Res. No. 2048

Resolution calling upon the New York City Department of Education to place hand sanitizer in all public school classrooms and to install hand sanitizer dispensing machines in all such classrooms.

By Council Members de Blasio, Vallone Jr., Brewer, Fidler, James, Nelson, Palma and Gerson.

Whereas, The Office of School Health (OSH) within the New York City Department of Education (DOE) is a joint program with the New York City Department of Health and Mental Hygiene (DOHMH) and is responsible for providing health services and preventive services to DOE students; and

Whereas, DOE policy provides that, in suspected cases of communicable disease, environmental illness or food-borne illness, schools will immediately notify OSH; and

Whereas, According to DOE policy, upon notification of a suspected communicable disease OSH will investigate; and

Whereas, DOE has issued recommendations which promote good hygiene which include keeping hands clean by washing thoroughly with soap and water or an alcohol-based hand sanitizer; and

Whereas, In a letter to parents on May 26, 2009, the Chancellor stated that H1N1 also known as swine flu, has become more common and that many schools reported high absenteeism rates and students with flu-like symptoms; and

Whereas, The DOHMH released a fact sheet advising parents, teachers, and school principals to wash hands frequently with soap and water and adding that alcohol based hand cleaners are also effective; and

Whereas, According to an article published by the Center for Disease Control (CDC) studies have shown that hand sanitizers were effective in curbing absentee rates in elementary schools; and

Whereas, A total of 57 New York City public schools temporarily closed as a result of the swine flu epidemic in the spring of 2009; and

Whereas, Ensuring the availability and use of hand sanitizer by students will decrease the spread of swine flu and other communicable diseases; and

Whereas, The health and well being of school children is pertinent to their ability to learn; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York City Department of Education to place hand sanitizer in all public school classrooms and to install hand sanitizer dispensing machines in all such classrooms.

Referred to the Committee on Education.

Res. No. 2049

Resolution calling for the immediate implementation of the recommendations in the Manhattan Borough President's report "Food in the Public Interest" to adopt a "Foodprint Resolution," and calls from local non-profit groups in the NYC Foodprint Alliance to establish "FoodprintNYC," a citywide initiative that would establish climate-friendly food policies and programs, financial and technical support, a public awareness campaign regarding the City's food consumption and production patterns and greater access to local, fresh, healthy food.

By Council Members de Blasio, Brewer, James, Lappin, Liu, Palma, Sanders, Vann, White, Foster, Mark-Viverito, Weprin, Jackson, Avella, Yassky, Gerson, Crowley, Mendez, Ferreras, Koppell, Recchia, Katz, Gioia and Vallone Jr. (by request of the Manhattan Borough President).

Whereas, New York City has instituted a number of initiatives that would help reduce global warming and encourage environmental awareness, including PlaNYC, which aims to reduce New York City's greenhouse gas (GHG) emissions by 30% by 2030; Executive Order 107, which directs the City to reduce greenhouse gas emissions from municipal buildings and operations by 30% by 2017; and the GreeNYC marketing campaign, which encourages New Yorkers to reduce their environmental impacts; and

Whereas, While PlaNYC, Executive Order 107 and GreeNYC address many facets of private and public life in the City, neither food nor farming is mentioned in any of these initiatives; and

Whereas, According to "Agriculture's Role in Greenhouse Gas Mitigation," a report conducted by the Pew Center on Global Climate Change, it is estimated that globally one-third of all GHG emissions comes from agriculture and land use changes, and that approximately 12% of the total GHG emissions per U.S. household result from growing, packing, preparing and shipping food nationwide; and

Whereas, The United Nations Food and Agriculture Organization calculated that production of plant-based foods (whole grains, vegetables, fruits, legumes, nuts and seeds), contributes significantly less to global warming than production of animal-based foods, and that, globally, livestock production emits 18% of total GHG emissions, significantly more than the 13.1% emitted by the world's entire transportation sector; and

Whereas, According to the Leopold Center for Sustainable Agriculture, approximately 50 years ago in the United States, most foods were generally consumed within close proximity to where they were being produced and or packaged, while today, food typically can travel approximately 2,485 miles from farm to table; and

Whereas, New York City now has 87 farmers markets and 82 Community Supported Agriculture (CSA) programs that offer a wide array of locally grown foods; and

Whereas, In many instances, these locally provided foods are organically grown, giving these products less of an impact on our "foodprint" since organic farming can emit fewer GHGs than industrial agriculture; and

Whereas, Some low-income communities in the City of New York already contribute to urban agriculture through cultivation of community gardens; and

Whereas, New York City's low-income communities need greater access to healthy, fresh, and locally grown produce which a local and sustainable food plan could provide, as many of these communities currently have a large percentage of residents who suffer from chronic, diet-related diseases, including diabetes, high blood pressure and obesity, according to the New York State Health Foundation; and

Whereas, In addition to providing local communities with greater access to healthier, locally grown food, a local and sustainable food approach within New

York City would also expand green jobs for New Yorkers throughout the City's parks, gardens, urban farms, and local food processing, storage and distribution facilities; and

Whereas, The Manhattan Borough President's office issued a report in 2009 entitled "Food in the Public Interest" which recommended environmentally friendly policies and programs regarding the City's food consumption and production, and called for a NYC Climate "Foodprint" Resolution; and

Whereas, The NYC Foodprint Alliance, which includes Just Food, Sierra Club New York City Group, Small Planet Institute, New York Coalition for Healthy School Food, Farm Sanctuary, Kind Green Planet, League of Humane Voters, Animal Welfare Advocacy, East New York Farms!, World Hunger Year, Slow Food USA, Oxfam ActionCorps NYC, Eating Liberally, Brighter Green, and Cool Foods Campaign, recommends the establishment of a public education campaign to raise awareness among individuals, organizations and institutions of the impacts that our food system and food choices have on climate change; and

Whereas, The NYC Foodprint Alliance also recommends mobilizing financial and technical support for greater purchasing of local and preferably organic produce, including such offered by farmers markets and CSA programs, and suggests that such support particularly focus on low-income/underserved communities as well as city-run institutions; and

Whereas, The NYC Foodprint Alliance also recommends encouraging city policy, planning and initiatives that would address climate change by expanding urban agriculture, supporting existing local food development and infrastructure, and setting targets for a local and preferably organic institutional purchasing program emphasizing fresh produce; now, therefore, be it

Resolved, That the Council of the City of New York calls for the immediate implementation of the recommendations in the Manhattan Borough President's report "Food in the Public Interest" to adopt a "Foodprint Resolution," and calls from local non-profit groups in the NYC Foodprint Alliance to establish "FoodprintNYC," a citywide initiative that would establish climate-friendly food policies and programs, financial and technical support, a public awareness campaign regarding the City's food consumption and production patterns and greater access to local, fresh, healthy food.

Referred to the Committee on Community Development.

Res. No. 2050

Resolution calling upon the New York State Legislature to amend the State Education Law, in relation to charter schools, to mandate that charter schools accept students from schools that have been displaced by newly sited charter schools and accept students from within the same local neighborhood, or alternatively, to pass legislation allowing New York City to enact such a law locally.

By Council Members Dickens, Fidler, Jackson, James, Liu, Palma, Recchia, Reyna, Sanders, Stewart, Vann, Mark-Viverito and Nelson.

Whereas, In 1998, the New York Charter Schools Act allowed the creation of independent public schools; and

Whereas, According to the New York City Department of Education (DOE), as of September 2008, New York City has 78 charter schools which serve approximately 23,577 students; and

Whereas, According to the New York City Charter Center, each charter school receives approximately 12,432 dollars in state funding for each child it educates during the 2008-2009 school year; and

Whereas, The DOE has not publicly disclosed the total amount of public and non-public funding received by each charter school for each child it educates during the 2008-2009 school year; and

Whereas, Like all public schools, charter schools must meet state standards and Regents requirements as well as state and federal laws regarding health, safety and civil rights; and

Whereas, According to the New York State Education Law ("SEL"), a charter school may be located in part of an existing school building, in space provided on a private work site, in a public building or in any other suitable location; and

Whereas, The SEL requires that before a charter school may be located in any part of an existing school building, the charter entity must provide notice to the parents or guardians of the students then enrolled in the existing school building; and

Whereas, The SEL also requires that a public hearing be held for the purposes of discussing the location of the charter school; and

Whereas, the SEL gives Community Education Councils the power to approve zoning lines applicable to schools under the jurisdiction of the community district; and

Whereas, A lawsuit filed in March 2009 by the United Federation of Teacher, the New York Civil Liberties Union and the Public Advocate, alleges that the DOE has abused its power by eliminating attendance zones without the involvement of the school community; and

Whereas, A plan proposed by DOE to close PS 194, a traditional public school in Manhattan and replace it with a charter school has caused severe conflict within the Harlem community; and

Whereas, A plan proposed by DOE to close P.S. 241 in Manhattan and replace it with a charter school would leave children in that community without a locally zoned elementary school; and

Whereas, A plan proposed by the DOE to close PS 150 in Brooklyn would require students to seek admission to schools outside of their attendance zones or seek admission to a charter school with no assurance of admission; and

Whereas, DOE intends to expand on the number of charter schools in New York City; and

Whereas, A majority of New York City schools are severely overcrowded; and

Whereas, DOE has stated that identifying sites for new seat capacity in the areas of highest need is difficult; and

Whereas, Requiring that a charter school make accommodations for school aged children that have been otherwise displaced by the location of such charter school will ensure that all New York City school aged children are able to attend a locally zoned school or neighborhood school; now, therefore, be it

Resolved, That the New York City Council calls upon the New York State Legislature to amend the State Education Law, in relation to charter schools, to mandate that charter schools accept students from schools that have been displaced by newly sited charter schools and accept students from within the same local neighborhood, or alternatively, to pass legislation allowing New York City to enact such a law locally.

Referred to the Committee on Education.

Res. No. 2051

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.1370/S.1930, legislation that would regulate the practice of naturopathic medicine by requiring practicing naturopathic physicians to be licensed in New York State.

By Council Members Dickens, Jackson, James and Reyna.

