



THE COUNCIL  
OF  
THE CITY OF NEW YORK  
CITY HALL  
NEW YORK, N.Y. 10007

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**TO:** Gifford Miller  
Melinda Katz  
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**FROM:** Charles E. Meara

**DATE:** January 10, 2005

**RE:** Hudson Yards "Points of Agreement" Memo

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I just received the attached memo from Deputy Mayor Dan Doctoroff. Please let me know if you have any questions and/or comments.

Thanks.

CEM:kns

c: Larian Angelo  
Gail Benjamin  
Steve Sigmund  
Matthew Mullarkey



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

DANIEL L. DOCTOROFF  
DEPUTY MAYOR FOR  
ECONOMIC DEVELOPMENT AND REBUILDING

January 10, 2005

Speaker Gifford Miller  
New York City Council  
City Hall  
New York, NY 10007

Re: Hudson Yards – City Council ULURP Actions

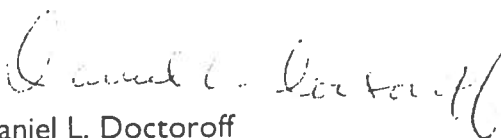
Dear Mr. Speaker:

Attached to this letter is a "Points of Agreement" reflecting recent discussions between the Administration and the City Council with respect to the consideration by the City Council of the Hudson Yards zoning and related ULURP actions.

As we have discussed, some of the items set forth in the Points of Agreement will require changes to the zoning resolution which may be made by the Council now, while other items may require additional follow-up action by the Administration, the City Council, the Planning Commission and other parties. Where follow-up action is needed, such follow-up is subject to review and consideration under applicable procedures, including land use and environmental review, and the receipt of applicable approvals. We are confident that we can continue to work together to achieve the goals stated in the Points of Agreement.

The cooperation and input that we have received from members of the City Council thus far has been extremely valuable. We look forward to working further with you, and the entire Council, as the project progresses.

Sincerely,

  
Daniel L. Doctoroff

## POINTS OF AGREEMENT\*

### I. FINANCING

#### a. General

The Administration agrees to the financing plan adjustments made separately by the Budget Director and the Council, described in a separate document.

#### b. District Improvement Fund/Bonus

##### i. Uses West of 11<sup>th</sup> Avenue

The Administration agrees that no funds generated by the District Improvement Bonus will be used to pay for any improvements to the sites housing the New York Sports and Convention Center, the Jacob K. Javits Convention Center, the full-block park located between 33<sup>rd</sup> and 34<sup>th</sup> Street, or the community porch on the 33<sup>rd</sup> Street right-of-way. The Administration agrees to provide further language to emphasize that the District Improvement Fund cannot be used in any way to connect to or benefit the Javits Center or the New York Sports and Convention Center. Limitations to the use of the District Improvement Fund are described in the modified zoning text.

##### ii. Uses for neighborhood parks

The Administration agrees that the District Improvement Fund may be used to pay for neighborhood parks.

##### iii. Future of the District Improvement Fund

The Administration agrees that funds generated by the District Improvement Bonus will be used only to pay debt service on debt issued by the Hudson Yards Infrastructure Corporation (HYIC). Any excess in any given year will flow directly to the City's general fund for uses in the district consistent with the zoning resolution. Once the HYIC debt is fully repaid, all payments into the District Improvement Fund will flow directly to the City's general fund for uses in the district consistent with the zoning resolution.

##### iv. Sequencing of bonuses

The Administration agrees to alter the sequence of the District Improvement Bonus and the Inclusionary Housing Bonus so that the two bonuses are available to developers on a *pari passu* basis, in two tiers. The change is described in detail in the modified zoning text.

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\* As we have discussed, some of the items set forth in the Points of Agreement will require changes to the zoning resolution which may be made by the Council now, while other items may require additional follow-up action by the Administration, the City Council, the Planning Commission and other parties. Where follow-up action is needed, such follow-up is subject to review and consideration under applicable procedures, including land use and environmental review, and the receipt of applicable consents. We are confident that we can continue to work together to achieve the goals stated in the Points of Agreement.

