

SEWARD PARK MIXED-USE DEVELOPMENT RFP

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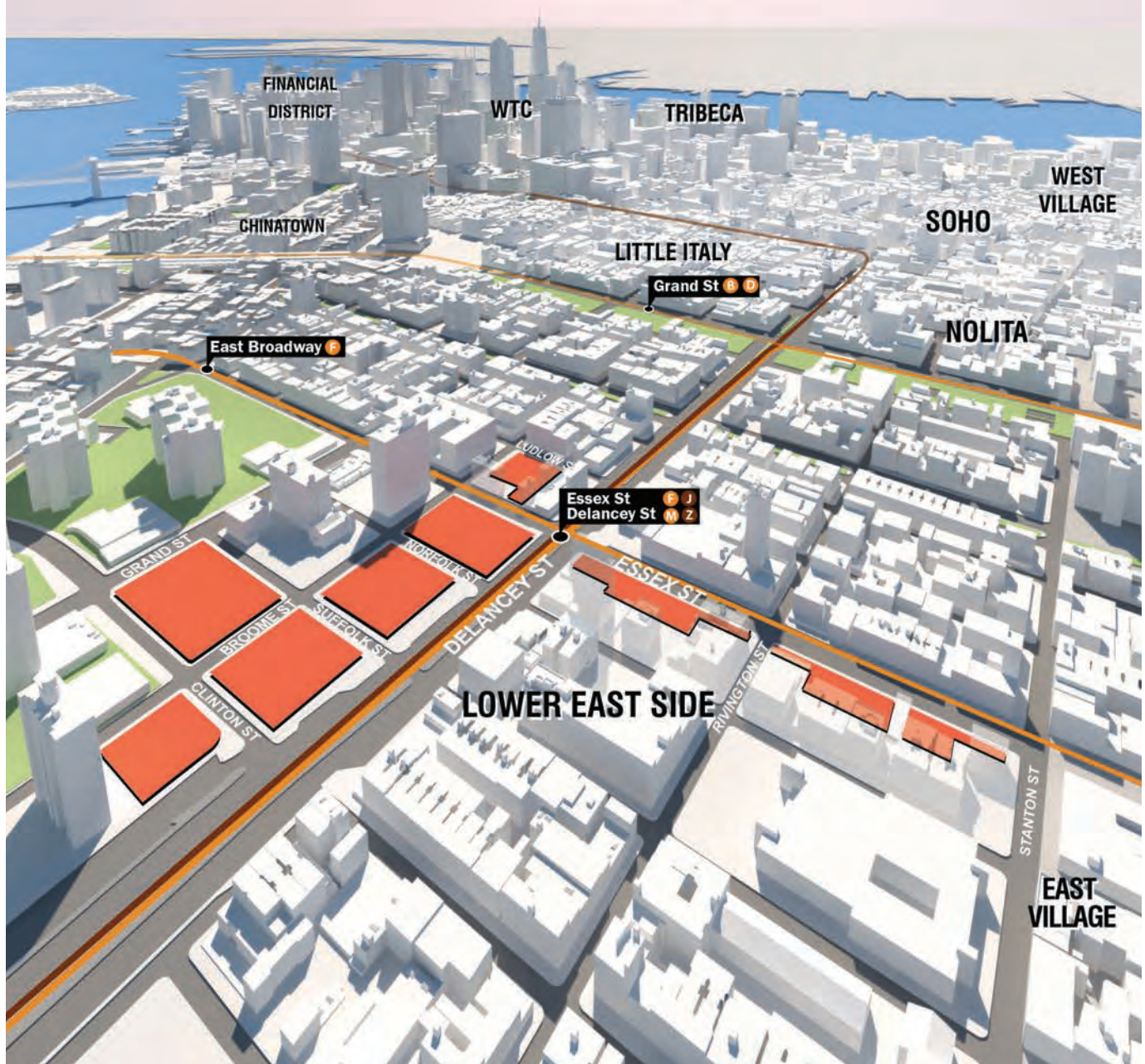


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EXECUTIVE SUMMARY

The New York City Economic Development Corporation (“NYCEDC”) and the New York City Department of Housing Preservation and Development (“HPD”) are pleased to issue this Request for Proposals (“RFP”) for the redevelopment of nine parcels with full land use approvals, that are owned by the City of New York (the “City”) and located on over six acres on the Lower East Side of Manhattan. This project is an historic opportunity to build and operate an approximately 1.65 million square foot development (the “Project”) on the largest contiguous parcel of underdeveloped City-owned land in Manhattan south of 96th Street, which has been a void in the urban fabric for 45 years.

Proposals will be accepted to develop and operate the entire Project or portions thereof (“Proposal(s)”). The Project is envisioned to contain a vibrant mix of uses, including residential, commercial and community facilities; a locally-oriented, publicly-accessible open space; a new and expanded Essex Street Market; and underground parking, while setting aside space for the potential future development of a new school.

Through a close partnership with the local community, the final Uniform Land Use Review Procedure (“ULURP”) approval, detailed in Appendix A, for this historic Project was obtained on October 11, 2012 (“ULURP Approval”). Development entities that submit Proposals (“Respondents”) must integrate the ULURP Approval parameters into a creative and transformative development. The ULURP Approval allows for a ratio of approximately 60% housing to 40% commercial space. Community facility space is also encouraged. The Project must create 1,000 residential units: 50% market rate units and 50% affordable units. The Project may also include a dynamic range of commercial uses. Additionally, Parcels 1-6 are part of a Large Scale General Development zoning plan (“LSGD”) which promotes flexibility by allowing developers to shift limited bulk across the Project within building envelopes.

A competitive response to this RFP must describe a plan to accomplish the following goals (the “Project Goals”):

- Create a thriving mixed-use, mixed-income development including permanently affordable housing available to a range of incomes;
- Plan and execute a financially feasible development that ensures the project requirements will be achieved;
- Incorporate design excellence in the site plan and building designs to encourage active street life, thriving retail and creative integration of the Project into the local context;
- Develop the Project in a manner that responds to the needs of the vibrant and diverse Lower East Side community and promotes openness and interaction through its amenities, urban design, and proposed partnership programs;
- Generate returns to the City through the Project’s purchase price and new tax revenue attributable to the Project;
- Expand and preserve quality jobs and maximize permanent employment opportunities for the City’s low-income persons.

The nine City-owned parcels are located near the intersection of Essex Street and Delancey Street, as shown on the Location Map on page 4, and together are over six acres in size (collectively, the “Project Site”; individually, the “Parcel(s)”). Respondents are permitted to submit Proposals for a single Parcel, a subset of Parcels or the entire Project Site.

Neither HPD nor New York City Housing Development Corporation (“HDC”) subordinate loan subsidy will be provided to support the Project (“HPD/HDC Subsidy”), but other benefits in the form of tax

abatements and exemptions, low-cost financing, and energy savings programs described in Appendix B may be available to compliant developments.

NYCEDC and HPD's close partnership with the community is continuing through the RFP process. The community criteria on pages 17-18, which were developed in conjunction with this RFP, will be considered in the selection of a Developer.

Respondents may consist of an individual development entity or a team of development entities. Respondent's Proposals are due by hand or Express Mail or other nationally-known overnight courier on Monday, May 6, 2013 at 4:00PM. Interviews and negotiations will continue through the summer of 2013. The Respondent(s) selected to develop the Project is/are referred to herein as the "Developer(s)." It is anticipated that the Developer(s) will be selected by fall of 2013.

PROJECT SITE DESCRIPTION

Parcels

Nine City-owned Parcels collectively form the Project Site.¹ These Parcels are individually described and defined below.

Parcel 1: 236 Broome Street (Manhattan Block 409, Lot 56), is an irregularly-shaped lot entirely occupied by a New York City Department of Transportation (“DOT”) 65-space municipal parking lot. It is bounded by Broome, Essex, and Ludlow Streets. (“Parcel 1”)

Parcel 2: 80 Essex Street and 85 Norfolk Street (Manhattan Block 352, Lots 1 and 28) occupy the entire block bounded by Essex, Delancey, Norfolk, and Broome Streets. The Parcel contains a one-story commercial building along its Essex Street frontage. Most of the building is vacant with the exception of a liquor store and diner on Delancey Street. The remainder of the Parcel is used for fleet parking by HPD. (“Parcel 2”)

Parcel 3: 135-147 Delancey Street (Manhattan Block 346, p/o Lot 40), occupies the entire block bounded by Norfolk, Delancey, Suffolk, and Broome Streets. The Parcel is entirely occupied by a parking lot that contains approximately 170 public parking spaces. (“Parcel 3”)

Parcel 4: 153-163 Delancey Street (Manhattan Block 346, p/o Lot 40), occupies the entire block bounded by Suffolk, Delancey, Clinton, and Broome Streets. The Parcel is entirely occupied by a parking lot that contains approximately 125 commercial parking spaces for area businesses. (“Parcel 4”)

Parcel 5: 394-406 Grand Street (Manhattan Block 346, p/o Lot 40), occupies the entire block bounded by Suffolk, Broome, Clinton, and Grand Streets. The Parcel currently contains three buildings: a 5-story, 10-unit residential building on Grand Street under the jurisdiction of HPD with seven occupied units and with a small non-profit on the ground-floor; a 3-story building on Grand Street with one ground-floor store that is vacant on the upper levels; and a former fire station on Broome Street currently used as a storage facility. The remainder of the Parcel is occupied by a public parking lot with approximately 90 spaces. (“Parcel 5”)

Parcel 6: 178 Broome Street (Manhattan Block 347, Lot 71), occupies the westernmost 146 feet of the block bounded by Clinton, Delancey, Ridge, and Broome Streets. The Parcel is entirely occupied by a public parking lot with approximately 48 spaces. (“Parcel 6”)

Parcel 8: 140 Essex Street (Manhattan Block 354, Lot 1), has approximately 225 ft. of frontage on Essex Street, 10 ft. of frontage on Rivington Street, and extends 70 ft. into the block on the northern edge of the Parcel. The Parcel is occupied by a vacant building that serves as a garbage room for the Essex Street Market. (“Parcel 8”)

Parcel 9: 116 Delancey Street (Manhattan Block 353, Lot 44), has approximately 400 ft. of frontage on Essex Street, 45 ft. of frontage on Delancey Street, 20 ft. of frontage on Rivington Street, and extends 70 ft. into the block in the center of the lot. The Parcel is occupied by the Essex Street Market, which is a

¹ Parcel 7: 112 Ludlow Street (Manhattan Block 410, Lot 38), a municipal parking garage, was previously considered for redevelopment as part of the initial community planning process which commenced in 2008. However, Parcel 7 is not included in this Project or the Project Site. (“Parcel 7”)

Parcel Locations

Parcel Sites

- ① 236 Broome St (Block 409, Lot 56)
- ② 80 Essex St/85 Norfolk St (Block 352, Lot 1/28)
- ③ 135-147 Delancey Street (Block 346, part of Lot 40)
- ④ 153-163 Delancey Street (Block 346, part of Lot 40)
- ⑤ 394-406 Grand Street (Block 346, part of Lot 40)
- ⑥ 178 Broome St (Block 347, Lot 71)
- ⑧ 140 Essex St (Block 354, Lot 1)
- ⑨ 116 Delancey St (Block 353, Lot 44)
- ⑩ 121 Stanton St (Block 354, Lot 12)



NYCEDC MGIS 12/14/12

public market with a variety of vendors, products (including fresh and prepared foods), price points and stall sizes, that serves as a local market for everyday shopping as well as a destination (“Essex Street Market”). The Essex Street Market currently consists of approximately 15,000 sq. ft. of market space. The building also contains separate retail and restaurant spaces. (“Parcel 9”)

Parcel 10: 121 Stanton Street (Manhattan Block 354, Lot 12), has approximately 150 ft. of frontage on Essex Street, 20 ft. of frontage on Stanton Street, and extends 70 ft. into the block on the southern edge of the lot. The Parcel is occupied by a health clinic run by the Community Healthcare Network (“CHN”). (“Parcel 10”)

Information pertaining to the existing tenants on the nine City-owned Parcels can be found in the Disposition section on pages 30-31 (“Existing Tenants”).

Project Site History

Today the Project Site is a mix of parking facilities and low-scale buildings with a variety of uses, but historically the Project Site and the area to the east and south of the Project Site was a densely populated neighborhood characterized by four- to six-story tenement buildings.

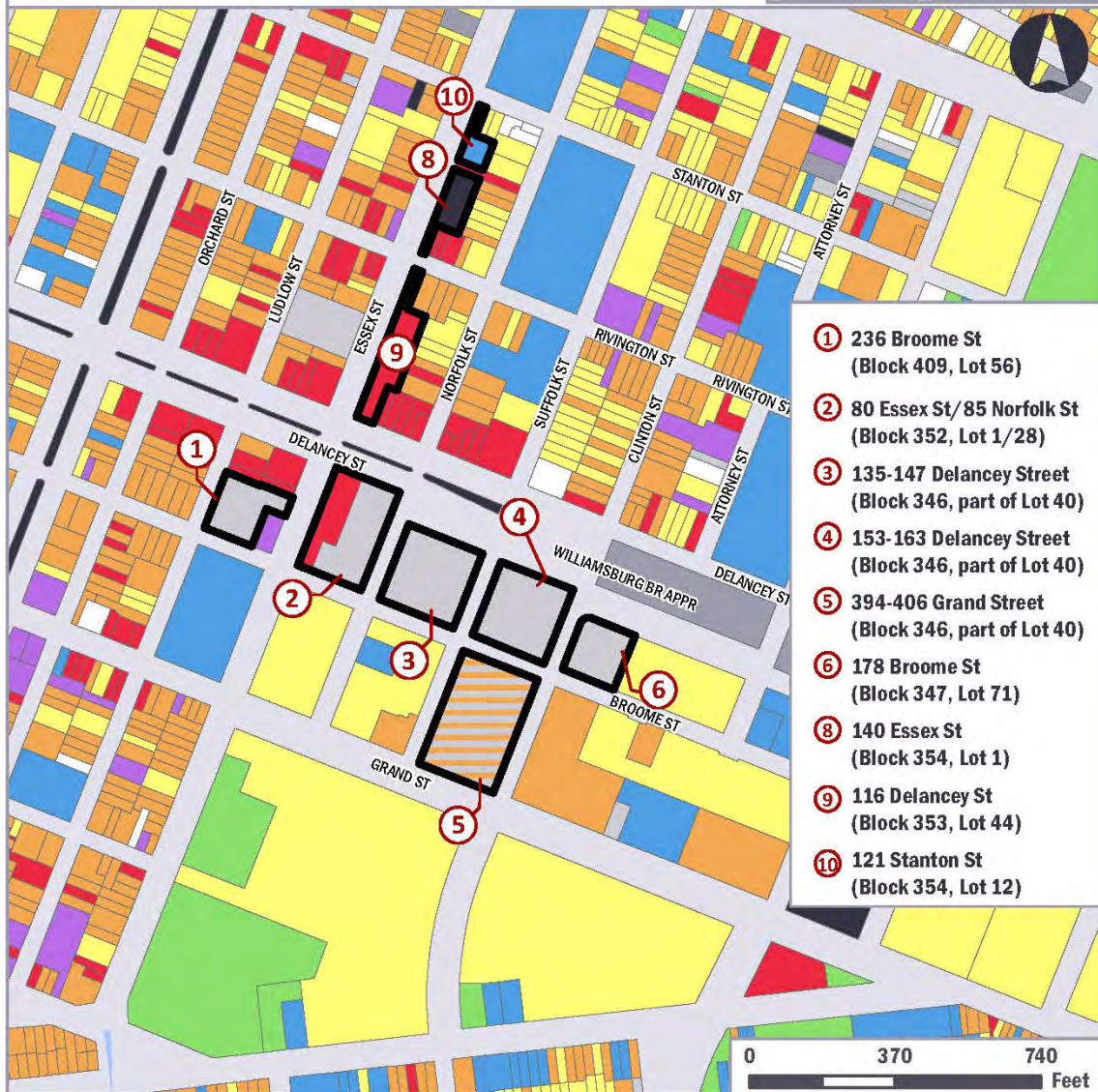
In 1955, the Mayor’s Committee on Slum Clearance designated the triangular area bordered by Essex Street, Grand Street, and East Broadway, as the Seward Park Urban Renewal Area (“SPURA”). The existing buildings within SPURA were demolished and four large, tower-in-the-park style cooperative apartment buildings were constructed.

In 1965, the City’s Board of Estimate approved the Seward Park Extension Urban Renewal Area (“SPEURA”). The SPEURA was located on 14 blocks between Delancey, Essex, Grand, and Willet Streets that consisted largely of low-scale, tenement-style residential buildings, many with ground floor commercial uses, and several community and religious institutions. Demolition began on the sites in 1967. During the 1970’s and 1980’s several apartment towers were built within SPEURA, but some sites were not developed (Parcels 2-6). The SPEURA plan expired on July 22, 2005, forty years after its adoption.

Parcels 8, 9 and 10 and a portion of Parcel 2 contain the original Essex Street Market buildings, located along Essex Street from Broome Street to Stanton Street. The one-story brick buildings were constructed in 1939 as part of a citywide program to address sanitation issues and relieve street congestion from pushcart vendors. The Essex Street Market operated under various management structures over time, and in 1995 NYCEDC assumed direct management and consolidated the remaining vendors into the Parcel 9 building north of Delancey Street. Parcels 2 and 8 have remained mostly vacant. In 1994, the New York Downtown Hospital entered into a lease agreement to develop a health clinic on Parcel 10; the lease was later assigned to the CHN, which continues to operate a health clinic on that Parcel (see pages 30-31 “Existing Tenants” for more information).

Following a Manhattan Community Board 3 (“CB3”)-led planning effort with the goal of reaching community consensus on a development project for the undeveloped former SPEURA sites, along with all of the Essex Street Market sites and the DOT parking lot on Parcel 1, the City undertook a ULURP application culminating in the ULURP Approval obtained on October 11, 2012.

Land Use



Source: NYC DCP PLUTO - NYCEDC MGIS 12/14/12

Project Area Description

The Project Site is located in the Lower East Side of Manhattan in Community District 3, with Parcels 1 – 6 located south of Delancey Street near the entrance to the Williamsburg Bridge, and Parcels 8 – 10 located on Essex Street north of Delancey Street. The surrounding neighborhood can be described as two areas with distinct urban design characteristics: 1) the tower-in-the-park style area to the east and south of the Project Site, much of which was developed under Urban Renewal in the middle of the 20th century; and 2) the more tenement-style area to the west and north of the Project Site, which was developed largely during the late 19th and early 20th centuries. The neighborhood also contains a number of cultural institutions and small-scale retail uses.

The surrounding area saw a trend towards the development of higher-density, taller buildings during the early 2000s. In 2008, the Lower East Side/East Village Rezoning changed the existing noncontextual zoning districts to mostly C4-4A and R7A contextual districts. As part of the Lower East Side/East Village Rezoning, the area along Delancey Street was rezoned to C6-2A and mapped as an inclusionary housing district. Parcels 1 – 6 were not included in the rezoning. The Delancey Street corridor is developed with a number of taller buildings that pre-date the rezoning, including a 16-story residential building on the corner of Forsyth Street and a 19-story dormitory on the corner of Ludlow Street.

PROJECT REQUIREMENTS AND GUIDELINES

Zoning and Land Use

ULURP Approval

Proposals must conform to the ULURP Approval which is detailed in the lead City Planning Commission (“CPC”) report (C120228ZSM), the restrictive declaration that will govern the LSGD (“Restrictive Declaration”); the technical drawings of the LSGD that are on file with DCP (“Technical Drawings”); the Urban Development Action Area Project (“UDAAP”) summary approved by the CPC and modified by the City Council (the “UDAAP Summary”), and the City Council resolutions. Additionally, the CPC approved a minor modification to the ULURP Approval on December 17, 2012 to require an open space of 15,000 square feet (“SF”) on Parcel 5. The documents that comprise the ULURP Approval can be found in Appendix A. Respondents may also review the original ULURP application; however, the City Council resolutions, the CPC reports approved by the City Council, and the minor modification supersede any conflicting information found in the ULURP application.

Programming

In accordance with the ULURP Approval, the Project may consist of up to 1.65 million square feet of buildable area distributed over more than six acres of property. The Project allows for a ratio of approximately 60% housing to 40% commercial space. Community facility space is also encouraged.

Residential

The City Council approval, as described in the UDAAP Summary and City Council resolutions, requires that the Project contain 1,000 total units (50% market rate units and 50% affordable units) of which 900 units are permitted on Parcels 1 – 6. Parcels 8, 9 and 10 must contain a minimum of 100 units. Respondents are permitted to propose rental or homeownership units. 40% of the affordable units must be two-bedroom units or larger. The City will not consider Proposals that include dormitories; any Proposal that includes dormitories will be considered non-responsive.

“Affordable Housing Requirements”

- The Project must contain 50% market rate units and (as described below) 50% affordable units;
- All affordable housing units shall remain affordable in perpetuity;
- Affordable housing within the Project must serve senior households and households within the income ranges set forth below;
- 50% of the total residential units must be affordable to and distributed according to the following income bands (the referenced percentages refer to the percentage of the total number of units):
 - 10% of units rented or sold to senior citizens with rents or sale prices to be affordable as prescribed by the lender;
 - 20% of units with rents or sale prices affordable to households earning up to approximately 60% of Area Median Income for the New York metropolitan statistical area as determined annually by the US Department of Housing and Urban Development (“AMI”);
 - 10% of units with rents or sale prices affordable to households earning approximately 60% - 130% of AMI;
 - 10% of units with rents or sale prices affordable to households earning approximately 131% - 165% of AMI.

Although income band distribution on individual Parcels may vary, the Project as a whole cannot deviate from the above income band requirements. Preference will be given to Proposals that provide, within the prescribed income bands above, lower income levels at multiple tiers of incomes.

Affordable Housing Guidelines for Proposals containing a single Parcel or a subset of Parcels

- While the RFP does not dictate a precise affordability mix on a Parcel by Parcel basis, if Proposal(s) for single Parcels or a subset of Parcels contain significant housing, it is preferred that the Proposal(s) contribute to the overall Project's affordable housing mix;
- Proposals for a single Parcel or a subset of Parcels that preclude the overall Project from achieving the Affordable Housing Requirements will be considered non-responsive. (For example, a Proposal for a Parcel that includes more than 100 units at 165% of AMI would be considered non-responsive.)

Former Residential Site Tenants

The Developer must market the residential units in accordance with City requirements and policy, including additional requirements for former site tenants, as stated in the HPD-HDC Marketing Guidelines. See page 156 ("Seward Park Former Site Tenants") for more information.

Rent Stabilization

Initial rents for the affordable rental units must reflect the Rent and Affordability Calculations described in Form F-1 (Rental Pro Forma) included in the Site File and available at www.nycedc.com/sewardpark. All rental units must be entered into the New York State rent stabilization system ("Rent Stabilization") upon initial occupancy (see www.nycrgb.org for further information). Rent increases for affordable units will be governed by the lower of AMI or Rent Stabilization increases. Rent increases for market rate units, in buildings of mixed affordability, will be governed by Rent Stabilization increases.

Commercial

The ULURP Approval allows for a range of commercial uses on all Parcels, and the City and NYCEDC encourage Respondents to utilize commercial space in ways that advance the Project Goals.

The Project envisions active retail corridors, anchored by a new Essex Street Market on Essex and Delancey Streets, with a range of retail sizes depending on the street context. Office space, which would create day time traffic to support the retail corridors, is also encouraged. Furthermore, the City and NYCEDC are interested in Proposals that utilize the commercial space to attract job generating uses and businesses in high growth job sectors.

The Project may encompass up to 600,000 SF of commercial space in the LSGD, with additional opportunities north of Delancey Street. It is anticipated that several Parcels will contain multiple stories of commercial space, and the LSGD allows for the possibility of an all commercial building on Parcels 2 and/or 3.

Parcels 1 and 2 are within a C6-1 district and Parcels 8, 9 and 10 lie within a C4-4A zoning district, with a small C6-2 overlay on Parcel 9. Parcels 3 – 6 are zoned R8 with a C2-5 overlay, with ULURP Approval for Use Groups 10, 11, and 12. Please refer to the ULURP Approval for further information.

Respondents submitting for a Parcel or a subset of Parcels (see page 20 "Proposal Composition") are not required to include residential space in their proposed program. Proposals consisting of only commercial

or community facility space are acceptable assuming that sufficient square footage for the required housing units will be set aside in a different Parcel such that the Project's overall housing requirements can be met through another Respondent's Proposal.

Community Facility

The ULURP Approval allows for community facility space throughout the Project, and Respondents are encouraged to incorporate community facility uses, such as medical, non-profit, or community centers.

Parcels 1 and 6 have the ability under the LSGD to consist entirely of community facility space, which may allow for more flexibility in the use group categorization of senior housing. In all cases, Proposals must comply with all housing requirements within the ULURP Approval.

As discussed more fully below, it is a requirement of this RFP that 75,000 zoning floor area ("ZFA") of the community facility space be reserved for a potential future school on Parcel 5.

Parcel-Specific Development Requirements

Parcel-specific development requirements for Parcel 2, Parcels 3, 4 and 6 and Parcel 5 can be found in Appendix C and are briefly summarized below:

Parcel 2:

- In order to allow the Essex Street Market to continue to thrive, with expanded entrepreneurship opportunities and better integration into the public realm, the Essex Street Market must be relocated from Parcel 9 to a new, larger space on the ground floor of Parcel 2 before construction on Parcel 9 may begin. With relocation to a new site, the Essex Street Market has the potential to both maintain its role in the heart of the Lower East Side and to become more of a destination for visitors and tourists. The Developer of Parcel 2 will be required to finance and build the new Essex Street Market.

Parcels 3, 4, and 6:

- The Developer(s) of Parcels 3, 4, and 6 will contribute funds to the maintenance of the Open Space on Parcel 5. Annual contributions will escalate at the Consumer Price Index ("CPI") rate.

Parcel 5:

- A 15,000 SF publicly-accessible open space is required to be developed on Parcel 5 (the "Open Space"). The Open Space will serve the neighborhood by providing amenities for residents, workers, and the general public, through a mix of passive and active recreational space, including children's play features. The Developer of Parcel 5 will be required to finance, build, operate and maintain the Open Space. Please refer to the Restrictive Declaration for specifics about the required design elements and public process.
- Approximately 15,000 SF of land will be retained by the City on Parcel 5 and maintained in the City's jurisdiction for the potential future development of a new school ("Potential School Site"). The school may be developed in the future in the event that the Department of Education ("DOE") and the School Construction Authority ("SCA") determine that there is a need for a new school and capital funding is available.

Large Scale General Development

Parcels 1 – 6 have been designated a LSGD. The LSGD allows flexibility in design and massing, including the ability to distribute floor area across lots and modify bulk distribution, height, and placement of buildings within a specific set of parameters detailed in the Technical Drawings. The Technical Drawings describe three layers of requirements, including the maximum bulk per Parcel, a set number of options for the building layout on each Parcel, and specific design guidelines, such as maximum tower length and setbacks. Respondents should also review the Quality Housing zoning requirements, some of which would still be applicable to mixed-use buildings. See the ULURP Approval and the New York City Zoning Resolution for further information.

Each Parcel and the overall LSGD have maximum ZFA caps and caps on ZFA per individual use category. In practice, it is not possible to maximize the zoning on all Parcels without exceeding the LSGD-wide caps. Accordingly, it is anticipated that the selection of multiple Developers to develop the Parcels within the LSGD would require modifications to Proposals to prevent the oversubscription of zoning floor area (see page 65 “NYCEDC and/or HPD Directed Proposal Modifications” for more information on how NYCEDC and HPD will address this potential issue).

A Restrictive Declaration will govern the LSGD (see Site File). The Restrictive Declaration will be recorded and will run with the land. The Developer(s) of Parcels 1 – 6 will be bound by the Restrictive Declaration. The Restrictive Declaration incorporates the requirements of the Technical Drawing set, implements easements for widened sidewalks, and governs the design, development and operation of the Open Space.

Respondents proposing to develop a Parcel within the LSGD should be aware that 75,000 ZFA of community facility space within the LSGD will be set aside for the potential future school development on Parcel 5.

City Map Changes

Changes to the official adopted map of the City (“City Map”) were approved by the City Council on October 11, 2012 with the rest of the ULURP Approval. The map changes reestablish street segments that had been eliminated from the City Map in the late 1960’s, when the former SPEURA was created, and eliminate or narrow street segments that were widened on the City map, also as part of SPEURA. The streets that were affected include: Suffolk Street between Delancey Street and Grand Street, and Broome Street between Norfolk Street and Clinton Street (“Previously Demapped Streets”). While those changes were made to the City Map in the late 1960s, no physical changes to the streets were ever implemented, and the streets continue to function as they did prior to those mapping actions. The City Map changes implemented on October 11, 2012 maintain the streets in their existing condition and update the City Map to reflect the current built condition.

Environmental

City Environmental Quality Review (“CEQR”)

ULURP Approval was obtained pursuant to the notice of completion for the Project’s Final Generic Environmental Impact Statement (“FGEIS”) and the filing of Technical Memoranda 001 and 002 (“Tech Memo 001” and “Tech Memo 002”).

The FGEIS analyzed a reasonable worst-case development project. **This project was developed for analysis purposes only and is not a required project.** The reasonable worst-case development project

included approximately 950,000 Gross Square Footage (“GSF”) of residential development (comprising 900 dwelling units), up to approximately 625,000 GSF of commercial space, approximately 115,000 GSF of community facility or cultural uses, up to 500 parking spaces, and a 10,000 SF publicly accessible open space on Parcel 5. The commercial space in the project included up to approximately 475,000 GSF of retail (including a grocery store), approximately 30,000 GSF of public market space, an approximately 100,000 GSF hotel, and approximately 35,000 GSF of nonspecific commercial uses.

Tech Memo 001 and Tech Memo 002 studied four modifications to the FGEIS and whether they would result in any significant adverse environmental impacts not already identified in the FGEIS. The modifications in Tech Memo 001 include an increase in the number of residential units in the reasonable worst case development project to 1,000 from the 900 units assessed in the FGEIS, the potential for a school on Parcel 5, and a revision to the LSGD ground floor plans for Parcels 2, 3, and 4 to eliminate one of the waivers to the ground floor frontage requirements. The modification in Tech Memo 002 covered the increase in the size of the Open Space from 10,000 SF to 15,000 SF. Neither memorandum found any significant adverse environmental impacts.

Respondents are not required to use the development project studied in the FGEIS and Tech Memos. It is understood that Proposals may require additional environmental analysis; however, it is preferred that Respondents minimize any additional analyses.

Mitigations, Project Components Related to the Environment and Further Assessments

Pursuant to the CEQR analysis, Respondents are required to integrate a variety of measures into their Proposal in order to avoid the potential for significant adverse impacts and mitigate disclosed potential significant adverse impacts. The CEQR analysis also requires further assessments to be performed by the Developer(s). Respondents should carefully review a summary of these measures and assessments included in Appendix D. Respondents should also review the HPD and NYCEDC letters to DCP with respect to the FGEIS, the FGEIS, and the Tech Memos included in the Site File (hereinafter defined). Neither HPD nor NYCEDC make any representations or warranty or assumes any responsibility for the accuracy of information contained in this Appendix D or the Site File. The Developer(s) will be responsible for compliance with all environmental quality reviews associated with the Project.

Design Principles

Proposals should reflect the City’s commitment to architectural excellence. The following are the design goals for the Project:

- Each building should have a distinctive character that relates to its setting while setting it apart from neighboring buildings;
- Each building should enhance and activate the public realm with particular attention to facade detailing, materials, and transparency;
- All four sides of a building should demonstrate a deliberate response to contextual factors such as adjacent uses, pedestrian patterns, and prevailing neighborhood and street character;
- To the greatest extent possible, designs should incorporate environmentally and socially sustainable strategies and increase the project’s resilience to climate change.

Proposals must conform to the City Zoning Resolution and City Building Code, and all other applicable laws and regulations including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act. In addition, Proposals must also conform to the HPD Design Guidelines for New Construction, included within the Site File.

The Developer(s) is also required to adhere to all design requirements included in the ULURP Approval. The requirements listed below are representative of the design requirements contained within the ULURP Approval, but are not a comprehensive list. Refer to the Technical Drawings for details on all bulk, height, setback and massing design requirements.

- Towers on Parcels 2, 3, and 4 may not be oriented such that two adjacent Parcels both have a north-south orientation or an east-west orientation;
- The LSGD approvals have established a maximum limit of 500 parking spaces, as well as a maximum number of spaces on each of Parcels 2-5;
- Curb cuts for parking garage access and/or required loading berths may only be sited within the zone(s) shown on Technical Drawings;
- Sidewalks will be provided at a minimum width of 15' except at Parcel 1, Parcel 2 along Essex Street adjacent to the existing subway station entrance, and Parcel 6 along Broome Street where 13'-wide sidewalks will be provided. This will require widening the sidewalks into the property line at most locations;
- Building facades must maintain 50% transparency at ground level at elevations ranging from 2 feet to 12 feet above curb level;
- A minimum of two storefronts are required on the ground-floor of Delancey Street (Parcels 2, 3, and 4) and a minimum of three storefronts are required on the ground-floor of Broome Street (Parcels 2, 3, and 4). The storefronts must be distinct stores/establishments. However, if a public market or grocery store were located on the ground floor of the building on Parcel 2, 3, or 4, the minimum storefront requirements would not apply. Any response that does not conform to these requirements will be deemed non-responsive.

Preference will be given to Proposals that strive to conform to the Urban Design Guidelines included in the Site File ("Urban Design Guidelines").

Energy Efficiency and Green Design

Housing developments in the Project must be certified under the Enterprise Green Communities Program. If a housing development cannot be certified under the Enterprise Green Communities Program because of its construction methodology, the development must be designed and constructed to standards equivalent to those that would be necessary to achieve certification under the Enterprise Green Communities Program.

In addition, the City will look favorably upon Proposals that enhance the energy-efficiency of buildings (including both housing and non-housing development), use fewer raw materials, make the best of natural light where appropriate, improve indoor air quality, and decrease the total impact on the natural and human environment. The City will also look favorably upon Proposals that will use fuel from renewable sources or less GHG-intense fuels, such as natural gas, co-firing of biomass, or use of biofuels or bioheat for heating fuel or in vehicles/equipment.

Financing

It is the responsibility of the Developer(s) to obtain construction and permanent financing from lenders in amounts consistent with the Proposal. The Developer will be required to submit a term sheet and letter of intent from a lender or lenders indicating willingness to finance the construction of the Project.

The Respondent's financing must not rely on competitive sources of financing such as HPD or the New York State Housing and Community Renewal ("HCR") 9% Low Income Housing Tax Credits, State Low Income Housing Tax Credits, or NYS Housing Trust Fund subsidy. Notwithstanding the foregoing, competitive sources such as 9% tax credits may be proposed for the senior component of the proposed

development. In addition, for the purposes of this RFP, tax-exempt bond financing may be considered non-competitive and may be included in a Respondent's financing scenario. However, tax-exempt bond financing subject to the private activity volume cap is a limited resource and to the extent that it is proposed as a funding source, Respondents are encouraged to maximize the number of affordable units in the applicable buildings. All Proposals must have a net positive purchase price amongst all the Parcels included in the Proposal – HPD/HDC Subsidy will not be provided to support the Project. Financing programs which may be available to support a proposed development are described in Appendix B.

Respondents are permitted to submit a narrative describing an alternate financing scenario which includes competitive sources. Respondents should describe how the use of competitive sources would change their Proposal. However, this competitive financing narrative will not be considered in the selection of the Developer(s).

Enforcement Note and Mortgage

At closing, Developers of affordable housing will be required to deliver an enforcement note and mortgage ("Enforcement Note and Mortgage") to HPD. The Enforcement Note and Mortgage are designed to ensure compliance with the affordable housing commitments made by the Developer. The value of the Enforcement Note and Mortgage shall equal the difference between the purchase price and the appraised value of the Parcel. The Enforcement Note and Mortgage will accrue interest at a fixed rate to be determined by HPD, compounded annually.

Utilities

NYCEDC and HPD have undertaken due diligence on the utilities which surround the Project Site in order to provide Respondents with an understanding of existing conditions. Generally, the utilities which will support the Project are of similar design, construction and condition as can be found elsewhere in the City. A summary can be found in Appendix E and further information including utility maps can be found in the Site File (hereinafter defined). Neither HPD, NYCEDC nor any other government agency or authority or private utility make any representations or warranty or assumes any responsibility for the accuracy of information contained in Appendix E or the Site File. No City funds will be available for utility upgrades.

