



CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD FOUR

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JEFFREY LEFRANCOIS
Chair

JESSE R. BODINE
District Manager

March 15, 2022

Adolfo Carrión Jr., Commissioner
NYC Department of Housing Preservation and Development
100 Gold Street
New York, NY 10007

Dan Garodnick, Chair & Director
City Planning Commission & Department of City Planning
120 Broadway
New York, NY 10271

**Re: MTA Site (806 9th Ave) Proposed Affordable Housing Development
Under the Western Railyards Points of Agreement
ULURP Numbers
220222PPM
220223PQM
220220ZMM
220219ZRM
220221ZSM**

Dear Commissioner Carrión and Chair Garodnick,

After referral on January 12th, 2022, from the NYC Department of City Planning to Manhattan Community Board 4, the Clinton / Hell's Kitchen Land Use (CHKLU) Committee held public meetings on the above referenced ULURPs on January 12th, 2022, and February 9th, 2022. The Housing, Health and Human Services (HHHS) Committee held a public meeting to discuss the social service program for the proposed development on February 17th, 2022. At its regularly scheduled Executive Committee meeting on February 22nd, 2022, the Officers and Committee Chairs of MCB4 reviewed the consolidated positions of the CHKLU and HHHS Committees and referred the full matter to the Board for review, discussion, and vote.

The public actions through ULURP include¹:

- Zoning Map Amendment, ULURP #220220ZMM
- Zoning Text Amendment, ULURP #220219ZRM
- Zoning Special Permit, ULURP #220221ZSM Zoning Resolution: 96-104
- Disposition of Non-Residential City-Owned Property, ULURP #220222PPM
- Acquisition of Property by the City, ULURP #220223PQM

The Board at its March 3, 2022, Full Board meeting, voted 32 in favor, 7 opposed, 0 abstaining and 1 present but not eligible:

To deny the ULURPs unless substantial modifications are made, in accordance with the conditions as noted in the broad principles below, and specifically detailed under each ULURP action, as noted later in this letter.

The broad principles are:

- **Affordability Mix**
 - **MCB4 supports no more than 25% of the apartments at below 80% of AMI, with 75% of the apartments with AMI's between 80-165%.**
- **Rezoning & Special District Text Changes**
 - **No rezoning of the underlying zoning district.** Any zoning changes needed to accommodate the proposed 30,000 SF (or reduced amount) of commercial use for the MTA should be accomplished via **Mayoral Zoning Override**.
 - **Create extremely limited zoning text amendments to 96-102 Lot Coverage Regulations and 96-103 Yard Regulations** and to permit greater lot coverage and lesser rear yards, with restrictive language, except for portions of publicly owned zoning lots adjacent to a mass transit or water supply support facility conveyed to private entity for a publicly financed affordable housing development.
- **Special Permit Under 96-104**
 - **Modify current proposed height and setback changes** to better reflect the context of the surrounding blocks.
- **Reduction or Elimination of MTA Office Space**
 - **To create more affordable housing, eliminate or reduce the proposed MTA Office's square footage on-site** by locating all or part of the facility to another site within Manhattan Community District 4.

¹ [The Lirio/MTA Site - 806 9th Avenue Zoning Application](#)

- **Façade Design Modifications**
 - **Modify the façade design to be more contextual** with building facades along Ninth Avenue and the Preservation Area of the Special Clinton District (SCD), including window layout, building entrance, facade materials and ground floor storefronts.
- **Grocery Store Use**
 - **Secure grocery store use for the entire commercial space at this location**

Background

MTA Site

The MTA Site, a former bus depot that was demolished in 1996, is currently a vacant lot used for MTA employee parking. The MTA Site is in the Preservation Area of the Special Clinton District subject to that Area’s protective height and bulk zoning text restrictions. Its underlying zone is R8 with ground floor commercial overlay (C1-5). The standard R8 FAR, 6.02 is further limited by the SCD text to 4.2.

Western Railyards Points of Agreement (WRY POA) – MTA Site Requirements²

- 85 ft on Ninth Ave and 99 ft on midblock (via Special Permit)
- AMI mix of 165% or under
- 50% two-or more bedroom units
- Permanent affordability
- New York City Department of Housing Preservation and Development (HPD) will share the program overview with MCB4 before releasing the RFPs for the off-site housing development

This letter speaks to the ULURP Actions, the zoning and land use issues raised by the proposed rezoning and proposed Special Clinton District zoning text changes, their effect on the future residential character of the Clinton / Hell’s Kitchen community, and the community’s proposed alternative actions.