Whereas, Naturopathic medicine is based on the belief that the body can heal itself naturally, and this practice attempts to improve health, prevent disease, and treat illness by promoting the use of organic foods, exercise and, overall, encouraging a healthy, balanced lifestyle; and

Whereas, Naturopathic physicians use a variety of natural and noninvasive therapies, including clinical nutrition, herbal medicine, homeopathy, physical medicine, counseling and hydrotherapy, while attempting to limit dependency on prescribed medicines or surgery; and

Whereas, According to the American Association of Naturopathic Physicians (AANP), licensing laws for naturopathic physicians exist in fifteen states as well as Washington, D.C., the United States Virgin Islands and Puerto Rico, while naturopathy licensing requirement legislation is currently pending in five additional states; and

Whereas, Some states that do not require naturopathic physicians to be licensed undermine the legitimacy of the practice of naturopathy by allowing individuals to practice who may have only taken brief correspondence courses, short seminars, or attended schools that give credit for life experience but which do not require intensive clinical training; and

Whereas, Currently, New York State does not license naturopathic physicians this time and as a result, individuals are able to use the title Naturopath or ND, even if they have not been trained by accredited schools, do not hold any recognized license or are unable to qualify for licensure; and

Whereas, In recognition of this problem, A.1370/S.1930, legislation currently pending in the New York State Legislature, could provide many benefits to residents of New York State, including improved access to qualified naturopathic physicians, expanded services that naturopathic physicians are trained to provide and an increased likelihood that insurance coverage will be made available for naturopathic care; and

Whereas, According to the AANP, legislation requiring naturopathic physicians to be licensed would help patients distinguish properly trained naturopathic physicians from lesser-trained individuals who may present a danger to the public; and

Whereas, Under this proposed legislation, in order to be a licensed naturopathic physician in New York State, such physicians would be subject to the same requirements imposed upon naturopathic physicians in other states, including requiring that the practitioner received a degree from a federally accredited naturopathic medical school, which ensures that the individual's studies included a curriculum of current medical science and traditional naturopathic theory, and that he or she passed the naturopathic board exams; and

Whereas, This legislation would further enhance the practice of naturopathy by establishing a state board for naturopathic medicine and require that naturopaths fulfill continuing competency requirements; and

Whereas, The legislation would also require that naturopaths report suspected

cases of child abuse; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.1370/S.1930, legislation that would regulate the practice of naturopathic medicine by requiring practicing naturopathic physicians to be licensed in New York State.

Referred to the Committee on Health.

Res. No. 2052

Resolution calling upon the New York State Legislature to amend the State Education Law, in relation to charter schools, by limiting the number of charter schools that can be operated by a single organization to no more than 10% of the charters in the state and by requiring that no more than 10% of the organization's charters may be located in any one school district, or alternatively to pass legislation allowing New York City to enact local limits.

By Council Members Dickens, Fidler, Jackson, James, Liu, Palma, Reyna and Mark-Viverito.

Whereas, The New York Charter Schools Act (“the Act”) of 1998, also known as Article 56 of the State Education Law, authorized the creation of charter schools “that operate independently of existing schools and school districts;” and

Whereas, As stated in the Act, one of the primary objectives for creation of charter schools is to “provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system;” and

Whereas, Charter schools are publicly financed through local, state and federal funds; and

Whereas, The authority for a charter school to operate and provide education services is through a contract or “charter” issued by the State Board of Regents; and

Whereas, Charters may be issued for a term of up to five years and, upon application, may be renewed for additional five-year periods; and

Whereas, The Act also states that an application to establish a charter school may be submitted by teachers, parents, school administrators, community residents or any combination thereof; and

Whereas, In addition, such application may be filed in conjunction with a college, university, museum, educational institution, not-for-profit corporation or corporate entity authorized to do business in New York State; and

Whereas, The Act further specifies that, for charter schools established in conjunction with a for-profit business or corporate entity, the charter shall specify the extent of the entity's participation in the management and operation of the school; and

Whereas, The Act is silent on the issue of how many charter schools can be established or operated by a single organization or entity; and

Whereas, Initially, the Act authorized the creation of no more than 100 charter schools statewide; and

Whereas, Subsequently, as part of budget legislation enacted on April 1, 2007, the Act was amended, increasing the cap on new charter schools allowed to open in the state from 100 to 200; and

Whereas, The amendment to the Act further provided that at least 50 of the new charters be reserved for New York City; and

Whereas, According to the Charter Schools Institute of the State University of New York, there are currently 115 charter schools operating statewide, comprising less than 2% of all public schools in the state; and

Whereas, The New York City Department of Education (DOE) reports that, as of September 2008, there are 78 charter schools, approximately 5% of all public schools, operating in the City; and

Whereas, The vast majority of the state's charter schools, more than two-thirds, are located in New York City; and

Whereas, Some communities in the City have a high concentration of charter schools, such as Harlem which has 24, according to a recent *New York Times* article; and

Whereas, A number of operators have established multiple charter schools in New York City, including Achievement First, KIPP, Icahn and Success Charter Network among others; and

Whereas, According to news reports, several of these operators plan to further expand their chain of charter schools in the City, including the Success Charter Network which plans to expand from the present four Harlem Success Academies to 40 over the next decade; and

Whereas, Establishing limits on the number of charter schools that can be operated by a single organization will maximize choices and educational opportunities for students while preventing domination by one group's philosophy and methods in any community; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to amend the State Education Law, in relation to charter schools, by limiting the number of charter schools that can be operated by a single organization to no more than 10% of the charters in the state and by requiring that no more than 10% of the organization's charters may be located in any one school district, or alternatively to pass legislation allowing New York City to enact local limits.

Referred to the Committee on Education.

Int. No. 1036

By Council Members Eugene, Barron, James, Nelson and Palma.

A Local Law to amend the administrative code of the city of New York, in relation to establishing a telephone medical advice service.

Be it enacted by the Council as follows:

Section 1. Chapter 1 of title 17 of the administrative code of the city of New York is amended by adding a new section 17-196 to read as follows:

§ 17-196 Telephone medical advice service. a. Definitions. 1. “Health care professional” shall mean (i) a licensed, certified or registered nurse, licensed practical nurse or certified nurse practitioner, who is licensed, certified or registered pursuant to article 139 of the education law of the state of New York; or a physician or physician assistant who is licensed pursuant to article 131 or article 131-B, respectively, of the education law of the state of New York; and (ii) any such individual who is operating consistent with the laws governing his or her respective scopes of practice in the state of New York.

2. “Telephone medical advice” shall mean a telephonic communication between a health care professional and a member of the public in which the health care professional's principal function is to provide a telephonic response to the questions of the member of the public regarding his or her or a family member's medical care. Such term shall include assessment, evaluation, or advice provided during such conversations.

b. The department shall provide or contract for the provision of a telephone medical advice service available free to members of the public twenty-four hours per day, seven days per week.

§ 2. This local law shall take effect one hundred and eight days after its enactment into law, provided that the commissioner may promulgate any rules necessary for implementing and carrying out the provisions of this local law prior to its effective date.

Referred to the Committee on Health.

Int. No. 1037

By Council Member Garodnick, Lappin, Brewer, James, Liu, Gerson and Nelson.

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

Be it enacted by the Council as follows:

Section 1. Section 20-403 of the administrative code of the city of New York is amended to read as follows:

a. *Process server license.* It shall be unlawful for any person to be employed as or perform the services of a process server without a license therefor.

b. *Process serving agency license.* It shall be unlawful for any process serving agency to assign or distribute process to individual process servers for actual service without a license therefor.

§2. Section 20-404 of the administrative code of the city of New York is amended to read as follows:

a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.

b. A process serving agency is any person, firm, partnership, association or corporation, other than an attorney or law firm located in this state, who maintains an office, bureau or agency the purpose of which is to assign or distribute process to individual process servers for actual service.

[b] c. For the purposes of this subchapter the service of five or more process in any one year shall be deemed to constitute doing business as a process server.

§3. Subchapter 23 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding new sections, 20-406.1, 20-406.2, 20-406.3 and 20-406.4 to read as follows:

20-406.1 Bond required. a. As a condition of the issuance of a process server license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond in the sum of ten thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation relating to a violation of this subchapter and any rules promulgated thereunder, within thirty days of its imposition, or any final judgment recovered by any person who was injured by the violation of any of the provisions of this subchapter and was damaged thereby. The commissioner may by rule authorize an individual applicant, in lieu of furnishing a bond, to satisfy the requirements of this section by depositing cash in an amount equal to the amount of the surety bond required by this section or by rule of the commissioner.

b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be required to furnish a surety bond pursuant to subdivision a of this section.

c. As a condition of the issuance of a process server agency license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond in the sum of one hundred thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the agency applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation relating to a violation of this subchapter and any rules promulgated thereunder, within thirty days of its imposition, or any final judgment recovered by any person who was injured by the violation of any of the provisions of this subchapter or by the willful or negligent wrongful act of the principal, agent, or employee of such applicant. In each and every suit, or prosecution arising out of this subchapter, it shall be presumed that an employee of the agency is acting in the course of his or her employment when serving process assigned or distributed by the applicant. The commissioner may by rule authorize an applicant, in lieu of furnishing a bond, to satisfy the requirements of this section by depositing cash in an amount equal to the amount of the surety bond required by this section or by rule of the commissioner.

§20-406.2 Responsibilities of process serving agencies. Every process serving agency licensed under this subchapter shall:

a. Comply with all applicable state and federal laws;

b. Provide to each process server employed by such agency a written statement indicating the rights of such employee and the obligations of the process serving agency under city, state and federal law. Such statement of rights and obligations shall include, but not be limited to, a general description of employee rights and employer obligations pursuant to laws regarding minimum wage, overtime and hours of work, record keeping, social security payments, unemployment insurance coverage, disability insurance coverage and workers' compensation. Such statement of rights and obligations shall be prepared and distributed by the commissioner to licensed process serving agencies;

c. Keep on file in its principal place of business for a period of three (3) years a statement for each employee, signed by such employee, indicating that the employee has read and understands the statement of rights and obligations he or she received pursuant to subdivision (b) of this section;

d. Provide annual training for every process server under its employ regarding compliance with all laws and regulations pertaining to the proper service of process, including, but not limited to, the preparation, notarization and filing of affidavits of service of process and other documents and the maintenance of records.

§20-406.3 Records. a. Every process server and process serving agency licensed under this subchapter shall retain records for no less than seven (7) years of each process served.

b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be required to retain records for no less than seven years pursuant to subdivision a of this section, but shall be required to comply with all applicable state laws pertaining to record keeping.

§20-406.4 Handbook. The commissioner shall develop a handbook to be distributed to all process servers and process serving agencies licensed under this subchapter. Such handbook shall contain, at a minimum, a statement of all laws and regulations pertaining to service of process in New York City.

§4. This local law shall take one hundred eighty days after enactment except that the commissioner of consumer affairs shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

Referred to the Committee on Consumer Affairs.

Int. No. 1038

By Council Members Garodnick, James, Koppell, Liu, Nelson, Vann and Gerson.

A Local Law to amend the administrative code of the city of New York, in relation to carbon monoxide and smoke detecting devices.

Be it enacted by the Council as follows:

Section 1. Subdivision (a) of section 27-2045 of the administrative code of the city of New York is amended by adding new paragraphs 6 and 7 to read as follows:

(6) notify deaf or hearing impaired tenants, in writing, of their right to have provided and installed one or more approved and operational smoke detecting devices in their dwelling unit, capable of alerting such tenant to a smoke hazard in such dwelling unit, at the commencement or renewal of a lawful occupancy.