New York City Transit ("NYCT")

The Project Site is adjacent to the F, J, M and Z subway lines and the Delancey and Essex subway station. Some Parcels contain subway station access infrastructure and subway mechanical infrastructure. NYCEDC and HPD have undertaken due diligence on the subway system to provide Respondents with an understanding of existing conditions. Moreover, HPD and NYCEDC have created a framework with NYCT that facilitates the Project's development. A summary can be found in Appendix R and further information including drawings of subway infrastructure can be found in the Site File. Neither HPD, NYCEDC nor any other government agency or authority or private utility make any representations or warranty or assumes any responsibility for the accuracy of information contained in Appendix R or the Site File.

Phase I Environmental Site Assessment

NYCEDC has completed a Phase I Environmental Site Assessment ("ESA") on Parcels 1-9 and a separate Phase I ESA on Parcel 10.

The ESA for Parcels 1-9 completed in September 2008 indicates potential contamination due to two out-of-service underground storage tanks located at Parcels 3 and 5, a 1,500-gallon fuel oil aboveground storage tank inside 400 Grand Street on Parcel 5, and potential soil vapor and groundwater contamination resulting from nearby uses. The report recommends a Phase II ESA be conducted on Parcels 1-9 and that buildings considered for demolition be surveyed for asbestos and/or lead-based paint.

A separate ESA conducted on Parcel 10 in August 2010 revealed no evidence of recognized environmental conditions, but identified a potential concern with the materials handled on site. The ESA recommends further review of the storage and disposal methods for those materials handled on site.

Respondents should review the environmental reports found in the Site File. Developer(s) will be responsible for coordinating with the appropriate City and State environmental regulatory agencies in developing work plans for investigating and remediating contamination within the Project Site. In addition and in accordance with the FGEIS, laboratory analysis of soil and groundwater samples must be performed prior to redevelopment of the Project Site. The Developer(s) will be required to indemnify the City and NYCEDC against any and all environmental liabilities.

Geotechnical Considerations

Six soil borings were performed on Parcels 1-6 and a preliminary geotechnical and environmental exploration report describing results from these borings is included in the Site File. The investigation indicates that fill material, consisting of sand with trace amount of silt and, in some samples, brick, timber and asphalt fragments, is present beneath the existing concrete/paved surface to a depth ranging from approximately 10 to 12 feet. Below the fill are layers of varying thickness and amount, depending on sample location, of very loose to loose, fine to medium sand with varying amounts of silt and/or medium dense to very dense, fine to medium coarse sand with varying amounts of gravel and silt. Bedrock was not encountered in five of the six geotechnical borings but was recovered from a depth of 105 to 110 feet beneath the surface at Parcel 6. The testing has also revealed that the water table within Parcels 1-6 is approximately 20 to 28 feet beneath the existing surface. Preliminary conceptual foundation recommendations and remediation needs are identified as a part of the initial geotechnical report; however, further investigation will be required by the Developer(s).

M/WBE Utilization Plan

NYCEDC and HPD are dedicated to furthering the participation of minority and women-owned businesses (“M/WBE”) in our work. Respondents must submit a plan to address M/WBE participation in the Project (“M/WBE Utilization Plan”).

M/WBE Utilization Plans should include, but not be limited to:

- Establishment of numerical M/WBE contracting utilization goals or targets;
- Strategies and methods that will facilitate participation by M/WBE firms, such as carve-outs and/or unbundling bid packages;
- Methods for identification of M/WBE firms seeking construction work in connection with such redevelopment; and
- Establishment of administrative procedures for implementation, monitoring and reporting of M/WBE participation.

Information about NYC’s M/WBE Certification can be obtained at www.nyc.gov/getcertified.

HireNYC Program

NYCEDC and HPD recognize the importance of creating employment opportunities for low-income persons and enabling them to participate in the City's economic growth. To this end, NYCEDC has developed the HireNYC program (the "HireNYC Program"). Respondents must submit a HireNYC program plan. Preference will be given to Respondents who seek to achieve at a minimum, the following goals:

- Hiring Goal: 50% of all new permanent jobs created in connection with the project (excluding jobs relocated from other sites) will be filled by members of the target population as defined in the next paragraph beginning at commencement of business operations by each employer, and continuing for eight years;
- Retention Goal: 40% of all employees whose hiring satisfied the Hiring Goal will be retained for at least nine months from the date of hire;
- Advancement Goal: 30% of all employees whose hiring satisfied the Hiring Goal will be promoted to a higher paid position within one year;
- Training Goal: All tenants will cooperate with the City's workforce development agencies to provide skills-training or higher education opportunities to members of the target population.

The target population is defined as persons who have an income that is below 200% of the poverty level as determined by the NYC Center for Economic Opportunity. The program plan must include commitments to a process for working with the City to implement the program plan, including how the Respondent will collaborate with local employment programs to meet their goals.

Additional HireNYC Program requirements are detailed in Appendix F.

Wage Legislation

Developers shall comply with applicable law, including, if applicable, Local Law No. 27 of 2012.

Real Property Taxes and Charges

The Project Site will be subject to New York City Real Property Taxes and charges. However, tax exemptions described in Appendix B may be available. Respondents should indicate in the Proposal which tax exemption program(s), if any, they plan to utilize. It is the responsibility of the Developer to apply for and meet the requirements of the specific tax benefit program(s). NYCEDC and HPD make no representations or warranties as to the continued availability of these benefits or as to the Project's eligibility to receive these benefits.

Additional Requirements

Appendix G includes additional requirements specific to the following areas: Housing Marketing, Sales and/or Leasing Requirements, Fair Housing Requirements, Warranty Coverage of Homeownership Units, Resale, Refinancing and Recapture Restrictions, Equal Opportunity Requirements, Section 3 Clause and DOT Delivery Program.

COMMUNITY CRITERIA

Continuing the partnership between CB3 and the City, the City agreed to work with a Seward Park RFP Task Force designated by CB3 which is comprised of elected officials and representatives of CB3 and community-based organizations (“Task Force”). The Task Force met prior to the RFP release to generate community criteria, building on their previous work to develop the CB3 Guidelines and subsequent resolutions. Respondents shall address the Community Criteria in their Proposal.

This partnership with the community will continue throughout the RFP process. The Task Force’s feedback on qualifying responses will be considered as part of the Selection Criteria.

The Community Criteria as stated by the Task Force are as follows:

CB3 reiterates the importance of the following Project Requirements laid out in the RFP:

- The creation of at least 1,000 units of housing of which 50% will be permanently affordable. Of the 1,000 units, 10% will be senior housing, 20% will be low-income, 10% moderate-income, and 10% middle-income;
- Former site tenants will be given preference for units for which they income qualify;
- Mixed-income buildings are encouraged and in such buildings the market and affordable units should be fully integrated and 40% of the affordable units must be two-bedrooms or larger;
- Dormitory housing is prohibited and any Proposal that includes dormitories will be considered non-responsive;
- Proposals that include a “Local Partner” defined as a locally-based organization or locally-based entity with a history of improving the quality of life for CB3 via tangible social services, cultural activities, financial investments and/or housing, will be given preference for selection;
- The Essex Street Market will continue its function as a public market providing a variety of vendors, products, price points and stall sizes in a larger, newly developed space. All reasonable moving-related expenses will be covered for the existing vendors at the time of a move;
- Land will be reserved for the construction of a public school on Site 5 through 2023.

Additional Priorities

CB3 emphasizes the importance of the following additional criteria which it considers essential for a successful project:

- As the SPURA project proceeds toward completion over the upcoming years, each phase of the development should include the same income mix of housing as the overall project, i.e. the affordable units should not be left to later phases;
- No single retail space should be in excess of 30,000 square feet;
- More than one Developer should be selected to carry out this project, and preference should be given in the selection to local Developers, or Developers who partner with a local Developer;
- All construction jobs created in the development should be at prevailing wage rates;
- All permanent jobs created as a part of the operation of this Project should be consistent with all applicable laws;
- Prior to HireNYC's involvement in the Project, the developer should commit to an explicit partnership with a local group, committing resources to support the following: job fairs, job training, job placements prior to construction and occupancy (such as clearing of lots, security on lots, etc.), in order to maximize employment opportunities for low-income persons at all stages of the Project;
- Affordable community facilities which provide such amenities as a community center, youth center, senior center or nursing home are preferred uses;

- Nightlife establishments especially large venues with very late-night hours are discouraged;
- The community has determined that a public school is needed based on recent studies as well as the fact that this Project will attract a large amount of families.

CB3 encourages all Respondents to review the CB3 Resolution in support of the ULURP and UDAAP applications relating to the Seward Park Mixed-Use Development, dated June 1, 2012, which includes the original Guidelines established in January 2011 and the Design Principles approved in June 2011 (included in the Site File).

SUBMISSION REQUIREMENTS

Inquiries

All inquiries regarding this RFP should be directed to: info@sewardparkrfp.com.

Questions will be accepted until 4:00PM on Monday, April 8, 2013. Answers will be posted on a rolling basis at www.nycedc.com/sewardpark. Answers to questions submitted on April 8, 2013 will be posted no later than April 16, 2013.

Pre-Submission Information Meeting

A pre-submission information meeting will be held on Monday, February 11, 2013 at 2:00PM at NYCEDC, 110 William Street, Conference Room 4A/4B, New York, NY 10038.

NYCEDC and HPD strongly recommend that interested Respondents attend this pre-submission information meeting, as this will be the only opportunity to ask questions and receive answers in-person regarding the RFP. RSVP for this pre-submission information meeting at info@sewardparkrfp.com.

People with disabilities requiring special accommodations to pick up the RFP or to attend the pre-submission conference should contact info@sewardparkrfp.com.

Project Site Visit

The buildings located on Parcels 2 and 8 will be open to the public on February 12, 2013 from 2:00 to 4:00 PM. All other existing buildings may be viewed from the public right of way.

General Requirements

Time and Place of Submission

On or before the submission deadline, the Respondent must submit a Proposal in accordance with the requirements of this RFP, as well as in any addenda that may be issued to the RFP. All submissions become the property of HPD and NYCEDC.

Proposals must be delivered by hand no later than 4:00 p.m. on May 6, 2013 to:

New York City Economic Development Corporation
110 William Street, 6th Floor
New York, NY 10038
Attn: Maryann Catalano, Senior Vice President

Late submissions will not be accepted.

Format of Proposal

Each Proposal must include one (1) bound original, fifteen (15) bound copies and two (2) electronic copies with all components of the Proposal. Proposal files should be limited to letter size (8.5" x 11"), except as needed for architectural drawings, renderings and other supporting exhibits. The electronic copy should be provided on a flash/thumb drive and must include all components of the RFP in a searchable PDF format.

Form D-1, Form D-2, Form F-1, Form F-2, Form K, and the Full Proposal Model (as hereinafter defined) must be submitted on the flash/thumb drive as Excel files in original formatting and containing all original formulas (i.e. no hard coding). These forms are included in the Site File and they may also be downloaded on www.nycedc.com/sewardpark.

Respondents are also required to fill out and submit the “Proposal Comparison Form” which can be found in the Site File and online with the other RFP forms. This form is not required to be submitted in hard copy - electronic format is sufficient.

An authorized representative of the Respondent must sign the original proposal. Each Proposal must be tabbed as indicated in Appendix H. Each original and copy must contain a label showing the following information:

- Name of the Project;
- Name of Respondent;
- Date of submission.

Respondent and Development Team Composition

Respondents may consist of an individual development entity or a team of development entities.

Preference will be given to Proposals that include a Local Partner.

Proposal Composition

Respondents can submit Proposals for a single Parcel, a subset of Parcels or the entire Project Site.

Respondents submitting for a subset of Parcels may submit for one of the following predefined subsets: Parcels 1, 8, and 10 (“Subset A”), Parcels 2 and 9 (“Subset B”), and/or Parcels 3, 4, 5, and 6 (“Subset C”). Respondents are also permitted to submit for a custom subset of Parcels. If submitting for a custom subset of Parcels, it is preferred that such a Proposal is accompanied by the submission of an additional Proposal comprised of one of the predefined subsets. Please note that subsets are predefined solely to facilitate the review of Proposals by HPD and NYCEDC.

In assembling the ultimate development mix from multiple Proposals, conflicts and/or opportunities are likely to arise that will require NYCEDC and HPD to request that a Respondent modify the composition of its Proposal (see page 65 “NYCEDC and/or HPD Directed Proposal Modifications” for more information on how NYCEDC and HPD will address this potential issue).

Proposal Modifications

A Respondent may submit a complete modified Proposal to replace all or any sections of a previously submitted proposal up until the submission deadline of May 6, 2013. HPD and NYCEDC personnel will not insert pages or otherwise modify the Respondent's Proposal. The Respondent has the full responsibility for ensuring that its final Proposal has been submitted in the desired form by the submission deadline. The front cover of a modified Proposal must identify the submission as a modified Proposal and include the date on which the modified Proposal is submitted.

Modifications received after the submission deadline due date may not be considered. If NYCEDC and HPD determine, upon review of a Proposal, that any items are missing and/or incomplete, NYCEDC and HPD, in their sole discretion, by written notification given to the Respondent, may permit the Respondent

to provide or clarify such items. Failure to provide complete information in a timely fashion could result in rejection of the Proposal.

In addition, NYCEDC and HPD reserve the right to request changes to Proposals at any time after such Proposal is submitted.

RFP Addenda

NYCEDC and HPD reserve the right to amend or withdraw this RFP at any time. In order to be considered, Proposals must conform to any addenda that may be issued to this RFP. NYCEDC and HPD will advise each Respondent that has requested a copy of this RFP of any clarifications or revisions.

If, in NYCEDC and HPD's judgment, additional time is required for Respondents to prepare their Proposals, NYCEDC and HPD reserve the right to grant an extension of the deadline for submission of a Proposal, and such extension will then be granted to all Respondents.

Complete Proposals

Proposals that are incomplete or not in conformance with the requirements of this RFP may be eliminated from further consideration. Respondents should note carefully the Proposal content requirements listed below.

References and Requests for Further Information

Submission of a Proposal shall constitute permission from the Respondent for NYCEDC and HPD to make such inquiries concerning the Respondent as NYCEDC and HPD deem necessary. NYCEDC and HPD reserve the right to communicate with any of the Respondents, but NYCEDC and HPD are not obligated to do so. NYCEDC and HPD may discuss the Proposals of any Respondents concurrently or sequentially, as NYCEDC and HPD may determine. No Respondent has any rights against NYCEDC or HPD arising from any such invitation to a discussion, or from any negotiations that may arise pursuant to the discussions.

Respondents must comply with all requests for information and, if requested by NYCEDC and HPD, appear for presentations or discussions. If any Respondent fails to do so within the time period given (or within any time extension that NYCEDC and HPD may grant), NYCEDC or HPD may deem this as a failure and an act of non-compliance with the RFP, which will permit NYCEDC and HPD to select another Respondent or to solicit new Proposals. In furtherance and not in limitation of the foregoing, before a final selection is made, a Respondent may be required to produce more detailed information concerning the professional background of those persons who own and manage such Respondent, a report on the financial background of such Respondent, and information concerning the nature and status of any past, pending or threatened charges or actions (including lawsuits, criminal or disciplinary actions, administrative proceedings by any governmental or regulatory agency or bankruptcy action) against such Respondent or any of its partners, directors, officers, employees, shareholders, subsidiaries, or affiliates, as the case may be.

Proposals submitted shall be deemed to incorporate all of the terms and conditions contained in the RFP and that Respondents will be deemed to have consented to such terms by submitting a Proposal.

Proposal Contents

Each Proposal must contain the forms and supporting documentation described in Appendix H. Each copy of the Proposal must be tabbed as indicated. The tabs should run down the right hand side of the bound Proposal document.

DEVELOPER SELECTION PROCESS

Threshold Requirements

NYCEDC and HPD will form a committee to review the Proposals (“Selection Committee”). The Selection Committee will first evaluate each Proposal and each Respondent according to the threshold requirements below (“Threshold Requirements”). This evaluation will take into account the information provided in the Proposal, references, and any other available information about the Respondent’s performance. Proposals that are not complete or do not conform to the Threshold Requirements will be deemed non-compliant and may be eliminated from further consideration. NYCEDC and HPD reserve the right to request that Respondents cure proposals that do not conform to the Threshold Requirements.

Completeness of Proposal

The Proposal must contain all documentation required within the Proposal Contents section in Appendix H. All of the required forms must be fully completed at the time of submission. Upon review, HPD and NYCEDC, at their sole discretion, may notify a Respondent that additional information or clarification is necessary.

Developer Obligations

The Respondent must perform all Developer obligations listed below. Proposals for a portion of the work or a subset of these obligations (such as design or construction management services) will not be accepted. The Developer must:

- Assemble the proposed development’s architects, engineers, attorneys, consultants, construction managers, and/or Local Partners (“Development Team”);
- Arrange for the timely commencement and completion of the proposed development. The Developer will be held accountable for the schedule of the proposed development;
- Arrange for the completion of the design;
- Participate in required public forums, hearings, and briefings with the Community Board, elected officials, City agencies, and other organizations, as requested by NYCEDC and HPD;
- Provide an equity contribution in the form of cash and/or payment of pre-development costs;
- Secure all necessary construction and permanent financing, and meet any other terms and conditions required by HPD, NYCEDC, construction and permanent lenders and/or investors;
- Pay all transfer taxes associated with the conveyance of the Parcel(s) to the Developer, and all transfer taxes associated with financing, notwithstanding any exemption on account of the City’s, HPD’s, or NYCEDC’s involvement in the transaction;
- Market the residential units in accordance with City requirements and policy, including additional requirements for former site tenants, as stated in the HPD-HDC Marketing Guidelines in Appendix M;
- Submit maintenance and operations costs and data to HPD, as requested;
- Submit ongoing status reports regarding the development, financing, marketing, sales/leasing, and management;
- The Developer must satisfy Parcel-specific requirements as outlined in this RFP.

Program Requirement and Guidelines Compliance

The Proposal must comply with the ULURP Approval (including the UDAAP Summary) and must not require HPD/HDC Subsidy.

Comparable Development Experience

The Respondent must have comparable development experience by successfully completing new construction of at least one (1) project of comparable size and composition to the one included in the Respondent's Proposal, in the past seven (7) years.

Comparable Management Experience

The Respondent or the proposed managing agent must have comparable rental management experience by successfully managing at least one (1) building of comparable size and composition to the one included in the Respondent's Proposal, in the past seven (7) years. The entity must have been the owner and manager, or the owner acting through a management entity, to fulfill this qualification. Previous work with HPD and/or NYCEDC and contracts with other agencies will be considered. Proposals including Low Income Housing Tax Credits must include management with relevant experience.

Development Capacity and Current Workload

Respondents must be capable of beginning construction in the timeframe specified in their Proposal. A Respondent's current workload and other pending project obligations will be considered in assessing capacity for undertaking the proposed development within the timeframe prescribed.

A Proposal may be rejected if there is evidence that the Respondent is over-extended, as indicated by one or more of the following: (1) poor progress on current projects with HPD or NYCEDC; (2) total of all development and/or construction projects underway or in pre-development already fully utilize the existing financial or administrative capacity/experience of the Respondent; or (3) other information indicating that the Respondent does not have the capacity to begin and complete construction on a timely basis.

Ability to Finance

Respondents must demonstrate adequate financial resources to develop a project of the scope proposed in their submission. NYCEDC and HPD will evaluate the Respondent's assets, bank, or other lender references, and current commitments in order to assess the Respondent's capacity to secure construction and permanent financing, meet construction lender's equity requirements, absorb any cost overruns, and commence and complete construction in a timely manner. Proposed development costs and rents/sales prices must be deemed realistic, within industry parameters and based on market conditions.

Respondent's financing scenario must not rely on competitive sources of financing. Notwithstanding the foregoing, competitive sources such as 9% tax credits may be proposed for the senior component of the proposed development. For the purposes of this RFP, tax-exempt bond financing may be considered non-competitive and may be included in a Respondent's financing scenario. However, tax-exempt bond financing subject to the private activity volume cap is a limited resource and to the extent that it is proposed as a funding source, Respondents are encouraged to maximize the number of affordable units in the applicable buildings.

No Adverse Findings

A Respondent's Proposal may be rejected at any time during the evaluation process and thereafter if there are any adverse findings that would prevent the City from conveying the Parcel to the Respondent or any person or entity associated with the Respondent. Such adverse findings include, but are not limited to: 1) arson conviction or pending case; 2) harassment conviction or pending case; 3) City, State, or Federal mortgage foreclosure proceedings or arrears; 4) in rem foreclosure or substantial tax arrears; 5) defaults

under any City-sponsored program; 6) de-designation as developer of any government sponsored or publicly assisted project; 7) a record of substantial Building Code violations or litigation against properties owned by the Respondent or by any entity or individual that comprises the Respondent; or 8) conviction for fraud, bribery, or grand larceny. In addition, a Respondent may be rejected if it or any of its principal shareholders, principals, partners or members, is determined, in NYCEDC and HPD's sole discretion, to be within a category of persons or entities with whom or which the City or NYCEDC will not generally do business.

Selection Criteria

Once the Threshold Requirements review is complete, NYCEDC and HPD will conduct a competitive review, which may include requests for additional information, site visits, presentations, interviews, and negotiations. NYCEDC and HPD will conduct interviews and negotiations simultaneously with multiple Respondents. The Term Sheet, hereinafter defined, will be a basis of the negotiation and it will be used, among other things, to compare different Proposals. Once the competitive review is complete, the Selection Committee will select the Developer(s) using the competitive selection criteria in this section ("Selection Criteria"). See Appendix N for additional conditions, terms and limitations associated with the Developer Selection Process.

Program, Relationship to the Community and Design

A Proposal will be judged on the extent to which its program contributes to the Project's achievement of the Project Goals, the overall quality of the design of the proposed development, and the extent to which the Proposal responds to the needs of a vibrant and diverse community. The following criteria will be considered:

- Program
 - The overall quality of the Proposal and the extent to which the Proposal contributes to the achievement of the Project Goals;
 - The extent to which the Proposal facilitates the Project's compliance with the requirements and preferences contained within the Project Requirements and Guidelines section, including the Parcel-Specific Development Requirements (Essex Street Market and Open Space) in Appendix C;
 - The extent to which a Respondent is willing to modify its Proposal's program and composition in order to give NYCEDC and HPD the flexibility to assemble the best overall Project.
- Relationship to the Community
 - The extent to which the Respondent's Proposal incorporates the criteria developed with the Task Force;
 - The extent to which the Project reaches out to the surrounding community and promotes openness and interaction through its amenities and urban design;
 - The extent to which the Respondent's Proposal incorporates partnership programs with Local Partners.
- Design
 - The extent to which the Proposal achieves design excellence and the Project design goals. The following elements will be considered: site planning, building arrangement, street wall elevations, massing, interior layouts, building materials, amenities, and streetscape treatment;
 - The extent to which the proposed development has a positive impact on community revitalization;

- The extent to which structures complement and elevate the level of urban design in the neighborhood;
- The extent to which Proposals incorporate green building, sustainable development and smart building concepts and technologies.

Project Feasibility and Economic Impact

The Respondent will be judged on the ability for the Respondent's Proposal to be executed as proposed and the Proposal's economic impact and economic development of the City. The following criteria will be considered:

- Feasibility
 - Respondent's demonstrated financial condition to complete the proposed development, and the feasibility and availability of financing sources;
 - Respondent's ability to support the financial assumptions contained within the Proposal including development costs, rents/sales prices, operating expenses, capital costs and debt service;
 - The long term viability of operations;
 - The extent of the additional environmental work required to implement the proposed development;
 - The extent to which each Respondent comments on the term sheet in Appendix I ("Term Sheet").
- Economic Impact
 - The number of new, quality jobs created related to construction and operations of the proposed development;
 - The strength of the M/WBE Program proposed;
 - The strength of the HireNYC Program proposed;
 - The City taxes the proposed development generates such as real property, sales, and personal income taxes reduced by any incentives and benefits assumed;
 - The purchase price proposed.

Qualifications & Track Record

The Respondent will be judged on the extent to which it has the experience and capacity necessary to develop and manage the proposed development. The following criteria will be considered:

- Development Experience
 - The extent of the Respondent's experience, in terms of number, size, type, complexity, and scale of recent development projects completed;
 - Respondent's history of delivering quality projects on time and within budget;
 - The quality of construction and design in projects completed or currently being built by the Respondent;
 - The on-time completion and successful rent-up of tax credit projects, if applicable;
 - Respondent's capacity for undertaking the proposed development within the timeframe proposed. The Respondent's current workload and other pending obligations will be assessed. The amount and quality of the staff that can be dedicated to the proposed development full time.

- Management Experience
 - The extent of Respondent's experience, in terms of the number and type of residential, commercial and community facility properties currently managed;
 - The quality of maintenance provided by the Respondent;
 - The effectiveness of residential and commercial tenant relations, measured in part by the number and types of tenant and/or condominium/co-op purchaser complaints made in regard to property managed by the Respondent;
 - The extent of Respondent's experience in rent-up and management of rental housing for low-income persons, including track record of compliance with eligibility, record-keeping, and reporting requirements of programs for such tenants, if applicable.

DISPOSITION PROCESS

After the submission date, NYCEDC and HPD will jointly conduct interviews and negotiations with multiple Respondents. The Term Sheet (Appendix I) will be a basis of the negotiation and it will be used, among other things, to compare different Proposals.

Given the diversity of uses and programming available within the Project and the scope of the Project, HPD and NYCEDC anticipate the Project being consummated through multiple dispositions. It is anticipated that each disposition will have a single lead agency: NYCEDC or HPD. NYCEDC and HPD will determine the lead agency for each disposition. It is anticipated that developments which are predominantly affordable housing will be subject to HPD-led dispositions. All other developments, including developments on Parcel 2 regardless of programming, will be subject to NYCEDC-led dispositions. This disposition framework is subject to change at the sole discretion of HPD and NYCEDC. Disposition of multiple Parcels to one Developer may be executed as multiple dispositions.

NYCEDC-Led Dispositions

For NYCEDC-led dispositions, NYCEDC will continue simultaneous negotiations with multiple Respondents after the Term Sheet phase. NYCEDC anticipates fully negotiating project legal agreements with multiple Respondents. NYCEDC reserves the right to terminate negotiations with or without cause.

The project legal agreements may include purchase and sale agreements, deeds, regulatory agreements, enforcement notes and mortgages, terms for Essex Street Market sale or lease, Open Space easements and/or Open Space contribution agreements. NYCEDC reserves the right to explore a ground lease transaction after purchase Proposals are submitted.

The Respondent(s) with whom NYCEDC executes the project legal agreements will become the Developer(s). Upon entering into a binding agreement with NYCEDC for the disposition of a Parcel(s) the Developer must submit payment for the following:

- Administrative fee (non-refundable and not used to offset any other payments). See Appendix P: NYCEDC Administrative Fee Schedule;
- Reimbursement for appraisal required by the Public Authorities Accountability Act of 2005 (non-refundable and not used to offset any other payments);
- Down Payment (non-refundable, but credited against the purchase price).

During the term of the binding agreement, the City, NYCEDC, the Developer and any other necessary parties will be required to diligently pursue certain conditions precedent to closing (such as design development and financing) and, when such conditions are met, the disposition will occur. Disposition pursuant to NYCEDC-led transactions will, among other terms to be agreed upon, be subject to:

- Notice of Completion for any additional environmental review;
- Simultaneous closing of a bona fide construction loan required to finance full development;
- Payment of the purchase price;
- Payment of other closing fees;
- Execution of a deed, if applicable, which shall contain redevelopment obligations as well as restrictions on use and transfer;
- Approval by the NYCEDC Board of Directors;
- Delivery of an enforcement note and mortgage (Developers of affordable housing only);
- Execution of a regulatory agreement which will govern tenant eligibility, rent requirements, minimum household size and tenant selection procedures (Developers of affordable housing only);

- Delivery of the deed from the City (likely through an HPD-NYCEDC Land Disposition Agreement);
- Developer's assumption of the obligations of NYCEDC under the HPD-NYCEDC Land Disposition Agreement.

NYCEDC may, in its sole discretion, waive any of the conditions for closing.

Outside Counsel

NYCEDC has retained outside counsel to represent NYCEDC for this Project ("Outside Counsel"). The scope of the Outside Counsel's work will include, but not be limited to, a) reviewing the RFP and Term Sheet, assisting NYCEDC in drafting project agreements, and reviewing Respondent Proposals ("General Work") and b) assisting NYCEDC in negotiations with Respondents, including negotiations regarding project agreements ("Unique Legal Work"). To continue in negotiations with NYCEDC at a point in time at NYCEDC's sole discretion, a Respondent may be asked to pay for Outside Counsel fees and costs of NYCEDC. Respondents will be responsible for a pro rata share of the fees for all General Work and a full share of all Unique Legal Work. By submitting a Proposal each Respondent agrees, upon request, to promptly contribute funds to a replenishing escrow account from which NYCEDC will draw funds to cover all fees, costs, and expenses relating to such Outside Counsel. The initial balance of this account will be dependent on the size of a Respondent's Proposal. The initial balance may be as low as \$25,000, for Respondents proposing development of a single Parcel, and up to \$250,000, for Respondents proposing to develop multiple Parcels. If the escrow balance drops below 20% of the initial balance each Respondent shall replenish the escrow account with additional funds to restore the escrow account to its initial balance. The requirement that the Respondent must contribute funds to an escrow account for outside counsel fees may be waived at NYCEDC's discretion. Proposed developments pursuant to HPD-led dispositions will not be subject to the Outside Counsel conditions.

HPD-Led Dispositions

For the HPD-led dispositions, HPD will continue negotiations with a selected Respondent(s) after the Term Sheet phase. During negotiations, the Respondent(s) must diligently, competently, and expeditiously comply with all program requirements communicated to the Respondent by HPD. HPD will send written notification to the selected Respondent(s) which will describe the proposed development and procedures that will form the basis for further negotiation ("Negotiation Letter"). HPD reserves the right to terminate negotiations with or without cause after the issuance of the Negotiation Letter.

The Negotiation Letter will include a development schedule setting out the major actions and timeframes necessary to start construction. Failure of the Developer(s) to follow the development schedule may result in the termination of negotiations and the selection of another Developer or Developers.

Disposition pursuant to HPD-led transactions will be subject, but not limited to:

- Notice of Completion for any additional environmental review;
- Execution of a Land Disposition Agreement ("LDA") with the Developer and a deed conveying title; ground lease arrangements will not be used in HPD-led dispositions;
 - Additional agreements may include: Open Space easements and/or Open Space contribution agreements;
- Payment of the purchase price;
- Simultaneous closing of a bona fide construction loan required to finance full development;
- Delivery of an enforcement note and mortgage;

- Execution of a regulatory agreement which will govern tenant eligibility, rent requirements, minimum household size and tenant selection procedures.

The HPD Land Disposition Agreement with a Developer will be executed simultaneously with closing of title of the applicable Parcels.

Common Disposition Terms

It is anticipated that disposition of the Parcels will occur according to New York State General Municipal Law Section 695 for urban development action area projects regardless of which agency is the lead for the disposition (“UDAAP Disposition”). The ULURP Approval received on October 11, 2012 authorized disposition of the Parcels, thus the Project will not be required to undergo ULURP review for disposition. The UDAAP Disposition process requires a determination by HPD that the Developer is a qualified and eligible sponsor, a public hearing and a mayoral authorization.

Every Parcel will be disposed of in “as is” condition and will be conveyed subject to all applicable title matters, leases and environmental conditions. Parcel dispositions may be staggered.

The Developer(s) will pay all applicable taxes payable with respect to the proposed development, including transfer taxes, notwithstanding any exemption on account of the City’s, HPD’s or NYCEDC’s involvement in the transaction.

All due diligence, environmental reviews, approvals, design work, etc. required prior to disposition will be at the sole cost and responsibility of the Respondent.

Existing Tenants

HPD-Managed Parcels

HPD is responsible for delivering the Parcels as unoccupied at the time of disposition.

NYCEDC-Managed Parcels

NYCEDC will fulfill the terms of existing leases and permits on Parcels 2, 8, 9 and 10. Existing lease commitments include:

- The existing Essex Street Market on Parcel 9 will not be closed and Parcel 9 cannot be redeveloped until a new Essex Street Market is operational on Parcel 2;
- In addition to the Essex Street Market, existing leases on Parcel 9 include the following:
 - A restaurant has a lease that expires on November 11, 2014 with a tenant option to extend the lease until November 11, 2019;
 - A pizza shop has a lease that expires on October 31, 2016 with two five-year renewal options at NYCEDC’s discretion;
 - A mini-mart has a lease that expires on February 28, 2014 with two five-year renewal options at NYCEDC’s discretion;
 - A cell phone store operator has a lease that expires on February 29, 2016 with two five-year renewal options at NYCEDC’s discretion;
- The existing leases on Parcel 2 include a liquor store and a restaurant which both have month-to-month lease agreements.
- CHN, the existing tenant with a 6,900 SF leasehold on Parcel 10, has a lease which expires on December 31, 2021. If CHN is to be relocated prior to the expiration of their lease in connection with the Project, they cannot be relocated until December 31, 2015, and must be given twelve

months advance notice. In the event of relocation prior to the expiration of CHN's lease, comparable relocation space viable for health care utilization in the immediate area must be identified. In addition, CHN must be compensated for the reasonable cost of such relocation and build-out of new space. Additionally, reimbursement may need to be provided for up to the \$1,300,000 American Recovery and Reinvestment Act grant which CHN received to build out improvements to their existing space on Parcel 10;

DUE DILIGENCE

NYCEDC and HPD have assembled a Project Site information file (the “Site File”) containing important information regarding the Project that may be reviewed by Respondents for the limited purpose of responding to this RFP upon the execution by Respondents of a release and indemnification agreement with respect to such Site File. The Site File’s Agencies and Utilities Files (“Site File 1”) may be accessed either electronically or by appointment in person at NYCEDC’s offices, both at no charge. All other Site File items (“Site File 2”) may be accessed either electronically upon payment of an administrative fee of \$250 or by appointment in person at NYCEDC’s offices at no charge. To review the Site File please send an email to info@sewardparkrfp.com.

The reports, files, surveys, drawings, plans, text, graphics and other information provided in the Site File (collectively, the “Information”) is for general information purposes only. NYCEDC and HPD, and their respective officers, employees, and agents, make no representation or warranty with respect to, assume no responsibility for the quality, content, accuracy or completeness of, and disclaim any liability for, the Information.

All due diligence is the responsibility of the Developer(s). This due diligence may include additional surveys, title searches, environmental analyses and/or geotechnical analyses. Any and all due diligence items must be prepared at the sole cost and expense of the Developer, and the Developer(s) will be required to acknowledge and agree in writing that all work product related to the Project Sites shall become the property of NYCEDC and HPD upon completion.