MTA Site ULURP Actions

ULURP # 220223PQM – Acquisition of Property by the City

Community does not support this action with the proposed AMI mix and requests modifications to better reflect the Western Railyards Points of Agreement and the community need for economic diversity.

² Page 3-4, [Western Railyards Rezoning Points of Agreement - executed December 10,2009](#)

Housing Program

City's Proposal

94 apartments, a majority of the development, are for low and very low-income households between 40 to 60% AMI (\$33,440 to \$64,440). The 17 remaining apartments would be for low-income households at 70 and 80% AMI (\$58,520 to \$85,920). There are no apartments reserved for households between 80% to 165% of AMI.

67 of 112 low-income apartments are reserved for homeless households referred from the HRA/HASA shelter system, with on-site case management to be provided by Housing Works.

City's Stated Reason

There is an ongoing need for both low-income and supportive housing.

Community Response

As part of the Western Railyards rezoning, this development site was designated for affordable housing for moderate- and middle-income house households between 80% to 165% AMI. The Mayor and City Council memorialized this commitment in the WRY POA document executed between the Mayor and the City Council on December 10, 2009³. In a related ULURP Action in 2009, MCB4 supported⁴ the UDAAP designation, #C090423HAM, project approval and disposition of City-owned block 1044 p/o lot 3, as part of the mitigation measures agreed to in the major upzoning of the 3-block Western Railyards.

During that ULURP action, MCB4 recognized the ongoing need for both low-income and supportive housing in negotiating the WRY POA.⁵ Therefore, other sites in the WRY POA, called for low-income and supportive housing. Specifically:

- The preservation of 150 units of SRO housing
- The preservation of low-income housing, at three Section 8 buildings⁶ owned by the Related Companies, on West 30th, West 47th, and West 48th Streets, for a total of 263 units
- The preservation of low-income housing, at two 80/20 buildings owned by the Related Companies, on West 23rd and West 55th Streets, for a total of 140 units
- The construction of 166 low-income apartments on the Eastern Railyards
- The construction of 265 low-income apartments on the Western Railyards

Those Section 8 buildings' affordability requirements have been extended for an additional 30 years, the 80/20 apartments have been made permanently affordable and Eastern Railyard

³ Appendix A. Western Railyards Points of Agreement - December 10, 2009

⁴ [MCB4 Letter to CPC re Western Rail Yard Offsite Affordable Housing Sites – July 27, 2009.](#)

⁵ Appendix B. Western Railyards Affordable Housing Production (completed and in construction as of 2021)

⁶ See Appendix A. page 27

apartments have been built. 112 units of SRO preservation were completed through supportive housing at 330-332 West 51st Street in a development by the Lantern Group (of the 132 units produced, 67 were for homeless individuals). In total, 701 low-income apartments have been preserved or produced to date. However, **not** one unit of moderate- and middle-income housing has been built.

This proposed development, reserved for moderate- and middle-income housing, is now proposed to be all low-income supportive housing, with 103 of the 112 apartments for households between 0% and 70% AMI and 67 apartments of 103 will be reserved for homeless referrals from HRA/HIV/Aids Services (HASA). The goal of the WRY POA was to ensure an economically diverse community, not to favor one income group over another.

Furthermore, well beyond the WRYPOA, MCB4 continues to encourage the development of both Low-Income and Supportive Housing in the District. From 2018 to 2021, MCB4:

- Initiated and supported the inclusion of 75 Supportive Housing apartments to be a component of the Slaughterhouse site redevelopment at 495 11th Avenue
- Supported inclusion of 23 Supportive Housing apartments (for LGBT homeless and seniors) as part of the preservation of the Hartley House settlement house at 413 West 46th Street
- Supported the preservation of 454 West 35th Street, (currently 55 Supportive Housing apartments) and an addition of 14 more units, for a total of 69 Supportive Housing apartments serving senior citizens including the homeless, the mentally ill and community residents.⁷
- Supported Inclusionary Housing at 5 sites containing 568 affordable apartments ranging from 40% to 125% AMI, the majority, 353 units or 62%, are at below 60% AMI.⁸

MCB4 continues to welcome a diversity of incomes and those with social service needs, as long as developments are thoughtfully and carefully sited in consultation with the community.