(7) upon the request of a deaf or hearing impaired tenant, to provide and install, free of charge, one or more approved and operational smoke detecting devices in the dwelling unit of such tenant, capable of alerting such tenant to a smoke hazard in such dwelling unit.

§ 2. Section 27-2046 of the administrative code of the city of New York is amended by adding new paragraphs 5 and 6 to read as follows:

(5) notify deaf or hearing impaired tenants, in writing, of their right to have provided and installed one or more approved and operational smoke detecting devices in their dwelling unit, capable of alerting such tenant to a smoke hazard in such dwelling unit, at the commencement or renewal of a lawful occupancy.

(6) upon the request of a deaf or hearing impaired tenant, to provide and install, free of charge, one or more approved and operational smoke detecting devices in the dwelling unit of such tenant, capable of alerting such tenant to a smoke hazard in such dwelling unit.

§ 3. Subdivision (b) of section 27-2046.1 of the administrative code of the city of New York is amended by adding new paragraphs 7 and 8 to read as follows:

(7) notify deaf or hearing impaired tenants, in writing, of their right to have provided and installed one or more approved and operational carbon monoxide detecting devices in their dwelling unit, capable of alerting such tenant to a carbon monoxide hazard in such dwelling unit, at the commencement or renewal of a lawful occupancy.

(8) upon the request of a deaf or hearing impaired tenant, to provide and install, free of charge, one or more approved and operational carbon monoxide detecting devices in the dwelling unit of such tenant, capable of alerting such tenant to a carbon monoxide hazard in such dwelling unit.

§4. Subdivision (a) of section 27-2046.2 of the administrative code of the city of New York is amended by adding new paragraphs 5 and 6 to read as follows:

(5) notify deaf or hearing impaired tenants, in writing, of their right to have provided and installed one or more approved and operational carbon monoxide detecting devices in their dwelling unit, capable of alerting such tenant to a carbon monoxide hazard in such dwelling unit, at the commencement or renewal of a lawful occupancy.

(6) upon the request of a deaf or hearing impaired tenant, to provide and install, free of charge, one or more approved and operational carbon monoxide detecting devices in the dwelling unit of such tenant, capable of alerting such tenant to a carbon monoxide hazard in such dwelling unit.

§5. This local law shall take effect thirty days after enactment.

Referred to the Committee on Housing and Buildings.

Int. No. 1039

By Council Members Gennaro, Brewer, Felder, Fidler, Gentile, James, Koppell, Liu, Mealy, Nelson, Weprin, Vacca and Gerson.

A Local Law to amend the administrative code of the city of New York, in relation to requiring the Department of Finance to post on its website in a user-friendly format the amount of water liens imposed upon real property.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. The Council finds that by Local Law 68 of 2007, water lien sales were reauthorized for properties with delinquent water and sewer charges provided the water and sewer charges were delinquent for at least one year and equaled or exceeded \$1,000. The legislation included new restrictions on the Commissioner's authority to sell certain tax liens - restrictions that apply both to real property tax liens (for certain senior citizen, disabled and low income homeowners in Class 1) and to water and sewer liens (for any single family property in class 1 and for certain senior citizen, disabled and low income homeowners owning two or three-family property in Class 1). To ensure fair treatment to property owners, the local law included notice requirements and requirements concerning the advertising of lien sales. The advertisements are required to include a description, by block and lot or by such other identification as the Commissioner of Finance may deem appropriate, of the property upon which the tax lien exists that is included in the sale.

The Council further finds that notwithstanding the efforts undertaken to assure that property owners get adequate notice, potential purchasers did not receive suitable notification and additional measures are needed to facilitate fair notice to all. Therefore the Council finds that it is in the best interests of the City residents to require that the Department of Finance also post notice on its website of the properties subject to water and sewer lien sales.

§2 Section 11-320 of the administrative code of the city of New York is amended by adding a new subdivision c-1 to read as follows:

(c-1). Water and sewer liens to be posted on the website. a. In addition to any other notice provided to a property owner respecting the intention of the city of New York to sell a water and sewer lien, where a water and sewer bill remains unpaid and exceeds one thousand dollars, subject to the restrictions on sales of tax liens, the department shall also post notice that a property is subject to a water and sewer lien on its website no later than thirty days after such lien is imposed.

§2. This local law shall take effect ninety days after it is enacted into law, except that the commissioner of finance shall take such measures, including the promulgation of rules, as are necessary for its implementation prior to such effective date.

Referred to the Committee on Finance.

Res. No. 2053

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.8377/S.5640, legislation that would establish a subcommittee on green jobs workforce to conduct labor market data analysis, job training programs, education programs, and to create local green jobs corps.

By Council Members Gennaro, Lappin, Brewer, Fidler, Gonzalez, James, Recchia, Sanders, Vann, Weprin, White, Mark-Viverito, Gerson and Nelson.

Whereas, According to the United Nations Environment Program, green jobs can be defined as work in agricultural, manufacturing, research and development, administrative, and service activities that contribute substantially to preserving or restoring environmental quality; and

Whereas, Green jobs include work with renewable energy, new construction jobs for weatherization projects, rehabbing buildings for energy efficiency, the creation of better transit systems and new jobs in manufacturing and service industries re-engineered for a clean energy economy; and

Whereas, The Green Jobs Act, signed by President George W. Bush in December of 2007, established a program to train workers for “green collar jobs,” and authorized 125 million dollars to be used for workforce training programs targeted for veterans, displaced workers, at-risk youth and families in extreme poverty; and

Whereas, In February of 2009, the American Reinvestment and Recovery Act (AARA), signed into law by President Barack Obama, devoted 500 million dollars of the AARA funds to be used for the training and performance of green jobs; and

Whereas, Increasingly, states are taking it upon themselves to make America more energy efficient; and

Whereas, For instance, the state of Massachusetts passed the Massachusetts Green Jobs Act, which provides grant money to stimulate clean energy companies, to create green jobs and to provide job training programs to encourage access to new green jobs; and

Whereas, New York City has also launched initiatives, such as PlaNYC 2030, that will expand “green collar jobs” citywide by creating opportunities in green collar fields including urban forestry, renewable energy and storm water management; and

Whereas, According to the non-profit charitable organization PEW Charitable Trusts (PEW), in 2007, green jobs represented a fraction of all jobs in the United States, however between 1998 to 2007 green jobs grew by 9.1% compared to a 3.7% growth rate for total jobs; and

Whereas, However, PEW also reported that New York was one of nine states where the number of green jobs declined from 1998 to 2007; and

Whereas, The enactment of A.8377 and S.5640 would create a Green Jobs Workforce subcommittee under the State Workforce Investment Board to coordinate and encourage the development of green jobs in New York State; and

Whereas, The subcommittee would also be responsible for conducting labor market data analysis to help guide the development of new strategies to promote the growth of green industries in New York State; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.8377/S.5640, legislation that would establish a subcommittee on green jobs workforce to conduct labor market data analysis, job training programs, education programs, and to create local green jobs corps.

Referred to the Committee on Economic Development.

Res. No. 2054

Resolution in support of establishing March 31 as a national holiday honoring Cesar Chavez.

By Council Members Gonzalez, Barron, Brewer, Palma and Sanders.

Whereas, Cesar Chavez was a Mexican American farm worker, labor leader, civil rights activist, and environmentalist, who co-founded and led the first successful farm worker’s union in U.S. history; and

Whereas, Chavez was born on March 31, 1927 on a small farm near Yuma, Arizona that his grandfather homesteaded during the 1880s; and

Whereas, After losing their farm during the Depression, Chavez’s family worked as migrant workers, laboring in fields and vineyards, like other displaced families; and

Whereas, Chavez was 10 years old when he began working in the fields and was forced to leave school after the 8th grade to help support his family; and

Whereas, In 1952, Chavez became an organizer for the Community Service Organization (CSO), a barrio based group, where he coordinated voter registration drives, fought racial and economic discrimination, organized new CSO chapters across California and Arizona, and rose to become the CSO’s national director from 1958 to 1962; and

Whereas, After leaving the CSO, Chavez co-founded the United Farm Workers (UFW); and

Whereas, Under Chavez’s leadership, the UFW organized strikes and boycotts to protest for, and later win, higher wages for those farm workers in the grape and vegetable industries; and

Whereas, In 1966, Chavez led a historic 340-mile march in California, from Delano to Sacramento, calling on the state government to pass laws which would permit farm workers to organize into a union and allow collective bargaining agreements; and

Whereas, He also encouraged all Americans to boycott table grapes as a show of support for the workers; and

Whereas, By 1970, the national boycott forced the grape growers to sign union contracts for the first time; and

Whereas, In 1975, Cesar Chavez called for a new international boycott of grapes when table grape growers were not willing to renegotiate UFW contracts; and

Whereas, In that same year, the UFW was instrumental in the passage of the Agricultural Labor Relations Act, which became the first law governing farm labor in the continental United States; and

Whereas, Provisions of the Act were designed to protect the rights of farm workers to act together to help themselves, to engage in union organizational activity, and to select their own representatives to bargain with employers; and

Whereas, By the 1980s, tens of thousands of farm workers had won UFW contracts with higher wages, family health coverage, pension benefits and other contract protections; and

Whereas, Cesar Chavez and the UFW also challenged the use of child labor and sexual harassment of women workers, and campaigned against the use of toxic pesticides; and

Whereas, On April 23, 1993, Cesar Chavez died in his sleep in Arizona at the age of 66, and over 40,000 people attended his funeral; and

Whereas, Chavez received a number of honors in recognition of his outstanding leadership; and

Whereas, In 1991, he received the Aguila Azteca (The Aztec Eagle), Mexico’s highest award presented to people of Mexican heritage who have made major contributions outside of Mexico; and

Whereas, In 1994, Chavez posthumously received the Presidential Medal of Freedom, the highest civilian honor in the United States, from President Bill Clinton, and was the second Mexican-American to receive such an honor; and

Whereas, The United States Postal Service honored him with a postage stamp in 2003; and

Whereas, Many parks, cultural centers, libraries, schools, and streets have been named in his honor in cities across the country; and

Whereas, California and seven other states celebrate Cesar Chavez’s birthday on March 31st as a state holiday; and

Whereas, Cesar Chavez Day is intended to promote community service; and

Whereas, During the 2008 Presidential campaign, President Barack Obama expressed his support for a Cesar Chavez national holiday; and

Whereas, Chair of the Hispanic Congressional Caucus, Representative Joe Baca (D-CA), has sponsored H.R. 76, a resolution that encourages the establishment of a Cesar Chavez national holiday by the U.S. Congress, along with 62 co-sponsors, including Representatives Yvette Clarke (D-NY), Charles Rangel (D-NY), Jose Serrano (D-NY) and Nydia Velazquez (D-NY); and

Whereas, The late Senator Robert F. Kennedy called Cesar Chavez one of the most historic figures of our time; and

Whereas, Cesar Chavez made a significant impact in improving the lives of many Americans, and thus, should be recognized for his contributions by having a national holiday in his honor; now, therefore, be it

Resolved, That the Council of the City of New York supports establishing March 31 as a national holiday honoring Cesar Chavez.