The Site File includes the following items:

Site File 1:

1. Agencies and Utilities Files
 - a. Con Edison Files
 - i. Con Edison electric drawings and plates
 - b. NYC Department of Environmental Protection Files
 - i. NYC DEP Water and sewer maps and drainage plans
 - c. MTA-NYCT Files
 - i. MTA-NYCT drawings and plans
 - ii. MTA-NYCT Guidelines for Approval of Project within Influence Existing NYCT Structures
 - iii. MTA-NYCT Transit General Notes
 - iv. Scope of Work for the Rehabilitation of the Subway Vault Roof in the Site File
 - v. Parcel 2 Relocated Escalator and Relocated Vent Drawings
 - vi. Parcel 9 Station Access Improvement Drawings
 - vii. EDC-NYCT Term Sheet
 - d. Telecommunications Files
 - i. Cablevision NYC - Langan Engineering Letter
 - ii. Empire City Subway - Langan Engineering Letter
 - iii. MCI - Langan Engineering Letter
 - iv. Time Warner Cable - Langan Engineering Letter

Site File 2:

1. Environmental Impact Statement Files
 - a. Final GEIS
 - b. EDC and HPD Letter to DCP with respect to the FGEIS
 - c. Technical Memoranda 001 and 002

2. Environmental Conditions Files
 - a. Final Phase I Environmental Site Assessment
 - b. Phase I for Site 10
3. Geotechnical Files
 - a. Preliminary Geotechnical and Environmental Recommendations Report
4. Mapping Application Files
 - a. Signed Alteration Map
5. Survey Files
 - a. Survey Prints for All Sites (dated December 20, 2011)
6. ULURP Files
 - a. ULURP Application and filed modifications
 - b. Technical Drawings
 - c. City Planning Commission Reports
 - d. Restrictive Declaration
 - e. UDAAP Summary
 - f. City Council Resolutions
 - g. CB3 SPURA ULURP Resolution
7. Langan Sewer Videotaping Report
 - a. Langan Sewer Videotaping Report
8. HPD Files
 - a. HPD Design Guidelines for New Construction
 - b. HPD Deed
 - c. HPD LDA
9. Urban Design Guidelines
10. ESM Design Drawings and Specifications
11. Active Design Guidelines
12. Proposal Forms
 - a. Form A-1: Completeness Checklist
 - b. Form A-2: Respondent's Letter to HPD
 - c. Form C-1: Development Team Information and Respondent Questionnaire
 - d. Form C-2: Not-For-Profit Organization Description
 - e. Form C-3: Modified NYCEDC Background Investigation Questionnaire
 - f. Form D-1: Development Experience and Current Workload
 - g. Form D-2: Management Experience and Current Workload
 - h. Form D-3: Management Questionnaire (For Respondents proposing affordable housing)
 - i. Form E: Assets Statement
 - j. Form F-1: Rental Pro Forma
 - k. Form F-2: Coop and Condo Pro Forma
 - l. Form K: Green Communities Intended Methods Workbook
 - m. Proposal Comparison Form
13. Sustainability Elements Files
 - a. Green Communities Instructions and Checklist
14. Community Board 3 Guidelines and Design Principles
15. Form of Term Sheet

DEFINITIONS

Affordable Housing Requirements:

- The Project must contain 50% market rate units and (as described below) 50% affordable units;
- All affordable housing units shall remain affordable in perpetuity;
- Affordable housing within the Project must serve senior households and households within the income ranges set forth below;
- 50% of the total residential units must be affordable to and distributed according to the following income bands (the referenced percentages refer to the percentage of the total number of units):
 - 10% of units rented or sold to senior citizens with rents or sale prices to be affordable as prescribed by the lender;
 - 20% of units with rents or sale prices affordable to households earning up to approximately 60% of AMI;
 - 10% of units with rents or sale prices affordable to households earning approximately 60% - 130% of AMI;
 - 10% of units with rents or sale prices affordable to households earning approximately 131% - 165% of AMI.

AMI – Area Median Income for the New York metropolitan statistical area as determined annually by the US Department of Housing and Urban Development

BIR – Business Incentives Rate

BMP(s) – Best management practices

Build NYC – Local development corporation administered by NYCEDC that assists qualified not-for-profit institutions and other entities in obtaining tax-exempt and taxable bond financing

CAQNC(s) – Construction emission reduction measures, fugitive dust control measures, and noise control measures

CB3 – Manhattan Community Board 3

CDE – Community Development Entity

CDFI – Community Development Finance Institution

CEQR – City Environmental Quality Review

CFS – Cubic feet per second

CHASP(s) – Construction Health and Safety Plan(s)

CHN – Community Healthcare Network

City Map – The official adopted map of the City of New York.

Confidential Information – Proposals and all information obtained from the Site File or otherwise obtained from NYCEC, HPD or the City in conjunction with this RFP

CPC – New York City Planning Commission

CPI – Consumer Price Index

CPP – Construction Protection Plan

DCP – New York City Department of City Planning

DEP – New York City Department of Environmental Protection

Developer – The Respondent that is ultimately selected to develop the Project or portion thereof

Development Team – Proposed development’s architects, engineers, attorneys, consultants, construction managers, and/or Local Partners

DME – New York City Deputy Mayor for Economic Development

DOB – New York City Department of Buildings

DOE – New York City Department of Education

DOT – New York City Department of Transportation

DPR – New York City Department of Parks and Recreation

DSBS – New York City Department of Small Business Services

EIS – Environmental Impact Statement

Enforcement Note and Mortgage – The Enforcement Note and Mortgage required to be delivered to HPD by developers of affordable housing

ESA – Environmental Site Assessment

ESM Design Drawings and Specifications – Design drawings and specifications for the new Essex Street Market on Parcel 2

Essex Street Market – A public market with a variety of vendors, products (including fresh and prepared foods), price points and stall sizes, that serves as a local market for everyday shopping as well as a destination

FGEIS – Final Generic Environmental Impact Statement

FOIL – Freedom of Information Law, Article 6 of the Public Officers Law

Full Proposal Model – Respondent’s custom financial model encompassing every Parcel and every use within the Proposal

GEA – Geographic Exclusion Area

General Work – Portion of Outside Counsel’s scope of work that includes reviewing the RFP and Term Sheet, assisting NYCEDC in drafting project agreements, and reviewing Respondent Proposals

GSF – Gross Square Footage

HCR – New York State Housing and Community Renewal

HDC – New York City Housing Development Corporation

High School – Seward Park High School located on Ludlow Street between Broome Street and Grand Street

HireNYC Program – NYCEDC-administered program that connects the City's workforce development services to economic development projects.

HPD – New York City Department of Housing Preservation and Development

HPD-HDC Marketing Guidelines – The HPD-HDC marketing requirements with which Developers must comply in order to market rental or homeownership units connected to this Project, including additional requirements for former site tenants

HPD/HDC Subsidy – Subordinate loan subsidy provided by HPD or HDC

Information – The reports, files, surveys, drawings, plans, text, graphics and other information provided in the Site File

LDA – Land Disposition Agreement

Lead Report – Project-related CPC report C120228ZSM as referenced in Project Site File

Local Partner – Locally-based organization or locally-based entity that has a history of improving the quality of life in CB3 via social services, cultural activities, financial investments and/or housing

LPC – New York City Landmarks Preservation Commission

LSGD – Large Scale General Development zoning plan

Minimum Development – Minimum size that the Respondent would be willing to build on Parcels within the LSGD

Monitor – Independent third party selected to oversee, on behalf of the City, the implementation and performance by the Developer of the CAQNCs, which respect to the development of each Parcel

Monitor Agreement – Scope of services described in any agreement between Developer(s) and the Monitor

MTA –Metropolitan Transportation Authority

M/WBE – Minority and Women-Owned Business Entities

M/WBE Utilization Plan – Plan submitted by Respondents to this RFP addressing M/WBE participation in this Project

Negotiation Letter – HPD written notification to the selected Respondent(s) that commences negotiations with the Respondent over the proposed development

NMTC – New Market Tax Credit

NYCEDC – New York City Economic Development Corporation

NYC Noise Code – Requirements of the New York City Noise Control Code governing construction noise control measures

NYCT – New York City Transit

OHD – DOT Off-Hour Delivery Program

Open Space – 15,000 SF publicly-accessible open space required to be developed on Parcel 5

OPRHP – The New York State Office of Parks, Recreation and Historic Preservation

Outside Counsel – Outside counsel to represent NYCEDC for this Project

Parcel – One of the nine City-owned sites located near the intersection of Essex Street and Delancey Street

PILOT – Payment in lieu of taxes

Potential School Site – Approximately 15,000 square feet of land will be retained by the City on Parcel 5 for the possible future development of a school

Previously Demapped Streets – Suffolk Street between Delancey Street and Grand Street, and Broome Street between Norfolk Street and Clinton Street

Principal – Shareholders, officers, directors, partners or members of the Respondent

Project – Construction and operation of an approximately 1.65 million square foot development on the largest contiguous parcel of underdeveloped City-owned land in Manhattan south of 96th Street

Project Goals:

- Create a thriving mixed-use, mixed-income development including permanently affordable housing available to a range of incomes;
- Plan and execute a financially feasible development that ensures the project requirements will be achieved;
- Incorporate design excellence in the site plan and building designs to encourage active street life, thriving retail and creative integration of the Project into the local context;
- Develop the Project in a manner that responds to the needs of the vibrant and diverse Lower East Side community and promotes openness and interaction through its amenities, urban design, and proposed partnership programs;

- Generate returns to the City through the Project's purchase price and new tax revenue attributable to the Project;
- Expand and preserve quality jobs and maximize permanent employment opportunities for the City's low-income persons.

Project Site – Collectively, the nine City-owned parcels located near the intersection of Essex Street and Delancey Street

Proposals – Responses to this RFP for the development and operation of the entire Project or portions thereof

Proposal Comparison Form – A form which is not required to be submitted in hard copy which can be found in the Site File and online with the rest of the RFP forms.

QEI – Qualified equity investment

RAP(s) – Remedial Action Plan(s)

Rent Stabilization – New York State rent stabilization system

Respondent(s) – Development entities that submit Proposals in response to this RFP

Respondent's Letter – Letter to be included in Proposal following form A-2

Restrictive Declaration – The covenant running with the land governing Parcels 1-6 in the LSGD

RFP – Request for Proposal

SCA – New York City School Construction Authority

Section 3 Residents – Individuals that may qualify for training and employment opportunities in connection with the Project under Section 3 of the Housing and Urban Development Act of 1968

Section 3 Business Concerns – Businesses that qualify under Section 3 of the Housing and Urban Development Act of 1968 to perform work in connection with the project

Selection Committee – Committee formed by NYCEDC and HPD to review the Proposals

Selection Criteria – Competitive selection criteria by which NYCEDC and HPD will select the Developer(s) of the Project

SF – Square feet

Site File – Project Site information file assembled by NYCEDC and HPD containing important information regarding the Project

Site File 1 – Agencies and Utilities Files in the Site File

Site File 2 – All other Site File items, but for Agencies and Utilities Files

S/NR – State/National Registers of Historic Places

SPURA – Seward Park Urban Renewal Area

SPEURA – Seward Park Extension Urban Renewal Area

Subset A – Parcels 1, 8, and 10

Subset B – Parcels 2 and 9

Subset C – Parcels 3, 4, 5, and 6

Task Force – The group of community members designated by CB3

Tech Memo 001 - Technical Memorandum 001

Tech Memo 002 - Technical Memorandum 002

Technical Drawings – The technical drawings of the LSGD that were approved by the CPC, were modified by the City Council and are on file with DCP

Term Sheet – Principal draft terms with respect to the disposition of the Project Site for development in conjunction with this RFP

Threshold Requirements – The criteria by which all Respondents of this RFP are evaluated

UDAAP – Urban Development Action Area Project

UDAAP Disposition – Disposition according to New York State General Municipal Law Section 695

UDAAP Summary - The UDAAP Summary as modified by the City Council

ULURP – Uniform Land Use Review Procedure

ULURP Approval – The ULURP Approval obtained on October 11, 2012. The ULURP Approval is detailed in the CPC Lead Report, the Restrictive Declaration; the Technical Drawings; the UDAAP Summary, and the City Council resolutions. See Appendix A.

Unique Legal Work – Portion of Outside Counsel’s scope of work that includes assisting NYCEDC in negotiations with Respondents, including negotiations regarding project agreements

Urban Design Guidelines – The design guidelines developed in connection with the development of the Project

ZFA – Zoning Floor Area

APPENDIX A - ULURP APPROVAL

The ULURP Approval is detailed in the following documents (note that all of these documents can be found in the Site File):

- Twelve separate CPC reports under the project name “Seward Park.” Specifically ULURP numbers:
 - C120228ZSM (the “Lead Report”)
 - C120245PPM
 - C120237PQM
 - N120236HAM
 - C120235ZSM
 - C120234ZSM
 - C120233ZSM
 - C120231ZSM
 - C120229ZSM
 - N120227ZRM
 - C120226ZMM
 - C120156MMM
- The Restrictive Declaration which will govern the LSGD on Parcels 1 – 6
- Technical Drawings of the LSGD which are on file with DCP
- Revised UDAAP Summary on file with DCP
- The City Council resolutions. Specifically resolution numbers:
 - 1551-2012
 - 1552-2012
 - 1553-2012: Modified the notes on the LSGD drawings 002, 202, 302, and 402.
 - 1554-2012: Modified the notes on the LSGD drawings 002, 202, 302, and 402.
 - 1555-2012
 - 1556-2012
 - 1557-2012
 - 1558-2012
 - 1559-2012
 - 1560-2012
 - 1561-2012: Approved the UDAAP in accordance with the revised UDAAP Summary
 - 1562-2012

APPENDIX B – AFFORDABLE HOUSING AND ECONOMIC DEVELOPMENT BENEFITS

The following are select economic development and affordable housing benefits that may be available to proposed developments provided certain eligibility requirements are met, including but not limited to, factors such as site use and location.

The descriptions are for general informational purposes only. The potential benefits described herein are subject to approval by the appropriate governmental agencies. Accordingly, neither the Respondents nor any third party should view the contents of this section as a final offer from, or commitment of, the State, City, NYCEDC, HPD or any other affiliated or unaffiliated agency or public authority. NYCEDC and HPD make no representations or warranties as to the continued availability of these benefits or as to the proposed development's eligibility to receive these benefits. For details of each program, it is necessary to consult the relevant statute and rules. The information below is subject to change.

Respondents should indicate in the Proposal which program(s), if any, they plan to utilize. It is the responsibility of the Developer(s) to apply for and meet the requirements of the benefit program(s).

Affordable Housing Tax Exemption and Abatement Programs

Urban Development Action Area Project (“UDAAP”)

The Urban Development Action Area Project (“UDAAP”) tax exemption is subject to approval by the City Council for an area which the City Council determines to be in need of urban renewal. The City Council may grant an exemption from the City real property tax on the buildings/improvements for up to twenty (20) years. If the Council grants the full 20-year exemption, the Project would be fully exempt from the New York City Real Property Tax on the buildings/improvements for the first ten (10) years with a gradual phase-in of full taxes over the remaining ten (10) years (10% per year). The full amount of the New York City Real Property Tax on the land must be paid each year.

421-a Partial Tax Exemption

The 421-a partial tax exemption for new multiple dwellings provides an exemption from the New York City Real Property Tax on the increase in assessed valuation resulting from the improvement to the property. The full amount of New York City Real Property Tax on the assessed valuation of the property in the tax year preceding the tax year in which construction commences must be paid each year. In addition, New York City Real Property Tax must also be paid for any commercial, community facility, or accessory uses that in total exceed 12% of the aggregate floor area of the project. The 421-a partial tax exemption allows up to three (3) years of construction period exemption, and up to twenty-five (25) years of post-construction exemption, including a gradual phase-in of full taxes over the last four (4) years of the exemption. The Project Site is located in a geographic exclusion area (“GEA”); therefore, to be eligible a proposed development must receive governmental assistance, contain 20% affordable units, or the Developer must participate in the 421-a Affordable Housing Production Program.

420-c Tax Exemption

The 420-c tax exemption provides an exemption from New York City real property taxes for up to sixty (60) years for housing financed or previously financed in part with Federal Low Income Housing Tax Credits. In order to be eligible for this tax exemption, at least 70% of the units must be subject to the income and occupancy requirements of Internal Revenue Code Section 42. Projects must be owned or leased for at least thirty (30) years by a corporation, partnership, or limited liability company, of which at

least fifty percent (50%) of the controlling interest is held by a charitable organization with 501(c)(3) or (4) tax exempt status whose purposes include the provision of low-income housing, or a wholly-owned and wholly-controlled subsidiary of such a charitable organization. HPD must approve the regulatory agreement that imposes tax credit restrictions on the project's dwelling units and may also require a payment in lieu of taxes ("PILOT").

420-a Tax Exemption

The 420-a tax exemption program provides a full exemption from New York City Real Property Taxes for developments which are owned by eligible not-for-profit institutions, assisted by the city or state, require use as low-income housing, reserve a portion of the project for the homeless or persons with special needs, and require that supportive social services for residents be provided. If the community facility is the only portion of the Project that will receive a 420-a tax exemption, it must be in a separately assessed tax lot from the rest of the Project.

Article XI Tax Exemption

The Article XI tax exemption provides a complete or partial tax exemption from New York City Real Property taxes for up to 40 years for the new construction or rehabilitation of affordable housing carried out by a Housing Development Fund Company (HDFC). An HDFC is a corporation formed to build low-income housing. Each HDFC is individually chartered by HPD or HCR.

Please refer to <http://www.nyc.gov/html/hpd/html/developers/incentive.shtml> for further information.

Economic Development Tax Incentive Programs

Food Retail Expansion to Support Health ("FRESH")

The FRESH program promotes the establishment and retention of neighborhood grocery stores in underserved communities. Developers seeking to construct retail space that will be leased by a full-line grocery store operator may be eligible for this benefit. Financial incentives include reduction in real estate taxes, deferral of mortgage recording tax, and exemption from sales tax.

For more information, please visit:

<http://www.nycedc.com/program/food-retail-expansion-support-health-fresh>

Financing Programs

New Markets Tax Credits ("NMTC") Program

The NMTC Program permits individual and corporate taxpayers to receive a credit against Federal income taxes in exchange for making qualified equity investments ("QEI") in Community Development Entities ("CDEs"). CDEs apply to the Treasury Department for an annual tax credit allocation and are in turn required to use substantially all of the qualifying equity investments to provide loans or equity in projects and businesses in low-income communities.

The NMTC Program is administered by the federal Community Development Financial Institutions ("CDFI") Fund in the U.S. Department of Treasury. NYCEDC frequently connects projects in need of capital with CDEs that have NMTC allocation and are looking for eligible projects.

For more information regarding the program's eligibility requirements and restrictions, as well as a complete listing of CDEs with an allocation of the tax credits that may be used in the financing of projects and businesses located in low-income areas of New York City, please visit: <http://www.cdfifund.gov/>.

Build NYC Resource Corporation

Build NYC Resource Corporation ("Build NYC") is a local development corporation administered by NYCEDC that assists qualified not-for-profit institutions and other entities in obtaining tax-exempt and taxable bond financing. As a conduit bond issuer, Build NYC's primary goal is to facilitate access to private activity tax-exempt bond financing. 501 (c)(3) not-for-profit organizations may be able to use tax-exempt bonds issued by Build NYC to finance acquisition, construction, fit-out and equipping of facilities. Build NYC approves proposed financing projects on a discretionary basis based on a variety of selection considerations.

For more information, please visit <http://www.nycedc.com/build-nyc>.

Environmental/Energy-Related Tax Incentive Programs

Business Incentives Rate ("BIR")

Business Incentive Rate (BIR) is an energy discount program administered by Con Edison. The program is designed to encourage economic growth in certain targeted industries by offering a discount off of Con Edison's electric delivery charges. Con Edison directly provides the electricity discount to eligible businesses under this program. Benefits include: reduction in the delivery components of electricity bills by approximately 35 percent and a five year term.

For information on the Con Edison Business Incentive Rates contact:

Deborah Patterson

Con Edison

511 Theodore Fremd Ave.

Rye, NY 10580

914-925-6459

hartwickj@coned.com

APPENDIX C – PARCEL-SPECIFIC DEVELOPMENT REQUIREMENTS

Parcel 2

Essex Street Market

One of the cornerstones of the Project will be a new Essex Street Market. With a long history as a popular community amenity, the proposed relocated Essex Street Market has the potential to both maintain its role in the heart of the Lower East Side and also to become more of a destination for visitors and tourists. In order to allow the Essex Street Market to continue to thrive, with expanded entrepreneurship opportunities and better integration into the public realm, it is required that the Essex Street Market be relocated from Parcel 9 to a new, larger space on the ground floor of Parcel 2 before Parcel 9 construction may begin.

Design requirements for the new Essex Street Market were developed after consultation with current market tenants (“ESM Design Drawings and Specifications”). The Developer of Parcel 2 will be required to finance and build the new Essex Street Market in a turn-key manner, in accordance with minimum Essex Street Market design requirements as described in the ESM Design Drawings and Specifications, or otherwise agreed to by the Developer and NYCEDC. The ESM Design Drawings and Specifications are included in the Site File.

After the new Essex Street Market is built in accordance with the ESM Design Drawings and Specifications, the City or NYCEDC will execute a long-term lease for \$1 or purchase a condominium interest for \$1 fully encompassing the new Essex Street Market space within the Parcel 2 building. The City and/or NYCEDC must have transactional protection between the time of Parcel 2 disposition and closing (via lease or condominium interest) on the new, turn-key Essex Street Market within Parcel 2. The Developer of Parcel 2 will provide a letter of credit in an amount equal to the appraised, highest and best use value of the buildable square footage attributed to the new Essex Street Market and the development cost of the new Essex Street Market. Any lender’s interest in the Parcel 2 development will be subject to the City’s and/or NYCEDC’s interest in the new Essex Street Market.

If a fee ownership or leasehold interest in a portion of Parcel 2 is reacquired by the City for the purpose of building a new Essex Street Market, the space reserved for the new Essex Street Market on Parcel 2 will be restricted to public market uses.

The new Essex Street Market on Parcel 2 will remain a public market and it is anticipated that it will be operated in the same manner as it is operated on Parcel 9. The existing Essex Street Market will continue to operate until the new Essex Street Market is ready to accept vendors. Parcel 9 will not be redeveloped until the Parcel 2 Essex Street Market is operational. The Developer will be responsible for reimbursing NYCEDC for the cost of moving the vendors from Parcel 9 to Parcel 2.

Parcels 3, 4, and 6

Open Space

It is anticipated that the Developer(s) of Parcels 3, 4 and 6 will contribute funds for the operation and maintenance of the Open Space into an operating account held by the Developer of Parcel 5. The Developer(s) of Parcels 3, 4 and 6 should budget no less than \$25,000, \$35,000 and \$15,000, respectively, in annual payments to the Developer of Parcel 5. Parcels 3, 4 and 6 will be required to make these annual payments in perpetuity. The annual payments will escalate each year at the CPI rate.

Parcel 5

Open Space

A 15,000 SF Open Space is required to be developed on Parcel 5. The general purpose of the Open Space will be to serve as a neighborhood open space, provide amenities for residents, workers, and the general public, with a mix of passive and active recreational space, including a variety of seating types and areas, including social seating, and children's play features. The design of the Open Space will be developed in collaboration with the community as detailed in the Restrictive Declaration. Specific design requirements for the Open Space are also found in the Restrictive Declaration.

The Developer of Parcel 5 will be required to finance, build, operate and maintain the Open Space without financial assistance from the City or NYCEDC. The Developer of Parcel 5 will be responsible for performing the Open Space operations and maintenance in perpetuity. Developer(s) of other Parcels (see above) will contribute funds, escalating annually at the CPI rate, for the operations and maintenance of the Open Space into an operating account held by the Developer of Parcel 5. The Developer of Parcel 5 may draw on this account to fund the operations and maintenance of the Open Space; however, the Developer of Parcel 5 will be responsible for any funding shortfalls. In the event there is a surplus in the operating account the Developer of Parcel 5 can propose to utilize the surplus to implement improvements in the public realm. In the event that title to Parcels 3, 4, and/or 6 remains with the City but Parcel 5 has been sold, the Developer of Parcel 5 will still be responsible for financing, building, operating and maintaining the Open Space.

It is anticipated the Developer of Parcel 5 will take fee title to the premises of the Open Space, but will be required to provide a permanent public access easement to the City.

Potential for School Construction

The City is retaining approximately 15,000 SF of land on Parcel 5 for a Potential School Site in the event that the DOE/SCA determines that there is a need for a new school and capital funding is available. It is a requirement of this RFP that 75,000 ZFA of community facility space within the LSGD be designated for the school.

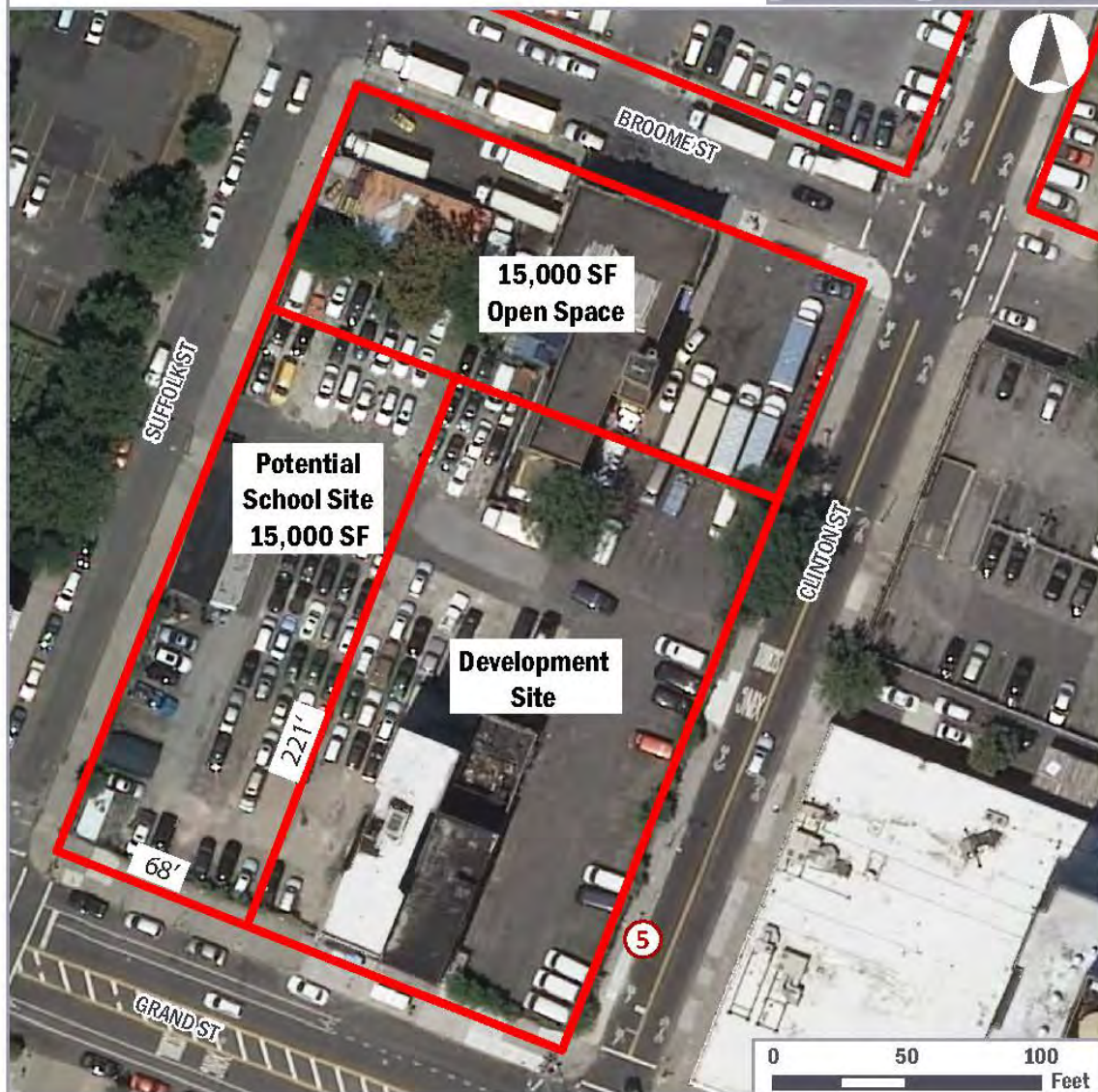
The Developer shall meet with the SCA after selection to review conceptual building design. The SCA may submit comments to NYCEDC and/or HPD with respect to the design for up to 45 days after this meeting. NYCEDC and/or HPD may request modifications from the Developer within an additional 60 days. The Developer of Parcel 5 will modify any design elements that are deemed by NYCEDC and/or HPD to preclude the use of, or put an undue burden on the development of, the remainder of the Parcel as a school in the future. Additional design reviews will occur as necessary.

Please see the map below for the location of the Potential School Site on Parcel 5. HPD will determine the best interim use. Fee title of the Potential School Site will remain with the City. The Developer of Parcel 5 should budget \$10,000.00 annually in maintenance work that the Developer will be required to perform on the potential school site.

Parcel 5 - Potential School Site Location

 **Parcels**

 **394-406 Grand Street (Block 346, part of Lot 40)**



NYCEDC MGIS 12/14/12

APPENDIX D – MITIGATIONS, PROJECT COMPONENTS RELATED TO THE ENVIRONMENT AND FURTHER ASSESSMENTS

Pursuant to the CEQR analysis, Respondents are required to integrate a variety of measures into their Proposal in order to avoid the potential for significant adverse impacts and mitigate disclosed potential significant adverse impacts. Furthermore the CEQR analysis also requires further assessments to be performed by the Developer(s). The measures and further assessments listed below are representative of those contained in the FGEIS, Tech Memo 001 and Tech Memo 002, but are not a comprehensive list. Refer to the HPD and NYCEDC commitment letters to DCP, the FGEIS, Tech Memo 001 and Tech Memo 002 included in the Site File. Neither HPD nor NYCEDC make any representations or warranty or assumes any responsibility for the accuracy of information contained in this Appendix D or the Site File. The Developer(s) will be responsible for compliance with all environmental quality reviews associated with the Project.

Shadows

The conservative shadow analysis in the FGEIS assumed maximum zoning envelopes for developments on Parcels 1 - 4. To preclude an impact from the shadows on the roses contained within the Schiff Malls located on Delancey Street between Ludlow and Suffolk Streets, the Developer(s) of Parcels 1 through 4 may be required to pay replacement cost of the roses on any of the block-long sections of the median where the roses are impacted as a result of that Developer's actual building massing.

The replacement cost of all roses from Ludlow to Suffolk with a more shade tolerant species is estimated to be \$22,500 (in 2012 dollars), and shall be paid to Department of Parks and Recreation ("DPR") prior to the application for any permanent certificate of occupancy for such Parcels. DPR will revise the cost at the time of the payment to reflect actual prices. Neither commencement nor completion of the work by DPR to replace the roses will be required before the Developer can apply for a permanent certificate of occupancy.

If multiple buildings will have an impact on the same mall median and those buildings are owned by different Developers, the first Developer to obtain a temporary certificate of occupancy for a building affecting the viability of the roses in a median would be required to pay DPR for the replacement of the roses with a more shade tolerant species.

Infrastructure (Water and Sewer)

To preclude significant adverse impacts related to stormwater runoff, the Developer(s) will be required to develop and implement stormwater best management practices ("BMPs") in coordination with the Department of Environmental Protection ("DEP"), in accordance with recent stormwater rules promulgated by DEP. The new rules will require developments to achieve an overall release rate of 0.25 cubic feet per second ("CFS") or 10 percent of the allowable flow rate (whichever is greater) from the development Parcels.

The Developer(s) must continue to coordinate with DEP Bureau of Water and Sewer Operations regarding water supply infrastructure and distribution, specifically for the areas of the Project Site that have been demapped.

Historic/Cultural Resources (Architectural)

Construction Protection Plans (“CPP”) for historic architectural resources within 90 feet of any proposed new construction must be developed in consultation with the Landmarks Preservation Commission (“LPC”) and/or the New York State Office of Parks, Recreation and Historic Preservation (“OPRHP”).

As described in the FGEIS and in order to minimize the potential for impacts associated with the demolition of historic resources (Parcels 2, 5, 8, 9 and 10) or contextual impacts (Parcel 1) associated with new construction in proximity to historic districts and/or structures, the Developer(s) must consult with the LPC and/or the OPRHP and fully explore possible mitigation measures as described in the FGEIS.

- Mitigation measures that could partially mitigate the impact of the demolition of the Essex Street Market and former fire station may include, to the extent practicable and feasible: documentation, a site commemoration plan, architectural salvage, and design of the new buildings to reference the design of the demolished buildings.
- The Developer of Parcel 1 must consult with LPC and/or OPRHP regarding the compatibility of the proposed development on Parcel 1 with the State/National Registers of Historic Places (“S/NR”)-listed Lower East Side Historic District, in which it is located, and with the S/NR-eligible and NYCL-eligible Eastern Dispensary. Submission of the preliminary design of the proposed building on Parcel 1 to LPC and/or OPRHP for review and comment is proposed as a means to eliminate or partially mitigate the potential contextual and visual impact on the historic district and Eastern Dispensary from the proposed development on Parcel 1. If LPC and/or OPRHP determine that the preliminary design of Parcel 1 will result in a significant adverse impact on the Lower East Side Historic District and/or the Eastern Dispensary and no design changes that are feasible and practicable given NYCEDC and HPD’s goals and objectives, are identified to eliminate or fully mitigate this impact, it will constitute an unmitigable significant adverse impact.

Historic and Cultural Resources (Archaeological)

The Developer(s) must consult with LPC and OPRHP regarding the archaeological sensitivity of Parcels 2 through 6. Phase 1B surveys must be undertaken and completed prior to the start of construction in consultation with LPC and/or OPRHP. Phase 2 and 3 investigations could be required pending the results of the Phase 1B survey. Depending on the results of the investigations mitigation measures may be required.

Hazardous Materials

Prior to any new construction, further investigation must be performed on each Parcel to determine the presence and nature of contaminants of concern. A Site Investigation Work Plan and Health and Safety Plan, the scope of which will include laboratory analysis of soil and groundwater samples and will be pre-approved by DEP, must be implemented.

Depending on the Site Investigation results, one or more Remedial Action Plans (“RAPs”) and Construction Health and Safety Plans (“CHASPs”) must be prepared and submitted to DEP for approval. The RAP would govern soil disturbance and the CHASP would ensure that subsurface disturbance is performed in a manner protective of workers, the community, and the environment.

Air Quality (HVAC)

Natural gas must be used for fossil-fuel fired heating and hot water equipment on all of the proposed development Parcels.

To preclude the potential for air quality impacts from natural gas-fired heating and hot water systems of a new building on Parcel 5, the stack(s) must be located at the highest rooftop of the building and at least 90 feet away from the lot line facing Broome Street.

To preclude the potential for air quality impacts on existing and proposed buildings on the same block as Parcel 9, stack(s) associated with natural gas-fired heat and hot water systems for the building on Parcel 9 must be located at the highest rooftop of the building and at least 70 feet away from any building of a similar or greater height.

In lieu of the requirements listed above for Parcels 5 and 9, the Developer(s) can perform an analysis specific to the proposed development demonstrating that national and local ambient air quality standards and thresholds would be met using an alternative stack configuration and/or a different fuel type.

Noise

Developers must provide window/wall attenuation in dwelling units, hotel uses and community facility space which is equal to or greater than the attenuation requirements presented in the FGEIS, to ensure a maximum interior noise environment of 45 dBA under closed-window conditions.

Window/wall attenuation for commercial uses must ensure a maximum interior noise environment of 50 dBA.

In the event federal funding is utilized, the Developer must follow US Department of Housing and Urban Development guidance concerning window/wall attenuation for residential and community facility uses.

Greenhouse Gas Emissions

Housing developments must be certified under the Enterprise Green Communities Program. If a housing development cannot be certified under the Enterprise Green Communities Program because of its construction methodology, the development would be designed and constructed to standards equivalent to those which would be necessary to achieve certification under the Enterprise Green Communities Program.

All housing developments must be designed and constructed to reduce construction and demolition waste and to incorporate sustainable design features that reduce energy consumption and greenhouse gas emissions.

Construction (Air Quality)

The Developer(s) must implement the following emission reduction measures including, to the extent practicable and feasible: minimizing the use of diesel engines in favor of electric engines (as soon as possible following electrification of a site); utilizing ultra-low sulfur diesel exclusively; utilizing best available tailpipe emissions reduction technology, consisting of diesel particle filters for non-road diesel engines with a power rating of 50 horsepower or greater and truck fleets under long-term contracts; utilizing newer equipment (i.e., Tier 2 or higher) for all non-road diesel engines with a power output of 50

horsepower or higher; where logistics allow, locating large emission sources away from residential buildings; and enforcing statutory restrictions on truck idling.

The Developer(s) must implement a fugitive dust control plan to provide at least a 50 percent reduction in particulate emissions from fugitive dust. For example, truck routes within the sites would be either watered as needed or, in cases where such routes may remain in the same place for an extended duration; the routes could be stabilized, covered with gravel, or temporarily paved to avoid the resuspension of dust. Stabilized truck exit areas could be established for washing off the wheels of all trucks that exit the construction sites. In addition to regular cleaning by the City, streets adjacent to the sites could be cleaned frequently. All trucks hauling loose material would have their loads securely covered prior to leaving the sites. An on-site vehicular speed limit of 5 mph could be imposed. Water sprays would be used for all excavation, demolition, and transfer of spoils to ensure that materials are dampened as necessary to avoid the suspension of dust into the air.

Construction (Noise)

The Developer(s) must follow the requirements of the New York City Noise Control Code (“NYC Noise Code”) for construction noise control measures and must implement source and path controls, as described in the FGEIS.

In terms of source controls, measures required include: the use of equipment that meets the sound level standards specified in Subchapter 5 of the New York City Noise Control Code (i.e., Local Law 113), as amended; the use of electrical-powered equipment over diesel- or gas-powered equipment (as soon as possible following electrification of a site); minimization of truck back-up alarm noise; enforcement of statutory limitations on idling; and proper maintenance of all noise generating equipment and mufflers.