Community Proposed Alternative Action

- The City restate its commitment to the MTA Site as an Affordable Housing Development for Moderate- and Middle-Income households.
- MCB4 supports no more than 25% of the apartments at below 80% AMI under the following conditions:
 - 75% of the apartments have income bands between 80% and 165% of AMI, the exact mix to be determined.

⁷ Appendix C. New Supportive Housing Projects Supported by the MCB4—2019 to 2021

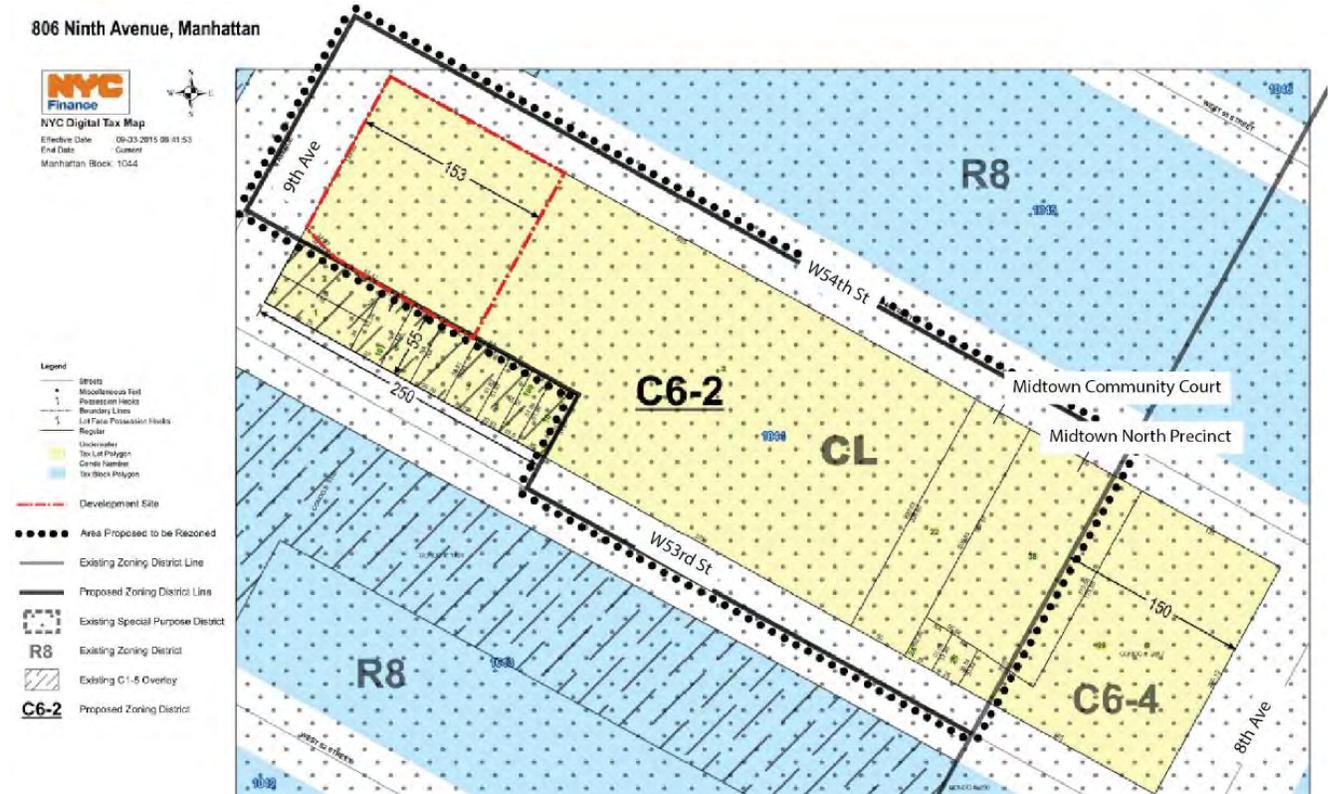
⁸ Appendix D. Inclusionary Housing Sites in MCD4 from 2018-2021

- The 25% lower income apartments between 0% to 79% be supportive housing with adequate social service support services, for referrals from the HRA/HASA portion of the City homeless shelter system.
- There be no income gaps (aka donut holes) in the income bands in the entire project, including the lower income bands.
- All income bands be fully integrated on all floors and exposures within the proposed building.
- 50% of the apartments will be 2 bedrooms or greater.