Referred to the Committee on Cultural Affairs, Libraries & International Intergroup Relations.

Res. No. 2055

Resolution calling upon the New York State Legislature to create an Unemployed Rent Increase Exemption (URIE).

By Council Members Katz and Weprin.

Whereas, The current financial crisis has created dire economic times for New York City and its residents; and

Whereas, According to a June 19, 2009 New York Times article, the City's May 2009 unemployment rate was at 9 %, the highest in more than a decade; and

Whereas, The New York State Labor Department statistics indicate that as of May 2009, there were 361,000 unemployed people in New York City; and

Whereas, These statistics point to a continued contraction in New York City's job market; and

Whereas, The New York City Comptroller's Office estimates that by mid 2010 the number of unemployed residents could increase to 400,000; and

Whereas, While some attention and federal legislation has been focused on the consequences faced by home owners in difficult financial times, little has been mentioned about options for renters who face job loss; and

Whereas, New York City is home to millions of renters with over 1 million under rent stabilization; and

Whereas, The recent economic downturn has increased the amount of renters finding themselves unable to pay rent; and

Whereas, A May 5, 2009 New York Times article entitled "Once Very Good Renters Now Facing Eviction" outlines how unemployment trends are affecting so many in this City; and

Whereas, In 1970, the City and State enacted the Senior Citizen Rent Increase Exemption (SCRIE) which permits income eligible seniors to apply for exemption from future rent increase; and

Whereas, With the SCRIE model as precedent, and the current financial climate in mind, New York State should amend the Real Property Tax Law to provide municipalities the ability to extend such an exemptions to certain unemployed renters and protect them from losing their homes or living arrangements; and

Whereas, An Unemployed Rent Increase Exemption (URIE) could help provide a temporary rent freeze for those unemployed New Yorkers whose income is below a certain threshold; and

Whereas, By implementing URIE, the City can help to protect unemployed New Yorkers from facing increasing rents and adding to their burden when they can least afford such increases; and

Whereas, The Unemployed Rent Increase Exemption could provide a sunset clause of two years to provide state and local officials with time to re-evaluate its options; and

Whereas, Hundreds of thousands of New Yorkers are out of work and facing uncertain futures; and

Whereas, New York State can help to alleviate some of this uncertainty by allowing a period of time that would prevent or reduce the impact of a rent increase upon certain unemployed New Yorkers in the City; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to create an Unemployed Rent Increase Exemption (URIE).

Referred to the Committee on Housing and Buildings.

Int. No. 1040

By Council Members Lappin, Liu, Brewer, and Garodnick.

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

Be it enacted by the Council as follows:

Section 1. The preamble of subdivision b of section 19-128.1 is amended to read as follows:

b. Requirements. It shall be a violation for any person to place, install or maintain a newsrack on any sidewalk unless such newsrack is in compliance with the provisions of this section *and section 19-128.2 of this code.*

§ 2. Paragraph 6 of subdivision b of section 19-128.1 is amended to read as follows:

6. A newsrack shall not be placed, installed or maintained: (a) within fifteen feet of any fire hydrant; (b) in any driveway or within close proximity of any

driveway; (c) in any curb cut designed to facilitate street access by disabled persons or within two feet of any such curb cut; (d) within close proximity of the entrance or exit of any railway station or subway station; (e) within any bus stop; (f) within a crosswalk area; (g) within a corner area or within five feet of any corner area; (h) on any surface where such installation or maintenance will cause damage to or will interfere with the use of any pipes, vault areas, telephone or electrical cables or other similar locations; (i) on any cellar door, grating, utility maintenance cover or other similar locations; (j) on, in or over any part of the roadway of any public street; (k) unless eight feet of sidewalk width is preserved for unobstructed pedestrian passage; (l) in any park or on any sidewalk immediately contiguous to a park where such sidewalk is an integral part of the park design, such as the sidewalks surrounding Central Park or Prospect Park; (m) on any area of lawn, flowers, shrubs, trees or other landscaping or in such a manner that use of the newsrack would cause damage to such landscaping; [or] (n) where such placement, installation or maintenance endangers the safety of persons or property; *or (o) in violation of the provisions of section 19-128.2 of this code.* Any limitation on the placement or installation of newsracks pursuant to this paragraph shall be no more restrictive than necessary to ensure the safe and unobstructed flow of pedestrian and vehicular traffic, and otherwise to assure the safety of persons and property.

§ 3. Paragraph 3 of subdivision e of section 19-128.1 is amended to read as follows:

3. In no event shall the owner or person in control of a newsrack fail to keep such newsrack supplied with written matter for a period of more than seven consecutive days without securing the door so as to prevent the deposit of refuse therein. In no event shall such newsrack remain empty for a period of more than thirty consecutive days. *In the event that a publication space in a modular newsrack installed pursuant to section 19-128.2 of this code remains empty for more than thirty consecutive days, such publication shall be deemed to have abandoned such space and such modular newsrack's owner may offer the space to a new publication.*

§ 4. Subparagraph a of paragraph 1 of subdivision f of section 19-128.1 is amended to read as follows:

(a) Whenever any newsrack is found to be in violation of any provision of subdivision b [of this section] or paragraphs two, three, four or five of subdivision e of this section *or subdivisions f, g, h, i, j or k of section 19-128.2 of this code*, the commissioner shall issue a notice of correction specifying the date and nature of the violation and shall send written notification, by regular mail, to the owner or person in control of the newsrack. In addition, the commissioner may send a copy of such notice of correction to a person designated by such owner or person to receive such notice, and/or the commissioner may send such notice by electronic mail to such owner or such person specifying the date and nature of the violation. However, failure to send a copy by regular or electronic mail will not extend the time period within which such owner or other person is required by any provision of this section to take action, nor will such failure result in the dismissal of a notice of violation issued pursuant to any provision of this section. The commissioner shall cause photographic evidence of such violation to be taken *except for violations of subdivisions i, j or k of section 19-128.2 of this code.* Such evidence shall be sent by regular mail together with the notice of correction. Except as otherwise provided for the removal of refuse in paragraph two of subdivision e of this section, such person shall within seven business days from the date of receipt of notification via regular mail cause the violation to be corrected. For the purposes of this section, a notice of correction shall be deemed to have been received five days from the date on which it was mailed by the commissioner.

§ 5. Paragraph 2 of subdivision f of section 19-128.1 is amended by adding a new subparagraph c to read as follows:

(c) *If the board renders a decision upholding a violation of subdivision k of section 19-128.2 of this code against the respondent for unlawfully charging a fee for use of its modular newsrack, the board shall direct such respondent to refund all improperly charged fees and the board shall impose penalties in accordance with subdivision l of section 19-128.2 of this code.*

§ 6. Subparagraph a of paragraph 6 of subdivision f of section 19-128.1 is amended to read as follows:

(a) Any owner or person in control of a newsrack found to be in violation of any provisions of this section shall, after a board decision has been issued upon default or after a hearing, be subject to a civil penalty in the amount of (i) no less than fifty dollars and no more than one hundred dollars for each violation for a specific newsrack of any of the provisions of paragraphs two, three, four or five of subdivision e of this section [or], paragraph four of subdivision b of this section, except that a person found in violation of any of such provisions after a decision of the board issued on default shall be subject to a penalty of no less than one hundred dollars and no more than five hundred dollars; (ii) no less than five hundred dollars and no more than four thousand dollars for each violation of paragraph one of subdivision c of this section; and (iii) no less than one hundred dollars and no more than five hundred dollars for each violation of paragraphs one, two, three, five, six and seven of subdivision b of this section *or subdivisions f, g or h of section 19-128.2 of this code.*

§ 7. Chapter one of title 19 of the administrative code of the city of New York is amended by adding new section 19-128.2 to read as follows:

§19-128.2 *Modular newsracks.* a. *For the purposes of this section, the following terms shall be defined as follows:*

1. "Modular newsrack" shall mean a newsrack, as defined in paragraph one of subdivision a of section 19-128.1 of this code, that is designed with multiple enclosed compartments to accommodate the display, sale or distribution of multiple newspapers or other written matter to the general public.

2. "Modular newsrack owner" shall mean a person or other entity that owns a

modular newsrack.

3. "Modular newsrack plan" shall mean a plan submitted to the department pursuant to subdivision b of this section.

4. "Sidewalk block" shall mean the areas of sidewalk on two opposing block faces, spanning from one intersection to the next intersection. For example, the sidewalk areas on 42nd Street from First Avenue to Second Avenue shall constitute one sidewalk block.

5. "Single newsrack" shall mean a newsrack, as defined in paragraph one of subdivision a of section 19-128.1 of this code, that is designed to hold one publication.

6. "Single newsrack owner" shall mean a person or other entity that owns a single newsrack.

b. Submission of modular newsrack plan. A community board or business improvement district may submit a modular newsrack plan to the department to request replacement of single newsracks with modular newsracks in all or part of a community district or business improvement district. Such plan shall identify:

i. each sidewalk block where substituting modular newsracks for single newsracks will improve pedestrian flows and neighborhood aesthetics, including any documentation or findings that support the selection of such sidewalk block(s);

ii. the number of different publications on each sidewalk block identified in the plan;

iii. the number of publications that are offered at more than one single newsrack on each sidewalk block identified in the plan;

iv. how many publications could be accommodated by modular newsracks on each sidewalk block identified in the plan, which number shall not be less than the number of different publications identified in paragraph (ii) of this subdivision;

v. the proposed location(s) on each sidewalk block for each modular newsrack; and

vi. in cases where a modular newsrack will be filled to capacity, locations within the community district or business improvement district where additional modular newsracks could be placed if additional publications seek space, as well as locations where single newsracks can be placed by such additional publications until additional modular newsracks are made available.

c. Review of modular newsrack plan. Within 90 days of receiving a modular newsrack plan, the department shall hold a public hearing to determine whether to approve or disapprove of such plan, in conformance with section 1046 of the charter. Within 30 days of conducting such hearing, the department shall issue written approval or disapproval (or approval subject to modifications) of such plan. The department may only approve a modular newsrack plan after determining that:

i. sufficient newsrack space exists to accommodate all publications currently available on the sidewalk block(s) identified in the modular newsrack plan;

ii. in cases where a modular newsrack will be filled to capacity, locations exist where additional modular newsracks could be placed if additional publications seek space, as well as locations where single newsracks can be placed by such additional publications until additional modular newsracks are made available;

iii. every publication that is offered in a single newsrack on a particular sidewalk block prior to the submission of a modular newsrack plan will be offered in a modular newsrack on that same sidewalk block if such plan is approved;

iv. implementation of such plan will not obstruct pedestrian flow on the identified sidewalk block(s); and

v. the plan contains a mechanism that allows publications not currently available on the identified sidewalk block(s) to apply for, and without unreasonable delay, be granted authority to place such additional publications on the identified sidewalk block(s) in accordance with the provisions of this section.