- v. Changes in per square foot payment into District Improvement Fund

The Administration agrees to the process for changes in the payment level into the District Improvement Fund, as detailed in the modified zoning text.

## 2. GOVERNANCE

### a. HYIC

The HYIC board consists of the Deputy Mayor for Operations, the Deputy Mayor for Economic Development & Rebuilding, the Budget Director, the Speaker of the City Council, and the City Comptroller. The HYIC's powers are limited to ensuring the appropriate capture of designated revenue sources and the use of these revenue sources for debt service on authorized debt and other commitments of the HYIC. The HYIC is subject to the requirements of the Open Meetings Law. The Speaker, as member of the HYIC board, will receive appropriate notice of meetings and other actions by HYIC. The HYIC will commit to making annual reports to the Speaker and the Council of the projects financed by the HYIC, the amount of financing issued by HYIC for each project, related debt service and the status of projects.

### b. Development entity

The precise form of the entity that will manage the development of the Hudson Yards has not been determined. The Administration agrees that any development entity will include the same board members as the HYIC plus a representative of Community Board 4, the local Councilmember, the Manhattan Borough President, the Commissioner of the Department of Housing Preservation & Development, the Commissioner of the Department of Parks and Recreation, the Commissioner of the Department of Small Business Services, the Chair of the City Planning Commission, and the President of the Economic Development Corporation. The development entity will be subject to the requirements of the Open Meetings Law. The development entity will commit to making annual reports to the Mayor and the Council of the development entity's budget for the upcoming fiscal year, together with its annually prepared financial statements. There will also be formed a Hudson Yards Community Advisory Board, to include representatives of the affected communities.

## 3. AFFORDABLE HOUSING

### a. Total number of units

The table below summarizes the expected units that will be generated by the zoning incentives and other components of the Administration's proposal for affordable housing in the Hudson Yards. These unit totals will change slightly subject to recalculation of the market-rate and affordable housing build out under lower density in the Hell's Kitchen midblock area, as described in 4(b).

	# OF NEW UNITS	# OF PRESERVED UNITS
CPC proposal	2,220 (16% of total)	383 (3% of total)
<b>Revised Administration proposal</b>		
80/20	2,031	
Expansion of 421(a) exclusion zone 80/20 and inclusionary housing combo		
Inclusionary housing	411	421
Tiering of inclusionary bonus		
Public sites		
Site M	150	
NYCHA	155	
Studio City	600	
<b>Total</b>	<b>3,347</b> (25% of total)	<b>421</b> (3% of total)

b. Harassment provisions

The Administration agrees to the harassment provisions provided separately, as part of a follow-up corrective action.

c. 421-a exclusion zone

The Administration would support Council action to expand the 421-a exclusion zone, in order to make the construction of affordable housing more likely. A proposed bill has been provided separately.

d. Permit City, State, and Federal programs in inclusionary program

The Administration agrees to allow developers to count affordable units created toward both the 80/20 requirement and the Inclusionary Housing Bonus. The Administration also agrees to allow developers to access any and all housing subsidy programs for the construction or rehabilitation of inclusionary housing. This will allow the Administration to increase the share of affordable units required under the inclusionary program and will result in both greater incentives for the production of affordable housing and permanent affordability for all affordable units in 80/20 buildings that make use of the inclusionary bonus.

e. Tiering of inclusionary bonus to higher income levels

The Administration agrees to allow developers to provide inclusionary housing units to higher income levels in exchange for providing more affordable units, as detailed in the modified zoning text.

f. Public sites

i. Site M

The Administration agrees to develop affordable housing on "Site M" located on the west side of 10<sup>th</sup> Avenue between 40<sup>th</sup> and 41<sup>st</sup> Streets. The Administration anticipates that this site will generate 150 affordable units, including 48 low-income units (up to 60% of

AMI) 51 moderate-income units (up to 135% of AMI), and 51 middle-income units (up to 165% of AMI). All units will be permanently affordable. HPD and the Hudson Yards development entity will lead the development of the site.