With respect to path controls, measures required include: where logistics allow, locating noisy equipment away and shielded from sensitive receptor locations (to the extent practicable); utilizing noise barriers constructed from plywood or other materials to provide shielding; the use of path noise control measures during operation of especially noisy equipment; the minimization of truck deliveries outside the worksite; erection of a minimum 12-foot fence with noise reduction features enclosing the construction sites to the maximum extent practicable; and ensuring that all barriers, enclosures, tents and other path controls comply with DEP’s Construction Noise Mitigation guidelines.

Construction Noise Impacts at Seward Park High School (the “High School”)

The FGEIS, based on the reasonable worst case development scenario, predicted construction noise impacts at the High School as a result of noise generated by construction on Parcels 1, 2 and 3. The Developer(s) of these Parcels will be required to complete a revised construction noise analysis of each Parcel. If the additional analyses find that construction at any of the three development Parcels would continue to have the potential to result in significant adverse noise impacts at the High School, the Developer(s) of the Parcel(s) with the potential to result in significant noise impacts will investigate whether additional path and source controls may be available to mitigate the potential significant impact.

Taking into account any available additional path and source controls, if the analysis still shows the potential for significant noise impacts at the High School resulting from construction at one of the development Parcels, the Developer of that Parcel will explore potential receptor controls for the High School in consultation with the SCA. In the event that implementing such receptor controls is not practicable, as determined by the Office of the Deputy Mayor for Economic Development (“DME”), in consultation with NYCEDC and HPD, the Project would result in a partially mitigated impact on the High School.

Monitor

In order to ensure that implementation of all construction emission reduction measures, fugitive dust control measures, and noise control measures (“CAQNCs”), the Developer(s) shall appoint an independent third party (the “Monitor”) acceptable to DME to oversee, on behalf of the City, the implementation and performance by the Developer of the CAQNCs, with respect to the development of each Parcel. The scope of services described in any agreement between Developer(s) and the Monitor pursuant to which the Monitor is retained (the “Monitor Agreement”) shall be subject to DME’s review and approval.

APPENDIX E - UTILITIES

Neither HPD, NYCEDC nor any other government agency or authority or private utility make any representations or warranty or assumes any responsibility for the accuracy of information contained in this Appendix or the Site File. The Developer(s) will be responsible for coordination with all City agencies and utility providers, and for all costs associated with providing utility service to the proposed development. Moreover, the Developer(s) will be required to submit all applications and analyses, pay all fees, and obtain all permits required by City, State and Federal agencies and utility providers necessary for the proposed development.

Combined Sewer

All Parcels are served on multiple street faces by combined sewers. The sewers range from 12" diameter pipes to 48" x 32" pipes. Combined sewer pipe material at the Project Site includes reinforced concrete, vitrified clay, steel, and brick. Sewer inspections exhibited deficiencies and adverse conditions that are not uncommon given the age and location of the sewers: cracks, holes with voids and broken pipes, but the inspections found that the sewers are generally in good/functioning condition.

DEP is responsible for any sewer repairs downstream of or adjacent to the Parcels including reconstruction of existing broken/collapsed sewers. Repair work of any deficiencies and/or adverse conditions would be done on DEP's timeline but would not prevent approval of any site connection applications.

Parcels that are developed within the existing allowable densities will complete the normal DEP Site Connection Application process. If density/buildable square feet is relocated upstream, the preparation of an Amended Drainage Plan would not be required; however, a hydraulic analysis may be required as part of the Site Connection Application. In addition, increases in Dry Weather Flow would require analysis of the Regulator. If localized impact of the proposed higher density rezoning results in a surcharge of the existing sewers, then the Developer may be required to remedy the aforementioned deficiencies and/or adverse conditions.

DEP currently maintains the sewer mains which exist beneath the Previously Demapped Streets and DEP will continue to do so now that the streets are mapped.

Electric

At a conceptual level ConEd has advised that there is sufficient capacity to supply the required electric loads to each Parcel; however, such determination is subject to a detailed plan and load letter submission.

It is anticipated that vaults will be required at Parcels 1 – 6 due to the likely size of the buildings; however, Parcels 8 – 10 will likely feed off the low-voltage secondary grid network and it is not anticipated that they will require vaults.

Existing ConEd utilities located beneath the Previously Demapped Streets will continue to be maintained by ConEd now that the streets are mapped.

Water

All Parcels are served on multiple street faces by water mains. Water mains range from 12" to 20" and are constructed of both ductile iron and cast iron.

If hydrants are relocated or new taps are constructed, water main segment replacement may be required in accordance with DEP's standard water main specifications. Typically DEP requires a Developer to install up to 80' of new water main (40' on each side of a tap) if the existing water main was installed prior to 1945 or is constructed from cast iron. Otherwise DEP does not anticipate water main improvements being required as part of the Project.

DEP currently maintains the water mains, which exist beneath the Previously Demapped Streets and will continue to do so now that the streets are mapped.

Gas

Without a mechanical system design and gas load letter for each Parcel, ConEd could not advise on the availability of gas capacity to support the Project.

ConEd advised that there are currently several low pressure lines surrounding the Project Site. ConEd also advised that there is a 12" high pressure line in the area, but did not provide the location of this line. ConEd suggested that the low pressure line may be able to supply the required gas load for the Project, and if the low pressure line cannot supply the load, the High Pressure line could be extended to provide service to the Project Site. The Developer(s) is responsible for coordinating gas supply for the Parcels with ConEd.

Existing ConEd utilities located beneath the Previously Demapped Streets will continue to be maintained by ConEd now that the streets are mapped.

APPENDIX F – HireNYC PROGRAM

NYCEDC and HPD recognize the importance of creating employment opportunities for low-income persons, enabling them to participate in the City's economic growth. To this end, NYCEDC has developed the HireNYC program (the "HireNYC Program"). Respondents must submit a HireNYC Program plan. Preference will be given to Respondents who seek to achieve at a minimum, the following goals (collectively, the "Goals"):

- Hiring Goal: 50% of all new permanent jobs created in connection with the project (excluding jobs relocated from other sites) will be filled by members of the target population as defined in the next paragraph beginning at commencement of business operations by each employer, and continuing for eight years;
- Retention Goal: 40% of all employees whose hiring satisfied the Hiring Goal will be retained for at least nine months from the date of hire;
- Advancement Goal: 30% of all employees whose hiring satisfied the Hiring Goal will be promoted to a higher paid position within one year;
- Training Goal: All tenants will cooperate with the City's workforce development agencies to provide skills-training or higher education opportunities to members of the target population.

The target population is defined as persons who have an income that is below 200% of the poverty level as determined by the NYC Center for Economic Opportunity. The program plan must include commitments to a process for working with the City to implement the program plan, including how the Respondent will collaborate with local employment programs to meet their goals. The program should describe all programmatic details, including, as applicable, collaboration with a designated city agency, implementation, record-keeping and monitoring processes and any other relevant information.

Each Respondent should also describe its experience, if any, conducting similar hiring and workforce development programs or undertaking other efforts to create employment opportunities for low-income persons in order to assist NYCEDC in its assessment of each Respondent's capacity in this area.

The Program must include the following elements:

1. Designation of a workforce development liaison to interact with NYCEDC and the designated city agency during the course of the Program;
2. Commitment by the selected Developer (or its successors and assigns, as applicable) to do the following (and provide in each non-residential tenant lease, if any, that the tenant will do the following):
 - a. make good faith efforts to achieve the Goals with respect to its operations;
 - b. provide the designated city agency with the approximate number and type of jobs that will become available, and for each job type, a description of the basic job qualifications, at least three (3) months before commencing hiring;
 - c. notify designated city agency six (6) weeks prior to commencing business operations;
 - d. during initial hiring for any new permanent jobs, consider only applicants referred by the designated city agency for the first fifteen (15) business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first;
 - e. during ongoing hiring for any new permanent jobs, consider only applicants referred by the designated city agency for the first fifteen (15) business days, until the Hiring Goal is achieved or until all open positions are filled, whichever occurs first (unless the designated city agency reaches a different agreement with the tenant regarding ongoing hiring practices);
 - f. submit to NYCEDC and the designated city agency, for eight (8) years following the date of the commencement of business operations, an annual employment and benefits survey

that will include, but not be limited to: targeted hiring statistics, wages and job retention, training and advancement data;

- g. cooperate with annual site visits and satisfaction survey following the date of the commencement of business operations;
 - h. allow information collected by the designated city agency and NYCEDC to be included in public communications, including press releases and other media events.
3. Commitment by the selected Developer (or its successors and assigns, as applicable) to facilitate targeted hiring by (a) arranging meetings and other events at which HireNYC and the designated city agency staff can introduce potential or actual tenants to the menu of services available from the designated city agency and (b) assisting with information sharing, providing space for hiring activities and transmitting feedback from tenants regarding results of hiring initiatives.

NYCEDC strongly encourages Respondents to include one or more of the following elements in each such Respondent's Program, including how the Respondent will collaborate with local employment programs:

1. Commitment by the selected Developer (or its successors and assigns, as applicable) of resources for training efforts, such as making financial investments in employee training and creating a website or other technology-based tools and supports to:
 - a. promote and track workforce development efforts;
 - b. notify tenants of potential grant opportunities;
 - c. provide assistance to tenants to apply for grants, and share other opportunities or information as may be relevant.
2. Commitment by the selected Developer (or its successors and assigns, as applicable) to provide temporary space and personnel for a satellite outreach or workforce development site to provide outreach and screening of local jobseekers, including, but not limited to, distributing job applications and informing the public of available job opportunities leading up to the commencement of business operations;
3. Commitment by the selected Developer (or its successors and assigns, as applicable) to support connections to education and training. The workforce development liaison will work in partnership with HireNYC staff to connect individuals interested and in need of education and training to training programs and further education, at designated city agency service provider locations, or through relationships with other accredited training providers.

APPENDIX G – ADDITIONAL REQUIREMENTS

Housing Marketing, Sales and/or Leasing Requirements

Marketing of the rental of residential units and/or the sale of the homeownership units is the sole responsibility of the Developer. In carrying out these functions, the Developer must comply with HPD's marketing requirements, which are designed to ensure that the availability of the units is disseminated as widely and fairly as possible ("HPD-HDC Marketing Guidelines"). The HPD-HDC Marketing Guidelines are included in Appendix M. The marketing of the units will be monitored by HPD staff to ensure compliance with these requirements.

Please refer to Form F-1 (Rental Pro Forma) and Form F-2 (Coop and Condo Pro Forma) included in the Site File and available for download at www.nycedc.com/sewardpark for the procedure to calculate affordability of proposed rent and/or sales prices.

Fair Housing Requirements

The Developer is required to comply with all applicable Federal, State, and local laws, orders, and regulations prohibiting housing discrimination.

Warranty Coverage of Homeownership Units

If a Respondent proposes homeownership residential units, such units must be sold with a warranty, as required by HPD, which is the same as the housing merchant implied warranty described in Section 777(a) of the New York State General Business Law. The warranty shall apply to all units, regardless of the number of stories of the building in which they are located, and may not be limited, modified, or excluded by the methods provided for in Section 777(b).

Resale, Refinancing, and Recapture Restrictions

Resale, refinancing, and recapture restrictions will apply to buildings that contain affordable housing units and may vary on case-by-case basis. Generally, the policy is as follows:

Residential Rental Component (if applicable)

All affordable rental units will be permanently affordable. A portion of the Enforcement Note and Mortgage shall become due and payable to the extent of the applicable percentage (to be defined by HPD in the Enforcement Mortgage) of any profits from the resale or refinancing of the building.

Homeownership Component (if applicable)

Homeowners must agree to occupy the multi-family unit as a primary residence. Any resale of an affordable unit must be to a buyer who will be an owner-occupant and maintain the unit as his/her primary residence.

All affordable homeownership units will be permanently affordable. The restricted sales price of the units will be allowed to increase annually by an established appreciation rate; however the sales price of each unit will be capped based on affordability for a family at a particular AMI to preserve affordability over time.

Retail/Commercial and Community Facility Components (if applicable)

The portion of the Enforcement Note and Mortgage attributable to the retail/commercial and community facility components of the Project is repayable out of refinancing and resale profits, and is generally non-evaporating and non-extinguishing depending on sources of financing and cash flow.

Equal Opportunity Requirements

The Project may be subject to the provisions of Executive Order 50 and its implementing regulations, as stated in Appendix J. A representative from the Developer may be required to attend a class administered by HPD outlining the requirements of Executive Order 50 and to submit Equal Opportunity forms provided by HPD verifying compliance with its provisions.

Section 3 Clause

If a Respondent proposes to utilize Section 3 covered assistance such as Section 202 Supportive Housing for the Elderly funding, Community Development Block Grant funding, or HOME Investment Partnership funding, their Proposal or the applicable portion thereof may be subject to Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135. If applicable to this Project, (i) to the greatest extent feasible, opportunities for training and employment arising in connection with the planning and carrying out of the project must be given to "Section 3 Residents" as such term is defined in 24 CFR 135.5; and (ii) to the greatest extent feasible, contracts for work to be performed in connection with any such project must be awarded to "Section 3 Business Concerns" as such term is defined in 24 CFR part 135.5. The Respondent may elect to incorporate Section 3 requirements into the Respondent's proposed HireNYC program.

DOT Delivery Program

Trucks delivering during the day are subject to increased truck traffic, congestion and traffic fines. By shifting deliveries to non-peak, off-hour times, deliveries can be made more efficient and environmentally friendly. Respondent(s) are required to submit a loading and delivery plan within their Proposal and to coordinate this plan with DOT after selection as Developer(s). Respondents are encouraged to utilize unassisted off-hour delivery strategies and noise reduction technologies that can be found in the DOT Off-Hour Delivery Program and the Parcel-specific loading practices suggested by DOT in Appendix K.

APPENDIX H – PROPOSAL CONTENTS

Each Proposal must contain the forms and supporting documentation indicated below. Each copy of the Proposal must be tabbed as indicated. The tabs should run down the right hand side of the bound Proposal document. All forms referenced below can be found in the Site File and are available for download at www.nycedc.com/sewardpark.

TAB A – Completeness Checklist and Respondent’s Letters

Each Respondent must submit a Completeness Checklist (Form A-1), Respondent’s Letter to HPD (Form A-2), and NYCEDC’s Statement of Agreement (see Appendix Q). All letters must be printed on the Respondent’s letterhead and signed by an authorized representative of the Respondent.

TAB B – Proposal Summary and Narrative

Respondents must include a detailed narrative that describes all relevant aspects of the Proposal. The narrative must include, at a minimum:

- Development entity or entities that form the Respondent;
- Development plan
 - Type and size of development;
 - Proposed uses (including detailed information on each use, space utilized and corresponding Parcel);
 - Breakdown of all residential units by type and affordability (the income and rent/sale levels contemplated);
 - Breakdown of all commercial and community facility spaces proposed (including a list of potential and committed tenants);
- Qualitative aspects of the buildings proposed, the distribution of uses, the commercial and community facility strategy, and any other relevant information;
- Sources and uses narrative;
- Purchase price;
- Schedule and sequencing;
- Sustainability overview;
- Additional Environmental Impact Statement (“EIS”) work required.

TAB C – Respondent Description

All Respondents must complete the Development Team Information and Respondent Questionnaire (Form C-1 and C-2). The form is flexible so that it can be filled out by several entities if the Respondent consists of a team of development entities. Respondents that include a not-for-profit organization must also complete the not-for-profit section of the Respondent Description. A principal of each entity must sign the form.

If the Respondent consists of a team of development entities, the Proposal must identify the entity leading the Respondent and the main point of contact. Also provide contact information for the point of contact for each development entity.

Respondents must include a narrative and chart / diagram describing the ownership and management structure of the proposed development – differentiating between the development and operations phases if necessary. The structure and percentages of ownership and investment must be included. If a partnership

or joint venture is proposed between entities, the entities must submit details of the arrangement by attaching a draft partnership or joint venture agreement or a similar document to the Proposal.

Provide a brief description of the most relevant experience of each development entity that forms the Respondent.

Provide a staffing plan indicating which staff members would have primary responsibilities for implementing the proposed development and their roles in day-to-day management of the proposed development. Also indicate the relevant development experience of the staff members who would manage the proposed development. In addition, provide contact information for all staff members.

Respondents are also encouraged to provide resumes and describe the relevant experience of the Development Team.

TAB D – Development Experience, Management Experience and Current Workload

All Respondents must complete Forms D-1 and D-2 and Respondents proposing to build affordable housing must complete Form D-3. These forms should be submitted as Excel and Word files in original formatting on thumb/flash drive. A separate form shall be provided for each entity with management experience. Care should be taken to provide accurate information about references.

TAB E – Assets Statement

The Respondent must submit audited or reviewed financial statements describing in detail the financial status of the Respondent in the two (2) most recent fiscal years preceding the deadline for the submission of Proposals in response to this RFP. Separate forms shall be provided for each entity within the Respondent. Publicly-owned companies must submit the latest annual report and Form 10K as well as any Form 10Q submitted after such Form 10K. As an alternative, the Assets Statement in Form E may be used.

TAB F – Financing Proposal

Respondents must submit a completed Rental Pro Forma (Form F-1) for the rental housing component and a completed Coop and Condo Pro Forma (Form F-2) for the homeownership component, if any, of the Proposal. In addition Respondents must submit a custom financial model encompassing every Parcel and every use (residential, commercial and community facility spaces) within the Proposal (“Full Proposal Model”). Both Form F-1 and Form F-2 and the Full Proposal Model should be submitted in hard copy and in Excel on a flash/thumb drive. All Excel files must be in original formatting and contain all original formulas (i.e. no hard coding).

The Full Proposal Model shall include, at a minimum, the following worksheets: Assumptions (displaying financing, floor area, income, and operating assumptions), Cash Flows (at least 20 years of construction and operation periods including loan draw schedule and debt service payments), Sources and Uses (displaying both construction and permanent sources and a detailed development budget with both hard and soft costs broken down), and Return Metrics (displaying net present value, internal rate of return, cash on cash and cash on cost calculations). The Full Proposal Model cash flows for residential space should mirror those in Forms F-1 and F-2.

The Full Proposal Model should also include the calculations used to derive the purchase price for the proposed development.

Market comparables, in the form of detailed rental/sales listings of at least three similar properties/projects, must be provided for each use proposed. In addition, the Respondent should provide comparables for construction costs and operating expenses for similar properties/projects for each use proposed.

In addition to Forms F-1 and F-2 and the Full Project Model, the Respondent must provide a narrative description that clearly explains the financing structure of the Project on a per Parcel basis and per use basis, if applicable. The narrative must explicitly identify proposed financing programs/sources and the terms for each source – distinguishing between construction and permanent financing. Respondent must explain the financing approach to loss-leading Parcels/elements of the proposed development – including cross-collateralization or multi-Parcel financing. The narrative must also describe any benefits or tax exemption / abatement programs assumed.

Respondents must submit letters of interest from potential tenants of the commercial and community facility spaces.

Respondents are permitted to provide a narrative describing an alternative financing scenario that incorporates competitive sources, such as 9% Low Income Housing Tax Credits and NYS Housing Trust Fund subsidies, among others. Respondents should describe how the use of competitive sources would change their Proposal. However, this alternate financing scenario will not be considered in the selection of the Developer(s). For the purposes of this RFP, tax-exempt bond financing is not considered a competitive financing source and competitive sources may be proposed for the senior component of the proposed development in the primary financing scenario. Tax-exempt bond financing subject to the private activity volume cap is a limited resource and to the extent that it is proposed as a funding source, Respondents are encouraged to maximize the number of affordable units in the applicable buildings.

TAB G – Lenders

Private Financing

If private financing is proposed, a letter or letters of interest from a private lender or lenders must be included. Letters must be dated no earlier than two (2) months from the date of submission of the Developer's Proposal. The letter(s) must indicate a willingness to provide construction and permanent financing in amounts and with terms consistent with the Proposal, and must include the following:

Construction Loan

- The amount of financing that the lender would consider based on the lender's preliminary determination of feasibility, based on expected development costs, and rent levels and/or sales prices;
- The interest rate, fixed or variable, the equity requirement and other terms under which the lender would provide construction financing.

Permanent Loan

- The amount of financing that the lender would consider based on the lender's preliminary determination of feasibility, based on expected development costs and rent levels;
- The maximum loan to value ratio, cap rate, and other underwriting criteria, including treatment of rental income, minimum maintenance and operating expenses, and debt service coverage requirements.

The letters must be provided on the lender's letterhead, signed by a representative of the lender, and must state the amount and terms of the financing. Respondents may use different private lenders for construction and permanent financing.

Any lender's interest in the Parcel 2 development will be subject to the City's and/or NYCEDC's interest in the new Essex Street Market.

Public Financing

If tax-exempt bond financing is proposed, a letter of interest from the issuer is not required. However, a letter of interest from a credit enhancer acceptable to the issuer must be provided.

If the use of public funds from sources other than HPD or HDC is proposed, a written indication of interest (e.g. a letter of interest, a commitment letter or an award letter) dated no earlier than two (2) months from the date of submission of the Developer's proposal, must be included. Each letter must be on the organization's letterhead and signed by a representative of that organization.

TAB H – Design Narrative

Respondents must provide a detailed narrative description outlining the proposed concept and methodology of the Project and include, among other things, the Respondent's approach to the Project, critical Project issues and problem solving techniques, and primary design objectives of the Project. This description should identify:

- A rationale for the design concept chosen for the proposed development that addresses building configuration, lot coverage, heights, orientation and relationship to surroundings, primary building materials, major architectural features, circulation (private and public), and sustainable design elements;
- Proposed development square footage (gross and saleable/rentable, including basement(s), if applicable) broken down by use/type and Parcel;
- Residential units broken down by affordability, homeownership/rental, unit distribution and Parcel;
- Detailed description of construction methods and major building systems including structure, façade and mechanical systems;
- Description and location of all infrastructure and other public improvements, including open space, landscaping, and parking;
- Analysis and calculations to demonstrate compliance with the New York City Zoning Resolution (including citations of all relevant sections); New York City Building Code information indicating occupancy group and construction classification, and residential unit count and distribution; and a statement that the Proposal is consistent with the ULURP Approval.
- Description of retail programming and the flexibility built into the retail program and design in order to accommodate of a variety of future tenants with particular attention paid to restaurant tenants;
- Description of the extent to which the Urban Design Guidelines have been incorporated into the proposed development;
- Description of minor additional environmental work (if any) required to be performed before development can commence;
- Statement confirming that all measures required in order to avoid the potential for significant adverse impacts and mitigate disclosed potential adverse impacts as described in the FGEIS, Tech Memo 001 and Tech Memo 002 have been incorporated into the Proposal. Statement confirming that all further assessments required by the FGEIS, Tech Memo 001 and Tech Memo 002 will be performed by the Respondent, if selected.

TAB I – Architectural Submission

All plans must be prepared by a Registered Architect or Professional Engineer. All materials must be on paper size of 11” by 17” or smaller and must be easily reproducible. The following must be included:

- Building height and massing diagram/plan;
- Stacking plan of each Parcel showing proposed uses by floor;
- Site plan/street level floor plan showing all components of the Project, means of egress, and any other uses;
- Typical and atypical floor plans and any other plans necessary to explain the development concept. It is not required that design and architectural documents submitted include full apartment layouts for the floor plans. Submissions, however, must show blocked out units with total square footages. Community spaces (laundry room, playroom, etc.) should be indicated in the floor plans. Unit plans must be at 1/8”=1’0”;
- Color renderings/elevations indicating building materials to be used (especially details at street level), how blank street walls are avoided, and treatment of any loading docks, service areas, curb cuts, parking access, and landscaping. Street front elevations must indicate total building heights. All renderings to be provided in electronic format on flash/thumb drive;
- Vehicular and pedestrian circulation site plan including sidewalks, parking, driveways, and building access points;
- Loading and Delivery plan. Respondents are encouraged to utilize unassisted off-hour delivery strategies, noise reduction technologies and site-specific loading practices suggested by DOT (see Appendix K);
- Streetscape treatment, tree locations, lighting;
- Pertinent site documentation and photographs to show development's relationship to existing context;
- Any other architectural drawings, such as axonometric, perspective or sectional drawings, color renderings, photographic, and/or computer generated modeling if they can provide a better understanding of the development concept. All renderings to be provided in electronic format on flash/thumb drive;

TAB J – Community Criteria

Respondents must provide a response to each of the community criteria located on pages 17-18 of this RFP. Respondents must describe the extent to which each of the criteria has been incorporated into the proposed development.

TAB K – Sustainability Elements

Respondents must provide a narrative describing how they are going to achieve the requirements of the Enterprise Green Communities, along with additional sustainability elements included in their Proposal. Respondents should also include the Intended Methods Workbook for Green Communities (Form K) in this tab. Respondents should clearly indicate which of the elements are included in their Proposal. In addition, Respondents should describe relevant previous experience with sustainable design.

TAB L – Development Schedule

Respondents must provide a development schedule for entire proposed development (broken down by Parcel included in the Proposal). Each schedule should include, at a minimum, the following

tasks/milestones: commencement of design, completion of design, permitting, demolition and site preparation, construction commencement, construction completion, marketing period, occupancy and stabilization. Respondents should discuss how they will be held accountable for such dates and contingencies, if any, to the schedule. Respondents should provide a general discussion of the rationale for the sequencing of the proposed development;

TAB M – Housing Marketing Plan

Respondents must provide a marketing plan for the lease-up and/or sales of all affordable housing units. The marketing plan should include information about the anticipated target markets of the Project; pricing structures and amenities; community outreach strategy; and other relevant information. Elaborate on how the overall unit distribution is responsive to market needs. The marketing plan must comply with the HPD-HDC Marketing Guidelines. Please refer to HPD-HDC Marketing Guidelines (Appendix M) for more information.

TAB N – M/WBE Utilization Plan

NYCEDC and HPD are dedicated to furthering the participation of M/WBEs in our work. Respondents must submit a M/WBE Utilization Plan.

M/WBE Utilization Plans should include, but not be limited to:

- Establishment of numerical M/WBE contracting utilization goals or targets;
- Strategies and methods that will facilitate participation by M/WBE firms, such as carve-outs and/or unbundling bid packages;
- Methods for identification of M/WBE firms seeking construction work in connection with such redevelopment; and
- Establishment of administrative procedures for implementation, monitoring and reporting of M/WBE participation.

Information about NYC’s M/WBE certification process can be obtained at www.nyc.gov/getcertified.

TAB O - HireNYC Program

NYCEDC and HPD recognize the importance of creating employment opportunities for low-income persons and enabling them to participate in the City’s economic growth. To this end, NYCEDC has developed the HireNYC Program. Participation in the HireNYC Program requires the Developer to make good faith efforts to achieve hiring and workforce development goals. Respondents must submit a HireNYC program, as more particularly described in Appendix F.

TAB P - Local Law 34

All entities that are doing or seeking to do business with the City, as well as their principal officers, owners and senior managers, must follow the procedures established in Local Law 34 of 2007 (as it may be amended from time to time, “LL 34”). In order to avoid the actual or appearance of a link between governmental decisions and large campaign contributions, lower municipal campaign contribution limits apply to any person listed in the Doing Business Database. Transactions covered by LL 34 include most contracts, concessions, franchises and grants greater than \$5,000, economic development agreements, real property transactions, land use actions and pension investment contracts. Respondents that submit proposals for any of these transactions must complete an agency-supplied Doing Business Data Form before their proposals can be considered or awards made. Each Respondent must complete a Doing Business Data Form for each entity submitting the Proposal and submit an original copy of each such

form as part of the Respondent's Proposal. A copy of the Doing Business Data Form is provided in Appendix L.

TAB Q – Parcel-Specific Programming Requirements

Parcels 1 – 6

Respondents proposing to develop a Parcel within the LSGD must confirm that 75,000 ZFA of community facility space within the LSGD will be set aside for the potential school development on Parcel 5.

Parcel 2

Respondents proposing to develop Parcel 2 must:

- Confirm that Respondent will finance the development of and construct a turn-key Essex Street Market;
- Provide a narrative describing the extent to which the ESM Design Drawings and Specifications have been incorporated into the proposed development;
- Provide a detailed development budget for the new Essex Street Market including reimbursement to NYCEDC for the cost of moving vendors;
- Provide an alternate purchase price for Parcel 2 should the mezzanine not be included in the new Essex Street market design;
- Confirm that the Respondent will provide a letter of credit in an amount equal to the appraised, highest and best use value of the buildable square footage attributed to the new Essex Street Market and the development cost of the new Essex Street Market.

Parcels 3, 4 and 6

Respondents proposing to develop Parcels 3, 4 and 6 must confirm that the maintenance and operations funding for the Open Space is included in their cash flow projections, to be paid to the Developer of Parcel 5.

Parcel 5

Respondents proposing to develop Parcel 5 must:

- Confirm that the Respondent will finance the development of and construct the Open Space;
- Propose an annual operations and maintenance budget for the Open Space;
- Provide a site plan of a conceptual Open Space design. Respondents should note that any proposed conceptual site plans will be subject to change based on community and City input, as detailed in the Restrictive Declaration;
- Describe a plan for security for the Open Space;
- Confirm that development will occur only on the development site available for sale and will not occur on the 15,000 SF of land that will be reserved on Parcel 5 as a Potential School Site;
- Confirm that the Respondent will be responsible for performing maintenance at the Potential School Site until DOE/SCA develops the school or the site is alternatively developed;
- Confirm that the Developer will meet with the SCA after selection to review conceptual building design. Confirm that the Developer will modify any design elements deemed by NYCEDC and/or HPD to preclude the use of, or put an undue burden on the development of, the remainder of the Parcel as a school in the future;
- Provide a narrative describing the finish of the Parcel 5 building's exterior façade at the lot line of the Potential School Site with consideration given to its appearance while the Potential School Site remains undeveloped.

Parcel 9

Respondents proposing to develop Parcel 9 must confirm that Parcel 9 will not be developed until the new Essex Street Market is operational on Parcel 2.

TAB R – NYCEDC and/or HPD Directed Proposal Modifications

NYCEDC and HPD have permitted Respondents to submit Proposals for single Parcels and subsets of Parcels and may select multiple Respondents to develop the Project (“Developer(s)”) in order to maximize benefits to the City and the community. In assembling the ultimate development mix from multiple Proposals, conflicts and/or opportunities are likely to arise that will require NYCEDC and HPD to request that a Respondent modify its Proposal. Preference will be given to Respondents that are willing to comply with NYCEDC and HPD requests to modify their Proposal. Respondents should be prepared to modify any of the following aspects of their Response:

- 1) The number of Parcels submitted;
- 2) The combination of Parcels proposed; or
- 3) The square footage developed on any particular Parcel, if the Parcel is part of the LSGD.

In order to facilitate such requests please provide the following information:

- A. General discussion of your willingness to remove a Parcel from your Proposal. Please describe what affect such a request would have on your Proposal. When doing so please provide details on how this would effect:

- 1) Team Composition;
- 2) Financing;
- 3) Programming;
- 4) Construction schedule;
- 5) Design.

Also provide the proposed purchase prices broken down by Parcel.

- B. General discussion of your willingness to modify the square footage to be developed on Parcels within the LSGD. Detail an alternative programming scenario which would reflect the minimum size development that the Respondent would be willing to build on Parcels within the LSGD (“Minimum Development”). In addition, please provide information on how building the Minimum Development would effect:

- 1) Team Composition;
- 2) Financing;
- 3) Construction schedule;
- 4) Design.

Also provide revised purchase prices for the Minimum Development and proposed purchase price per zoning square foot broken down by use (for residential space please provide a value for market rate housing and for each income band of affordable housing). The Minimum Development scenario should not be reflected in the Term Sheet.

TAB S – Term Sheet

Each Respondent must fill-in and mark up (if necessary) the Term Sheet which is attached as Appendix I. This Term Sheet summarizes the principal draft terms with respect to the disposition of the Project Site for development in conjunction with this RFP. Please note the terms of disposition are not final and are still in development. The Term Sheet includes terms for HPD and NYCEDC-led dispositions. Respondents should fill-in and mark up (if necessary) all terms. Proposals submitted in response to the RFP will be evaluated based upon the selection criteria set forth in the RFP, including the proposed terms to be inserted in this Term Sheet and the extent to which Respondents comment upon or propose changes to the terms already herein provided

APPENDIX I – TERM SHEET

Respondents are directed to fill out all sections of the Term Sheet regardless of the project included in a Respondent's Proposal.

This Term Sheet does not create or give rise to any contractual or other legally binding or enforceable rights, obligations or liabilities of any kind on the part of NYCEDC, the City or the Developer; it being the intent of NYCEDC, the City and the Developer that only a subsequently formalized written agreement covering the matters set forth herein, if duly authorized, executed and delivered by the respective parties, shall bind such parties and then only with respect to such covered matters.

Respondents acknowledge that this Term Sheet does not include all terms and conditions for the proposed transactions. Moreover, Respondents acknowledge that the terms and conditions included in this Term Sheet are subject to change.

General Terms

1. Developer

--

2. Parcels included in Proposed Development

--

3. Development Plan

a. Project

Parcel	Residential ZFA	Commercial ZFA	Community Facility ZFA	# of Parking Spaces
1				
2				
3				
4				
5				
6				
8				
9				
10				

b. Housing Units by Income Band

- i. Respondent may expand the below table to insert additional levels of incomes as necessary.

Parcel	Market Rate Units	Senior Units	Units at x% of AMI	Units at x% of AMI	Units at x% of AMI
1					
2					
3					
4					
5					
6					
8					
9					
10					

c. Rental and Homeownership Units

Parcel	Rental Units	Home-ownership Units
1		
2		
3		
4		
5		
6		
8		
9		
10		

d. Unit Distribution

Parcel	# of Studio Units	# of One Bedroom Units	# of Two Bedroom Units	# of Three Bedroom Units
1				
2				
3				
4				
5				
6				
8				
9				
10				

- e. Average Unit Sizes
 - i. Studio: _____ ZFA
 - ii. One Bedroom: _____ ZFA
 - iii. Two Bedroom: _____ ZFA
 - iv. Three Bedroom: _____ ZFA

f. Green Building Commitments

Housing developments will be certified under the Enterprise Green Communities Program.

Additional commitments include:

4. Closing Conditions

- a. The conveyance of each Parcel by HPD or NYCEDC (as applicable) is subject to satisfaction of all the following conditions:
 - i. Developer shall have complied with each obligation, including, but not limited to, all construction obligations with respect to any Parcels previously conveyed. Compliance with all construction obligations shall mean that, with respect to any Parcel(s) previously conveyed:
 - 1. Developer shall have commenced construction on such Parcel(s) previously conveyed no later than the commencement date set forth in the closing documents but in no event later than one (1) month from the date of conveyance of the Parcel (which date shall be referred to as the "Commencement Date").
 - 2. Developer shall be proceeding diligently to completion.
 - 3. If the Completion Deadline (hereafter defined) has occurred for the previously conveyed Parcel, the Developer shall have completed construction for the Parcel no later than such Completion Deadline.
 - 4. Commencement of construction shall mean significant, identifiable activities have been undertaken with respect to construction.
 - 5. NYCEDC and HPD reserve the right to incorporate additional construction obligations as closing conditions.
 - ii. Developer shall have:
 - 1. closed simultaneously on a construction loan with an institutional lender, in an amount, with Developer's committed equity, sufficient to fulfill Developer's construction obligations hereunder in connection with such Parcel; and
 - 2. provided evidence satisfactory to HPD or NYCEDC in its respective sole discretion that all other required funds, including without limitation, any Developer's cash equity contributions, have been irrevocably committed and are then available in a sufficient amount to fulfill Developer's construction obligations hereunder in connection with such Parcel.
 - iii. Developer shall have satisfied any and all legal conditions and/or requirements, and have obtained any and all governmental and/or regulatory consents and permits, such as building plan approval or permits if required by lenders, for the commencement of construction for such Parcel.
 - iv. Developer shall have completed all required additional environmental analysis and obtained any and all governmental consents, regulatory consents and/or consents from lenders for the commencement of construction for such Parcel.

- v. Authorization by the City of the disposition of a Parcel to the Developer or to NYCEDC for reconveyance to the Developer pursuant to New York State General Municipal Law Section 695 shall be received.
- vi. If the proposed development includes affordable housing, the Developer shall execute and deliver to HPD a Regulatory Agreement and Enforcement Note and Mortgage in relation to the Parcel.

5. Financial Terms

- a. Purchase price
 - i. The Purchase Price will be due upon conveyance of a Parcel to the Developer.