d. The department maintains the right to modify a modular newsrack plan in order to ensure that the criteria contained in subdivision c of this section are satisfied, and to suspend or revoke such plan upon a determination by the commissioner that such plan is not being implemented in compliance with its terms and the provisions of subdivision c of this section.

e. A community board or business improvement district that has already obtained approval from the department to install modular newsracks need not submit a new modular newsrack plan pursuant to subdivision b of this section, provided, however, that the restrictions on the placement of single newsracks contained in subdivision j of this section shall not take effect in such community district or business improvement district until such community board or business improvement district submits a modular newsrack plan, and provided further that such community board or business improvement district must submit a modular newsrack plan in order to install any additional modular newsracks.

f. Modular newsracks shall be made of metal or fiberglass or any other thermal-resistant material approved by the department, except that the door may contain a plexiglass window. The maximum height of any modular newsrack shall be no taller than sixty and one-half inches. The maximum width of any such newsrack shall be eighty-eight and one-half inches. The maximum depth of any such newsrack shall be thirty-one and one-half inches. The uppermost horizontal surface of every modular newsrack shall be crowned, domed or slanted to allow water runoff and discourage the placement of litter. The modular newsrack shall display the name and phone number of the modular newsrack owner.

g. Modular newsracks shall be bolted to the sidewalk, except as otherwise provided by subdivision h of this section. Modular newsracks shall not be bolted onto any sections of a sidewalk that are defective according to department standards or any sidewalk determined by the department to be unsuitable for placement of modular newsracks because of public safety concerns. Chaining of modular

newsracks to trees, lampposts or other street furniture is prohibited.

h. Modular newsracks shall not be bolted to non-standard sidewalks including, but not limited to, granite, marble or bluestone sidewalks or sidewalks in historic districts as designated by the landmarks preservation commission. Modular newsracks may be secured on such non-standard sidewalks with a heavy base.

i. A publication shall not be placed in more than one space in any modular newsrack. A publication may be placed in two modular newsracks upon the same sidewalk block, provided that all other publications seeking a space in a modular newsrack at such sidewalk block have been offered such a space. If a publication is placed in two modular newsracks on the same sidewalk block and another publication seeks a space at such sidewalk block, the owner of the publication with two spaces at such sidewalk block shall decide which modular newsrack it will vacate.

j. Every single newsrack owner of a single newsrack located on the same sidewalk block as a modular newsrack placed on a sidewalk block under this section shall remove such single newsrack, except where insufficient modular newsrack space exists as described in paragraph (vi) of subdivision b of this section and paragraph (ii) of subdivision c of this section, within thirty days after receiving written notice from the modular newsrack owner that a modular newsrack plan has been approved and that modular newsracks are in operation in accordance with such plan. If any such single newsrack is not removed within such thirty day period, the commissioner shall immediately remove and store or cause to be removed and stored such single newsrack at such single newsrack owner's expense; provided, however, that the owner of such single newsrack shall be given reasonable opportunities to retake possession of such single newsrack. If any newsracks or contents thereof removed and stored pursuant to this subdivision are not claimed within one hundred and twenty days after such removal and storage, such newsracks or the contents thereof shall be deemed abandoned and may be either sold at public auction after having been advertised in the City Record, the proceeds thereof being paid into the general fund, used or converted for use by the department or another city agency or otherwise disposed of. No single newsrack shall be placed on the same sidewalk block as a modular newsrack except where insufficient modular newsrack space exists as described in paragraph (vi) of subdivision b of this section and paragraph (ii) of subdivision c of this section.

k. A modular newsrack owner shall bear the entire cost of maintaining its newsrack and shall not charge any fee to publications occupying a space in its modular newsrack, except for reasonable fees which must be approved by the department relating to the initial purchase of newsrack doors and repair or replacement of newsrack doors and door parts. Such fees may not exceed the cost of the initial purchase, repair or replacement of newsrack doors or door parts, as the case may be.

l. Pursuant to the violations process established under subdivision f of section 19-128.1 of this code, any modular newsrack owner that is found by the environmental control board to have violated the provisions of subdivision i or k of this section shall be subject to a fine of not less than five hundred dollars nor greater than one thousand dollars and the commissioner shall immediately remove or cause to be removed all of such owner's newsracks which are in violation and the contents thereof from any sidewalks for a period of three consecutive months; provided, however, that the removal of any modular newsrack from a sidewalk block pursuant to the provisions of this paragraph shall be deemed to suspend the prohibition against the placement of single newsracks on such sidewalk block contained in subdivision j of this section during the time of the absence of such modular newsrack. If any newsracks or contents thereof removed pursuant to this subdivision are not claimed within thirty days after the expiration of the three-month removal period, such newsracks or the contents thereof shall be deemed abandoned and may be sold at public auction after having been advertised in the City Record, the proceeds thereof being paid into the general fund, used or converted for use by the department or another city agency or otherwise disposed of.

m. Pursuant to the violations process established under subdivision f of section 19-128.1 of this code, any single newsrack owner that is found by the environmental control board to have violated the provisions of subdivision j of this section shall, in addition to the removal provisions of subdivision j, be subject to a fine of not less than five hundred dollars nor greater than one thousand dollars.

o. Nothing in this section shall preclude the immediate removal of a modular newsrack or a single newsrack when otherwise authorized by law.

§8. If any portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which shall continue in full force and effect.

§9. This local law shall take effect ninety days after it is enacted into law.

Referred to the Committee on Transportation.

Res. No. 2056

Resolution urging Puerto Rican Governor Luis Fortuño to meet with the labor unions representing Central government workers in Puerto Rico to discuss alternative solutions to the economic crisis and reduce the privatization of important government functions, for the benefit of all Puerto Ricans including the thousands who live in, or have relatives who live in, New York City.

By Council Members Mendez, Liu, Mark-Viverito, Barron, Brewer, Gonzalez, Jackson, Palma, Weprin and Gerson.

Whereas, Puerto Rico is a commonwealth under the sovereignty of the United States; and

Whereas, According to most recent data released by the U.S. Census Bureau for 2007, there are nearly 4 million people of Puerto Rican descent living in the United States, which represents 9 % of the entire U.S. Hispanic population; and

Whereas, Over 1 million people of Puerto Rican descent are living in New York State, of whom approximately 786,000 live in New York City; and

Whereas, People of Puerto Rican descent make up 35% of all Hispanics living in New York State, as well as 35% of all Hispanics living in New York City, representing the largest group of Hispanics living in both the City and State; and

Whereas, Puerto Rico is in its third year of recession and its government agencies are facing a \$3.2 billion budget deficit that would raise the cumulative deficit to \$21 billion, according to *The New York Times*; and

Whereas, To address the Commonwealth's budget crisis, on March 4, 2009, Luis Fortuño, Governor of Puerto Rico, introduced Public Law 7, "The Special Law Declaring a State of Fiscal Emergency and Establishing a Comprehensive Plan to Stabilize the Economy and Save Puerto Rico's Credit," which was passed in both the Commonwealth's House and Senate two days later; and

Whereas, Under Public Law 7, the government will lay off 30,000 or more public employees and freeze government salaries for 2 years beginning July 1, 2009; and

Whereas, Public Law 7 also suspends collective bargaining agreements between the Commonwealth and its employees' unions for 2 years, and would privatize essential public services; and

Whereas, The government is Puerto Rico's main employer and its employees make up approximately 21 to 24 percent of the work force on the island, so the layoffs would especially adversely impact the workers and their families, in addition to all other residents in need of public services; and

Whereas, Unions like the AFL-CIO, UAW and others strongly oppose Public Law 7, including the privatization of vital public services, and call upon the Governor to ensure that collective bargaining and other labor rights for workers are protected; and

Whereas, Union members are willing to participate in a dialogue with Governor Fortuño and contribute ideas that could possibly help stabilize the island's economy; and

Whereas, In January 2009, a coalition of unions presented to the Governor a set of alternate solutions to address the current economic crisis in Puerto Rico; and

Whereas, In May 2009, a delegation of New York Senators went to Puerto Rico and discussed the impact of Public Law 7 on workers in Puerto Rico, and were assured of the Governor's openness to discussing this issue with the unions; and

Whereas, On May 29, 2009, nearly 8,000 government workers were the first to lose their jobs and the layoffs were immediate for 4,000 of those workers, while the remaining employees will be dismissed by early July, according to the Associated Press; and

Whereas, Public Law 7 may have devastating consequences throughout the Puerto Rico, not only for the 30,000 workers whose jobs will be eliminated, but also for every Puerto Rican who relies on the critical services provided by the government; and

Whereas, This stabilization plan may lead to a deeper recession and increased unemployment; and

Whereas, The layoffs come as Puerto Rico faces an unemployment rate of nearly 15 percent, higher than anywhere on the U.S. mainland, according to the Associated Press; and

Whereas, The economic downturn in the United States has resulted in foreclosed properties, a volatile stock market, a decrease in consumer spending, and increased unemployment in the mainland, as well as in New York City; and

Whereas, The U.S. Department of Labor reported that the nation's unemployment rate rose to 6.7 percent in November 2008, and according to the New York State Department of Labor, the State's unemployment rate was 5.5 percent in October 2008, compared to 4.4 percent in October 2007, and New York City's unemployment rate in October was 5.7 percent, compared to 5.2 percent the previous year; and

Whereas, Since thousands of New Yorkers have relatives living in Puerto Rico, it is not unlikely that with increased unemployment on the island, New York City will see an influx of people coming from Puerto Rico to work, which may cause further strain on the City's economy; now, therefore, be it

Resolved, That the Council of the City of New York urges Puerto Rican Governor Luis Fortuño to meet with the labor unions representing Central government workers in Puerto Rico to discuss alternative solutions to the economic crisis and reduce the privatization of important government functions, for the benefit of all Puerto Ricans including the thousands who live in, or have relatives who live in, New York City.

Referred to the Committee on Cultural Affairs, Libraries & International Intergroup Relations.

Res. No. 2057

Resolution calling on the New York State Legislature to pass A. 07059, an act to amend the real property tax law, in relation to senior citizen water rate relief.

By Council Members Nelson, Felder, Gentile, Gonzalez, Liu, Vann, Weprin, James, Mark-Viverito, Stewart, Vacca, Gerson and Mitchell.