ii. NYCHA site

The Administration agrees, subject to HUD approval, to develop affordable housing on the “NYCHA Harborview Site” located at 56<sup>th</sup> Street just west of 11<sup>th</sup> Avenue. The Administration anticipates that this site will generate 155 affordable units, including 63 low-income units (up to 60% of AMI), 46 moderate income units (up to 135% AMI) and 46 middle income units (up to 165% of AMI). The new building will be no taller than the existing Harborview towers. The Administration and the Council will work together to select one of the following options for limiting the height of the tower: reducing the number of units or constructing a second building on additional space within Harborview to maintain the same unit total. All units will be permanently affordable. NYCHA and HPD will lead the development of the site.

iii. Studio City site

The Administration agrees to develop affordable housing on the “Studio City Site” located between 44<sup>th</sup> and 45<sup>th</sup> Streets, between 10<sup>th</sup> and 11<sup>th</sup> Avenues. The Administration anticipates that this site will generate 600 affordable units, including 120 low-income units (up to 60% of AMI), 240 moderate-income units (up to 135% of AMI), and 240 middle-income units (up to 165% of AMI). The Hudson Yards development entity will lead development of the site, working in close cooperation with HPD.

g. Citywide affordable housing fund

The Administration agrees to create an affordable housing fund of up to \$45 million – to be managed by HPD – using the proceeds received from the disposition of the Studio City site for affordable moderate- and middle-income housing in the Hudson Yards area and citywide. The fund also may be used to augment funding for construction and renovation at P.S. 51 on the Studio City site.

h. Income averaging

The Administration agrees to work with the Council and unions to find acceptable ways to allow income averaging whenever possible.

4. DENSITY

a. Commercial density

i. FAR at “four corners” at 34<sup>th</sup> Street at 10<sup>th</sup>/11<sup>th</sup> Avenues

The Administration agrees to establish a maximum FAR of 33 for each site, with an overall limitation of 7,363,600 square feet on the four corners by limiting the permitted distribution from the Eastern Rail Yards to 3,238,000. This represents a density reduction of 200,000 square feet.

ii. Limiting maximum permitted FAR on 11<sup>th</sup> Avenue

The administration agrees to limit the maximum FAR to 21.6 between 36<sup>th</sup> and 38<sup>th</sup> streets and to 20.0 between 38<sup>th</sup> and 41<sup>st</sup> streets. This results in a density reduction of more than one million square feet, as detailed in the table below:

SITE	MAXIMUM FAR	ZONING FLOOR AREA REDUCTION (SF)
1069A	20	332,640
711A	20	147,200
710A	20	277,656
709A	21.6	153,163
708A	21.6	139,416
<b>Total</b>		<b>1,050,075</b>

iii. Commercial overlay between 9<sup>th</sup> and 10<sup>th</sup> Avenues

The Administration agrees to restrict commercial uses in residential buildings to one floor. However, a stand-alone two-story commercial building would be permitted due to scope issues. The Administration also agrees to create language excluding conversion to retail where there are existing ground floor residential tenants, as part of a follow-up corrective action.

iv. Along 10<sup>th</sup> Avenue

The Administration agrees to alter the proposal so that developers on the west side of 10<sup>th</sup> Avenue can exceed 13 FAR (up to a maximum of 15 FAR) only with the provision of community facilities. This will result in a commercial density reduction of approximately 500,000 square feet.

v. Theater bonus

The Administration agrees to restrict the Theater Bonus to the south side of 42<sup>nd</sup> Street between 11<sup>th</sup> Avenue and Dyer Avenue.

vi. Site at NW Corner of 42<sup>nd</sup> Street and 8<sup>th</sup> Avenue

The Administration will upzone this site from an FAR of 14.4 to a higher FAR to be determined with the Council.

b. Residential density

The Administration agrees to modify the zoning of the Hell's Kitchen midblocks between 9<sup>th</sup> and 10<sup>th</sup> Avenues between 35<sup>th</sup> and 40<sup>th</sup> Streets to R-8A, which will reduce the maximum density from 7.5 FAR to 6.0 FAR.