ULURP # 220220ZMM – Zoning Map Amendment

Community does not support this action. This action is not needed for the feasibility of the affordable housing project. Residential use is permitted as of right.

HPD proposes to rezone the block from West 54th to West 53rd, Ninth Avenue to 150 west of Eighth Avenue, from an R8/C1-5 and R8 residential zone to a C6-2 commercial zone.⁹ The proposed rezoning area was slightly modified from the September 30th, 2021 presentation to remove tenements (357-345 West 53rd Street) along West 53rd Street, between Eighth and Ninth Avenues, from the proposed rezoning.



⁹ The existing 4.2 FAR would not be affected

City's Stated Reasons

- The commercial zoning is proposed to create more commercial floor area to accommodate the creation of the MTA Office condo.
- A C6-2 district would permit a second story commercial use.
- The proposed zoning would reflect the existing land use of the block. The proposed C6-2 would make the existing MTA's facilities a conforming use.

The proposed C6-2 will maintain the underlying Special Clinton District limited FAR of 4.2.

Proposed Zoning Map Changes

The MTA Site is on a 150-foot by 150-foot (22,500 square foot) lot. However, the proposed rezoning covers not only the site of the affordable housing, but extends further to the east by 500 feet, to 150 feet west of Eighth Avenue and covers the full 200-foot block width of the MTA Control Center, between West 54th to West 53rd Streets on Ninth Avenue. The proposed rezoning is from an R8 residential zone, in the heart of the SCD Preservation Area, to a C6-2 commercial zone. The proposed rezoning area was slightly modified from the September 30th, 2021, presentation to remove tenements along West 53rd Street between Eighth and Ninth Avenues from the proposed rezoning.

The DCP offered that the rezoning accommodates not only the requirements to build 30,000 square feet of office and garage space for the MTA on the MTA Site, but also to clean up the institutional use of the MTA Control Center under residential zoning. This action is not needed for feasibility of the affordable housing project. The entire MTA Control Center must be removed from the proposed rezoning.

To MCB4's knowledge, the MTA has not requested for their property to be rezoned. If, and when there is a request, that should be managed in a separate, publicly transparent ULURP process. Only actions needed to develop the proposed affordable housing on the MTA Site should be included in any ULURP Certification regarding 806 9th Avenue.

Since 1973, MCB4 and DCP have worked together to extend the residential underlying zoning both in the preservation area and in the excluded areas. Residential zoning was extended west of Tenth Avenue to Eleventh Avenue between 1990 and 2009, and the excluded areas, such as the Gotham West site and the former Clinton Urban Renewal Area, was rezoned from manufacturing to residential zones. Since the District's inception, there has never been a rezoning in the sub-district known as the Preservation Area, the community's residential core, from residential to commercial. This rezoning precedent must not be set.

Community Response

The MTA is not the applicant and has not requested a rezoning for its control center. If, and when it requires a rezoning, it should go through the standard, separate, and publicly transparent ULURP process, and not benefit from this affordable housing project through a dramatic change

in use from residential to commercial. Midtown North Precinct and Midtown Community Court are existing non-conforming uses.

Community Proposed Alternative Action

Maintain the R8 with no underlying rezoning action. Only actions needed to develop the proposed affordable housing on the MTA Site should be approved in any ULURP action regarding 806 9th Avenue.



Any changes needed to accommodate the proposed 30,000 SF (or reduced amount) of commercial use for the MTA should be handled via Mayoral Zoning Override.

ULURP # 220219ZRM – Zoning Text Amendment ZR 96-102

Community does not support this action.

City's Proposal

Zoning text amendment to establish new provisions in a Special Permit (96-112) to modify the lot coverage and rear yard regulations in the Preservation Area applicable to the development site.

City's Stated Reason

HPD's proposal permits a higher lot coverage needed for the proposed MTA project by modifying 96-102 Lot Coverage¹⁰ and 96-103 Rear Yard Regulations¹¹. The Hudson / Housing Works land use counsel has stated that the proposed change to 96-102 is not needed for the MTA Site development. Therefore, MCB4 notes that this change has been proposed to facilitate the related DEP Site development.