Whereas, The New York State Legislature is considering A. 07059, an act to amend the real property tax law, in relation to senior citizen water rate relief; and

Whereas, A. 07059 would give New York City the option to take into account any fee or assessment paid based on the metered use of water when computing an exemption under the Senior Citizen Real Property Tax Exemption program or the Senior Citizen Rent Increase Exemption (SCRIE) program; and

Whereas, SCRIE provides senior tenants with exemptions from future rent increases and provides landlords with a tax abatement which can be used to reduce property taxes; and

Whereas, On May 15, 2009, the New York City Water Board increased the water rate by 12.9 %, which will go into effect on July 1, 2009; and

Whereas, In the May 14, 2009 edition of the *New York Times*, it was reported that the 12.9% increase would cost the typical single-family homeowner \$900 annually compared to the \$800 annually that is currently paid; and

Whereas, The Independent Budget Office estimates that since 2001, the water rate has increased by 77%; and

Whereas, Senior citizens are considered to be a vulnerable population, particularly due to their low fixed incomes which directly affects their ability to afford basic necessities; and

Whereas, In 2006, the median household income for New York City's senior citizens was \$26,536 and continues to remain lower than the nation's median of \$30,200; and

Whereas, Additionally, in 2006, one-fifth of New Yorkers age 65 and older lived in poverty, compared to 9.9% nationwide, and about 20% of all elderly-headed households earned an annual income below \$10,000; and

Whereas, This legislation would provide additional relief for certain senior households as a tax offset from increasing water rates; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass A. 07059, an act to amend the real property tax law, in relation to senior citizen water rate relief.

Referred to the Committee on Aging.

Res. No. 2058

Resolution calling on the New York State Legislature to pass, and the Governor to sign, Assembly Bill A.3250, requiring the New York City Water Board to wait at least thirty days after the adoption of the New York City budget before setting its annual fees, rates, rents or other charges for the use of the sewerage system or water system, or both.

By Council Members Nelson, Brewer, Liu, Vann, Weprin, Mark-Viverito and Vacca.

Whereas, The New York City Water Board was established pursuant to the New York State Public Authorities Law; and

Whereas, The Public Authorities Law confers upon the New York City Water Board exclusive authority to establish, fix, raise, charge and collect all fees, rates, rents or other service charges for the use of the sewerage and water system; and

Whereas, This State law also requires the Water Board to hold public hearings in each borough of the City, prior to the fixing of these rates; and

Whereas, The New York City Water Board currently sets rates prior to the City Council's adoption of the budget, basing its rates on forecasts from the previous year and voting on them before proper oversight has been conducted; and

Whereas, This rate setting system does not create any incentive for the Department of Environmental Protection to be efficient, leading to artificially high rates and making it difficult for members of the public to adequately follow water issues and press for conservation, filtration avoidance and watershed protection; and

Whereas, Assembly Bill A.3250 would require the Water Board to wait at least 30 days after the adoption of the City's Budget to set its annual fees, rates, rents or other charges for the sewerage and water systems; and

Whereas, The bill would also allow the City Council to influence these rates, which could lead to the creation of greater incentives on the part of the Department of Environmental Protection to economize and to expand water conservation efforts; and

Whereas, Adoption of this bill would provide City residents with more opportunities to effectively voice their concerns about the Water Board's rates to local elected officials; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass, and the Governor to sign, Assembly Bill A.3250, requiring the New York City Water Board to wait at least thirty days after the adoption of the New York City budget before setting its annual fees, rates, rents or other charges for the use of the sewerage system or water system, or both.

Referred to the Committee on Environmental Protection.

Res. No. 2059

Resolution urging Congress to reintroduce and subsequently pass legislation that would restore a private right of action to individuals seeking to challenge violations of civil rights under federal regulations implementing Title VI of the Civil Rights Act of 1964.

By Council Members Seabrook and Stewart.

Whereas, In 1964, Congress enacted Title VI of the Civil Rights Act of 1964 to ensure that federal dollars would not be used to subsidize or support programs or activities that discriminated on racial, color or national origin grounds; and

Whereas, Under Title VI, federal departments and agencies, authorized to provide financial assistance to any program, are required to promulgate and implement regulations in order to effectuate Title VI; and

Whereas, In addition, covered federal departments and agencies are responsible for investigating complaints of discrimination on the basis of race, color, or national origin by programs that receive these funds; and

Whereas, The protections created by Title VI are far reaching because of the high number of state and local entities, as well as private institutions that receive federal dollars; and

Whereas, According to the Fiscal 2010 Executive Budget, released by the Mayor's Office of Management and Budget, New York City will have received \$6.2 billion in federal grants by the end of Fiscal Year 2009; and

Whereas, The Supreme Court in *Alexander v. Sandoval*, 532 U.S. 275 (2001), established a new precedent for the interpretation of statutory protections against discrimination; and

Whereas, In *Sandoval*, the Alabama Department of Safety, an office financially assisted by the United States Department of Justice (DOJ) and the Department of Transportation (DOT), decided to issue the state's driver's license test only in English; and

Whereas, In an effort to enjoin the Alabama Department of Safety's English-only policy, the *Sandoval* plaintiffs argued that the policy violated Title VI because it had the disparate impact of subjecting non-English speakers to national origin discrimination; and

Whereas, The Court in *Sandoval* held that there is no private right of action to enforce regulations implementing Title VI; and

Whereas, In interpreting the *Sandoval* decision, lower courts have also held that the regulations implementing Title VI do not contain enforceable rights; and

Whereas, The *Sandoval* decision is causing the end of private litigation that seeks to remedy a wide range of racially discriminatory practices; and

Whereas, In order to effectively enforce Title VI, it is necessary that a private right of action exist as a means to challenge all prohibited forms of discrimination, including those practices that have a disparate impact; and

Whereas, By legislating a private right of action to challenge disparate impact discrimination under Title VI, Congress would not expose covered entities to unfair findings of discrimination because the legal standard for disparate impact claims has never been based on numerical imbalance alone; and

Whereas, During the 110th Congressional session, identical bills were introduced in the House of Representatives and the Senate dispensing with a regulatory approach to racially disparate impact practices and restoring the ability of individuals to make disparate impact claims under the regulations implementing Title VI; and

Whereas, In 1963, President John F. Kennedy urged the enactment of Title VI and said that "[s]imple justice requires that public funds, to which all taxpayers of all races contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in racial discrimination;" and

Whereas, It is essential for Congress to act in order to ensure that all individuals will have a remedy if they are denied equal access to programs and services by practices of covered entities, resulting in discrimination; now, therefore, be it

Resolved, That the Council of the City of New York urges Congress to reintroduce and subsequently pass legislation that would restore a private right of action to individuals seeking to challenge violations of civil rights under federal regulations implementing Title VI of the Civil Rights Act of 1964.

Referred to the Committee on Civil Rights.

Int. No. 1041

By Council Members Sears, The Speaker (Council Member Quinn), and Council Members Weprin, Felder, Fidler, James, Liu, Mealy, Mitchell, Reyna, Dickens and Gonzalez.

A Local Law in relation to authorizing the commissioner of finance to establish a temporary program for the resolution of outstanding default judgments issued by the environmental control board.

Be it enacted by the Council as follows:

Section 1. Declaration of findings and legislative intent. The Council finds that too often notices of violation returnable to the environmental control board result in default judgments, payments for which remain uncollected; that the additional penalties for defaults create a special deterrence to payment in the present economic climate; that the city would benefit from the prompt and efficient resolution of such outstanding default judgments; that the environmental control board and the department of finance have embarked on a pilot program to permit respondents who are the subject of default judgments to resolve those judgments by admitting liability and paying the penalty associated with the underlying violation without paying an additional default penalty; that the results of that program show an expanded temporary default suspension program could enable respondents and the city to resolve many default judgments that would otherwise remain outstanding; that a temporary default resolution program is warranted for a period of ninety days; and that the city is now engaged in a comprehensive study that will, within the coming year, lead to a new approach to address permanently how to minimize the number of default judgments issued by the environmental control board and how best to collect and record debt created by the board's judgments.

§2. Temporary default resolution program.

a. For purposes of this section, the following definitions apply:

1. "Base penalty" means, with respect to any notice of violation returnable to the environmental control board, the penalty that would be imposed upon a timely admission by the respondent or finding of liability after a hearing, pursuant to the environmental control board penalty schedule, without regard to reductions of penalty in cases of mitigation or involving stipulations.

2. "Default judgment" means a judgment of the environmental control board, pursuant to subparagraph (d) of paragraph (1) of subdivision d of section 1049-a of the charter of the city of New York, determining a respondent's liability based upon that respondent's failure to plead within the time allowed by the rules of the environmental control board or failure to appear before the environmental control board on a designated hearing date or on a subsequent date following an adjournment.

3. "Default penalty" means a penalty imposed by the environmental control board, pursuant to section 1049-a of the charter of the city of New York, in the maximum amount prescribed by law for the violation charged.

4. "Environmental control board" means the environmental control board of the city of New York and its tribunal, as described in section 1049-a of the charter of the city of New York.

5. "Environmental control board penalty schedule" means the schedule of penalties adopted as a rule by the environmental control board or such predecessor schedule as may have applied on the date of the violation.

6. "Resolve" means, with respect to an outstanding judgment of the environmental control board, to conclude all legal proceedings in connection with a notice of violation.

7. "Respondent" means a person or entity named as the subject of a notice of violation returnable to, or a judgment issued by, the environmental control board, or such other person or entity who asserts legal responsibility for the liability of the person or entity named in the notice or the judgment.

8. "Temporary default resolution program" means the program authorized by this section.

b. Subject to an appropriate authorizing resolution of the environmental control board, and notwithstanding any other provision of law to the contrary, the commissioner of finance shall establish a temporary default resolution program for a ninety-day period, to be effective during the fiscal year of the city beginning July first, two thousand nine, to permit respondents who are subject to default judgments of the environmental control board to resolve such judgments by payment of base penalties without payment of default penalties and associated interest.

c. Eligibility to participate in the temporary default resolution program shall be restricted to respondents who are subject to default judgments of the environmental control board, and the program shall apply only to default judgments.

d. A respondent seeking to participate in the temporary default resolution program to resolve a default judgment arising out of a notice of violation that includes an order requiring the correction of a violation shall demonstrate to the satisfaction of the city agency issuing the notice of violation that the condition cited in the notice of violation has been corrected. A default judgment may not be resolved under the temporary default resolution program if the respondent seeking

the resolution cannot demonstrate that any correction required by an order has been made. Nothing contained herein shall require a city agency to issue or approve certificates of correction or the equivalent if such city agency does not have a program to do so as of the effective date of this local law.

e. A respondent seeking resolution of a default judgment under the temporary default resolution program shall admit liability for the violation. A default judgment may not be resolved under the temporary default resolution program if the respondent seeking resolution of the judgment fails or refuses to admit liability.

f. A respondent seeking resolution of a default judgment under the temporary default resolution program shall pay the base penalty for the violation that is the subject of the default judgment to be resolved. The base penalty amount shall be determined by referring to the environmental control board penalty schedule. A default judgment may not be resolved under the program unless the base penalty amount of the violation that is the subject of the default judgment can be determined from the notice of violation, default judgment and environmental control board penalty schedule alone.

g. A respondent's resolution of a default judgment under the temporary default resolution program shall constitute a waiver of all legal and factual defenses to liability for the judgment at issue. A judgment resolved under the temporary default resolution program shall have the same legal force and effect as any other judgment issued by the environmental control board.

h. A judgment of the environmental control board may not be resolved under the temporary default resolution program if the judgment was issued on or after May first, two thousand nine.

i. The duration of the program shall be ninety days, provided that the program shall be extended for a reasonable period to the extent necessary to permit participation by any respondent who made application for approval of a certificate of correction, or the equivalent, for a violation that is the subject of a default judgment to be resolved by this program from any city agency within ninety days of the commencement of the program, but whose application was approved after such ninety-day period. After the program has concluded, any default judgment that remains outstanding and has not been resolved by this program shall continue to have full legal effectiveness and enforceability regardless of whether it could have been resolved under this program.

j. The commissioner of finance shall publicize the temporary default resolution program provided in this section so as to maximize public awareness of and participation in such program.