5. OTHER PLANNING ISSUES

a. Neighborhood open space

i. Height bonus for open space

The Administration agrees to reduce the height bonus for provision of open space in the Hell's Kitchen midblocks from a maximum height of 200 feet to 180 feet. For sites affected by this change between 36<sup>th</sup> and 38<sup>th</sup> Streets, the Administration agrees to work with the Council to meet the resulting funding gap (if any).

ii. Port Authority sites

The Administration will establish a task force with the Council and the community to work toward creating open space on Port Authority sites in the Hell's Kitchen midblocks. This task force will undertake detailed site analysis to identify optimal locations for open space within the blocks bounded by 34<sup>th</sup> and 38<sup>th</sup> Streets. The task force will engage in discussions with the Port Authority, and participate in design and construction oversight. The task force will also consider management and governance options, including but not limited to park mapping, deed restrictions, or conveyance to a non-profit organization. In the event that negotiations with the Port Authority do not result in open space on their sites, the Administration agrees to work with the Council to acquire privately-owned sites for open space.

b. Subdistrict naming

The Administration agrees to rename the Tenth Avenue Corridor Subdistrict as part of the Hell's Kitchen Subdistrict.

c. Follow-up corrective actions

The Administration agrees that the local Councilmember and Community Board 4 will be co-applicants on all follow-up corrective actions, with any disagreements between the two being resolved by the local Councilmember.

d. Special permits

i. Parking requirements

The Administration agrees that parking garage construction in excess of the minimum will be subject to a special permit. This minimum provides a modest range to account for site-specific conditions. The Administration also agrees to the grandfathering of developments in the 42<sup>nd</sup> Street Perimeter Area with building permits prior to 12/31/04.

ii. Public access improvements

The Administration agrees to make this a special permit in the Hudson Yards area, but without generating a bonus.

e. Community facilities

The Studio City site will house an expanded elementary school to serve the area. The Administration has provided a separate letter detailing funding requirements for this school.



## 6. CONTRACTING AND EMPLOYMENT

### a. Dedicated oversight

The Department of Small Business Services (DSBS) will create a special, focused office ("the Office") to lead M/WBE contracting and minority employment initiatives in the Hudson Yards area. The key activities of the Office are described below in 6(b) and 6(c).

### b. M/WBE

#### i. M/WBE certification partnerships

To maximize the number and value of Hudson Yards contracting opportunities available to City certified M/WBEs, the Office will seek to establish reciprocal certification agreements with the other public entities contracting for goods and services in the Hudson Yards district, such as the MTA.

#### ii. Bid matching and information sharing for Hudson Yards opportunities

The Office will apply DSBS' database and bid matching/alert process to Hudson Yards contracting opportunities. E-mail alerts will be sent to certified M/WBEs to inform them of new Hudson Yards opportunities as they arise. The Office also will promote usage of DSBS' online, searchable database of M/WBEs by Hudson Yards contractors and businesses.

#### iii. Technical assistance and preparation for contracting opportunities

The Office will tailor and target DSBS' existing M/WBE technical assistance program for anticipated Hudson Yards contracting opportunities. This involves two major components. The first is identification of the types of goods and services contracting opportunities that are likely to arise in both the short- and long-term through Hudson Yards developers, businesses and tenants. The second component is the creation of a technical assistance curriculum to build M/WBE capacity to be competitive for such anticipated contracting opportunities.

#### iv. Private sector alliances linking M/WBEs to Hudson Yards opportunities

Building on DSBS' current private sector partnership strategies, the Office will seek to connect M/WBEs to diversity contracting programs of major private sector developers, businesses and tenants in the new Hudson Yards district. The Office will also work with DSBS' M/WBE Advisory Committee to develop such linkages.

#### v. Further actions

The Administration understands that the Council intends to release a disparity study in the near future. Once the disparity study is released, the Administration is prepared to consider programs specifically designed for growing M/WBE participation, as appropriate in light of the results of the disparity study.