Background on Proposed Special District Rezoning & Text Changes

After the New York City Convention Center¹² had been announced in 1972, the area was subject to major developer speculation, vacating of tenants from fully occupied residential buildings and demolition. As a result of those actions to protect and preserve the Clinton / Hell's Kitchen residential neighborhood, the City of New York established the Special Clinton District in 1973 to preserve existing housing and prevent the commercialization of the Clinton/Hell's Kitchen District. In the General Purposes section of the New York City Zoning Resolution, Section 96-00, Special Clinton District, one of the main goals stated is to: "(a) to preserve and strengthen the residential character of the community."¹³

In consideration that these proposed changes were under review for a minimum of 6-8 months in preparation for an Environmental Impact Assessment and the Uniform Land Use Review Procedure (ULURP) process, it is unconscionable that DCP and HPD would brief MCB4 in December, only weeks before a proposed ULURP Certification. That lack of briefing and collaboration, in itself, on proposed rezoning and Special Clinton District text changes, breaks precedent in the DCP's 48-year collaborative and working relationship with MCB4.

The Special Clinton District is a carefully crafted zoning document that has been the bulwark of neighborhood preservation of the Clinton/Hell's Kitchen area for decades. Private and public sector developers have always met in advance and discussed proposed changes to the Special Clinton District, 9-12 months prior to making actual proposals. The DCP, developers and the Community Board would then hash out the details of any proposed changes, working together to severely limit their applicability to enable development of a site without creating district-wide precedent.

¹⁰ [Chapter 6 - Special Clinton District \(CL\), 96-102 Lot coverage regulations](#)

¹¹ [Chapter 6 - Special Clinton District \(CL\), 96-103 Yard regulations](#)

¹² Originally sited for the West Side piers between West 43rd to West 47th Streets.

¹³ [Chapter 6 - Special Clinton District \(CL\)](#)

When public sites have been involved, whether they be small-scale, such as a Fountain House residence, at 441 West 47th Street, requiring a text change for community facility use or large-scale, such as the development of the Gotham West project at 592-608 11th Ave, 507-553 West 44th Street, and 508-558 West 45th Street, nearly an entire city block, creating 1,250 units DCP has always met with Board for months in advance. In those meetings, DCP has always worked with the Board to arrive at an agreement for the minimal changes needed for rezoning and/or text changes. MCB4 has always been exceptionally flexible with text changes needed to develop permanently affordable housing.

Proposed Clinton Special District Zoning Text Changes

Since 1973, there have been only three types of Special Permits allowed in the Clinton Special District:

- Under Section 96-104 for height and setback in the Preservation Area
- Under Section 96-108 for demolition of buildings in the Preservation Area
- Under Section 96-23 for changes to height and setback in the Perimeter Area

The Special Permits under Section 96-104 and 108 have existed since the initial adoption in 1973, and Section 96-23 since 2011. In the District's 48-year history, there has been one application for demolition under Section 96-108, three applications under Section 96-104 for height and setback, and only two granted. There have been no applications under Section 96-23.

The application of a Special Permit under Section 96-104 for increase in height and setback, at both the DEP and MTA affordable housing sites was the subject of serious community controversy at the time of the WRY Rezoning and a compromise regarding limitations to those permits was reached and embodied in the WRY POA. MCB4 continues to support the use of those permits at the DEP and MTA Sites.

The proposed text changes seek to modify the Section 96-104 height and setback Special Permit provisions, and for the first time, to include the ability to vary rear yard and lot coverage requirements. These proposed changes would apply for the entire Preservation Area from West 43rd to West 56th Streets, 100 feet west of Eighth Avenue, to an irregular boundary west of Tenth Avenue. The proposed text changes are far reaching and create an ability for higher lot coverage and lesser rear yard requirements.

The building typology in the Clinton community is predominantly old law tenements on 25 by 100-foot lots. Many buildings are between 80-90 feet deep with rear yards of only 10 to 15 feet. The provisions governing Section 96-102 on Lot coverage regulations and Section 96-103 on Yard regulations, were established to ensure new construction would not further compromise the light and air of the adjacent historically overbuilt tenements.