Parcel	Purchase Price
1	
2	
3	
4	
5	
6	
8	
9	
10	

- b. Enforcement Note and Mortgage
 - i. At the time of conveyance of each Parcel that includes affordable housing, Developer shall execute and deliver an Enforcement Note and Mortgage to HPD.
 - ii. All of the terms, covenants and conditions of the mortgage and note shall run with the land.
 - iii. The principal amount of the Note secured by the Enforcement Mortgage shall equal the difference between the purchase price and the appraised value of the Parcel based on an independent appraisal acceptable to HPD.
 - 1. The Enforcement Note and Mortgage will accrue interest at a fixed interest rate to be determined by HPD, compounded annually. Interest will begin accruing at the time of conveyance of the Parcel. The interest will become due and payable at default.
 - iv. The Enforcement Note and Mortgage will have a maturity date of not less than sixty (60) years from the closing date of each Parcel. The principal and accrued interest will be due and payable at maturity.
 - v. Provided that Developer fulfills the terms of the Enforcement Note and Mortgage, LDA, Deed, Regulatory Agreement, and all other agreements between the Developer and HPD, no payments of interest or principal shall be due prior to the end of the term under the Enforcement Note and Mortgage.
 - vi. Any default by the Developer in any of the terms and conditions contained in the LDA, Deed, Regulatory Agreement, or any other agreements between the Developer and HPD shall be deemed a default under the Enforcement Note and Mortgage.
 - vii. The indebtedness shall, at the option of HPD, become due on the happening of any default under the Enforcement Note and Mortgage, LDA, Deed, Regulatory Agreement, or any other agreements between the Developer and HPD, or on the happening of any default of any other mortgage encumbering the Property.

- viii. A portion of the Enforcement Note and Mortgage shall become due and payable to the extent of the applicable percentage (to be defined by HPD in the Enforcement Mortgage) of any profits from the resale or refinancing of the building.
- ix. If a default in the performance of any of the covenants of Developer occurs, HPD may, at its discretion, remedy the same and for such purpose shall have the right to enter upon the Property or any portion thereof without thereby becoming liable to Developer.
- x. The Developer will mortgage to HPD and grant HPD a security interest in all right, title and interest of Developer in and to the Parcel(s), specifically:
 - 1. The land and premises.
 - 2. All right, title and interest of Developer in and to any and all buildings, improvements and appurtenances now standing or at any time hereafter constructed or placed upon the land or any part thereof, and all the right, title and interest of Developer in and to all fixtures and articles of personal property now or hereafter attached to, used in the operation of, or located in or about the above described property, together with any and all replacements thereof and additions thereto.
 - 3. Together with all right, title and interest of Developer in and to all leases affecting the use or occupancy of the land or buildings now or hereafter entered into and the rents, issues and profits from the land and buildings.
- c. Taxes
 - i. Developer shall pay all transfer taxes, mortgage recording taxes and sales taxes imposed by the City and the State of New York in connection with the transactions contemplated herein.
- d. Predevelopment Costs
 - i. A portion of the purchase price may be designated to reimburse NYCEDC for predevelopment work associated with the ULURP Approval.

6. Operations Requirements

- a. Marketing
 - i. The Developer must market the residential units in accordance with City requirements and policy, including additional requirements for former site tenants, as stated in the HPD-HDC Marketing Guidelines.
- b. Regulatory Agreement
 - i. The Developer must comply with the terms of the Deed, the LDA, the Regulatory Agreement and the NYCEDC Contract of Sale, if applicable.
 - ii. The Regulatory Agreement and the LDA will provide that all affordable housing units shall remain affordable in perpetuity.
 - iii. Affordable rental housing units are residential units that are required to be rented to and have rents affordable to households who have prescribed income maximums. Rents for such units shall be deemed affordable if the rents do not exceed 30% of the prescribed income maximum for such unit.
 - iv. Affordable homeownership units shall mean residential cooperative or condominium units that are required to be sold to individuals or families within prescribed income maximums. The restricted sales price of the units will be allowed to increase annually by an established appreciation rate; however, each unit will be capped based on affordability for a family at a particular income maximum to preserve affordability over time.
 - v. Rent Stabilization

1. All rental units will be entered into the New York State rent stabilization system upon initial occupancy. Rent increases for affordable units will be governed by the lower of AMI or Rent Stabilization increases. Rent increases for market rate units, in buildings of mixed affordability, will be governed by Rent Stabilization increases.

7. Parcel Specific Development Requirements

Parcel 2	<p>Essex Street Market</p> <ul style="list-style-type: none"> ○ The Developer of Parcel 2 will finance and build the new Essex Street Market in a turn-key manner, in accordance with the minimum Essex Street Market design requirements as described in the ESM Design Drawings and Specifications or as otherwise agreed to by the Developer and NYCEDC. The Developer will also be responsible for reimbursing NYCEDC for the cost of moving the vendors from Parcel 9 to Parcel 2. ○ The City or NYCEDC will execute a long term lease for \$1 or purchase a condominium interest for \$1 fully encompassing the new Essex Street Market space within the Parcel 2 building. ○ All common elements or equipment that are shared between the Developer of Parcel 2 and the owner of the new Essex Street Market will be maintained by the Developer of Parcel 2. Moreover, it is anticipated that the Developer of Parcel 2 will contribute two hundred fifty thousand dollars (\$250,000.00) annually to NYCEDC (increasing annually at CPI) to defray the costs for the operation and maintenance of the new Essex Street Market. ○ At the closing of title for Parcel 2 the Developer of Parcel 2 will provide the City or NYCEDC with a letter of credit, to the benefit of NYCEDC or the City, in an amount equal to the appraised, highest and best use value of the buildable square footage attributed to the new Essex Street Market and the development cost of the new Essex Street Market. This letter of credit will provide transactional protection for the City and/or NYCEDC between the time of Parcel 2 disposition and closing via condominium or leasehold interest on the new, turn-key Essex Street Market within Parcel 2. ○ In accordance with the UDAAP Summary if a fee ownership or leasehold interest in a portion of Parcel 2 is reacquired by the City for the purpose of building a new Essex Street Market, the space reserved for the new Essex Street Market on Parcel 2 will be restricted to public market uses. ○ Any lender's interest in the Parcel 2 development will be subject to the City's and/or NYCEDC's interest in the new Essex Street Market.
Parcel 3	<p>Open Space</p> <ul style="list-style-type: none"> ○ The Developer of Parcel 3 will contribute funds for the operation and

	<p>maintenance of the Open Space into an operating account held by the Developer of Parcel 5. The Developer of Parcel 3 will provide no less than \$25,000 in annual payments.</p> <ul style="list-style-type: none"> Parcel 3 will make these annual payments starting the year the Open Space is constructed and continuing in perpetuity. The annual payments will escalate each year at CPI.
Parcel 4	<p>Open Space</p> <ul style="list-style-type: none"> The Developer of Parcel 4 will contribute funds for the operation and maintenance of the Open Space into an operating account held by the Developer of Parcel 5. The Developer of Parcel 4 will provide no less than \$35,000 in annual payments. Parcel 4 will make these annual payments starting the year the Open Space is constructed and continuing in perpetuity. The annual payments will escalate each year at CPI.
Parcel 5	<p>Open Space</p> <ul style="list-style-type: none"> The Developer of Parcel 5 will finance, build, operate and maintain the Open Space without financial assistance from the City or NYCEDC. The Developer of Parcel 5 will perform the Open Space operations and maintenance work in perpetuity. The Developer of Parcel 5 will grant a public access easement with respect to the Open Space. The design of the Open Space will be developed in collaboration with the community as detailed in the Restrictive Declaration. Specific design requirements for the Open Space are also found in the Restrictive Declaration. <p>Potential School Site</p> <ul style="list-style-type: none"> 15,000 SF of land on Parcel 5 and 75,000 ZFA within the LSGD will be reserved for a Potential School Site. The Potential School Site will be located in the southwest corner of Parcel 5. The Potential School Site will have approximately 221' of frontage along Suffolk Street and the Potential School Site will be approximately 68' deep. The Developer of Parcel 5 will meet with the SCA after selection to review the conceptual building design. The Developer of Parcel 5 will modify any design elements that NYCEDC and/or HPD deem to preclude the use of the remainder of the Parcel as a school in the future and/or put an undue burden on the development of the remainder of the Parcel as a school in the future. Fee title to the Potential School Site shall remain with the City. HPD will determine the best interim use for the Potential School Site. The Developer of Parcel 5 will be responsible for performing maintenance at the Potential School Site until DOE/SCA develops the

	<p>school or the site is alternatively developed. The Developer of Parcel 5 will perform this work under a license agreement with HPD. The Developer of Parcel 5 will budget no less than Ten Thousand Dollars (\$10,000.00) in annual maintenance that the Developer will perform on the Potential School Site.</p>
Parcel 6	<p>Open Space</p> <ul style="list-style-type: none"> ○ The Developer of Parcel 6 will contribute funds for the operation and maintenance of the Open Space into an operating account held by the Developer of Parcel 5. The Developer of Parcel 6 will budget no less than \$15,000 in annual payments. ○ Parcel 6 will make these annual payments starting the year the Open Space is constructed and continuing in perpetuity. The annual payments will escalate each year at CPI.

8. Other

a. As-Is

- i. At the closing of each Parcel the Developer will covenant that it is fully familiar with the physical condition, state of repair and tenancies or occupancies encumbering the Parcel, will not make any claim regarding the condition of a Parcel, and agrees to accept the Parcel “as is”. The Developer will be responsible for all required environmental remediation.
- i. At the closing of each Parcel the Developer will covenant that it has not been induced by and has not relied upon any representations, warranties or statements, whether oral or written, express or implied, made by NYCEDC, HPD or any agent, employee or other representative of NYCEDC, HPD or by any broker or any other person representing or purporting to represent NYCEDC or HPD, concerning a Parcel, its state of title, condition or state of repair, tenancies or occupancies, the absence or presence of hazardous waste and materials upon or under a Parcel, or any other matter affecting or relating to a Parcel or this transaction which are not expressly set forth in the agreement.

b. HireNYC Commitment:

- i. Hiring Goal: ____% of all new permanent jobs created in connection with the project (excluding jobs relocated from other sites) will be filled by members of the target population beginning at commencement of business operations by each employer, and continuing for eight years.
- ii. Retention Goal: ____% of all employees whose hiring satisfied the Hiring Goal will be retained for at least nine months from the date of hire.
- iii. Advancement Goal: ____% of all employees whose hiring satisfied the Hiring Goal will be promoted to a higher paid position within one year.
- iv. Training Goal: All tenants will cooperate with the City's workforce development agencies to provide skills-training or higher education opportunities to members of the target population.
- v. The target population is defined as persons who have an income that is below 200% of the poverty level as determined by the NYC Center for Economic Opportunity.

- vi. The program plan must include commitments to a process for working with the City to implement the program plan, including how the Respondent will collaborate with local employment programs to meet their goals.

Additional HireNYC commitments include:

c. M/WBE Utilization Plan

i. Contracting utilization goals

1. ____% Minority Business Enterprises

2. ____% Women Business Enterprises

Strategies and methods that will facilitate participation by M/WBE firms:

Methods for identification of M/WBE firms:

d. Additional Commitments

Additional Terms for HPD-Led Dispositions

Additional terms for HPD-led Dispositions will be contained in an HPD Deed and LDA. These terms will include, but not be limited to, an obligation for the Developer to construct the project in accordance with HPD-approved plans and specifications, the ULURP approval and applicable environmental requirements, dates for commencement and completion of construction, restrictions on redevelopment, prohibition against transfers during construction, and the right of the City to revest the property upon certain defaults during construction. A typical HPD Deed and LDA are located in the Site File.

Respondents are instructed to complete the following chart for construction durations for the proposed parcels. The construction durations below should include lease-up of the affordable housing component.

Parcel	Construction and Lease-up Duration
1	
2	
3	
4	
5	
6	
8	
9	
10	

Additional Terms for NYCEDC-Led Dispositions²³

1. Developer Requirements

- a. At Contract Execution the Developer must deliver the following:
 - i. Down payment in amount of 10% of the total purchase price of all Parcels.
 - ii. Administrative fee for all Parcels per the schedule attached to the RFP. The administrative fee shall not be credited against the purchase price or any other costs incurred by the Developer. The administrative fee shall be deemed earned as of the date of the execution and delivery of the Contract and in no event whatsoever shall Developer be entitled to a refund of the administrative fee.
 - iii. Reimbursement to NYCEDC for the appraisal cost.

2. Preliminary Obligations

- a. _____ (insert time period) prior to the outside closing date for each Parcel the Developer must transmit to NYCEDC the following:
 - i. A full schematic design package for the Parcel, which shall include:
 1. Schematic versions of site plan, foundation plans, floor plans, roof plans, building elevations, building sections and interior elevations
 2. Narrative descriptions of HVAC, plumbing and electrical systems and their major components
 - ii. Notice of completion for all required additional environmental analysis.
 - iii. Evidence of financing and equity, in the form of executed financial commitments and statements of the availability of dedicated funds, certified by the appropriate officer of Developer, in an aggregate amount that is sufficient to develop the Parcel, and on terms that NYCEDC reasonably determines will permit the proposed development to be completed.
 - iv. Letters of intent executed by potential tenants of any commercial or community facility space greater than 10,000 SF in size.
 - v. If Developer fails to satisfy any of the preliminary obligations then the agreement pursuant to an NYCEDC-led disposition shall terminate, the Developer and NYCEDC shall not have any further rights, duties or obligations hereunder, and NYCEDC may retain the down payment.
- b. Three months prior to the outside closing date for each Parcel the Developer must transmit to NYEDC final construction design package for each Parcel.

² NYCEDC reserves the right, at its sole discretion, to explore a ground lease transaction for NYCEDC-led dispositions.

³ NYCEDC reserves the right, at its sole discretion, to incorporate terms from the section titled “Additional Terms for HPD-Led Dispositions” into NYCEDC-Led Dispositions.

3. Closing Schedule

Parcel	Outside Closing Date
1	
2	
3	
4	
5	
6	
8	
9	
10	

4. Closing Dates for NYCEDC Contracts of Sales

- a. Section 3 (“Closing Schedule”) of the Additional Terms for NYCEDC-Led Dispositions includes the outside closing dates for conveyance of the Parcels from NYCEDC to the Developer.
- b. NYCEDC shall have the right, in its sole discretion, to extend the Outside Closing Date.
- c. Upon the request of the Developer, NYCEDC will grant one month extensions to outside closing date of a Parcel upon receipt of _____ dollars (\$_____) per month of extension per Parcel, but in no event longer than six months in the aggregate. Extensions of an outside closing date apply only to a single Parcel; corresponding extensions will not be granted for other Parcels.
- d. Notwithstanding anything to the contrary contained herein, if the conveyance of a Parcel does not occur on or before the outside closing dates for such Parcel, as may be extended by NYCEDC, NYCEDC shall have no further obligation to convey such Parcel or any other Parcel not yet conveyed, and NYCEDC will retain the down payment.

5. Conditions for Closings

- a. The conveyance of each Parcel is subject to satisfaction of all the conditions in Section 4(a) of the General Terms and the terms below on or before the outside closing date.
- b. The Board of Directors of NYCEDC shall have approved the sale of a Parcel to Developer in accordance with the Contract.
- c. Plans and specifications for each Parcel shall comply with the ULURP Approval
- d. Developer shall have reimbursed NYCEDC for the appraisal for the Parcel.
- e. Developer shall deliver a corporate completion guaranty in an amount equal to one hundred percent (100%) of the aggregate costs and expenses of the construction work for each Parcel.
- f. The Developer shall assume the obligations of NYCEDC under the HPD-NYCEDC LDA pursuant to UDAAP.
- g. Delivery of the deed from the City (likely through an HPD-NYCEDC LDA).
- h. NYCEDC, in its sole discretion, may waive any of the conditions for closing including those in Section 4(a) of the General Terms.

6. Deed Provisions

- a. Construction Start and Completion
 - i. Commencement of construction of each Parcel shall occur within one (1) month from the date of conveyance.

- ii. All construction shall be in accordance with the final construction design package, the ULURP Approval, the applicable environmental requirements, and the project identified in Section 3(a) through 3(f) of the General Terms.
- iii. Developer shall obtain a Temporary Certificate of Occupancy (“TCO”) for each Parcel in accordance with the construction durations indicated below, subject to extensions due to unavoidable delay.

Parcel	Construction Duration
1	
2	
3	
4	
5	
6	
8	
9	
10	

- iv. Unavoidable Delays shall mean delays incurred by Developer due to strikes, lockouts or other labor disputes, severe weather conditions, earthquakes or other acts of God, inability to obtain labor or materials due to restrictions of Governmental Authorities, enemy action, civil commotion, fire or other casualty, acts of war or terrorism, or court orders not resulting from any unlawful action or breach of contract of Developer or any affiliate thereof; provided, in each case, Developer shall have given NYCEDC notice of such unavoidable delays promptly following Developer having obtained knowledge of the occurrence of same, and where and when possible the Developer diligently pursues the completion of the project.
- b. Use Restriction
 - i. Following development of the Parcels or any portion thereof the buildings on the Parcels shall be conserved and used for the purposes described in the HPD-NYCEDC LDA and Regulatory Agreement, and the Parcels may not be redeveloped in a manner not explicitly permitted by the HPD-NYCEDC LDA and Regulatory Agreement. These requirements for the residential buildings in the Parcels shall survive in perpetuity.
 - ii. Depending on the project proposed, NYCEDC may require a use restriction for ten (10) years from the receipt of the TCO for a Parcel.
 - iii. Parcels within the LSGD will be allocated development rights from the LSGD and such allocation may not be exceeded.
- c. Conveyance Restriction
 - i. The Developer, on behalf of itself, its successors and assigns, covenants that it shall not convey a Parcel or portions thereof or any improvements thereon or any interest in either for a period of ten (10) years from the receipt of the TCO for a Parcel, portion thereof, improvement or interest, except (i) as part of a bona fide sale of Developer’s entire business or (ii) with the prior written approval of Seller.
- d. The Developer of Parcel 2 covenants that it shall complete the construction of the new Essex Street Market in a diligent and timely manner in accordance with a schedule to be

agreed upon with NYCEDC. The Developer of Parcel 2 covenants that, upon completion, it shall convey the Essex Street Market to NYCEDC or the City for a total cost of \$1.

- e. Reversion Right
 - i. If the Developer does not comply with the above deed provisions then NYCEDC, at its option, shall, without paying Developer or any subsequent owner of a Parcel any consideration, have the right to re-enter and reacquire a Parcel.

7. Additional Conditions of the Sale

- a. Due Diligence
 - i. The Developer will be permitted on a Parcel prior to closing for only non-invasive inspections or minimum work required to develop plans and pursue financing; provided that NYCEDC has sufficient security to ensure the Developer will proceed to closing regardless of the testing results.
 - ii. Agreements pursuant to NYCEDC-led dispositions will not include contingencies related to environmental findings or hazardous substance remediation costs.
 - iii. Parcels will be disposed of in “As Is” condition.
- b. Environmental Provisions
 - i. The Developer hereby absolutely waives, and agrees that neither it nor its successors and assigns, if any, shall make any claim for damages, contribution, indemnification or otherwise against NYCEDC or the City, as applicable, which Developer or its successors or assigns may now or hereafter have or discover in connection with hazardous substances on, in, at, under, beneath, emanating from or affecting a Parcel, or in connection with any voluntary or required removal or remediation thereof (including, without limitation, claims relating to the release, threatened release, disturbance, emission or discharge of hazardous substances). NYCEDC and the City shall have no liability to Developer, or its successors or assigns, with regard to hazardous substances, on, at, in, under, beneath, emanating from or affecting the Parcel. Such waiver of liability shall cover, without limitation, any and all liability to Developer, both known and unknown, present and future, for any and all environmental liabilities, including without limitation any and all strict and other liability, costs, claims, fines, penalties, damages under any and all environmental laws with respect to investigating, remediating, mitigating, removing, treating, encapsulating, containing, monitoring, abating, or disposing of any hazardous substance, and any costs incurred to come into compliance with environmental laws.
 - ii. The Developer agrees to indemnify, defend, reimburse, and hold harmless the City and NYCEDC, and each of their respective officers, directors, employees, agents, successors, and assigns, and each of them from and against any and all environmental liabilities under any environmental laws.
- c. Environmental Quality Review
 - i. Pursuant to the FGEIS, Tech Memo 001, Tech Memo 002 and the NYCEDC and HPD letters to DCP with respect to the FGEIS dated August 15, 2012, the Developer will integrate measures into the proposed development to avoid the potential for significant adverse impacts and mitigate disclosed potential significant adverse impacts. The Developer will complete all further assessments required by these documents.

APPENDIX J – EQUAL OPPORTUNITY REQUIREMENTS



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

EXECUTIVE ORDER NO. 50

APRIL 25, 1980

BUREAU OF LABOR SERVICES

By the power vested in me as Mayor of the City of New York,
it is hereby ordered:

Section 1. Purpose. It is the purpose of this Order to ensure compliance with the equal employment opportunity requirements of City, State and Federal law in City contracting.

§ 2. Bureau Continued. The Bureau of Labor Services shall continue to serve such purposes and to have such responsibilities as restated by this Order.

§ 3. Definitions. Whenever used in this Executive Order, the following terms shall have the following meanings:

(a) Bureau means the Bureau of Labor Services;

(b) construction project means any construction, reconstruction, rehabilitation, alteration, conversion, extension, improvement, repair or demolition of real property contracted by the City;

(c) contract means any written agreement, purchase order or instrument whereby the City is committed to expend or does expend funds in return for work, labor, services, supplies, equipment, materials, or any combination of the foregoing;

*amended
E.O. 94*

(i) Unless otherwise required by law, the term "contract" shall include any City grant, loan, guarantee or other City assistance for a construction project.

(ii) The term "contract" shall not include:

(A) contracts for financial or other assistance between the City and a government or government agency;

(B) contracts, resolutions, indentures, declarations of trust, or other instruments authorizing or relating to the authorization, issuance, award, and sale of bonds, certificates of indebtedness, notes or other fiscal obligations of the City, or consisting thereof; or

(C) employment by the City of its officers and employees which is subject to the equal employment opportunity requirements of applicable law.

(d) contracting agency means any administration, board, bureau, commission, department or other governmental agency of the City of New York, or any official thereof, authorized on behalf of the City to provide for, enter into, award or administer contracts;

(e) contractor means a person, including a vendor, who is a party or a proposed party to a contract with a contracting agency, first-level subcontractors of supply or service contractors, and all levels of subcontractors of construction contractors;

(f) Director means the Director of the Bureau of Labor Services;

(g) economically disadvantaged person means a person who, or a member of a family which, is considered economically disadvantaged under applicable law.

(h) employment report means a report filed by a contractor containing information as to the employment practices, policies and programs, employment statistics and collective bargaining agreements, if any, of the contractor in such form as the Bureau may direct by regulation;

(i) equal employment opportunity means the treatment of all employees and applicants for employment without unlawful discrimination as to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or affectional preference in all employment decisions, including but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, lay-off and termination, and all other terms and conditions of employment except as provided by law;

(j) trainee means an economically disadvantaged person who qualifies for and receives training in one of the construction trades pursuant to a program other than apprenticeship programs, approved by the Bureau and, where required by law, the State Department of Labor or the United States Department of Labor, Bureau of Apprenticeship and Training.

5 4. Responsibilities of Bureau. The responsibilities of the Bureau shall be as follows:

(a) To implement, monitor compliance with, and enforce this Order and programs established pursuant to City, State and Federal law requiring contractors to provide equal employment opportunity;

(b) To implement, monitor compliance with, and enforce on-the-job training requirements on construction projects;

(c) To monitor compliance by contractors with State and Federal prevailing wage requirements where required;

(d) To advise and assist contractors and labor unions with respect to their obligations to provide equal employment opportunity;

(e) To advise and assist persons in the private sector with respect to employment problems;

(f) To establish advisory committees, including representatives of employers, labor unions, community organizations and others concerned with the enforcement of this Order; and

(g) To serve as the City's principal liaison to Federal, State and local contract compliance agencies.

§ 5. Contract Provisions.

(a) Equal Employment Opportunity. A contracting agency shall include in every contract to which it becomes a party such provisions requiring the contractor to ensure equal employment opportunity as the Bureau may direct by regulation.

(b) On-the-Job Training. A contracting agency shall include in every contract concerning a construction project to which it becomes a party such provisions requiring the contractor to provide on-the-job training for economically disadvantaged persons as the Bureau may direct by regulation.

(c) Subcontractors. A contracting agency shall include in every contract to which it becomes a party such provisions requiring the contractor not to discriminate unlawfully in the selection of subcontractors as the Bureau may direct by regulation.

§ 6. Employment Reports.

(a) Submission Requirements. No contracting agency shall enter into a contract with any contractor unless such contractor's employment report is first submitted to the Bureau for its review. Unless otherwise required by law, an employment report shall not be required for the following:

(i) a contract in the amount of \$50,000 or less;

(ii) an emergency contract or other exempt contract except as the Bureau may direct by regulation; and

(iii) a contract with a contractor who has received a certificate of compliance with the equal employment opportunity requirements of applicable law from the Bureau, or an appropriate agency of the State of New York or the United States within the preceding twelve months, except as the Bureau may direct by regulation.

(b) Bureau Review. The Bureau shall review all employment reports to determine whether contractors are in compliance with the equal employment opportunity requirements of City, State and Federal law and the provisions of this Order. The contracting agency shall transmit the employment report to the Bureau within ten business days after the selection of a proposed contractor. A contracting agency may thereafter award a contract unless the Bureau gives prior written notice to the contracting agency and the contractor as follows:

(i) If the Bureau notifies the contracting agency and the contractor within five business days after the receipt by the Bureau of the employment report that the contractor has failed to submit a complete employment report, the Director may require the contracting agency to disapprove the contractor unless such deficiency is corrected in a timely manner;

(ii) If the Bureau notifies the contracting agency and the contractor within fifteen business days of the receipt by the Bureau of the completed employment report that the Bureau has found reason to believe that the contractor is not in substantial compliance with applicable legal requirements and the provisions of this Order, the Bureau shall promptly take such action as may be necessary to remedy the contractor's noncompliance as provided by this Order.

Provided that a contracting agency may award a requirements contract or an open market purchase agreement prior to review by the Bureau of the contractor's employment report, but may not make a purchase order against such contract or agreement until it has first transmitted such contractor's employment report to the Bureau and the Bureau has completed its review in the manner provided by this Section.

(c) Employment Program. The Bureau may require a contractor to adopt and adhere to a program designed to ensure equal employment opportunity.

(d) Periodic Reports. Contractors shall file periodic employment reports after the award of a contract in such form and frequency as the Bureau may direct by regulation to determine whether such contractors are in compliance with applicable legal requirements and the provisions of this Order.

§ 7. Training Programs. The Bureau shall monitor the recruitment, training and placement of economically disadvantaged persons in on-the-job training programs on construction projects. Contracting agencies shall require contractors to make a good faith effort to achieve the ratio of one trainee to four journey-level employees of each craft on each construction project.

(a) The Bureau shall determine the number of trainees and hours of training required by each contractor or subcontractor for each construction project.

(b) In the event that a contractor fails to make a good faith effort to train the required number of individuals for the required amount of hours, the Bureau, after consultation with the contracting agency, shall direct such agency to reduce the contractor's compensation by an amount equal to the amount of wages and fringe benefits which the contractor failed to pay to trainees.

(c) On-the-job training of economically disadvantaged persons shall not be required on construction contracts in the amount of \$125,000 or less.

§ 8. Compliance Investigations and Hearings. The Bureau shall conduct such investigations and hold such hearings as may be necessary to determine whether contractors are in compliance with the equal employment opportunity requirements of City, State and Federal law and the provisions of this Order.

(a) Voluntary Compliance. The Bureau shall seek to obtain the voluntary compliance of contractors and labor unions with applicable legal requirements and the provisions of this Order.

(b) Noncompliance. Upon receiving a complaint or at its own instance, the Bureau shall determine whether there is reason to believe a contractor is not in compliance with applicable legal requirements and the provisions of this Order.

(c) Hearings. The Bureau shall hold a hearing on prior written notice to a contractor and the contracting agency before any adverse determination is made with respect to such contractor's employment practices or imposing any sanction or remedy for non-compliance with applicable legal requirements and the provisions of this Order. The hearing shall be held before a City hearing officer, or such other person designated by the Director, who shall submit a report containing findings of fact and recommendations to the Director. Based on the record as a whole, the Director shall determine whether a contractor has failed to comply with applicable legal requirements or the provisions of this Order and the appropriate sanctions for noncompliance.

(d) Notices. The Bureau shall give prior notice of any hearing and shall provide a copy of any hearing report and determination of the Director under paragraph (c) of this Section to the contracting agency, the Corporation Counsel and the Comptroller. The Bureau shall notify appropriate City, State and Federal agencies of violations of law and may, with the approval of the Corporation Counsel, initiate proceedings in such agencies.

§ 9. Sanctions and Remedies. After making a determination that a contractor is not complying with applicable legal requirements and the provisions of this Order, the Director may direct that such sanctions as may be permitted by law or contractual provisions be imposed, including the disapproval of a proposed contractor, the suspension or termination of a contract and the reduction of a contractor's compensation, except as follows:

(a) Within five business days of the issuance of a determination by the Director under Section 8(c), a contracting agency head may file with the Director written objections to the sanctions to be imposed. Where such objections have been filed, the Director and the contracting agency head shall jointly determine the appropriate sanctions to be imposed.

(b) In lieu of any of the foregoing sanctions, the Director may require a contractor to adopt and adhere to a program to ensure equal employment opportunity.

§ 10. Public Agencies. Any administration, board, bureau, commission, department or other public agency, not subject to this Order, which imposes by rule, regulation or order equal employment opportunity requirements, may, with the consent of the Mayor, delegate such responsibilities to the Bureau as may be consistent with this Order.

§ 11. Confidentiality. To the extent permitted by law and consistent with the proper discharge of the Bureau's responsibilities under this Order, all information provided by a contractor to the Bureau shall be confidential.

§ 12. Regulations. The Bureau shall promulgate such regulations, subject to the approval of the Mayor, as may be necessary to discharge its responsibilities under this Order, including regulations increasing the dollar amounts referred to in this Order. Any regulations of the Bureau establishing terms and conditions for contractors shall be approved as to form by the Corporation Counsel.

§ 13. Annual Report. The Bureau shall submit an annual report to the Mayor concerning its responsibilities under this Order.

§ 14. Separability. If any provision of this Order or the application thereof is held invalid, the remainder of this Order and the application thereof to other persons or circumstances shall not be affected by such holding and shall remain in full force and effect.

§ 15. Revocation of Prior Orders. Executive Orders No. 71 (1968), No. 20 (1970), No. 23 (1970), No. 27 (1970), No. 31 (1971), No. 74 (1973), No. 7 (1974), and No. 80 (1977) are hereby revoked and the first paragraph of Section 2 of Executive Order No. 4 (1978) is hereby deleted. Nothing in this Order shall be deemed to relieve any person of any obligation not inconsistent with this Order assumed or imposed pursuant to an Order superseded by this Order.

§ 16. Effective Date. This Order shall take effect immediately.


EDWARD I. KOCH
M A Y O R

EQUAL EMPLOYMENT OPPORTUNITY

This contract is subject to the requirements of Executive Order No. 50 (1980) as revised ("E.O.50") and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the contractor agrees that it:

(1) will not engage in any unlawful discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

(2) the contractor agrees that when it subcontracts it will not engage in any unlawful discrimination in the selection of subcontractors on the basis of the owner's race, color, creed, national origin, sex, age, disability, marital status or sexual orientation;

(3) will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, creed, color, national origin, sex, age, disability, marital status or sexual orientation, or that it is an equal employment opportunity employer;

(4) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E. O. 50 and the rules and regulations promulgated thereunder; and

(5) will furnish all information and reports including an Employment Report before the award of the contract which are required by E. O. 50, the rules and regulations promulgated thereunder, and orders of the Director of the Bureau of Labor Services ("Bureau"), and will permit access to its books, records and accounts by the Bureau for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

The contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of the contract and noncompliance with the E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Bureau, the Director may direct the imposition by the contracting agency held of any or all of the following sanctions:

- (i) disapproval of the contractor;
- (ii) suspension or termination of the contract;
- (iii) declaring the contractor in default; or
- (iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of the Bureau may recommend to the contracting agency head that a Board of Responsibility be convened for purposes of declaring a contractor who has repeatedly failed to comply with E.O. 50 and the rules and regulations promulgated thereunder to be nonresponsible.

The contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of \$50,000 to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of the Bureau of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

The contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder."



THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

Executive Order No. 108
December 29, 1986

Amendment of Executive Order No. 50
(April 25, 1980)

BUREAU OF LABOR SERVICES

By the power vested in me as Mayor of the City of New York,
it is hereby ordered:

Section 1. Prior Order Amended.

a. Section 6(a) of Executive Order No. 50, dated
April 25, 1980, is amended to read as follows:

"Submission Requirements. No contracting
agency shall enter into a contract with any
contractor unless such contractor's
employment report is first submitted to the
Bureau for its review. Unless otherwise
required by law, an employment report shall
not be required for the following:

(i) a construction contract in the
amount of less than \$1 million; a
construction subcontract in the amount of
less than \$750,000; or a supply and service
contract in the amount of \$50,000 or less
or of more than \$50,000 in which the
contractor employs fewer than 50 employees
at the facility or facilities involved in
the contract;

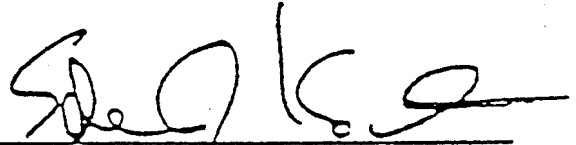
(ii) an emergency contract or other
exempt contract except as the Bureau may
direct by regulation; and

(iii) a contract with a contractor who has received a certificate of compliance with the equal employment opportunity requirements of applicable law from the Bureau within the preceding twenty-four months, or an appropriate agency of the State of New York or of the United States within the preceding twelve months, except as the Bureau may direct by regulation."

b. Section 7(c) of such Order is amended to read as follows:

"On-the-job training of economically disadvantaged persons shall be required on all construction contracts covered by the submission requirements of this Order."

Section 2. Effective Date. This Order shall take effect immediately, but shall have no retrospective effect with respect to the two (2) year approval period provided for in Section 1(a) of this Order, amending Section 6(a) (iii) of Executive Order No. 50, dated April 25, 1980.



Edward I. Koch
M A Y O R



JUN 23 1986

THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007

Executive Order No. 94
June 20, 1986

Amendment of Executive Order No. 50
(April 25, 1980)

BUREAU OF LABOR SERVICES

By the power vested in me as Mayor of the City of New York, it is hereby ordered:

Section 1. Prior Order Amended.

a. Section 1 of Executive Order No. 50, dated April 25, 1980, is amended to read as follows:

"Purpose. It is the purpose of this Order to ensure equal employment opportunity in City contracting."

b. Section 3(i) of such Order is amended to read as follows:

"equal employment opportunity means the treatment of all employees and applicants for employment without unlawful discrimination as to race, creed, color, national origin, sex, age, disability, marital status or sexual orientation in all employment decisions, including but not limited to recruitment, hiring, compensation, training and apprenticeship, promotion, upgrading, demotion, downgrading, transfer, lay-off and termination, and all other terms and conditions of employment;"

c. Section 5(a) of such Order is amended to read as follows:

"Equal Employment Opportunity. A contracting agency shall include in every

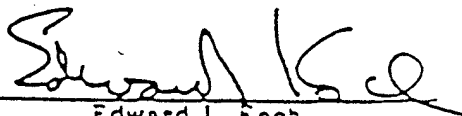
contract to which it becomes a party such provisions requiring the contractor to ensure equal employment opportunity as the Bureau may direct, consistent with this Order."

d. Section 12 of such Order is amended to read as follows:

"Regulations. The Bureau shall promulgate such regulations, subject to the approval of the Mayor, as may be necessary to discharge its responsibilities under this Order, including regulations increasing the dollar amounts and number of employees referred to in this Order. Any regulations of the Bureau establishing terms and conditions for contractors shall be approved as to form by the Corporation Counsel.

Nothing contained herein shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, which is operated, supervised or controlled by or in connection with a religious organization, from limiting employment or giving preference to persons of the same religion or denomination or from making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained. The regulations shall set forth this exemption for religiously-sponsored organizations and provide for the discharge of the Bureau's responsibilities in a manner consistent with such exemption."

Section 2. Effective Date. This Order shall take effect immediately.