The Administration has demonstrated its commitment to increasing the successful participation of M/WBEs in public and private sector contracting opportunities. So far, the Administration has dramatically simplified and shortened the certification process, increased the number of certified companies, and created certification partnerships with other public entities. The Administration also has created an on-line searchable database of M/WBEs, and modified small purchase procurements to insure their participation. In addition, the Administration has extended its initiatives beyond the public sector by linking its M/WBE program to private sector diversity contracting programs and forming a M/WBE Advisory Board of business and community leaders.

In partnership with the City Council, the Administration is committed to further growing M/WBE success by building upon these foundational efforts. The Administration is exploring a range of options to do that, such as a certification partnership with New York State, and additional private sector partnerships.

The Administration recognizes that other public entities have implemented race and/or gender based strategies, such as: adopting M/WBE goals or utilization plans for a municipality and/or its agencies; or requiring prime contractors to create M/WBE utilization plans or achieve M/WBE subcontracting goals. However, the Administration also recognizes that adoption of any of these options, or any other race or gender based program, would be premature prior to the release of the City Council's forthcoming disparity study.

Following the release of the City Council's forthcoming disparity study, the Administration is prepared to consider M/WBE program options such as these, or other program enhancements. We will evaluate program options in light of the results of the study, which covers the period of 1998-2002, as well as the achievements of the City's revitalized M/WBE program during the past two years. Our approach will be cognizant of the critical need to ensure that M/WBEs in construction and other industries have a full and fair opportunity to share in the success of the Hudson Yards project.

c. Workforce Participation

i. Pre-apprenticeship programs

The Administration and the Office will work with the Council towards an agreement with trade unions to establish and fund a pre-apprenticeship program that links economically disadvantaged New Yorkers from throughout the five boroughs to union careers in the construction trades. Specific eligibility criteria (e.g., language, math and literacy skills), training program curricula and program scale will be established through collaboration with the building trade unions, with scale based on demand for construction labor generated by Hudson Yards development.

ii. Job placement

The Office will coordinate large-scale hiring initiatives linking New York City job seekers to employment opportunities in the Hudson Yards district. These initiatives may be based at the Workforce Career Centers in each of the five boroughs, in collaboration with Community Based Organizations to assist with outreach to economically disadvantaged job seekers and/or communities. DSBS may eventually establish a Workforce Career Center affiliate in the Hudson Yards district.

## **FOLLOW UP CORRECTIVE ACTIONS**

All ULURP Applications will be joint applications with DCP, local Councilmember, and Community Board 4

1. Harassment Text  
Text amendment process for the agreed upon text would be commenced shortly after adoption and applied to the Special Hudson Yards District and P2 portion of the Special Garment Center District. Subsequently, the Administration and the Council will also work as coapplicants to make the text and central provisions of the the Clinton Special District, Special Hudson Yards District and P2 portion of the Special Garment Center District more consistent.
2. Conversion of existing ground floor residential to commercial in Hells Kitchen Midblocks  
ULURP text amendment process to prevent the conversion of existing ground floor residential to commercial in the R8A portion of Hells Kitchen.
3. Studio City  
Necessary ULURP actions to would be taken to facilitate the development of housing at 8.5 FAR including the 600 units of affordable housing on the site. Anticipated tasks to facilitate development include environmental review, disposition, site planning and programming, and zoning map and text changes.
4. NYCHA Harborview  
Necessary actions would be taken to facilitate the development of housing including the 155 units of affordable housing. Anticipated tasks to facilitate development include environmental review, site planning and programming (RFP), and zoning map and text changes.
5. North West Corner of 42<sup>nd</sup> Street and 8<sup>th</sup> Avenue  
Necessary ULURP actions to increase density on this site would be taken after agreement of the appropriate density at this location.
6. Hells Kitchen Parks  
If agreement with the Port Authority to construct parks above the Lincoln Tunnel Expressway in conjunction with private development is unreachable, ULURP actions needed to create parks on privately held land would be undertaken.