§3. This local law shall take effect immediately.

Adopted by the Council (preconsidered and approved by the Committee on Governmental Operations).

Res. No. 2060

Resolution calling upon the New York State Legislature to pass and the Governor to sign A.7757 and S.4484, legislation that would amend the Public Health Law in relation to removing the need for health care providers to receive or provide separate written consent for the performance of an HIV test and provide counseling or referrals when a positive result is reported.

By Council Members Vann, Vallone Jr., White, Brewer, Liu, Palma and Mark-Viverito.

Whereas, The Centers for Disease Control and Prevention (CDC) estimate that nearly 56,300 individuals were infected with HIV throughout the United States in 2006 and that more than 1,106,400 people were living with HIV; and

Whereas, According to the New York City Department of Health and Mental Hygiene (DOHMH), New York City is the epicenter of the HIV/AIDS epidemic, with more than 100,000 New Yorkers living with HIV, and approximately one-fourth of such individuals do not know that they are infected; and

Whereas, DOHMH indicated that New York City has the highest AIDS case rate in the country, with more cases than Los Angeles, San Francisco, Miami and Washington, D.C. combined; and

Whereas, HIV/AIDS is a significant public health problem with major disparities among races, and DOHMH estimates that African Americans and Hispanics make up 80 percent of new AIDS diagnoses and deaths; and

Whereas, There are several evidence-based methods which influence HIV/AIDS mortality, including getting tested, knowing one's status, using condoms, expanding education and combating stigma; and

Whereas, In September 2006, the CDC revised their recommendations regarding HIV testing in health care settings, including advocating that screening be incorporated into the general consent for medical care, so as to remove the requirement for a separate written consent, as this was generally viewed as a barrier to widespread HIV screening; and

Whereas, These recommendations seek to routinize testing in health care settings, with a goal to expand the number of individuals who have been tested and made aware of their status in order to make better, more informed decisions; and

Whereas, The CDC also recommends that individuals at a high rate of infection be tested annually, that broad-based testing for patients ages 13 to 64 be offered in all health care settings, and that health care settings also offer opt-out screening; and

Whereas, New York State's current informed consent law was passed in the 1980s to protect people living with HIV/AIDS, and to ensure that these individuals were aware of their rights as patients as well as the risks associated with HIV; and

Whereas, While these are important purposes, HIV/AIDS care has evolved over the last thirty years and treatment options have improved, allowing people to live longer and more normal lives; and

Whereas, As of December 2006, thirty-eight states allowed oral consent for an HIV/AIDS test, rather than requiring a more cumbersome, separate written consent; and

Whereas, Research suggests that requiring a separate written consent is a barrier to testing as it affects not only the patient from receiving the test but may also influence the physician to not offer the test; and

Whereas, In a case study in San Francisco County Hospital in 2006, the hospital transitioned from written informed consent to documented oral consent, and the hospital experienced a 17 percent increase in the number of people tested for HIV and a 36 percent increase in the number of identified infections; and

Whereas, Legislation, A.7757 and S.4484, has been introduced in the New York State Legislature, by Assembly Member Annette Robinson and Senator Shirley Huntley, which would implement many of the CDC's recommendations, including eliminating separate written informed consent, testing all individuals between the ages of 13 and 64 who seek medical care and testing all high-risk individuals; and

Whereas, Enactment of this legislation would allow HIV/AIDS testing to become a more routine part of medical care and result in a greater number of New Yorkers getting tested, which would positively affect the number of earlier diagnoses and allow for more effective treatment options; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to sign A.7757 and S.4484, legislation that would amend the Public Health Law in relation to removing the need for health care providers to receive or provide separate written consent for the performance of an HIV test and provide counseling or referrals when a positive result is reported.

Referred to the Committee on Health.

Res. No. 2061

Resolution approving the new designation and changes in the designation of certain organizations to receive funding in the Fiscal 2008, Fiscal 2009, and Fiscal 2010 Expense Budgets.

By Council Member Weprin.

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

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

Whereas, On June 29, 2008, the City Council adopted the Fiscal 2009 Expense Budget with various programs and initiatives (the "Adopted Fiscal 2009 Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted Fiscal 2009 Budget by approving changes in the designation of certain organizations receiving youth discretionary funding; and

Whereas, On June 15, 2007, the City Council adopted the Fiscal 2008 Expense Budget with various programs and initiatives (the "Adopted Fiscal 2008 Budget"); and

Whereas, The City Council is hereby implementing and furthering the appropriations set forth in the Adopted Fiscal 2008 Budget by approving the new designation and changes in the designation of certain organizations receiving local and youth discretionary funding; now, therefore, be it

RESOLVED, That the City Council approves the new designation and changes in the designation of certain organizations receiving local discretionary funding in accordance with the Adopted Fiscal 2010 Budget as set forth in Chart 1, attached hereto as Exhibit A; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organizations receiving aging discretionary funding in accordance with the Adopted Fiscal 2010 Budget as set forth in Chart 2, attached hereto as Exhibit B; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organization receiving youth discretionary funding in accordance with the Adopted Fiscal 2010 Budget as set forth in Chart 3, attached hereto as Exhibit C; and be it further

Resolved, That the City Council approves changes in the designation of certain organization receiving youth discretionary funding in accordance with the Adopted Fiscal 2009 Budget as set forth in Chart 4, attached hereto as Exhibit D; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organization receiving local discretionary funding in accordance with the Adopted Fiscal 2008 Budget as set forth in Chart 5, attached hereto as Exhibit E; and be it further

Resolved, That the City Council approves the new designation and changes in the designation of certain organization receiving youth discretionary funding in accordance with the Adopted Fiscal 2008 Budget as set forth in Chart 6, attached hereto as Exhibit F.

Adopted by the Council (preconsidered and approved by the Committee on Finance; for text of exhibits, please see the Attachment to Res No. 2061 in the Reports of the Committee on Finance for Res No. 2061 printed in these Minutes).

L.U. No. 1134

By Council Member Weprin:

368 East 8th Street, Manhattan, Council District No. 2

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 1135

By Council Member Weprin:

72 Clinton Street, Manhattan, Council District No.1

Adopted by the Council (preconsidered and approved by the Committee on Finance).

L.U. No. 1136

By Council Member Katz:

Application no. C 090272 ZMK submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section No. 28d.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1137

By Council Member Katz:

Application no. N 090273 (A) ZRK submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, and proposed for modification pursuant to Section 2-06(c) (1) of the Uniform Land Use Review Procedure, for an amendment of the Zoning Resolution of the City of New York, relating to the creation of the Special Coney Island District (Article XIII, Chapter 1), Borough of Brooklyn, Community District 13.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1138

By Council Member Katz:

Application no. C 090274 POK submitted by the Department of Citywide Administrative Services (DCAS) and the Department of Small Business Services (SBS), pursuant to Section 197-c of the New York City Charter, for the acquisition of property located at Block 7074, Lots 4, 6, p/o 23, 89,

p/o 105, 254, p/o 310, 340, 348 and p/o 360, Block 8694, Lot 1, 5, 11, 12, 14, 16, 18, 25, 30, 33, and 421, Block 8695, Lot 61, 64, p/o 72, p/o 120, and p/o 433, and Block 8696, Lots 35, 37, 44, 47, 48, 49, 50, 53, p/o 70, p/o 140, p/o 145, p/o 212.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1139

By Council Member Katz:

Application no. C 090275 POK submitted by the Department of Housing Preservation and Development, pursuant to Section 197-c of the New York City Charter for the acquisition of property located at West 19th Street and Surf Avenue (Block 7060, Lots 19, 20, and 31), Community District 13, Borough of Brooklyn.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1140

By Council Member Katz:

Application no. C 090276 HAK submitted by the Department of Housing Preservation and Development (HPD) pursuant to Article 16 of the General Municipal Law of New York State for an Urban Development Action Area and an Urban Development Action Area Project for such area; pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD to facilitate mixed residential and commercial development on properties located within the proposed 19-block Coney Island rezoning area located in Community District 13, Brooklyn.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1141

By Council Member Katz:

Application no. C 090277 PPK submitted by the Department of Citywide Administrative Services (DCAS) and the Department of Small Business Services (SBS), pursuant to Section 197-c of the New York City Charter, for the disposition of city-owned property pursuant to zoning, located at Block 7074 Lots, 4, 6, p/o 20, p/o 23, 89, p/o 105, 170, p/o 190, 250, 254, p/o 256, 300, p/o 310, 340, 348, p/o 360, Block 8694 Lots 1, 5, 11, 12, 14, 16, 18, 25, 30, 33, 421, Block 8695, Lots 61, 64, p/o 72, p/o 120, p/o 433, and Block 8696 Lots 35, 37, 44, 47, 48, 49, 50, 53, p/o 70, p/o 140, p/o 145, 211, p/o 212.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1142

By Council Member Katz:

Application no. C 090107 MMK submitted by the Department of City Planning, Department of Parks and Recreation, and the New York City Economic Development Corporation, pursuant to Sections 197-c and 199 of the New York City Charter, and Section 5-430 et seq., of the New York City Administrative Code, for an amendment to the City Map, Community District 13, Borough of Brooklyn.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1143

By Council Member Katz:

Uniform land use review procedure application no. C 090220 PPM, pursuant to §197-c and §197-d of the New York City Charter concerning the disposition of two city-owned properties, located at Piers 92 and 94, Borough of Manhattan, Council District no. 3. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d(b)(2) of the Charter or called up by vote of the Council pursuant to §197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1144

By Council Member Katz:

Uniform land use review procedure application no. C 090221 ZSM, pursuant to §197-c and §197-d of the Charter of the City of New York concerning a special permit pursuant to Section 74-41 of the Zoning Resolution, Borough of Manhattan, Council District no. 3, to facilitate a proposed trade exposition facility. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Planning Dispositions and Concessions.