Edward I. Koch
M A Y O R

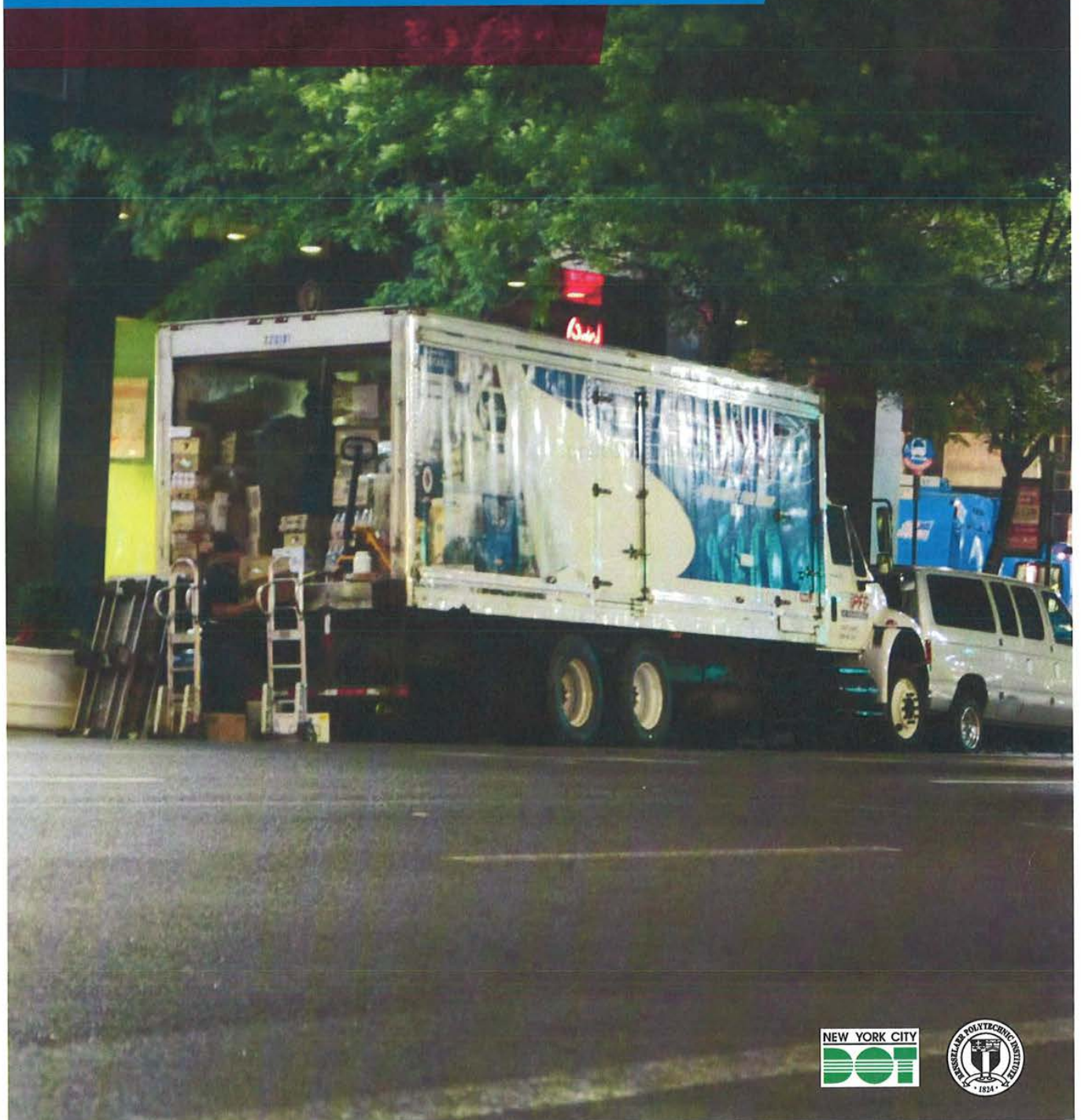
APPENDIX K – DOT DELIVERY PROGRAM

Trucks delivering during the day are subject to increased truck traffic, congestion and traffic fines. By shifting deliveries to non-peak, off-hour times, deliveries can be made more efficient and environmentally friendly. Respondent(s) are required to submit a loading and delivery plan within their Proposal and to coordinate this plan with DOT after selection as Developer(s). Respondents are encouraged to utilize unassisted off-hour delivery strategies and noise reduction technologies that can be found below.

- Limit time of day impacts by committing to maximizing off-hour deliveries
 - Commit to Off-Hour Delivery Program (OHD) practices. During overnight hours (9 pm – 5 am):
 - Retailers receive unassisted deliveries (e.g. tenant need not be present to receive deliveries);
 - Office buildings send out building waste and recyclables;
 - Hotels send out soiled linens ;
 - Noise reduction devices within loading docks, roll-down doors, etc.
 - Install infrastructure needed to support OHD:
 - Secure common delivery areas (consolidated receiving area) within loading docks to allow unassisted receiving by stores;
 - Camera-secured double doors allowing access by UPS, FedEx, and trusted carriers;
 - Common refrigeration units to allow restaurant and grocery tenants to receive perishables overnight.
- Loading docks should be able to schedule deliveries through an on-line system, and to turn away trucks that arrive outside their scheduled time slot;
- Limit geometric impacts of deliveries
 - Staff the loading docks (building staff, not tenant staff). Building staff can help trucks negotiate narrow streets to minimize traffic and pedestrian disruptions;
 - Break loads down to no larger than WB-50 truck. Site planning is based on WB-50 standard truck size, not the WB-67 (53' trailers) used by many national carriers;
 - Loading docks should be located below grade. If not possible, docks located at grade should be at least 37' deep, to accommodate all box trucks. Most docks should be 53' to accommodate large trailers. These dimensions will prevent trucks from extending into sidewalks and streets during deliveries;
 - Consolidated receiving areas for each building would allow multiple tenants to receive packages from national carriers (UPS, FedEx) from a single truck trip;
 - Provision should be made for parking multiple service vans (HVAC, elevator maintenance, etc.) in each building. Building services often park at curb for an entire shift or workday, limiting curbside loading and pickup/dropoff opportunities. Large buildings receive multiple service calls each day and should accommodate this parking off-street.

The strategies found above were tested through a DOT Pilot Program in 2010. Information describing the Pilot Program is attached below. This pilot program concluded successfully, and further information about the outcomes can be found at <http://transp.rpi.edu/~usdotp/index.shtml> and www.nyc.gov/html/dot/html/motorist/offhoursdelivery.shtml.

Off Hour Delivery Program



INTRODUCTION

The New York City Department of Transportation, together with Rensselaer Polytechnic Institute, is preparing for the Launch Phase of the Off-Hour Delivery Program. Trucks delivering during the day are subject to increased truck traffic, congestions and traffic fines. By shifting deliveries to non-peak off hour times, deliveries can be made more efficient and environmentally friendly.

The pilot phase of this project noted many successes including participation from major companies such as Foot Locker, Sysco and Whole Foods. Average travel speeds increased as well as savings due to a significant decline in parking tickets. With less competition for curb space, loading and unloading time decreased.

An Industry Advisory Group (IAG), composed of companies that represent both carriers and receivers, has been organized to help promote this new phase. In addition, the study team is hoping to learn what the industry wants and how to make participation easier. The IAG Kickoff Meeting on November 30th 2011, will allow industry leaders to make connections with one another and learn more about the program. Leaders will inform the study team on the best practices for branding and marketing the program through a dedicated branding brainstorm session. In this session there will be discussion surrounding the development of a name and logo for the program as well as possible recognition schemes for participants.

For more information on the pilot phase please see the appendix of this handout.

Below is the agenda for the IAG Kickoff Meeting.

AGENDA

Welcome and Introductions

Background of the Pilot Phase

Current Status of Launch Phase

Branding Brainstorm

- Recognition Scheme
- Participation Strategy
- Name/logo

Next Steps

LAUNCH PHASE

DOT is looking for participants to join the Launch Phase of our Off Hour Delivery program. The goal of which is to improve travel speeds, reduce congestion and reduce costs for receivers and carriers through off-hour deliveries. This new phase includes a more robust participation strategy from both carriers and receivers who want to save time and money by creating a more efficient delivery strategy.

The Launch Phase includes two targeted areas to improve the efficiency of off hour deliveries:

Unassisted Deliveries. Provides opportunities for the driver to deliver goods without requiring an employee to be an off hour receiver.

Noise Reduction. Improved technologies, electric vehicles and change in behavior will help ensure that deliveries are quiet.

UNASSISTED OFF HOUR DELIVERIES

Many businesses who participated in Unassisted Off Hour Deliveries (UOHD) preferred the reliability and efficiency of off hour deliveries. Approximately half of the receivers in the pilot phase used UOHD. The driver was given a key to the establishment or may have used a keypad code if the business had one installed. The restaurant goods were left in the walk-in refrigeration units and when the staff arrived for work all they had to do was stock their shelves. This increased the amount of face time that staff was able to spend with customers by decreasing they time spent receiving goods during regular business hours. Safety and security concerns associated with UOHD are addressed at the access points as well as inside the business establishment by using security cameras, keyless entry locks and other technologies.



W. 40th Street Manhattan Off Hour Delivery

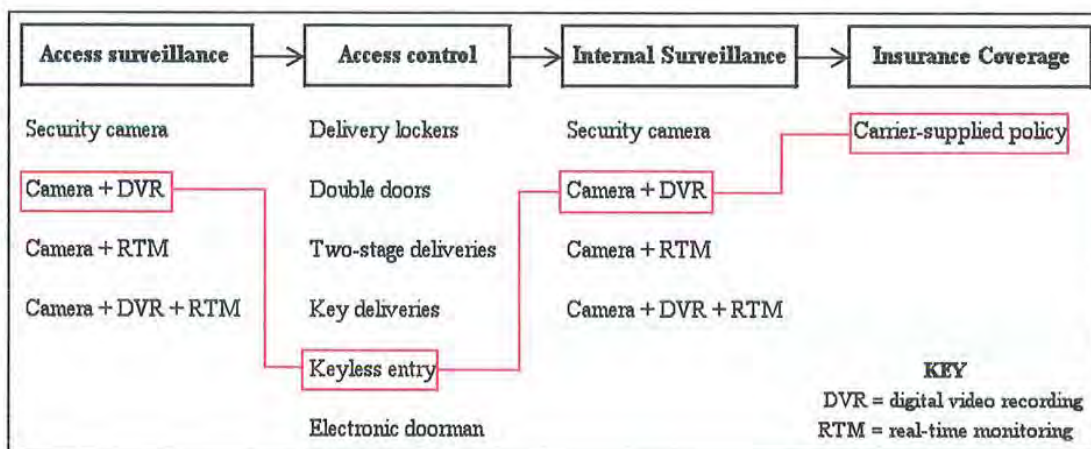


W. 40th Street Manhattan at regular hours

Unassisted Off Hour Delivery Strategies

- **Double doors:** The driver is provided with a key to an outside door that leads to a small storage area separated from the rest of the business by a second door. This enables the driver to do UOHD without having access to the establishment itself.
- **Key deliveries:** The driver is provided with a key to the establishment which enables the drivers to deposit the goods at a preset location, e.g., inside a walk-in refrigerator.
- **Key deliveries with manual/electronic key box:** The driver is provided a password or security code to open the key box and get a key to open the establishment. The key box enables the store owner to

- Key deliveries with manual/electronic key box and monitored by security cameras: In addition to the above, a security camera monitors the UOHD.
- Electronic doorman: A remote operator, assisted by security cameras and radio/phone, grants access to the establishment to authorized vendors. These systems require identification checks to ensure that only authorized individuals are allowed access.



NOISE REDUCTION TECHNOLOGIES

Noise emissions associated with the delivery of goods has an effect on surrounding residential areas. These noises are even more pronounced for deliveries during off peak hours when there is less ambient noise. Apart from annoyance or disturbance that noise creates it can also negatively impact one's health; therefore, efforts are being made by the freight community to decrease these effects. Some noises associated with deliveries are shown below:

Noise Measurements for Delivery Related Noise-makers (Goevaers, 2010) Area Specific Program

Action	Noise Measurement dB(A)
Slamming door	74
Driving up/away	67-83
Load hatch	65-92
Containers over load floor	74-85
Refrigeration kicking in	70-78
Removing onboard forklift	77-82
Shopping trolleys	53-77

The PIEK (PEAK) program in the Netherlands has been successful in creating many low noise technologies related to the different areas of the delivery process. The PIEK standard noise level for the technologies that have been developed under this program is 60 dB(A) ("A-weighted" decibels match frequency response from ear), which is the level of a normal conversation, with the exception of trucks and shopping trolleys which are held to a standard of 65 dB(A). The PIEK program also offers certification called PIEK 'Light' which focuses specifically on noises associated with the loading and unloading portion of the delivery. The noise standard for PIEK 'Light' is a maximum of 72 dB(A) (Wieman, 2010; Goevaers, 2011).

Off Hour Delivery Program

Trucks

Natural Gas Trucks

The Mercedes-Benz Econic 1828 NGT is a 50 ton truck that runs on liquefied natural gas (LNG). Due to the use of the natural gas drive, the emissions produced does not contain any fine dust or particles. This feature along with the use of an Allison transmission and optimized sound proofing, allows the truck to achieve a PIEK 'Light' compliant noise emission of 72 dB(A).



Mercedes-Benz Econic 1828 NGT
(Goevaers, 2011)



Iveco Stralis - Compressed Natural Gas (CNG) Engine

Iveco an Italian truck manufacturer, in collaboration with the Dutch PIEK program designed and manufactured the PIEK 'Light' certified Iveco Stralis. This model has a compressed natural gas (CNG) engine and operates at a maximum of 72 dB(A) which is eight times quieter than the measure of a standard diesel engine, which operates at approximately 80 dB(A) (Wieman, 2010). The current model of the truck has a capacity of 40 tons and has 330 horsepower but the engine has the capability of operating in larger models.

Low Noise Refrigerated Trailer

Gray & Adams Ltd which specializes in the manufacturing of trailers has built the first PIEK certified refrigerated trailer unit in the United Kingdom (UK) for Sainsbury, one of the UK's oldest retailers. A Carrier Vector 1850 XLN (Extra Low Noise) unit is used to refrigerate the trailer. The unit is mounted in an encasing beneath the trailer and has a PIEK certified DH-SK(S) Ultra Low Noise retractable tail lift from manufacturer D Hollandia. Other low noise features of the trailer include a low noise floor from Gray & Adams which decrease the noise levels produced by the use of roll cages during loading and unloading and sidewall kickstrips that were also adjusted to meet noise-reducing criteria (Gray & Adams).



PIEK Certified Refrigerated Trailer Made for Sainsbury in the UK (Gray & Adams)



Hand pallet truck - BT Lifter Silent LHM230SI (Toyota Industrial Equipment, 2011b)

Cargo Handling Equipment Design

Examples of low noise cargo handling equipment include the BT Lifter Silent LHM230SI which is an updated quiet model of a previous model of a hand pallet truck produced by Toyota. It has been certified by the PIEK program in the Netherlands because it operates below 60 db(A).

The PIEK certified CC Euro Rollcontainer is a two-sided roll cage that possesses low noise wheels which enables it to be used in silent deliveries because its noise level is a maximum of 60 dB(A) (Container Centralen Ltd.).



CC Euro Rollcontainer and Specifications Table (Container Centralen Ltd.)



Toyota 8-Series Internal Combustion Cushion Tire Lift Trucks (Toyota Industrial Equipment, 2011a)

The 8-Series Internal combustion cushion tire lift trucks has low noise and vibration levels. Information on the operating noise level was not stated but due to the design of the cushioned tires, this model of forklift offers noise reduction capabilities (Toyota Industrial Equipment, 2011a).

Noise Absorbing Materials

Noise absorbing materials can be placed inside the truck. Absorption materials such as polyether or polyester foam, recycled foam, white glass wool, or recycled textile fiber are used to make sound absorption sheets that can be strategically placed to diminish noise levels. The type of material and the thickness is determined by the noise source and the noise level that needs to be achieved (Noisetek, 2011).

Physical Changes to Store Location

Other measures that may be taken to reduce noise levels include inspecting the store location and surroundings. Examples of such enhancements include improving the smoothness of driveways at receiver locations, or applying noise absorption materials like those previously described on floor, walls and ceilings (Gevaers, 2011).

Training Staff About Noise Abatement

Training carriers as well as the receiving staff on ways to perform their duties with less noise is another method that can be employed in the aims of keeping noise levels at a minimum. The main concern of training staff on noise abatement is to ensure that drivers abide by the following checklist (Goevaers, 2010):

- Mind the speed
- Mind the RPM level
- Turn off the radio
- Do not slam the doors
- Do not drop the cargo storage bar
- Engage roll cage stop whole foot

RECOGNITION SCHEME

Recognition schemes have a variety of structures:

- Comprehensive Programs - member companies are assigned ratings based on a variety of areas which cover the significant aspects of the company's operations.
- Area Specific Programs - concentrates on ratings in one specific area. For example only focusing on environmental impacts, fleet management, or driver skill development.
- Award Programs - may not require membership to be recognized by the organization issuing the award. These awards are typically issued annually where a ceremony is held and awards are issued for various categories. Award programs may be a complement to a comprehensive or area specific program.

Comprehensive Programs

An example of a comprehensive program is the Freight Operator Recognition Scheme (FORS) in the United Kingdom. It is a free, voluntary program that is open to all trucking companies operating in the Capital (London). The ratings are divided into the following levels:

- Bronze membership (base level) - member companies' operations should include management systems, policies and procedures that meet the standards set out in the FORS specification. The FORS specifications includes:
 - Drivers and driver management
 - Vehicle maintenance
 - Transport operations
 - Performance management
- Silver membership (intermediary level) - members that have contributed six months of continuous data into the FORS benchmarking system are eligible for this status.
- Gold Membership (highest level) - to achieve a gold status members need to use the FORS benchmarking to meet performance thresholds.



One of the logos of the program showing the three levels is displayed below:

Area Specific Program

An example of an area specific program is the United States (US) Environmental Protection Agency (EPA) SmartWay, which is a program launched in 2004 that is aimed at reducing transportation-related emissions. The SmartWay Transport Partnership segment of the program assigns EPA ranks to the members, who receive publicity from being included on the SmartWay Partner List and outstanding performers receive the logo below.



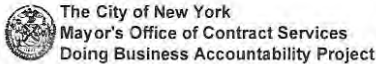
RECOGNITION SCHEME

Type of Program	Program Name	City/Country	Issue Areas	Type of Reward	Criteria of Reward	Number of members	Link
Comprehensive	Freight Operator Recognition Scheme (FORS)	London, UK	Drivers and driver management, vehicle maintenance, transport operations, performance management	Ratings Bronze (base level), Silver, Gold , Workshops, Penalty Charge Notices (PCN) advice, Driver profiling, Fuel Advice, Discounted breakdown assistance	Bronze - meet FORS specifications, Silver - contribute 6 months of continuous data, Gold - use FORS benchmarking and meet performance thresholds	Bronze- 175 member, Silver 41, Gold - expect to award first gold membership in 2011	http://www.fors.gov.uk/about-us/fors/default.asp
	Efficient and Clean Operations (ECO) Suez Fleet Recognition Scheme	Southern Yorkshire, UK	Fleet composition and management, driver skills management, use of information technology, performance monitoring and management	Overall Star Ratings	Members are assessed on each of those categories but the overall star rating that is assigned is a score based on fleet composition and proof that the other five categories are present and effective within their operations	28 members	http://www.eco-suez.com/eco-suez/eco-suez/eco-suez.htm
Area Specific	United States (US) Environmental Protection Agency (EPA) SmartWay Transport	USA	Environmental impacts	1.25-outstanding environmental performance, 1.00-very good, above industry standard, 0.75-good, 0.50-not reflective of environmental performance, indicates partner is behind schedule	Companies incorporate various strategies and technologies to reduce pollution and greenhouse gas emissions	2,860 partners	http://www.epa.gov/smartway/matrix.html
Area Specific	Green Management	Japan	Environmental impacts	Green Management Certification	Members show proof of efforts to reduce environmental impacts in the transportation industry based on the Green Management Manual	—	http://www.green-mgmt.jp/green-mgmt/about.html
Area Specific	Logistics Carbon Reduction Scheme (LCRS)	UK	Environmental impacts	Members receive positive publicity as they will be a part of industry initiative to decrease environmental effects of freight transport	Members are required to provide information on fuel usage, fleet numbers, and business activity	54 members	http://www.ft.co.uk/policy-and-compliance/environment/logistics-carbon-reduction-scheme.html
Area Specific	Well Driven Scheme	UK	Driver skills	Due to success of the program it is now seen as a symbol of industry best practice and as a result shippers now seek out those that are members as they are committed to high industry standards and place a high priority on safety. Members may also realize savings as higher driving standards result in fewer accidents and insurance claims.	Members of the scheme place the logo on their vehicle(s) which displays the name of the scheme in the form of a question and provides a toll free number where the public can call to comment on the way the vehicle is being driven. If a complaint is received, it should be investigated and a response should be issued within 21 days.	—	http://www.ft.co.uk/services/well-driven-scheme.html
Area Specific	Construction Logistics Plans (CLPz)	UK	Construction Freight movement	Positive recognition as they show by being a member that they are committed to industry's best practices. Benefits for companies and the community includes: reduction in delivery costs, less noise and intrusion, reliable deliveries, and opportunity to ensure that operators comply with the local and safety legislation by deciding into the corporate social responsibility (CSR)/program. Benefits to freight operators: legal loading areas, fuel savings, and more efficient fleet management	A transport assessment is done to develop a CLP because every CLP needs to be tailored to each site's requirements	—	http://www.ftl.gov.uk/intercosties/field-trial-delivery-service-a-plans.aspx
Awards	Noise Abatement Strategy (NAS) John Connell Awards	UK	Noise emissions	Positive recognition	The John Connell Awards recognizes local authorities, organizations and individuals who have been exceptional in the area of noise impact reduction and those who are trailblazers in finding practical and innovative solutions to noise pollution (NAS).	—	http://noiseabatementstrategy.com/johnconnell-awards/2011-noise-abatement-award-winners/
Awards	Asian Freight & Supply Chain Awards (AFSCA)	Asia	Operations and customer service	Positive recognition	The AFSCA awards recognizes organizations that demonstrate leadership and consistency in service quality, innovation, customer relationship	—	http://www.asianfreightandsupplychainawards.com/

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APPENDIX L – DOING BUSINESS DATA FORM



Doing Business Data Form

To be completed prior to distribution	
Agency: _____	Transaction ID: _____
Check One: <input type="checkbox"/> Proposal <input type="checkbox"/> Award	Transaction Type (check one): <input type="checkbox"/> Concession <input type="checkbox"/> Contract <input type="checkbox"/> Economic Development Agreement <input type="checkbox"/> Franchise <input type="checkbox"/> Grant <input type="checkbox"/> Pension Investment Contract

Any entity receiving, applying for or proposing on an award or agreement must complete a Doing Business Data Form (see Q&A sheet for more information). Please either type responses directly into this fillable form or print answers by hand in black ink, and be sure to fill out the certification box on the last page. **Submission of a complete and accurate form is required for a proposal to be considered responsive or for any entity to receive an award or enter into an agreement.**

This Data Form requires information to be provided on principal officers, owners and senior managers. The name, employer and title of each person identified on the Data Form will be included in a public database of people who do business with the City of New York; no other information reported on this form will be disclosed to the public. **This Data Form is not related to the City's VENDEX requirements.**

Please return the completed Data Form to the City office that supplied it. Please contact the Doing Business Accountability Project at DoingBusiness@cityhall.nyc.gov or 212-788-8104 with any questions regarding this Data Form. Thank you for your cooperation.

Section 1: Entity Information

Entity Name: _____

Entity EIN/TIN: _____

Entity Filing Status (select one):

- ☐ Entity has never completed a Doing Business Data Form. *Fill out the entire form.*
- ☐ Change from previous Data Form dated _____. *Fill out only those sections that have changed, and indicate the name of the persons who no longer hold positions with the entity.*
- ☐ No Change from previous Data Form dated _____. *Skip to the bottom of the last page.*

Entity is a Non-Profit: ☐ Yes ☐ No

Entity Type: ☐ Corporation (any type) ☐ Joint Venture ☐ LLC ☐ Partnership (any type)
☐ Sole Proprietor ☐ Other (specify): _____

Address: _____

City: _____ State: _____ Zip: _____

Phone : _____ Fax : _____

E-mail: _____

Provide your e-mail address and/or fax number in order to receive notices regarding this form by e-mail or fax.

05/06/2008

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.

Section 2: Principal Officers

Please fill in the required identification information for each officer listed below. If the entity has no such officer or its equivalent, please check "This position does not exist." If the entity is filing a Change Form and the person listed is replacing someone who was previously disclosed, please check "This person replaced..." and fill in the name of the person being replaced so his/her name can be removed from the *Doing Business Database*, and indicate the date that the change became effective.

Chief Executive Officer (CEO) or equivalent officer☐ This position does not exist

The highest ranking officer or manager, such as the President, Executive Director, Sole Proprietor or Chairperson of the Board.

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

☐ This person replaced former CEO: _____ on date: _____

Chief Financial Officer (CFO) or equivalent officer☐ This position does not exist

The highest ranking financial officer, such as the Treasurer, Comptroller, Financial Director or VP for Finance.

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

☐ This person replaced former CFO: _____ on date: _____

Chief Operating Officer (COO) or equivalent officer☐ This position does not exist

The highest ranking operational officer, such as the Chief Planning Officer, Director of Operations or VP for Operations.

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

☐ This person replaced former COO: _____ on date: _____

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.

Section 3: Principal Owners

Please fill in the required identification information for all individuals who, through stock shares, partnership agreements or other means, **own or control 10% or more of the entity**. If no individual owners exist, please check the appropriate box to indicate why and skip to the next page. If the entity is owned by other companies, those companies do **not** need to be listed. If an owner was identified on the previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list any individuals who are no longer owners at the bottom of this page. If more space is needed, attach additional pages labeled "Additional Owners."

There are no owners listed because (select one):

- ☐ The entity is not-for-profit ☐ There are no individual owners ☐ No individual owner holds 10% or more shares in the entity
☐ Other (explain): _____

Principal Owners (who own or control 10% or more of the entity):

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

Remove the following previously-reported Principal Owners:

Name: _____ Removal Date: _____

Name: _____ Removal Date: _____

Name: _____ Removal Date: _____

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.

Section 4: Senior Managers

Please fill in the required identification information for all senior managers who oversee any of the entity's relevant transactions with the City (e.g., contract managers if this form is for a contract award/proposal, grant managers if for a grant, etc.). Senior managers include anyone who, either by title or duties, has substantial discretion and high-level oversight regarding the solicitation, letting or administration of any transaction with the City. **At least one senior manager must be listed, or the Data Form will be considered incomplete.** If a senior manager has been identified on a previous page, fill in his/her name and write "See above." If the entity is filing a Change Form, list individuals who are no longer senior managers at the bottom of this section. If more space is needed, attach additional pages labeled "Additional Senior Managers."

Senior Managers:

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

First Name: _____ MI: _____ Last: _____

Office Title: _____

Employer (if not employed by entity): _____

Birth Date (mm/dd/yy): _____ Home Phone #: _____

Home Address: _____

Remove the following previously-reported Senior Managers:

Name: _____ Removal Date: _____

Name: _____ Removal Date: _____

Certification

I certify that the information submitted on these four pages and _____ additional pages is accurate and complete. I understand that willful or fraudulent submission of a materially false statement may result in the entity being found non-responsible and therefore denied future City awards.

Name: _____

Signature: _____ Date: _____

Entity Name: _____

Title: _____ Work Phone #: _____

Return the completed Data Form to the agency that supplied it.

For information or assistance, call the Doing Business Accountability Project at 212-788-8104.

Printed on paper containing 30% post-consumer material

APPENDIX M - HPD-HDC MARKETING GUIDELINES

MARKETING GUIDELINES

Updated March 2012



MARKETING GUIDELINES – TABLE OF CONTENTS

1. Introduction
2. Basic Sequence of Activities
3. Marketing Plan Checklist
4. Outline of Procedures
5. Submissions and Ongoing Reporting Requirements
6. List of Attachments

INTRODUCTION



MARKETING GUIDELINES – INTRODUCTION

WHAT THIS MANUAL IS:

The Marketing Guidelines describe policies, procedures, and certain requirements for the marketing and selection of residents for developments (“Projects”) subsidized by the New York City Department of Housing Preservation and Development (“HPD”) and/or the New York City Housing Development Corporation (“HDC”) (together, the “Agencies”). Developers, owners, marketing agents, and sponsors of Projects (“Developer(s)”) must follow these guidelines in preparing marketing plans for their Projects and comply with its specific requirements.

The Developer should consult the monitoring agency in the event any questions or concerns arise with respect to the procedures set forth in these guidelines, as well as the occupancy requirements.

The primary objective of the marketing effort for the Project is to select diverse tenants, including those with mobility, visual, or hearing impairments that require an adaptable/accessible apartment. Outreach efforts utilized by the Developer are a critical tool in the development of a diverse applicant pool and tenancy.

The Developer must also comply with all applicable fair housing and equal housing opportunity requirements and the requirements of any other governmental agencies.

MARKETING GUIDELINES – INTRODUCTION

WHAT THIS MANUAL IS NOT

The Marketing Guidelines are not a comprehensive compliance manual. The Developer must ensure that its employees and agents are fully trained in all facets of the program and all requirements of the specific occupancy requirements of each Project. Maintaining compliance is the Developer's responsibility.

This manual also does not contain specific occupancy requirements for Projects. Developers must refer to their Project's Regulatory Agreement for income, rent, and other occupancy restrictions.

BASIC SEQUENCE OF ACTIVITIES



MARKETING GUIDELINES – BASIC SEQUENCE OF ACTIVITIES

BASIC SEQUENCE OF ACTIVITIES

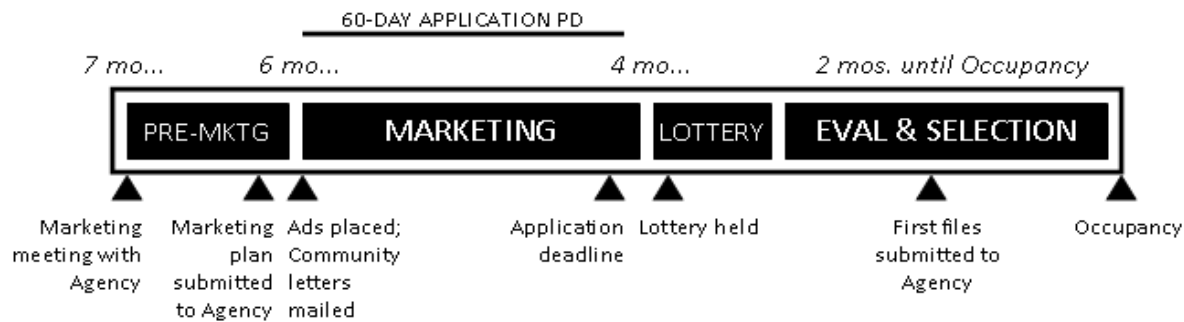


Figure 1: Major milestones in marketing process

ACTIVITY	TIMELINE
1. Project site sign erected and information posted on website and hotline	At the start of construction
2. Inquiry list maintained	On an ongoing basis
3. Marketing meeting held with Agency	Seven (7) months prior to anticipated occupancy
4. Marketing Plan submitted to Agency at Marketing meeting	At least six (6) months prior to anticipated occupancy
5. Community contact letters mailed and advertisements placed	Represents commencement of marketing period, at least sixty (60) days prior to application deadline date.
6. Marketing sign erected with information on how to obtain applications	At commencement of the marketing period
7. Lock box/P.O. Box established for receipt of applications	At commencement of the marketing period
8. Applications mailed to inquiry list; requests for applications processed as received	When first advertisement is published
9. Application postmark deadline	Represents completion of sixty (60) day marketing period
10. Compliance Meeting held with Agency	Two weeks before the Lottery
11. Lockbox/P.O. Box is opened; Hold	Seven (7) to ten (10) days after application

MARKETING GUIDELINES – BASIC SEQUENCE OF ACTIVITIES

lottery

deadline

12. Log applicants; review applications

Approximately 2-3 months before occupancy.

13. Submit files to monitoring agency

Occupancy begins.

14. After approval from agency, occupancy begins

MARKETING PLAN CHECKLIST



Prior to implementing the Developer's marketing plan for the Project ("Marketing Plan"), the Developer must submit the Marketing Plan for Agency review and approval. Below is a Marketing Plan Checklist.

- ✓ CONSTRUCTION SITE SIGNAGE ERECTED
- ✓ INQUIRY LIST MAINTAINED
- ✓ FILE NOTICE OF INTENT WITH AGENCY
- ✓ MARKETING MEETING WITH AGENCY
- ✓ FILE MARKETING PLAN WITH AGENCY
- ✓ SUBMIT DRAFT OF ADVERTISEMENT TO AGENCY FOR APPROVAL
- ✓ SUBMIT MARKETING AGENT AND/OR MANAGING AGENT AGREEMENT TO AGENCY
- ✓ AGENCY ESTABLISHES CALLER SERVICE BOX
- ✓ REMIT PAYMENT TO AGENCY FOR CALLER SERVICE BOX
- ✓ DRAFT AND MAIL COMMUNITY CONTACT LETTERS
- ✓ AGENCY MAILES ELECTED OFFICIAL LETTERS
- ✓ MARKETING SIGN ERECTED WITH INFORMATION ON HOW TO OBTAIN APPLICATIONS
- ✓ PLACE ADVERTISEMENTS IN NEWSPAPERS
- ✓ PROVIDE AGENCY WITH ALL COPIES OF ACTUAL ADVERTISEMENTS
- ✓ MAIL APPLICATIONS TO INTERESTED APPLICANTS ON INQUIRY LIST; REQUESTS FOR APPLICATIONS PROCESSED AS RECEIVED
- ✓ HOLD INFORMATIONAL SEMINARS AT LOCAL FACILITIES, SUCH AS COMMUNITY BOARD(S) AND/OR LOCAL ORGANIZATIONS
- ✓ SCHEDULE LOTTERY WITH AGENCY
- ✓ HIRE STAFF FOR SCHEDULE LOTTERY DATE(S)
- ✓ HOLD LOTTERY
- ✓ ATTEND COMPLIANCE MEETING WITH AGENCY
- ✓ SUBMIT ELECTRONIC LOG TO AGENCY FOR REVIEW
- ✓ PROCESS LOTTERY LOG
- ✓ SUBMIT FILES TO AGENCY FOR REVIEW AND APPROVAL
- ✓ SUBMIT INTERMITTENT LOG UPDATES WITH DISPOSITION COMMENTS AND STATS REPORT
- ✓ REQUEST WAIVER(S), IF NEEDED
AGENCY APPROVAL DATE _____
- ✓ REQUEST OPEN MARKET, IF NEEDED
AGENCY APPROVAL DATE _____
- ✓ SUBMIT INITIAL MOVE-IN CERTIFICATION TO AGENCY
- ✓ SUBMIT FINAL LOG WITH DISPOSITION COMMENTS AND STATS REPORT

OUTLINE OF PROCEDURES

- I. PRE-MARKETING
- II. MARKETING
- III. LOTTERY
- IV. APPLICANT EVALUATION & RESIDENT SELECTION



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

I. PRE-MARKETING

A. PROJECT SITE SIGN AND MARKETING SIGN

The Developer must display a project site sign, provided by the Agency, on site in public view, beginning at the start of construction. The project sign is to remain erected on the site until construction is substantially complete. See *Site Sign Request Form, Attachment A-1*.

- ✓ **The Marketing Plan should state the date that the project site sign was erected.**

The Developer must also design and display on site and in public view a legible marketing sign with information on how to obtain an application for a unit. The marketing sign should be displayed upon commencement of the marketing period and remain until the conclusion of the marketing effort.

- ✓ **The Marketing Plan should include a sample marketing sign and should state the approximate date on which the sign will be erected.**

B. INQUIRY LIST

At the start of construction, an inquiry list should be maintained by the Developer's office. Inquiries must be accepted up to the deadline date for requests for applications. The inquiry list should include the following information:

- Name and contact information of those interested in renting/purchasing a unit;
- How the inquiry was received, e.g. via telephone, email, walk-in, or mail. (The Developer may select the procedure for accepting inquiries.)
- ✓ **The Marketing Plan should outline these inquiry list procedures.**

C. AGENCY WEB SITE AND HOTLINE POSTING

The Developer must make the following information available to the Agency for posting on the Web site and Affordable Housing Hotline (See *Web Site Posting Form, Attachment A-2*):

- Information related to the development (e.g. number of units; initial rents/sale prices);
- Developer or marketing agent contact info, if applicable;
- Expected construction completion date;
- Method for interested parties to be placed on an inquiry list.
- ✓ **The Marketing Plan should also include this basic project information.**

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

D. PRE-MARKETING MEETING

At least seven (7) months prior to anticipated occupancy, the Developer must contact the Agency to schedule a marketing meeting. At that time, Developer and Agency will meet to review the procedures for marketing, applicant evaluation and resident selection, occupancy, and management, as well as any related documents and reports. The Developer shall submit to the Agency a "Notice of Intent" form to initiate the marketing process.

- ✓ **The Marketing Plan should include a dated copy of the Notice of Intent.** See *Sample Notice of Intent to Market, Attachment C.*

E. MARKETING PLAN

Following the pre-marketing meeting, the Developer must submit to the Agency for review and comment a proposed Marketing Plan which will outline procedures to be followed in the Pre-marketing, Marketing, and Applicant Evaluation and Resident Selection phases. See *Marketing Plan Summary Sheet, Attachment B* and See *Marketing Plan Checklist, p. 10.*

- ✓ **The Marketing Plan should include the approximate date at which each of these items will be implemented/completed.**

II. MARKETING

The formal marketing process should begin at least six (6) months prior to the anticipated occupancy of the first unit. The placement of advertisements and other outreach efforts commences the official 60-day marketing period.

The Developer must ensure that the Project is always in compliance with the provisions of the Project's Regulatory Agreement. The Developer should be aware of its obligation to obtain, verify and provide the Agency, on an ongoing basis, with all required information. The Developer should fully familiarize themselves with the provisions of the Regulatory Agreement.

A. OUTREACH

Marketing aims to achieve the broadest practical citywide representation in its outreach efforts. The Developer's outreach effort is an essential element in the development of a diverse applicant pool and tenancy. The Agency expects the Developer's Marketing Plan to be designed to achieve this objective.

The Agency requires the use of community and citywide civic organizations as part of the marketing effort.

Elected Official and Community Board Letters

At the commencement of marketing, the Agency submits letters to the Community Board and elected officials affiliated with the district in which the development is located.



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

Community Outreach Letters

The Developer must provide additional methods of community contact and describe these methods in the Marketing Plan. It should be stressed that targeted outreach is extremely important to the marketing process in order to adequately fill the preference categories. Community outreach letters should be mailed by the Developer at least sixty (60) days prior to the deadline date for receipt of applications. See *Outline of Contents for Community Contact Letter(s), Attachment D*.

At a minimum, the Developer should initiate contact with the local Community Board to discuss the project and possible outreach options. Some other examples of outreach methods include:

- Attending a monthly Community Board meeting to discuss the project;
 - Meeting with other local community groups, e.g. religious congregations;
 - Discussing project outreach with private and not-for-profit community organizations; and
 - Posting flyers in local unions or governmental agencies.
- ✓ **The Marketing Plan must describe all methods of community contact, including, but not limited to:**
- Any marketing consultants the Developer intends to retain, providing the Agency with a statement summarizing their relevant experience and expertise. All marketing consultants must be approved by the Agency;
 - Any management companies the Developer intends to retain, providing the Agency with a statement summarizing their relevant experience and expertise and include a brief management plan See *Outline of Management Plan, Attachment E*;
 - The intended outreach time schedules and types of materials to be distributed;
 - Specific organizations and institutions (e.g., Community Board, private and not-for-profit organizations, local newspapers, senior centers, labor unions, government agencies), and their respective roles in the marketing process.

B. ADVERTISEMENTS

- Advertisements should appear at least sixty (60) days prior to the deadline date for receipt of applications. See *Sample Advertisement with Logos, Attachments F-1 and F-2*.
- ✓ **The Marketing Plan must list advertisement publication dates and indicate the name(s) of the publications and the proposed dates of the advertisements to be utilized.**



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- The Developer shall begin marketing by placing an advertisement for applicants in accordance with the following:
 - a. The Agency will provide the Developer with the final advertisement format. No changes to the format will be permitted without the prior written approval of the Agency.
 - b. Copies of the advertisements must be submitted to the Agency for approval prior to publication. Advertisement draft approvals are required from multiple parties, in addition to the Agency, depending on the number of vested parties involved in the project. The Developer should ensure to allow enough time to receive each of these approvals. *See Sample Routing Slip, Attachment F-3.*
 - c. After obtaining Agency approval, the Developer is responsible for placing the ad. The ad must be advertised in at least three (3) newspapers, including:
 - ❖ One (1) citywide daily newspaper with a circulation of at least 200,000;
 - ❖ One (1) ethnic-based newspaper with a circulation of at least 10,000;
In order to insure that your marketing meets the Affirmative Fair Housing Requirements, in addition to choosing a citywide publication that is generally read by all ethnic groups, the ethnic publication chosen should be one that serves the minority group(s) least likely to apply for this housing. *For further guidance, see Attachment F-4 and F-5.*
 - ❖ One (1) local newspaper.
 - d. The ad is to run at least three (3) days with at least one (1) day falling on a weekend. The first day an Ad appears must be at least sixty (60) days prior to the application deadline. The Developer must run the additional two ads no later than 10 days after the first ad runs. Any delays must be reported to the Agency.
 - e. The Developer must provide the Agency with a copy of the tear sheet immediately after the advertisement runs.

C. APPLICATIONS

- ✓ **The Marketing Plan must include a sample of the proposed application and cover letter to prospective applicants and samples of the response letters to applicants.**

The Marketing Plan is to include a statement that family members and employees of the Developers and its principals are ineligible to apply for or receive an apartment. The cover letter should reiterate program guidelines and highlight the post office box to which applications may be returned. The format will be provided by the Agency. Any changes to the letter must receive prior approval from the Agency. *See Sample Cover Letter and Application, Attachments G1-3. See also Sample Letters, Attachments H-1 through H-6.*

Additionally, the following subjects should be outlined in order that the Agency may be afforded an opportunity to comment:



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- Number and type of units (if this description does not match the original underwriting and unit distribution described in the Regulatory Agreement, then the Developer must bring the discrepancy to the Agency's attention in writing);
- Initial rents or selling price to be charged;
- Minimum and maximum income range for each type of unit;
**Note: Please contact the Agency if you are unclear about the program's income and rent limits.*
- Listing of proposed fees
 - Applicants shall not be required to pay an application fee, but may be charged a non-refundable credit check fee:
 - For Units with Income Limits set at or below 60% of New York City's Area Median Income (AMI) Limit: The fee is not to exceed **\$25** per application (for households consisting of 1 or 2 adult members), or **\$50** (for households with 3 or more adult household members).
 - For Units with Income Limits set above 60% of New York City's Area Median Income (AMI) Limit: the fee is not to exceed **\$50** per application (for households with 1 or 2 adult members) or **\$75** per application (for households with 3 or more adult members).
 - ***Credit fees should only be collected when (a) an applicant appears to be otherwise eligible and (b) it is clear that a unit will be available if the applicant is approved.**
- The Developer's system and procedures for receipt and logging or numbering applications. *See Sample Log Sheet for Rental Units, Attachment J-1 and See Sample Log for Home Units – Attachment J-2. For more information about the logging and receipt of applications, please see the following "Lottery" section.*

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

III. LOTTERY

- The Agency requires a Compliance Meeting to be held approximately two weeks before the lottery date.
- The lottery will be held on a date or dates mutually agreed by the Developer and Agency, generally seven (7) to ten (10) business days following the close of the application period, if not sooner.
- **An Agency representative must be present at the time of the lock box/post office box opening and at the time applications are opened and logged.**
- Based on anticipated response volume, the Agency will recommend a minimum number of staff or volunteers to be provided by the Developer for the full day of the lottery. The Agency recommends that there be 20-25 staff members per day during a lottery, which may be adjusted by the Agency based on lottery response. Developer staff should be made familiar with the application log process, and freed from any other duties or distractions on the day of the lottery. Additional people made available will maximize the number of applications opened and logged. Agency monitors will be present strictly to observe the opening of applications and completion of the log sheets; they will be unable to assist in the actual opening and logging as not to divert their attention from their oversight responsibilities.
- If more than one day is required for the lottery, remaining applications must be secured in a locker or footlocker (to be provided by the Developer), which can accommodate a standard combination lock. The Agency will provide the lock with a combination known only to Agency staff. This locker or footlocker will be stored by the Developer in a location approved by the Agency monitor and subsequent days of opening and logging must also occur under Agency supervision. At the completion of rent-up/sales, after enough applications have been opened to achieve occupancy and establish a waiting list equal to at least the number of units in the building, any surplus applications will be shredded by the Developer.

A. APPLICATION COLLECTION AND PICK-UP

- The post office box used will be one governed by the United States Postal Service (i.e. not a privately owned business such as "Mailboxes Etcetera," etc.) and must be located within New York City limits (i.e. New York, Bronx, Kings, Queens or Richmond Counties). The P.O. Box location must be pre-approved by the Agency, as certain branches with a history of problems may be excluded. Protocol for the opening of the P.O. Box varies by agency:
 - HDC will purchase and reserve the P.O. Box, with all charges and fees to be reimbursed by the Developer.
 - HPD will accompany the Developer to the designated post office on the day of the opening to purchase and open the P.O. Box.



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- Applications will be picked up from the P.O. Box on the day of the lottery, generally seven (7) to ten (10) business days following the close of the application period. The applications must be picked up by the Developer in the presence of Agency staff.
- If the post office requires that letters be picked up on a regular basis due to large volume of mail, the USPS will notify the Agency prior to picking up the mail and the Agency and Developer will place all letters, unopened, in a secure locker or footlocker. The Developer will then return to the post office on the day of the scheduled lottery to pick up, in the presence of Agency staff, any remaining mail.
- On the day of the lottery, Agency staff will meet the Developer at the applicable post office for the opening of the P.O. Box and the gathering of applications. Applications will be transported in the presence of at least one Agency monitor (such transportation to be provided by the Developer) to the identified location provided by the Developer for the opening of the applications.
- Any applications postmarked after the application deadline ("late applications") will be set aside for possible consideration pursuant to this Outline of Procedures, and only after all applications postmarked by the deadline have been processed.
- Any applications received by means other than regular mail (e.g. overnight, certified or registered mail) will be set aside for possible future consideration.

B. LOG GENERATION

- On the initial lottery days scheduled, all applications, or a minimum number of applications equal to **at least fifty (50) times the number of affordable units that are being marketed**, will be opened and entered in a log in the order in which they were randomly opened. All names will then be selected in number order from this log. All subsequent loggings from this applicant pool, unless waived by the Agency, must take place in the presence of Agency staff. **No preferences will be waived unless all applications received on time have been opened.** *For more information on preferences, see Section IV-B "Order of Processing" or Section IV-H-1 "Preferences."*
- The log sheets have been revised in a new format and will be provided by the Agency. Rather than merely logging in the head of household, the names of all household members identified on an application must now be recorded in the log sheets. *See Sample Log Sheet for Rental Units, Attachment J-1 and See Sample Log for Home Units – Attachment J-2.*
- A delineated line must be drawn at the end of the last log page containing all applications received up to the deadline date. Applications received after the deadline date or by other methods, such as overnight, certified or registered mail, are to be logged after the delineated line. *For information on maintaining a*

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

waiting list, see Section IV-F “Waiting List” or Attachment H-6 for a Sample Waiting List Letter.

- Developer must provide an electronic copy of the log to the Agency immediately after the lottery is completed.
- If the lottery takes more than one (1) day, the Developer must provide a copy of the updated log after each day’s logging is completed. In this case, remaining applications must be secured in a locker or footlocker (to be provided by Developer), which can accommodate a standard combination lock. The Agency will provide the lock with a combination known only to the Agency. This locker or footlocker will be stored by the Developer in a location approved by Agency monitors and subsequent days of opening and logging must also occur under Agency supervision. At the completion of rent-up/sales, after enough applications have been opened to achieve occupancy and establish a waiting list equal to at least the number of units in the building, the Developer must shred any surplus applications.
- Developer or representative must also provide copies of the log to the Agency for review indicating each applicant’s selection status. **Copies of the log must be provided prior to offering units to eligible applicants.** *For more information about Agency approvals required prior to signing leases and/or contracts, see Section IV-G “Agency Approval.”*
- Developer must offer units only to applicants who meet eligibility requirements in numbered order from this log, as long as units of appropriate size are available. An applicant to whom a unit has been offered must be given a reasonable specific amount of time to respond to the offer, and **not less than 5 business days** for a lease signing, before a Developer can proceed to offer a unit to the next eligible applicant on the log.
- If units of appropriate size are unavailable to eligible applicants from the log as they are being reviewed, the applicant’s name will remain on the log until an appropriate unit becomes available or until the log expires.
- Developer must retain the applicant log and all associated applications as a record for no less than three (3) years.

Depending on the level of response generated by the lotteries, particularly for low-income developments, it may not be practical to open and process all received applications. However, the Developer must initially open and log a number of applications that is at least fifty (50) times the number of available units. **This must be explained in the cover letter that accompanies the application.** If this pool is sufficient to fulfill all preferences, achieve rent-up/sales, and establish an adequate waiting list, the Agency may not require that additional applications be opened at that time. If preferences cannot be met, additional applications will need to be opened. The Agency will not waive any mandatory preferences unless all received applications have been

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

processed. Agency staff must be present to supervise the opening and numbering of all applications involved in the initial lottery of a project.

IV. APPLICANT EVALUATION AND RESIDENT SELECTION

The Developer will have primary responsibility for applicant evaluation and resident selection. Developer must select all prospective residents from the log sheet in the order logged in, with exceptions for permitted preferences only. Residents of the City of New York are to be given preference in the selection process over non-residents. Other statutory preferences are outlined below. See Section IV-H-1 "Preferences."

- ✓ **The Marketing Plan must specify criteria to be used for resident selection and rejection, along with procedures for handling rejected applications.**

An applicant cannot be rejected for any reason other than a reason that is consistent with the rejection criteria stated in the Marketing Plan. The Agency will approve the selection and rejection criteria outlined in the Marketing Plan prior to the start of marketing. The rejection criteria must be applied fairly and equitably to all applicants.

A. DISQUALIFICATION POLICIES

- No application will be disqualified prior to entering the lottery. Every opened application received will be assigned a unique log number. Disqualification letters, for reasons outlined below, will be processed and sent in order of log number.
- After the lottery, applicants may be disqualified, regardless of other eligibility factors, for one of several reasons:
 - Developer must disqualify those applicants for whom multiple copies of an application are received.

A "multiple" or "duplicate" application is defined as the appearance of any single applicant across two or more applications for any given project, whether or not the same household members are present.
 - **Developer, employees, agents, employees of agents, and family members of Developer, are prohibited from seeking a unit through the Developer's lotteries or Open Market, and are further prohibited from being considered through any other means for any unit being marketed by this Developer pursuant to this Outline of Procedures, regardless of their position with the firm.**
 - Employees of the Housing Development Corporation (HDC) are prohibited from seeking a unit in any project in which HDC is involved that is being marketed by the agent. *Note: HPD employees who apply for HPD involved projects should receive a Conflict of Interest waiver from HPD.
 - Applicant is not a resident of New York City.



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- Applicants may **not** be disqualified on rental projects solely on the basis that the applicant receives Section 8 assistance.
- **Note on Missing Information:**
Applications with missing required information, such as income or household size, would be processed as such. For instance, applicants without a stated income would be calculated as \$0 income, and likewise, unlisted household members would not be calculated. Unless qualified as an “extenuating circumstance,” changes to blank income and/or household size would result in an applicant being placed at the bottom of the log for consideration only after all other applications are exhausted.

Extenuating circumstances include:

- Death of a member of the household;
- Birth in the household;
- Divorce or other spousal situation;
- Court order of custody.

Developer must require the applicant to provide evidence of the extenuating circumstance.

B. ORDER OF PROCESSING

- The first applications processed and submitted to the agencies from the log must be those that meet one of the approved housing preferences. The order of preference category must maximize the number of applicants filling the preference categories. Experience suggests that this order, depending on lottery results and other factors, may help boost the filling of preference categories if generally followed:
 - (1) Disability
 - (2) Community Board
 - (3) Municipal Employee

For more information on processing of preferences, see “Preferences” Section IV-H-1.

- If preferences are not met and there are still unopened applications remaining, another day of opening applications to identify additional preference applicants must be scheduled with the Agency. No preferences will be waived unless all received applications have been opened.
- Only after all preferences have been achieved (or waived by the Agency following the exhaustion of the lottery) may non-preference applications be submitted to the Agency for approval. This is to prevent non-preference applicants from being processed for units that are intended for preference-eligible applicants. The screening of non-preference applicants may begin prior to achieving all preferences with Agency approval.



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- If units are still available after the Developer has exhausted all remaining applications, Developer must notify the Agency and randomly open and log a number of “late” applications set aside with the Developer sufficient to tenant the remaining vacancies. The Developer, or a representative, will then follow all procedures as outlined in this Section.
- Applications should be processed for submission to the Agency in groups of fifty (50) to prevent getting too far ahead in the lottery and potentially bypassing eligible applicants who are placed earlier on the log and appeal successfully within the two (2) week appeal timeframe. Even within those groups of fifty (50), attention must be given to remaining available units based on bedroom sizes and (for mixed-income buildings) income levels to allow for such appeals.
- At a minimum, a status report must periodically be issued by the Developer to the Agency to ensure that applicants are being processed in proper order. The report must outline the status of applicants on the log (i.e. if they were rejected the reason must be provided) and must be submitted electronically in an Excel format. Developer therefore must not submit a “Read Only” version. This is to ensure that applicants are being processed in proper order. Such status reports should be issued: (a) upon completion of the preferences before processing the general lottery pool and (b) upon the completion of each group of fifty (50) general lottery applicants thereafter. If a file is submitted for an applicant but there are applicants with lower log numbers whose status have not been confirmed, the agencies will withhold further approvals until the information has been satisfactorily documented. The status report, which must include all status comments, must also be accompanied by a letter reporting on the statistics, such as, but not limited to:
 - Number of logged applicants;
 - Number of units for each preference;
 - Status of each preference;
 - Number rejected for being over income;
 - Number rejected for being under income;
 - Number of applicants that fell within the income ranges; if applicable;
 - Number rejected for credit reasons;
 - Number rejected for criminal history;
 - Number rejected for housing court activity as further described in *Section IV-H-5*;
 - Number rejected for household composition;
 - Number of no-shows (include the no-show dates);
 - # terminated as per applicant’s request (applicant withdrew/cancelled application)
 - # rejected for failure to submit requested additional documentation;
 - # rejected for submitting duplicate applications ;
 - # rejected because household is comprised of full-time student(s) and does not meet any of the exceptions (in applicable programs);
 - # rejected because of household size;
 - # placed on low priority list and specify the reasons, e.g. living out of city;
 - any other rejection criteria used by the agent; and Number rejected for

MARKETING GUIDELINES - OUTLINE OF PROCEDURES

submission of fraudulent information, etc.

- Stats Report Requirement is mandatory so that the Agencies may monitor the process of the lottery log. Further, such stat report information may be used to report on the statistics of the individual project and analysis of its lease-up.
- Developer must notify all applicants processed of their selection status by regular mail as soon as a determination has been made. A copy of the letter must be attached to the application and kept on file.

C. APPEALS

Ineligibility and Rejection Letters to Applicants must provide a specific reason why an applicant cannot be approved. Responses to appeals must be even more specific and detailed. For example, stating, “You are rejected because you are over-income” is not sufficient. The letter would need to state more specifically, as an example, “You have been deemed ineligible for this housing program because you do not meet the maximum income required for your family and unit size. The maximum income is \$35,000 and your household’s annual income has been determined to be \$36,000”.

- Developer will provide the Agency with a copy of the completed Log, indicating the final selection status of each applicant and reason for rejection. This includes, but is not limited to:
 - Income ineligibility;
 - Applicant is an employee or family member of Developer;
 - Applicant is not a resident of New York City;
 - Lack of adequate income to support mortgage payments;
 - Ineligible household size;
 - Poor payment or credit history;
 - Receipt of more than one application per household;
 - Falsification of information, etc.

D. INTERVIEWS

- All applicant/prospective tenant interviews, as well as lease signings, must be conducted within New York City limits (i.e. New York, Bronx, Kings, Queens, or Richmond Counties).
- Developer will notify each applicant to be interviewed by regular mail. Format for letter will be provided by the Agency. Letter will indicate:
 - Date, time, location of interview and phone number should applicant be unable to appear;
 - Required minimum amount of time, and **not less than ten (10) business days**, between letter postmark and interview date;



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

- List of required documents to be brought to interview by applicant;
 - That Developer may make home visits or other appropriate inquiries to assist in qualifying;
 - That no broker or application fees will be charged to the applicant, except in New HOP programs;
 - If credit checks will be conducted by Developer, then that fee must be approved by the Agency.
 - For Units with Income Limits set at or below 60% of New York City's Area Median Income (AMI) Limit: Credit check fees are not to exceed \$25 for households with 1 or 2 adult members; \$50 for households with 3 or more adult members.
 - For Units with Income Limits set above 60% of New York City's Area Median Income (AMI) Limit: Credit check fees are not to exceed \$50 for households with 1 or 2 adult members; \$75 for households with 3 or more adult members.
 - No credit check fees may be charged to homeless applicants in designated special needs programs referred by the city.
 - A credit check fee can only be charged after an interview has been conducted and all other threshold selection criteria have been met.
- In cases where an applicant fails to appear for an interview, Developer must send a second letter by regular mail to schedule another interview. The applicant will be given a reasonable specific amount of time, but **not less than five (5) business days** from the postmarked date of the second letter in which to respond.
 - *Note: If the Developer elects in the Marketing Plan to perform home visits, such home visits MUST occur before submitting files for approval but after the interview. Further, if an applicant is rejected for a home visit, then the rejection letter must state the reason of the home visit rejection. The letter cannot simply state that the applicant failed the home visit.

E. OPEN MARKETING

If all applications have been processed and the entire applicant log has been reviewed for eligibility and there are still units available, **the Developer must contact the Agency for written approval to commence open marketing.** The Developer is required to complete a **Notice of Remarketing document** See *Notice of Remarketing, Attachment K*. Upon receipt of these forms, the Agency will create an advertisement for its website. Under open marketing, the Developer may utilize other methods to identify applicants beyond the scope of the lottery. Such methods may include additional advertising, signage on the building to attract walk-ins, or the use of brokers.

If using a broker, the Developer must fully absorb any related broker fees. No such fees may be passed on to applicants/residents of units. The exception to this, unless otherwise noted, is with HDC's New HOP programs. In the case of New HOP, a fee equal to half (1/2) of one month's rent is the maximum amount that may be charged to the residents as a broker fee. Any fee above that amount must be absorbed by the Developer.



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

F. WAITING LIST

After the Project is initially occupied, the Developer must maintain a waiting list indicating persons interested in residing in the development and must fill vacancies from the waiting list. Whenever possible, the Developer must fill vacancies in units that have been adapted for households with disability preferences to a household that fulfills such preference. The Developer is to inform wait-listed applicants that it is the applicant's responsibility to notify the owner/manager every six (6) months that they wish to remain on the waiting list.

Upon conclusion of the rent-up, the Developer must document to the Agency how it plans to manage its waiting list going forward.

When the Developer needs to replenish a Project's waiting list, the Developer may request Agency approval to commence remarketing activity. The Agency does not supervise this process as closely as the initial marketing. However, the attached form must be completed and receive Agency approval before remarketing. See *Notice of Remarketing Attachment K*.

G. AGENCY APPROVAL

No residents may be moved into the building, and no leases or contracts signed, until Agency has approved the applicant in writing. This is true both during initial rent-up or sales and thereafter. Concurrent approvals by other involved agencies may also be required.

Developer may also not collect funds from prospective residents (i.e. security deposits, rents, etc.) until written Agency approval is received.

If files are complete in accordance with the revised procedures which follow, and no additional issues are raised with any of the information contained therein, Agency approval timetable is three (3) to five (5) business days from receipt of a file. However, if files are incomplete or if issues are raised that require further review either internally or with the NYC Department of Investigation (DOI), the process will take as long as necessary to (a) acquire the missing or additional paperwork from the Developer's management staff or (b) to complete an additional review with DOI. On a case-by-case basis, if such processes extend past ten (10) business days without a resolution, the agencies may grant permission to place such questionable applicants on hold and proceed with other applications while such special reviews are being completed. Although an added step, these procedures will both ensure the integrity of the Agency's programs and protect the Developer from the potential regulatory defaults for non-compliance, which can result from admitting applicants who are not truly eligible.

- ✓ **The Marketing Plan must also include procedures for determining applicant eligibility and verifying income and family size.**

HPD and HDC perform independent review of applicant income eligibility as an



MARKETING GUIDELINES - OUTLINE OF PROCEDURES

additional means of ensuring compliance with the Regulatory Agreement. The approvals are based on information in the files submitted to us by the Developer. HPD will review a percentage of applicants, while HDC will review all applicants. *Refer to Checklist for Tenant Income Certification, Attachment L-1.*

Applicant approval letters are not given under our role as low-income housing tax credit monitoring agencies and so these letters alone are not verification of tax credit compliance. Upon the Developer's annual tax credit certification review (as required by IRS monitoring rules), the Compliance Unit in the respective agencies will review files in their entirety to monitor compliance.

Developer must submit Tenant Income Certification (TIC) and verifications to the Agency along with the Applicant Information Form (AIF) to enable a review of the Developer's computation of eligibility. Developer must inform applicants that they will not be allowed to occupy a unit until the Agency has reviewed and approved their Tenant Income Certification. All such Approvals are given to the Developer in writing. See *Tenant Income Certification Cover Letter, Attachment L-2, See Tenant Income Certification form, Attachment for Low Income Attachment L-3 or Tenant Income Verification for Middle Income Attachment L-4. See also AIF, Attachment M.*

Tenant Lease and Related Documents

- Immediately prior to signing the lease, the statement in Pre-lease Acknowledgement and Certification must be reviewed with, and signed by, all adult household members. *See Pre-Lease Acknowledgement and Certification, Attachment N.* This statement warns against violating the primary residence rule, as well as provides a final confirmation as to the honesty of all information the applicants submitted throughout the process.
- Owners must use a lease that complies with the Rent Stabilization Law and regulations.
- **The Marketing Plan must include a copy of the lease for review.**
- For Projects financed by HDC, owners must execute an HDC lease rider which outlines the unique aspects of the program and how it differs from standard rent stabilization (such as the prohibition on sublets). *See Rider to Standard Rent Stabilization Lease for Low Income, Attachment O or See Rider to Standard Rent Stabilization for Middle Income, Attachment P.*
- If Developer finds an applicant eligible for a unit designated at 60% of AMI or below, then at the time of lease signing, the tenant must complete an Affirmation of Income. *See Affirmation of Income, Attachment Q.*
- If Developer finds an applicant to be eligible for a unit, then at the time of lease signing or sale closing, Developer must require that all adult household members execute three new IRS Form 4506-T, one listing the Developer, one listing the



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Agency and the other listing the NYC DOI in Line 5 of the form. See *IRS and State Forms, Attachments R-1 through R-5*.

H. **DETAILED SELECTION POLICIES**

Additional guidance on evaluation criteria and selection factors is provided on the following pages as follows:

- 1) Preferences
- 2) Household Composition Changes to an Application
- 3) Qualification As A Household
- 4) Income Eligibility
- 5) Background Checks And Other Factors
- 6) Occupancy Standards And Unit Distribution
- 7) Rent Levels and Income Standards
- 8) Other

1) **PREFERENCES**

a. **OVERALL RESIDENCY PREFERENCE FOR NEW YORK CITY RESIDENTS**

Non-residents of New York City can only be considered after all eligible, current New York City residents have been processed.

b. **MANDATORY PREFERENCES**

The following must also be considered and detailed in the plan:

- Community Preference

The Developer must, during initial rent-up, give an occupancy preference for fifty percent (50%) of the units to applicants who, at the time of application, are residents of the Community District in which the building is located. Applicants with community resident status must meet all other programmatic requirements of the Agency and the Developer (e.g., income qualification, credit worthiness).



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If after all applications have been opened and processed the community preference cannot be filled from applicants in the logbook, the Developer must provide a letter to the Agency stating how much of the preference has been achieved. The letter must include, but is not limited to the following information:

- Number of logged applicants;
- Number of units available for each preference;
- Number of applications approved for each preference;
- Number rejected for being over income;
- Number rejected for being under income;
- Number of applicants that fell within the income gap, if applicable;
- Number rejected for credit reasons;
- Number rejected for criminal history;
- Number rejected for housing court activity as further described in *Section IV-H-5*;
- Number rejected for household composition;
- Number of no-shows (include the no-show dates);
- # terminated as per applicant's request (applicant withdrew/cancelled application);
- # rejected for failure to submit requested additional documentation;
- # rejected for submitting duplicate applications;
- # rejected because household is comprised of full-time student(s) and does not meet any of the exceptions (in applicable programs);
- # rejected because of household size;
- # placed on low priority list and specify the reasons, e.g. living out of city;
- any other rejection criteria used by the agent;
- If any of the above rejection criteria does not apply or no applicant had been rejected for that criteria, please indicate "N/A" or "0 applicants", respectively; and
- Number rejected for submission of fraudulent information, etc.

See Stats Report Requirements p. 22-23

After review, the Agency may waive the remainder of this preference and authorize the Developer to proceed with the remainder of the log sequentially. If the community preference is fully achieved, any remaining community applicants will be processed from the log in the same order as other applicants.

○ Disability Preferences

The Developer must also give an occupancy preference to applicants for certain units who have at least one household member with a mobility,



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visual and/or hearing impairment and, as a result, require an accessible/adaptable unit. These preferences are as follows:

- Five percent (5%) of the units in the project (or one unit, whichever is greater) will have a preference for and are to be made adaptable/accessible for disabled persons with mobility impairments.
- Two percent (2%) of the units (or one unit, whichever is greater) will have a preference for and are to be made adaptable/accessible for disabled persons with visual and/or hearing impairments.

The Developer must write to The Mayor's Office for People with Disabilities to request potential referrals (with a copy to the Agency) at the time community letters are mailed out:

Mayor's Office for People with Disabilities
100 Gold Street, 2nd Floor
New York, NY 10038
Tel (212) 788-2830
Fax (212) 341-9843
TTY (212) 788-2838

If the disability preference is not fulfilled, applicants shall be processed from the logbook in the same order as other applicants.

○ Municipal Employee Preference:

The Developer must give an occupancy preference for five percent (5%) of the units (or one unit, whichever is greater) to municipal employees of the City of New York. *See Attachment S for a list of agencies whose employees are eligible for the preferences.* (*Note: HDC employees are not eligible for this preference. Employees of certain other agencies, such as HPD, are only eligible if they can provide a statement of no-conflict from their agency's ethics officer).

c. ADDITIONAL PREFERENCES AND SET-ASIDES:

There may be additional mandatory preferences tied to certain government programs or funding sources. These mandatory set asides are not to be marketed to the general public; however, they are subject to the same selection criteria and application process and must be approved by the Agency.

✓ **The Marketing Plan must reflect such preferences.**

○ Referrals:

The Agency may refer to the Developer potential residents who are



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being relocated or displaced due to a governmental action. Developer, if directed by the Agency, must first offer units to these referrals, and their applications must be processed according to program selection criteria for eligibility and must be approved by the Agency. Referrals must be entered into a separate log by the Developer or a representative. Developer must indicate the source of the referral on the log.

No additional, optional preferences may be implemented without the prior written approval of the Agency.

2) HOUSEHOLD COMPOSITION CHANGES TO AN APPLICATION

Changes to household composition in the application after it has been received will not be recognized, unless such change is an extenuating circumstance. Extenuating circumstances may include:

- Death of a member of the household;
- Birth in the household;
- Divorce or other spousal situation;
- Court order of custody.

The Developer must obtain from the applicant legitimate evidence of the extenuation circumstance, such as birth certificates.

3) QUALIFICATION AS A HOUSEHOLD

For the purposes of applying to HPD/HDC-financed affordable housing, the following terms shall have the meanings set forth below:

1. "Minor" shall mean a person under the age of 18 years.
2. "Adult" shall mean a person at or above the age of 18 years.
3. "Dependent" shall mean a Minor who is the lawful dependent of an Adult in the Household, as indicated by (i) a court order or other binding document establishing that such Adult is the legal guardian of, or is otherwise responsible for the custody and care of, such Minor, (ii) school records identifying such Adult as such Minor's legal guardian; (iii) written verification from a government agency, or a social service provider under contract to a government agency, confirming the placement of the Minor in the custody and care of such Adult, or (iv) federal or state income tax returns in which such Adult claims such Minor as a dependent.
4. "Guardian" shall mean an adult who is legally responsible for a Dependent.

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5. "Immediate Family Member" shall mean, with respect to any person, (i) his or her grandparent, parent or Guardian, child or Dependent (who meets the definition of "Dependent" set forth above), grandchild, sibling, spouse, or domestic partner, and (ii) any of their respective grandparents, parents or Guardians, children or Dependents, grandchildren, siblings, spouses, or domestic partners.
6. "Extended Family Member" shall mean, with respect to any person, (i) his or her Immediate Family Member, and (ii) his or her aunt, uncle, or first cousin, or any of their respective Immediate Family Members.

"Household" shall mean (i) a single person, or (ii) two or more persons who:

- (a) are Immediate Family Members;
- (b) are Extended Family Members who need to live together in order to support one another with respect to finances, child care, eldercare, medical care, or other extenuating family circumstance, as indicated by self-certifications explaining the family circumstances and needs; or
- (c) are financially interdependent, as indicated by (i) current leases or utility records demonstrating a shared address, and (ii) documentation, such as bank accounts, demonstrating shared assets.

If an applicant states that the applicant and his/her spouse are separated, then the Developer must require the applicant to provide "proof of a legitimate separation." A notarized statement is not sufficient proof of a legitimate separation. Examples of proof of a legitimate separation would be bank accounts or leases once held jointly are now no longer held jointly due to the separation. Both the latter and former documents must be provided to prove that the assets and/or lease were once held jointly but are no longer.

*Note on Student Rule for IRS Program Units: Low-income units in these programs are not to be occupied exclusively by students (for Low-Income housing tax credits, the IRS defines a "student" as a full-time student during five (5) calendar months of the calendar year at an educational institution, other than a correspondence school, with regular faculty and students), unless the household qualifies for an exception under the IRS code.

4) **INCOME ELIGIBILITY**

Income is determined in the same way income is determined under the federal Section 8 program. Developers should therefore obtain a current copy of the HUD Handbook 4350.3, which outlines these requirements. This handbook is available to print or view at <http://www.hud.gov>. In addition, the Developer should require its



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marketing staff to attend an industry training where these requirements are reviewed in detail.

A1. Assets

GENERAL PROGRAMS

The Developer must require that all adult members of the applicant household complete a certification of assets, which must be signed and notarized. Samples of such certifications are included in this manual. See *Asset Certification, Attachment T*. This form must identify both the specific assets and the actual income earned from the assets (such as the interest rate for a bank savings account).

- If the total value of assets on the certification form is less than \$5,000, and such information is consistent with the assets identified on the applicant's housing application, IRS rules for Tax Credit compliance allow that this self-certification is the only documentation required and the identified income generated from the asset is added to employment and other income. *However, it is a common misconception that this IRS rule is intended to exclude income from assets if the total value is under \$5,000. The income from assets must still be counted, but if it is under \$5,000 no further verification beyond the self-certification is required. The self-certification must still disclose the specific assets and the income from said assets. Accordingly, vague certifications that merely certify that an applicant has less than \$5,000 in assets are **not** acceptable.*
- If the total value of assets equals or exceeds \$5,000—or if there is an unexplained difference between the assets noted on the application and those subsequently noted on the certification—complete asset verification documents must be obtained. Refer to HUD Handbook 4350.3 for guidance regarding the appropriate documents to be obtained based on the type of assets being verified. As required under tax credit rules for all verification, documents must be current within 120 days of the tenant income certification (TIC) effective date (which is ultimately the move-in date). When over \$5,000 total, the actual earned income from the asset is compared to the imputed value (2% of the total) and the higher of these amounts is added to the household income.

HDC's NEW HOP PROGRAM

Income from assets is only considered when the applicant's income falls within \$10,000 of the maximum income level for the unit; however, applicants may submit asset income for consideration if they need it to meet the minimum income. When a household's total annual income is within \$10,000 of the program maximum income then all adult members of the applicant household must complete a certification of assets, which must be signed and notarized.



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Samples of such certifications are included in this manual and this form must identify both the specific assets and the actual income earned from the assets (such as the interest rate for a bank savings account). See *Asset Certification, Attachment T*.