L.U. No. 1145

By Council Member Katz:

Uniform land use review procedure application no. C 090222 ZSM, pursuant to §197-c and §197-d of the Charter of the City of New York concerning a special permit pursuant to Section 62-342 of the Zoning Resolution, Borough of Manhattan, Council District no. 3, to facilitate a proposed trade exposition facility. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1146

By Council Member Katz:

Application no. N 090223 ZAM pursuant to §197-d of the Charter of the City of New York concerning authorizations pursuant to Sections 62-722(a) and 62-722(b) of the Zoning Resolution, Borough of Manhattan, Council District no. 3, to facilitate proposed trade exposition facility. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d (b)(2) of the Charter or called up by vote of the Council pursuant to §197-d (b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1147

By Council Member Katz:

Uniform land use review procedure application no. C 090320 PPQ, pursuant to §197-c and §197-d of the New York City Charter concerning the disposition of nine city-owned properties, located in the College Point Corporate Park, Borough of Queens, Council District no. 19. This application is subject to review and action by the Land Use Committee only if appealed to the Council pursuant to §197-d(b)(2) of the Charter or called up by vote of the Council pursuant to §197-d(b)(3) of the Charter.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

L.U. No. 1148

By Council Member Katz:

Application no. N 090335 ZRK submitted by the Department of City Planning pursuant to Section 201 of the New York City Charter, for an amendment of the Zoning Resolution of the City of New York, relating to Article II, Chapter 3 (Bulk regulations for Residential Buildings in Residence Districts), Section 23-90, inclusive, relating to the application of the Inclusionary Housing Program to proposed R7A districts.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1149

By Council Member Katz:

Application no. C 090336 ZMK submitted by the Department of City Planning pursuant to Sections 197-c and 201 of the New York City Charter for an amendment of the Zoning Map, Section Nos. 16d, 17b, 22c, & 23a.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1150

By Council Member Katz:

Application no. N 090262 ZRM submitted by the Port Authority of New York and New Jersey, pursuant to Section 201 of the New York City Charter for an amendment of the Zoning Resolution of the City of New York relating to Section 74-62 (Railroad Passenger Stations) in Community Districts 4 and 5, Borough of Manhattan.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1151

By Council Member Katz:

Application no. C 090263(A) ZSM submitted by the Port of Authority of New York and New Jersey and the New Jersey Transit pursuant to Sections 197-c and 201 of the New York City Charter and proposed for modification pursuant to Section 2-06(c)(1) of the Uniform Land Use Review Procedure for the grant of a special permit pursuant to Section 74-62(b)* of the Zoning Resolution to allow: the construction of a railroad passenger station and ventilation facilities and to modify the height and setback requirements of Section 43-43.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1152

By Council Member Katz:

Application no. C 090263 ZSM submitted by the Port of Authority of New York and New Jersey and the New Jersey Transit pursuant to Sections 197-c and 201 of the New York City Charter for the grant of a special permit pursuant to Section 74-62(b)* of the Zoning Resolution to allow: 1. to allow the construction of a railroad passenger station and ventilation facilities and. to modify the height and setback requirements of Section 43-43.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1153

By Council Member Katz:

Application no. 20095410 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Ali Baba’s Terrace Inc., to establish, maintain and operate an unenclosed sidewalk café located at 862 Second Avenue, Borough of Manhattan, Council District no. 4. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1154

By Council Member Katz:

Application no. 20095438 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition of Copel 2007 Inc., to establish, maintain and operate an unenclosed sidewalk café located at 39 East 19th Street, Borough of Manhattan, Council District no. 2. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1155

By Council Member Katz:

Application no. 20095223 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for Groove Enterprises Inc., d.b.a. The Groove, to establish, maintain and operate an unenclosed sidewalk café located at 125 Macdougall Street (Block 543, Lot 60), Borough of Manhattan, Council District no.3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1156

By Council Member Katz:

Application no. 20095172 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for Lucky 13 LLC d.b.a. Gin Lane, to establish, maintain and operate an unenclosed sidewalk café located at 355 West 14th Street (Block 738, Lot 8), Borough of Manhattan, Council District no.3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1157

By Council Member Katz:

Application no. 20095437 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for Chez Josephine, Ltd. d.b.a. Chez Josephine, to establish, maintain and operate an unenclosed sidewalk café located at 414 West 42nd Street (Block 1051, Lot 40), Borough of Manhattan, Council District no.3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1158

By Council Member Katz:

Application no. 20095246 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for La Meridiana, LTD d.b.a. Pizza from Naples, to continue to maintain and operate an unenclosed sidewalk café located at 26-28 Carmine Street (Block 527, Lot 69), Borough of Manhattan, Council District no.3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1159

By Council Member Katz:

Application no. 20095379 TCM, pursuant to §20-226 of the Administrative Code of the City of New York, concerning the petition for SLP Management Inc. d.b.a. The Slaughtered Lamp Pub, to establish, maintain and operate an unenclosed sidewalk café located at 182 West 14th Street (Block 590, Lot 73), Borough of Manhattan, Council District no.3. This application is subject to review and action by the Land Use Committee only if called-up by vote of the Council pursuant to Rule 11.20b of the Council and §20-226(g) of the New York City Administrative Code.

Referred to the Committee on Land Use and the Subcommittee on Zoning and Franchises.

L.U. No. 1160

By Council Member Katz:

Uniform land use review procedure application no. C 070429 MMQ, pursuant to Sections 197-c and 197-d of the New York City Charter, changes to the City Map, Borough of the Bronx, Council District no. 29. This matter is subject to Council Review and action only if appealed to the Council pursuant to §197-d(b)2 of the Charter or called up by a vote of the Council pursuant to §197-d(b)3 of the Charter and Section 11.20 of the Rules of the Council.

Referred to the Committee on Land Use and the Subcommittee on Planning, Dispositions and Concessions.

At this point the Speaker (Council Member Quinn) made the following announcements:

ANNOUNCEMENTS:

Wednesday, July 1, 2009

★ *Addition*

Subcommittee on ZONING & FRANCHISES10:00 A.M.
See Land Use Calendar Available in Room 5 City Hall
Council Chambers – City Hall..... Tony Avella, Chairperson

Monday, July 27, 2009

Subcommittee on **ZONING & FRANCHISES****9:30 A.M.**
See Land Use Calendar Available Wednesday, July 22, 2009, in Room 5 City Hall
Committee Room – City Hall Tony Avella, Chairperson

Subcommittee on **LANDMARKS, PUBLIC SITING & MARITIME USES**.....**11:00 A.M.**
See Land Use Calendar Available Wednesday, July 22, 2009, in Room 5 City Hall
Committee Room – City HallJessica Lappin, Chairperson

Subcommittee on **PLANNING, DISPOSITIONS & CONCESSIONS**..... **1:00 P.M.**
See Land Use Calendar Available Wednesday, July 22, 2009, in Room 5 City Hall
Committee Room – City HallDaniel Garodnick, Chairperson

Tuesday, July 28, 2009

Committee on **CIVIL SERVICE AND LABOR**.....**10:00 A.M.**
Int 992-A - By Council Members de Blasio, Sears, Vallone, Jr., Jackson, Avella, Yassky, Fidler, Gonzalez, James, Koppell, Liu, Mealy, Nelson, Recchia, Jr., Reyna, Seabrook, Stewart, Weprin, Katz, Sanders Jr. and Gerson - A Local Law to amend the administrative code of the city of New York in relation to residency requirements for city employees.
M-1466 - Communication from the Mayor - Mayors veto and disapproval message of Introductory Number 992-A, in relation to the residency requirement for city employees.
Council Chambers – City Hall Miguel Martinez, Chairperson

Committee on **LAND USE**.....**10:00 A.M.**
All items reported out of the subcommittees
AND SUCH OTHER BUSINESS AS MAY BE NECESSARY
Committee Room – City Hall Melinda R. Katz, Chairperson

Wednesday, July 29, 2009

Stated Council Meeting..... *Ceremonial Tributes – 1:00 p.m.*
..... *Agenda – 1:30 p.m.*

On motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) declared the Meeting in recess.

THE COUNCIL

Minutes of the
RECESSED MEETING

of
Tuesday, June 30, 2009
held on

Wednesday, July 29, 2009, 2:50 p.m.

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

Council Members

Christine C. Quinn, Speaker

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

The Public Advocate (Ms. Gotbaum) was not present at this Recessed Meeting. The Deputy Majority Leader (Council Member Comrie) assumed the chair as the President Pro Tempore and Acting Presiding Officer for these brief proceedings.

There is presently a vacancy in the 10th Council District following the July 14, 2009 resignation of Council Member Miguel Martinez.

The presence of a quorum was announced by the City Clerk and Clerk of the Council (Mr. McSweeney).

There were 50 Council Members present at this Recessed Meeting held on July 29, 2009.

This Recessed Meeting held on July 29, 2009 is the continuation of the Stated Council Meeting held on June 30, 2009.

Whereupon on motion of the Speaker (Council Member Quinn), the President Pro Tempore (Council Member Rivera) adjourned this Recessed Meeting of June 30, 2009 held on July 29, 2009 in order to immediately open the regularly scheduled Stated Council Meeting of July 29, 2009.

MICHAEL M. McSWEENEY, City Clerk
Clerk of the Council

***Editor's Local Law Note:** Int Nos. 927-A, 940, 979, 1001-A, 1002, 1003-A, 1005, 1007 (adopted by the Council at the Stated Council Meeting of June 10, 2009) and Int Nos. 1009, 1010-A, 1011, 1012, and 1026 (adopted at the Recessed Council Meeting of June 10, 2009 held on June 19, 2009) were signed by the Mayor into law on June 29, 2009, as respectively, Local Law Nos. 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44 of 2009. Int Nos. 1022, 1033, and 1041 (adopted by the Council at the Stated Council Meeting of June 30, 2009) were signed by the Mayor into law on July 17, 2009 as, respectively, Local Law Nos. 45, 46, and 47 of 2009. Int No. 992-A (adopted by the Council at the Stated Council Meeting of June 10, 2009 held on June 19, 2009) became local law upon the July 29, 2009 override by the Council of the Mayor's June 29, 2009 veto and was subsequently assigned as Local Law 48 of 2009. Int No. 1030 (adopted by the Council at the Stated Council Meeting of June 30, 2009) became Local Law 49 of 2009 on July 31, 2009 pursuant to the City Charter due to the lack of Mayoral action within the Charter-prescribed thirty day time period (returned unsigned).*