*Note: If a unit is also subject to another governmental subsidy, such as State Tax Credits, that program's governing agency should be consulted regarding any additional or different income and asset requirements. All asset requirements must be disclosed in the Marketing Plan and approved by the agencies.

A2. Employment Income

The Developer must require that for all adult household members reporting general employment income, **all of the following** must be provided:

- *The most recent year's complete tax return.* If after May 1, the most recent year's tax documents due by the preceding April *must* be provided *unless* an applicant provides a copy of his request to the IRS for an extension (IRS Form 4868). In such cases the *previous* year's complete tax return may be accepted until October 15th, when the extension expires. The gross income reflected on the most recent tax return will be "the tax return income".
- *The most recent consecutive pay stubs (minimum of 6).* Income must be calculated by both (a) averaging the pay stubs and (b) projecting the year-to-date. The higher of these two amounts will be "the pay stub income".
- *Third Party Verification directly from the employer.* The Developer must mail or fax this form (See *Attachment Z-1*) directly to the applicant's employer, with instructions for the employer to return directly to the Developer. Envelopes and fax confirmations must be maintained to document that the information was obtained via direct third party procedures, and not transmitted through the applicant's hands. This form will request current salary, year-to-date income, and information about bonuses and anticipated increases. The highest amount calculated based on this information will be "the third party income". An applicant cannot be penalized for the lack of response from his/her employer in completing and returning the verification. However, the Developer must make at least three (3) attempts to obtain such third party employment verification. Developer must also obtain Third Party Verification of Termination directly from previous employers who are listed on the applicant's application and/or previous year's tax return.
- *COMPARISON and DETERMINATION:* Based on the three employment income verification sources above, the Developer must compare the tax

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return income, the pay stub income, and the third party income. *The highest of these amounts will be the employment income for the household member.*

- *Note: If an applicant has not filed taxes on reported income, the applicant will not be eligible for Agency-financed housing unless the applicant qualifies for a filing exemption under The Internal Revenue Code (see “Publication 501” on irs.gov). The Agency will not make available its limited housing resources to applicants with income that is required to be reported, but is not being reported, to governmental tax authorities.
- *Note: Unless a compelling argument can be made as to why an applicant’s income decreased, the tax return income will be the income calculated if it is the highest. The most obvious exceptions would be a decrease in income due to retirement or disability (or a widowed or divorced applicant whose most recent tax return still showed their spouse’s income).
- *Note: The Developer may request in writing that the Agency grant an exception to the above criteria if any other truly extenuating circumstance exists. The Agency will consider such requests on a case-by-case basis.

A3. Self-employment Income

Since self-employment income is more difficult to document via third party and subject to more variables and potential manipulation, special care must be given in the review of such income. The Developer must require that all adult household members reporting self-employment income provide both of the following:

- *Projected Self-Employment Income:* An estimate of current year’s earnings certified in (a) a letter from the applicant’s accountant, tax preparer or business manager OR (b) a notarized self-statement. If (b), the self –statement must be accompanied by additional documentation such as income receipts, a current financial statement/budget, or other information which supports the projection. This income will be “the projected self-employment income”.
- *Historical Self-Employment Income:* Most recent tax returns for the last three (3) years. (*Again, if after May 1, the most recent year due to be filed by the preceding April deadline must be provided unless documentation of an IRS extension filing is provided). If the applicant reported self-employment income in the same line of work for each of the three (3) years, then all three should be averaged *and evaluated*. If only the most recent two (2) years reflect self-employment income in the same

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line of work, then those two years should be averaged and evaluated. The income calculated through these averages and evaluations will be “the historical self-employment income”.

- **COMPARISON AND DETERMINATION:** The projected and historical incomes are compared, and *the higher amount is what is used as income for the purposes of income eligibility.*

“Evaluated” means that the Developer must make an effort to identify any patterns that may logically result in a conclusion that the current or next year’s income will increase beyond the three (or two) year average. For example, the incomes for the past three (3) years for a self-employed applicant were \$30,000; \$32,000 and \$34,000. The straight average would be \$32,000. However, there is a clear pattern reflecting a gradual increase in this income source and so, consistent with that pattern, a logical evaluation of this applicant’s income would conclude that \$36,000 would be the current/next year’s income.

At least the most recent two years of tax returns must document that the applicant’s income has come from self-employment in the same line of work. Applicants who do not meet this “time test” have not established a suitable income-earning history through their self-employment, and there is insufficient data to accurately evaluate their income.

A4. Sporadic Income

Certain forms of income that are sporadic and non-recurring are not considered when calculating maximum household income as they are considered temporary in nature. All sources of income must be disclosed, but such non-recurring income may be excluded in the calculation process.

A5. Unemployed Household Members 18 and over

If a household member, who is 18 years of age or over, is unemployed, then the household member must complete an Unemployment Affidavit. See *Sample Unemployment Affidavit, Attachment I.*

A6. Continuing Need

For programs designed to be affordable for households at or below 60% of AMI, the applicant’s eligibility is also dependent on whether the applicant can demonstrate a “continuing need” for housing assistance. Any Agency-subsidized housing development aims to serve individuals and families with a true, continuing need for housing assistance and not those with other financial resources available or those who have a recent history of higher earning power and are only temporarily at an income level eligible for the program.

In determining “continuing need” for these programs, the below criteria must be satisfied, or the tenant is not eligible:



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○ Asset Cap

The tenant must not have assets in an amount equal to or greater than \$250,000 (*Note: This does not include specifically designated retirement funds. A portion of retirement accounts may be counted to determine overall assets and income from assets, but such funds are not to be included in the \$250,000 cap.)

○ Recent Income History

In addition to reviewing current income verifications, Developers must also evaluate an applicant's most recent income history based on their most recent tax returns. Unless a compelling argument can be made as to why an applicant's income decreased, the tax return income will be the income calculated if it is the highest. The most obvious exceptions would be an increase in income due to retirement or disability (or a widowed or divorced applicant whose most recent tax return still showed their spouse's income).

Here are examples:

The maximum income for a single applicant to Plaza Towers is \$30,000.

- Mary Smith is a seamstress who was laid off by her previous employer, where her tax return shows she earned \$32,000 a year. Her new employment with a different garment company pays her \$28,000 a year as documented by her pay stubs and 3rd party employer letter. *In this case, a compelling argument can be made not to use Mary's tax return income, even though that is the highest amount. The change in Mary's income was not voluntary and her new job/earnings are generally consistent with her recent history. The amount from her current pay stubs and 3rd party should therefore be used, under which she is eligible.*
- John Hower recently quit his job as a college professor, where his tax return shows he earned \$75,000 a year, to pursue other interests. He has recently started working as a waiter and presently earns \$27,000 a year based on his pay stubs and 3rd party verification. *In this case, no exception is warranted. John has clearly demonstrated a recent history of significantly higher earning patterns. The change appears to be voluntary and/or temporary in nature, which is not the intent of Agency-financed low-income housing programs (including those participating in the LIHTC Program). John is encouraged to apply to our programs in the future, after a minimum of a full year's tax returns as well as current verifications may document a suitable pattern of eligibility.*

The Developer may request in writing that the Agency grant an exception to the above criteria if a truly extenuating circumstance exists. The Agency will consider such requests on a case-by-case basis.

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A7. IRS Form 4506-T

The Developer must require all adult household members to execute three copies of IRS Form 4506-T, one for the owner/managing agent identified in line #5, the other for the Agency identified on the same line, and one with the New York City Department of Investigation noted in the same line. This form is a release by which the applicant authorizes the IRS to release transcripts directly to a third party. Furthermore, the applicant must complete an IRS Form 4506 – Request for a Copy of Tax Return, as well as a New York State DTF-505 Form Authorization for Release of Photocopies of Tax Returns and/or Tax Information. In the event that a tax return provided by the applicant appears to have potentially been altered or a file is otherwise suspicious, the Developer should make use of this form. The Agency also may make use of this form. Developers are encouraged to send these requests to the IRS upon receipt, so that in the event that files are flagged later at the Agency, an IRS response may already have been received back. Developer is to ONLY send in their copy. Do not send in Agency or DOI copies of forms.

If an applicant has been found to be eligible for a unit, then at the time of lease signing or sale closing, all adult household members must execute three new IRS Form 4506-T, Form 4506 and DTS-505 Form in accordance with the above. *See IRS and State Forms, Attachments R-1 through R-5.*

A8. Authorization to Release Information Form

The Developer must require that all adult household members execute a copy of the Authorization to Release Information Form.

5) BACKGROUND CHECKS AND OTHER FACTORS

Immigration Status/Credit History

Immigration status is not a condition of eligibility for any HPD- or HDC-financed building. Immigration status may not be questioned in any manner on the application, during the interview, or at any other time during the tenant screening process. This doesn't prevent a Developer from rejecting an applicant for failure to provide a Social Security Number or an Individual Tax Identification Number (TIN) when the Developer needs such information to check credit history. All applicants must be able to provide verifiable proof of legal income. Inability to provide documentation to verify income and credit is a basis for rejection, not immigration status.

Criminal Checks

The Developer must obtain a criminal background check for every applicant. The Developer must disclose in the project's selection plan which types of information revealed through such a check will or will not adversely impact an

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applicant's eligibility. The Developer must find an applicant ineligible if one or both of the following criminal findings is flagged during the criminal background check:

- A prior conviction of fraud in connection to any governmental housing program;
- An applicant is a criminal fugitive being sought by law enforcement for either incarceration or deportation (as such applicants would not lawfully be able to "anticipate" income or even be anticipated to be an included member of the household).

Housing Court Records.

The Developer may not automatically reject an applicant based on the applicant's housing court records. For instance, if the applicant can show that the case was brought about at no fault of their own, the applicant would remain eligible. The Developer must allow a reasonable amount of time, **and not less than 10 days**, for an applicant to contest a housing court record. If the applicant does not provide proof of no fault within the 10 day period, then the Developer may reject the applicant for failing to provide proof of no fault. The applicant then has the allotted time to appeal the decision.

Discovery of False Information

Submitting false or knowingly incomplete information to induce eligibility is grounds for rejection and may also lead to further investigation and, potentially, criminal prosecution.

Even before a file is submitted to the Agency, there are times when Developers may independently detect applicants who have falsified information. For example, the tax transcripts may come back and differ from the provided returns, or provided pay stubs or other documents may be detected as having been tampered with. In all such cases, this fraud (or potential fraud) must be reported. Even if it is detected early and does not result in the applicant receiving a unit, the attempt of fraud itself must be reported. Developers and their agents may report such findings to the Agency or, if they prefer, directly to The NYC Department of Investigation.

6) OCCUPANCY STANDARDS AND UNIT DISTRIBUTION

Occupancy Guidelines

The Developer must establish occupancy criteria based on unit size. Such criteria must be consistent with federal, state and local laws and with the Agency Regulatory Agreement. HUD has provided some guidance for establishing these criteria in the HUD Handbook 4350.3, Chapter 3, and Paragraph 3-23. This guidance states in part that, generally, a two person per bedroom standard is acceptable. However, it makes the following important distinction:

Owners must avoid making social judgments on a family's sleeping arrangement.



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For example, it is not for the owner to determine whether an unmarried couple may share the same bedroom or whether a young child can share a bedroom with a parent.

In keeping with the above guidance, to maximize the utilization of its affordable units (another point considered in HUD's guidance) it is clear that married or similarly committed couples are intended to share one bedroom. Apart from that, however, if a family (a) qualifies as a household as defined in these Marketing Guidelines and (b) qualifies by both number of persons and income for more than one unit size, then it should generally be that family's decision as to which unit size they choose. The only additional exceptions would be certain programs, which may have statutorily imposed occupancy standards.

- ✓ **The Marketing Plan must clearly outline the Developer's occupancy criteria and associated statutory requirements.**

Unit Distribution

See Attachment U, Sample Apartment Distribution Chart.

The allocation of units (total number and number for each unit size) must match the information in the Agency Regulatory Agreement. For mixed-income buildings, please also note the following requirement pertaining to the distribution of units:

For 80/20 and other mixed-income developments only:

As soon as any of the units in the development are available for occupancy, at least twenty percent of those units must be occupied, or made continuously available for occupancy, by low-income households. The Developer is not to segregate or physically isolate the low-income units from those units not occupied by low-income tenants. Low-income tenants must be reasonably dispersed throughout the development. The Developer must also ensure that approximately twenty percent of each unit type (i.e. studio, one-bedroom, two-bedroom units) is low-income.

*Note: Distribution of all affordable units must be approved by the Agency.

7) RENT LEVELS AND INCOME STANDARDS:

Rents:

The Developer must establish the rents in accordance with the Agency Regulatory Agreement.

Maximum Income Levels:

The Agency will provide tenant income eligibility levels as modified by household size.



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Minimum Income Levels:

Minimum income levels are established by the Developer based on the rent levels. However, the standard barometer for affordability is a family paying 30% of household income for rent purposes. In no instance should the minimum income established for initial rent-up result in a family paying more than 35% of income for rent. Although established by the Developer, minimum income levels are subject to approval by the Agency. However, the Developer may not establish minimum income levels for applicants with Section 8 or similar forms of housing subsidy. Such applicants must be accepted provided they meet all other eligibility criteria outlined in the marketing plan.

FOR LOW INCOME HOUSING TAX CREDIT COMPLIANCE:

Mixed-income projects participating in low income housing tax credit program, must elect designation as either “deep rent skewed” or “non-deep rent skewed” when they are originally placed in service.

Deep Rent Skewed Properties

Properties that Deep Rent Skew must have at least 15 percent of all the low income units occupied with tenants with incomes that are 40 percent or less of area gross median income and rents are restricted.

For properties that Deep Rent Skew, the Available Unit Rule must be implemented whenever a current household has an income level exceeding 170% of the current income limit. The Available Unit Rules states that if a tenant's income increases to over 170% of the then-current income limit for the unit occupied by such tenant, the unit may continue to be deemed a low income unit provided the Developer rents the next available low income unit at the property to a family with an income equal to or below 40% of the area gross median (AMI) income at a restricted rent.

When a Developer of a property that Deep Rent Skews submits a re-rental file for Agency review, then the Developer must submit a Deep Rent Skew Certification, *Attachment V-1* along with the file.

Mixed-Income / “Non-deep rent skewed” properties

A Mixed-Income building is a building that includes market-rate units. For buildings that are Mixed-Income, the Available Unit Rule must be implemented whenever a current tenant has a household income level exceeding 140% of the current income limit. If a Developer discovers that a tenant's income is above 140% of the current income limit, the Developer may continue to include the unit in the applicable fraction if the Developer rents the next available unit of comparable or smaller size in the same building to a tax credit eligible family at a restricted rent.



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When a Developer of a Mixed-Income building submits a re-rental file for Agency review, then the Developer must submit a Mixed-Income Certification, *Attachment V-2* along with the file.

8) **OTHER**

Incorporation of "Fair Housing Laws"

There are Federal, State and local laws, orders and regulations prohibiting housing discrimination ("Fair Housing Laws"). Such Fair Housing Laws, as they may be amended from time to time, are hereby explicitly incorporated in these Procedures, any violation thereof will be a violation of these procedures.

Amendments

The Agency reserves the right to amend any provision of these procedures.

Inspections

The Agency reserves the right to conduct periodic inspections and spot-checks of the Developer's marketing budget and procedures.

Brokers

The Broker Forms, Attachments R-7 and R-8 are to be completed and submitted with all applicant files that are not from the original lottery. If a project has gone "Open Market," then the appropriate form must be completed by the Managing Agent or the Developer. If a new project that is still in its initial lease up goes "Open Market," then the appropriate form must be submitted for all applicants not received from the lottery. The Third Party/Broker form does not need to be submitted for an applicant from the initial lottery.

Household Student Status Affidavit at Recertification

For units with income limits set at or below 60% of New York City's Area Medium Income (AMI) Limit, please use Attachment Z-2 during the Annual Recertification process.



SUBMISSIONS AND ONGOING REPORTING REQUIREMENTS



MARKETING GUIDELINES – SUBMISSIONS

Both HPD and HDC require submission of the following items during the pre-marketing and marketing periods:

- Marketing Plan (to include all required information as described herein). See *Marketing Plan Checklist, p. 10*.
- Applicant Information Forms (AIF) and Tenant Income Certifications (TIC) completed by applicants and Developer. See *Attachments M and L1 – L4*.

Only HDC requires submission of the following items during the pre-marketing and marketing periods:

- The form of lease and all riders for Agency review. Additionally, the Pre-lease Acknowledgement and Certification and the HDC Lease Rider is to be used with all units. See *Attachments N, O and P*.
- In addition to Tenant Income Certifications, HDC projects require all documentation verifying income eligibility and family size. These certifications and verification documents, along with the Tenant Income Certification Submission Cover Letter, must be immediately forwarded to HDC for review prior to the anticipated dates of acceptance of the tenant and the signing of the lease.

For vacancies subsequent to initial project occupancy, the required Tenant Income Certifications and supporting documents must be transmitted for HDC review and approval prior to the signing of the lease.

Applicants must be informed by the owner that they will not be allowed to occupy a unit until HDC has reviewed and approved their Tenant Income Certification (TIC).

- Owner certification indicating the move-in date for the first tenant to occupy the development. (Once you have submitted this form for the “first tenant that occupies a unit in the project,” it does not have to be used thereafter.) See *Attachment W*.
- Unit Inspection Forms must be executed by approved residents and the owner and placed in the tenant’s file. This file must be kept at the management office. See *Attachment X*.
- After the initial lease-up of all the units in the project, certain obligations pertain to the project. In particular, Developers must submit on a quarterly basis, the move-out and/or unit transfer status report for the project along with the current rent roll. See *the Quarterly Unit Vacancy Report Instructions and Report, Attachment Y-1 and Y-2*.



ATTACHMENTS



MARKETING GUIDELINES – LIST OF ATTACHMENTS

- | | |
|---|---|
| <ul style="list-style-type: none"> A-1. Site Sign Request Form A-2. Web Site Posting Form
 B. Marketing Plan Summary Sheet
 C. Notice of Intent to Begin Marketing
 D. Community Contact Letters
 E. Outline for Management Plan

 F-1. Advertisement Instructions F-2. Sample Advertisement F-3. Routing Slip of Advertisement Approvals F-4. Evidence of AFHM F-5. HUD 935.2a Form
 G-1. Application Cover Letter (Low Income) G-2. Application Cover Letter (Middle Income) G-3. Sample Application
 H-1. Sample Eligibility and Interview Letter H-2. Sample Ineligibility Letter H-3. Sample Approval Letter H-4. Sample Rejection Letter H-5. Sample Low Priority Letter H-6. Sample Wait List Letter
 I. Sample Unemployment Affidavit
 J-1. Log Sheet Sample (Rental) J-2. Log Sheet Sample (Home)
 K. Notice of Remarketing
 L-1. Checklist for Income Cert L-2. TIC Submission Cover Letter L-3. TIC (Low Income) L-4. TIC Middle Income | <ul style="list-style-type: none"> M. AIF
 N. Pre-lease Acknowledgement
 O. HDC Lease Rider (Low Income)
 P. HDC Lease Rider (Middle Income)
 Q. Reaffirmation of Income
 R-1. IRS Form 4506-T (HDC) R-2. IRS Form 4506-T (Agent) R-3. IRS Form 4506-T (DOI) R-4. IRS 4506 (DOI) R-5. NYS DTF-505 Form (DOI) R-6. Authorization to Release Information R-7 & R-8. Broker / Third Party Certification
 S. List of Agencies Eligible for Municipal Preference
 T. Asset Certification
 U. Unit Distribution Chart
 V-1. Certification for Deep Rent Skewed Projects V-2. Certification for Mixed Income / "Non-Deep Rent Skewed" Projects
 W. Owner Cert of Initial Move-In
 X. Unit Inspection Form
 Y-1. Quarterly Vacancy Report Instructions Y-2. Quarterly Unit Vacancy Report
 Z-1. Employment Verification Form Z-2. Household Student Status Affidavit at Recertification |
|---|---|

Seward Park Former Site Tenants

HPD will continue to work with the Councilmember, Community Board and other area elected officials on outreach efforts in order to identify former site tenants of the Seward Park Extension Urban Renewal Area (SPEURA), such as: newspaper advertisements, printed announcements in local community centers and houses of worship, and mailings to any known addresses. A list of all former site tenants will be assembled up to the start of construction of the first building, at which point the list will be closed. Former site tenants will be required to provide documentation in a form acceptable to HPD that include names, addresses within SPEURA, and dates in order to be considered eligible and be included on the list. When construction commences, information will be mailed or emailed to the list of former site tenants about affordable housing opportunities for which they may be qualified. Former site tenants will be given preference for units for which they income-qualify within the Community Board marketing preference category for the affordable housing units.

Parcel 5 Existing Site Tenants

For existing site tenants of Parcel 5, best efforts should be made to fill units of new developments with eligible, existing tenants of the Parcel.

APPENDIX N – CONDITIONS, TERMS AND LIMITATIONS

In addition to those stated elsewhere, this RFP and any transaction resulting from this RFP are subject to the conditions, terms and limitations stated below:

1. The Project Site is to be disposed of in “as is” condition and is to be conveyed subject to all applicable title matters.
2. The City, HPD and NYCEDC, and their respective officers, employees, and agents, make no representation or warranty and assume no responsibility for the accuracy of the information set forth in this RFP, the Site File, the physical condition of the Project Site, the status of title thereto, its suitability for any specific use, the absence of hazardous waste or materials, or any other matter. All due diligence is the responsibility of the Respondent and Respondents are urged to satisfy themselves with respect to the condition of the Project Site, the information contained herein, and all limitations or other arrangements affecting the Project Site. NYCEDC, HPD, and the City will not be responsible for any injury or damage arising out of or occurring during any visit to the Project Site.
3. The proposed development shall conform to, and be subject to, the provisions of the New York City Zoning Resolution, all other applicable laws, regulations, and ordinances of all Federal, State and City authorities having jurisdiction, and any applicable Urban Renewal Plan, design guidelines or similar development limitations, as all of the foregoing may be amended from time to time. Without limiting the foregoing, closing on a proposed transaction shall be subject to the City’s Uniform Land Use Review Procedure (“ULURP”), completion of the City Environmental Quality Review (“CEQR”), compliance with New York State General Municipal Law Section 695 for urban development action area projects, and approval by NYCEDC’s Board of Directors. ULURP and CEQR compliance shall be solely at the expense of the Developer. NYCEDC and HPD will cooperate with the Developer in obtaining necessary approvals.
4. Valid permits and approvals, as required by City, State, and Federal agencies, shall be obtained by the Developer prior to commencing work.
5. A Respondent submitting a Proposal in response to this RFP may be rejected if it or, if the Respondent is a business entity, any of its shareholders, officers, directors, partners or members (“Principals”) is determined, in NYCEDC’s or HPD’s sole discretion, to be within a category of persons or entities with whom or which the City, HPD or NYCEDC will not generally do business. Respondent and all officers and Principals thereof must complete a background questionnaire and shall be subject to investigation by NYCEDC, HPD and the City’s Department of Investigation. Any designation may be revoked in NYCEDC’s or HPD’s sole discretion in the event any derogatory information is revealed by such investigation.
6. No transaction will be consummated if any Principal of any conditionally designated Developer is in arrears, or in default upon any debt, lease, contract, or obligation to the City. The City reserves the right not to review any Proposal by any such Respondent.
7. Entities that are in debarred status by either the Comptroller of the City of New York or the United States Department of Labor, and entities with histories of convictions of criminal violations of the Occupational Health and Safety Act within the five years preceding the closing date, will not be eligible to enter into development agreements or serve as prime or general contractors on this project.
8. NYCEDC, HPD, and the City are not obligated to pay and shall not pay any costs incurred by any Respondent at any time unless NYCEDC, HPD or the City has expressly agreed to do so in writing.
9. NYCEDC and HPD invite the participation of real estate brokers acting on behalf of and with the authorization of identified Principals, provided that the broker arranges for the payment of its commission or other compensation exclusively by the Developer(s) of the Project Site, or portion thereof. The submission of a Proposal will constitute the Respondent undertaking to pay any commission or other compensation due to any broker in connection with the development of the Project Site, or portion thereof, and to indemnify and hold harmless NYCEDC, HPD and the City, and their respective officers, employees and agents from any obligation, commission or compensation

brought by any broker by reason of the Project or the development of the Project Site, or portion thereof, and any liability, cost and/or expense incurred by NYCEDC, HPD and/or the City as a result of any claim of commission or compensation brought by any broker by reason of the Project or the development of the Project Site.

10. Only Proposals from Principals will be considered responsive. Individuals in representative, agency or consultant status may submit proposals only under the direction of identified Principals, where the Principals are solely responsible for paying for such services.
11. This is a Request for Proposals **not** a Request for Bids. NYCEDC and HPD shall be the sole judges of each Proposal's conformance with the requirements of this RFP and of the merits of the individual Proposals. NYCEDC and HPD reserve the right to waive, modify or amend any terms, conditions or provisions of this RFP, with or without notice, with respect to one or more Respondents, to negotiate with one or more of the Respondents with respect to all or any portion of the Project Site, to negotiate and dispose of the Project Site on terms other than those set forth herein (including to parties other than those responding to this RFP), to require supplemental statements and information from any Respondents, to establish additional terms and conditions, to require a Respondent to modify and cure its proposal if it is non-responsive to the RFP or if it does not otherwise comply with one or more requirements of the RFP, to request a Respondent make changes to a Proposal, to entertain modifications or additions to selected Proposals, to withdraw the Project Site or portions of the Project Site from or add individual parcels to this RFP, to encourage Respondents to work together, or to reject any or all Proposals, if in its judgment it is in the best interest of NYCEDC, HPD and the City to do so. If all Proposals are rejected, this RFP may be withdrawn and the Project Site may be retained, and re-offered under the same or different terms and conditions, or disposed of by another method, such as auction or negotiated disposition. In all cases, NYCEDC and HPD, conferring with other agencies, authorities and organizations, shall be the sole judges of the acceptability of the Proposals. NYCEDC and HPD will enforce the submission deadline stated in the RFP at their sole discretion. The timing of the selection may differ depending upon the degree to which further information on individual Proposals must be obtained or due to other factors that NYCEDC and HPD may consider pertinent. All Proposals shall become the property of NYCEDC and HPD upon submission of such Proposals to NYCEDC and HPD.
12. This RFP does not represent any obligation or agreement whatsoever on the part of NYCEDC, HPD, or the City. Any obligation or agreement on the part of the City may only be incurred after the City enters into a written agreement. In the case of NYCEDC such agreement must be approved by the NYCEDC Board; in the case of HPD such agreement must be approved by the Mayor and Corporation Counsel. NYCEDC, HPD and the City are under no legal obligation to convey the Project Site, or portions thereof, offered through this RFP through a competitive process. NYCEDC, HPD and the City reserve the right to use the Proposals submitted pursuant to this RFP as a basis for negotiation with such Respondents as NYCEDC, HPD and the City deem appropriate.
13. Proposals may not be contingent on the acquisition of property not included within this RFP or the determination of a separate and distinct request for proposal process by another City or State agency.
14. NYCEDC, HPD and/or the City are not obligated to pay, nor shall in fact pay, any costs or losses incurred by any Respondent at any time, including the cost of responding to the RFP.
15. All terms in this RFP related to the permitted use and bulk of the Project Site shall be as defined in the New York City Zoning Resolution, the Large Scale General Development plan and any applicable Urban Renewal Plan, design guidelines, or similar development limitations and controls. Where any conflict arises in such terms, the most restrictive shall prevail.
16. Except as specifically provided herein, the Developer will pay all taxes payable with respect to the project, including transfer and mortgage recording taxes. Developer will be required to pay the New York City Real Property Transfer Tax and New York State Real Estate Transfer Tax, notwithstanding any exemption on account of the City's, HPD's or NYCEDC's involvement in the transaction.

17. This transaction will be structured as a “net” deal to NYCEDC and HPD, with the Developer being responsible for all fees relating to the project and all costs incurred by NYCEDC and HPD including, but not limited to, costs for outside legal counsel, if any, studies, and outside consultants.
18. All proposals and other materials submitted to NYCEDC and HPD in response to this RFP may be disclosed in accordance with the standards specified in the Freedom of Information Law, Article 6 of the Public Officers Law (“FOIL”). The entity submitting a Proposal may provide in writing, at the time of submission a detailed description of the specific information contained in its submission, which it has determined is a trade secret and which, if disclosed, would substantially harm such entity’s competitive position. This characterization shall not be determinative, but will be considered by NYCEDC and HPD when evaluating the applicability of any exemptions in response to a FOIL request.
19. In furtherance of NYCEDC’s mission of economic development, NYCEDC-led dispositions will be subject to NYCEDC’s standard provisions for similar transactions. The deed conveying the Project Site, or portion thereof, to the Developer(s) shall contain redevelopment obligations as well as restrictions on use and transfer of the Site. Failure to comply with these restrictions will result in a right by NYCEDC, HPD or the City to re-enter and re-acquire the Project Site, or portion thereof, for no consideration.
20. The Developer will be required to deliver evidence to NYCEDC and HPD of the creation of employment opportunities at the Project Site for the first eight (8) years after the closing of the Project. The Developer must also agree in good faith to consider any proposals made by the City or City-related entities with regard to jobs Developer is seeking to fill and to provide the City with the opportunity to make job referrals and create a training program for City residents. Developer will be required to cause commercial tenants to agree to these provisions at the time it enters into leases with such tenants.
21. Upon review of the Site File, Respondents, and their representatives and agents and consultants, shall treat their Proposals and all information obtained from the Site File or otherwise obtained from NYCEDC, HPD or the City in connection with this RFP (the “Confidential Information”) confidentially, and shall not discuss, publish, divulge, disclose or allow to be disclosed the Confidential Information to the press or other media, without NYCEDC’s and HPD’s prior written approval. In addition, upon submission of a Proposal to this RFP, Respondents, and their representatives and agents and consultants shall not discuss, publish, divulge, disclose or allow to be disclosed the Confidential Information to any other Respondents or any other person, firm or entity, including press or other media, without NYCEDC’s and HPD’s prior written approval. If either provision is breached by a Respondent, NYCEDC may disqualify that Respondent from the RFP as non-compliant and seek any other remedy available at law or in equity, including but not limited to injunctive relief and/or damages.
22. Selection of a Respondent’s Proposal will not create any rights on the Respondent’s part, including, without limitation, rights of enforcement, equity or reimbursement until the deed, agreement(s), and all related documents are fully executed and approved. The terms of the deed and agreement(s), after execution, shall govern the relationship between the NYCEDC, HPD and/or the City and the Developer(s). In the event of any variance between the terms of this RFP and the deed or the agreement(s), the terms of the deed and/or agreement(s) will govern.
23. All determinations as to the completeness or compliance of any Proposals, or as to the eligibility or qualification of any Respondent, will be within the sole discretion of NYCEDC, HPD and the City.
24. This RFP and any agreement resulting therefrom are subject to all applicable laws, rules, and regulations promulgated by any Federal, State, or municipal authority having jurisdiction over the subject matter thereof, as the same may be amended from time to time.
25. NYCEDC and HPD are dedicated to furthering the participation of minority and women-owned businesses. All Respondents are urged to include in their proposals methods for facilitating the participation in the project of businesses that have been certified by the New York City Department of Small Business Services (“DSBS”) as being women-owned or minority-owned. Businesses that

have been certified as being women- or minority-owned by the Port Authority of New York and New Jersey may be eligible to receive expedited certification from DSBS after completing the DSBS “Expedited Certification Affidavit”, which may be obtained by calling DSBS at (212) 513-6311.

APPENDIX O – CONFLICTS OF INTEREST

Current and former employees of the City or NYCEDC may respond to this RFP only in accordance with Chapter 68 of the New York City Charter governing ethics and conflicts of interest affecting City personnel. Section 2604 of the City Charter contains specific prohibitions that exclude enumerated groups of employees from participating in the sales process. In addition, current HPD employees and current NYCEDC employees may not respond to this RFP.

Persons in the employ of the City considering the submission of a Proposal are advised that opinions regarding the propriety of their purchase of City-owned property may be requested from the New York City Conflicts of Interest Board. This body is empowered, under Section 2602 of the City Charter, to issue advisory opinions on conflict of interest questions and other matters of ethical considerations. It is not necessary, however, that such an opinion be obtained prior to responding to this RFP.

Former employees of the City or NYCEDC are also advised that the City Charter imposes certain restrictions on post-employment and business relationships with the City. Such individuals should consult the specific provisions on this issue contained in the City Charter.

APPENDIX P - NYCEDC ADMINISTRATIVE FEE SCHEDULE

Fee: 1% of purchase price

APPENDIX Q - NYCEDC STATEMENT OF AGREEMENT

(On company letterhead)

Date:

New York City Economic Development Corporation
110 William Street, 6th Floor
New York, NY 10038
Attn: Maryann Catalano, Senior Vice President

Dear Ms. Catalano:

This letter hereby certifies that [Respondent] has read this RFP and the Appendices fully and agrees to the terms and conditions set forth in this RFP and Appendices.

Sincerely,

Respondent

Respondent Title [must be authorized principal or officer of the respondent]

APPENDIX R – NEW YORK CITY TRANSIT (“NYCT”)

Developers of Parcels within 200’ of NYCT facilities are required to notify NYCT Outside Projects prior to starting construction. The Guidelines for Approval of Projects within the Influence of Existing NYCT Structures and the General Notes found in the Site File describe, respectively, NYCT’s review process and NYCT’s design, construction and coordination requirements associated with such developments. Developers, and not the City or NYCEDC, will be responsible for coordination with NYCT and all costs associated with NYCT requirements.

Station Access

Parcels 2, 8, and 9 contain easements for subway platforms and entrances/exits. The Developer(s) of these Parcels will need to accommodate these existing easements and structures in their designs. Furthermore, in order to allow for the future development of improved station access on Parcels 2 and 9 Developers will be required to reserve additional space on these Parcels for NYCT. Drawings showing both the existing easements and locations of the station access improvements are located in the Site File.

The Developer of Parcel 2 will be required to reserve space to allow the existing escalator to shift approximately 7 feet east. The Developer of Parcel 2 will also be required to reserve 300 square feet of basement space for an escalator machine room to be located below the top of escalator.

The Developer of Parcel 9 will be required to reserve space to allow the existing escalator to shift east. NYCT has identified a zone within which the escalator may be positioned. The final location of the escalator within the zone will be determined by the Developer. The Developer of Parcel 9 will also be required to reserve 300 square feet of basement space for an escalator machine room to be located below the top of escalator.

Additionally, the Developer of Parcel 9 will be required to reserve space to allow for a new elevator and street level fare control area. NYCT has identified a zone within which the elevator and fare control area may be positioned. The final location of elevator within the zone will be determined by the Developer. The Developer of Parcel 9 will also be required to reserve 180 square feet of unimpeded space for an elevator machine room to be located in the basement, within 75 feet of the elevator hoistway.

Air Shaft

Parcel 2 contains an approximately 11’ x 25’ air shaft that supplies air to the subway track area during maintenance operations. In order to accommodate the new development, NYCT has agreed that the air shaft on Parcel 2 can be relocated as indicated on the Air Shaft Relocation drawing included in the Site File.

In addition, NYCT has agreed that the new intake shaft does not need to extend to the roof line of building being developed on Parcel 2. The intake shaft can be routed so that it exits the side of the building through the street wall on Essex Street, directly above the ground floor storefront facade.

The Developer of Parcel 2 will be required to design, finance and construct the relocated air shaft.

NYCT has agreed to approve a revised easement that matches the new shaft dimensions.

Trolley Chamber Vault

An unused NYCT Trolley Chamber exists below the eastbound lanes of Delancey Street between Norfolk and Clinton and partially under the sidewalks to the north of Parcels 2, 3 and 4. The street and portions of the sidewalk in this area are vaulted.

NYCT has previously undertaken an investigation and identified certain deficiencies of the Trolley Chamber vault and will undertake as part of its current capital program the rehabilitation of portions of the vaulted sidewalk representing approximately 200 linear feet along Delancey Street. See the Scope of Work for the Rehabilitation of Subway Vault Roof in the Site File.

NYCT has confirmed that the structural system supporting the Trolley Chamber vault is a NYCT facility and Developers are not responsible for this structure.

Coordination

The Metropolitan Transportation Authority (“MTA”) has committed to assign a senior level staff member to shepherd the Developers of Parcels 2 and 9 through the MTA/NYCT processes.

Additionally, an initial kickoff meeting will be held for Parcels 2 and 9 with all required departments to review the conceptual design for the buildings, describe all requirements and set a timeline of milestones for all parties for the full process.