MCB4 does not agree with the establishment of a Preservation Area-wide Special Permit provision, the result of which would be to undercut that long-stated zoning requirement to

preserve light and air for adjacent residents. The current zoning provisions of height and setback should not be modified.

Community Response

- The building typology in the Clinton community is predominantly old law tenements on 25 by 100-foot lots. Many buildings are between 80-90 feet deep with rear yards of only 10 to 15 feet.
- The provisions governing Section 96-102 on Lot coverage regulations and Section 96-103 on Yard regulations, were established to ensure new construction or alteration would not further compromise the light and air of the adjacent historically overbuilt tenements.
- The proposed text changes create a precedent throughout the Preservation Area for higher lot coverage and lesser rear yard requirements.
- MCB4 does not agree with the establishment of a Preservation Area-wide text change, which would undercut the long-stated zoning requirement to preserve light and air for adjacent residents.

Community Proposed Alternative Action

Create extremely limited zoning text amendments to **96-102 Lot Coverage Regulations and 96-103 Yard Regulations** and to permit greater lot coverage and lesser yards with restrictive language, except for portions of publicly owned zoning lots adjacent to a mass transit or water supply support facility conveyed to private entity for a publicly financed affordable housing development (Appendix E).

ULURP # 220221ZSM – Zoning Special Permit, Zoning Resolution 96-104

Community supports this action in a modified version.

City's Proposal

Proposes specific grant of Special Permit for the development of MTA Site under the newly established section 96-112 to permit the following:

1. 85-foot height on Ninth Avenue
 - a) Without required 10-foot setback
2. Maximum 99-foot height in mid-block on West 54th Street

- a) Without required 15-foot setback
- 3. 99-foot height on West 54th 50 feet west of Ninth Avenue
 - a) 85-foot height on West 54th Street
 - b) Without required 10-foot setback

City's Stated Reason

To enable the construction of the Lirio as currently designed.

Community Response

The grant of the Special Permit should be modified to maintain the required 10-foot setback along Ninth Avenue, to reflect the height of the Ninth Avenue tenement streetscape.

Community Proposed Alternative Action

1. On Ninth Avenue, MCB4 supports a 99-foot height, only with the required 10-foot setback at the 66-foot height limit to ensure height consistent with tenements heights along Ninth Avenue. Bulk to be redistributed to other parts of building, within 99-foot height limit.
2. On West 54th Street, past 100 feet east of Ninth Avenue, MCB4 supports a 99-foot height limit without the required 10-foot setback at the 66-foot height, given the context of 401 West 54th to the north at approximately 75 feet.
3. On West 54th Street, within 100 feet east of Ninth Avenue, MCB4 requests the developer work with MCB4 to limit the section without the required 10-foot setback at the 66-foot height, given the context of 401 West 54th to the north at approximately 75 feet.

The result of these actions will be to restore the setback requirement along Ninth Avenue, consistent with existing streetscape and redistribute the bulk to the top of the building, to a height of no more than 99 feet.

ULURP # 220222PPM -- Disposition of Non-Residential City-Owned Property (Negative Easement

- Community supports the disposition of development rights from the MTA Transit Control Center to the affordable housing site.
- The Community supports the proposed disposition of the Negative Easement of 35,518 SF, or greater, if needed by the proposed development, for affordable housing use.

ULURP #220223PQM-- Acquisition of Property by the City (Commercial Condominium to be Master Net Leased the MTA)

- Community does not support the acquisition of commercial condominium as currently configured.
- MCB4 does not support the acquisition of the current 30,000 SF for the MTA Office Space the acquisition **unless, to meet the WRYPOA commitments, that space is eliminated or reduced in order to create more affordable housing at a wider range of income bands.**

City's Stated Reason

Proposal to transfer 35,518 square feet of FAR (30,466 for office space for the MTA, and 5,052 for affordable housing) from the NYC Transit Control Center to the to be a privately owned Affordable Housing site at 806 9th Avenue. Then, to subsequently enable the acquisition of a commercial condominium to be owned by City of New York and leased back to the MTA under the City's MTA Master Lease.



This proposed real estate transaction between the public and private sector is complex. The City of New York owns the land and buildings on MTA facilities, such as the NYC Transit Control Center on West 53rd and West 54th. These New York City owned facilities, buildings and/or land, are leased back to the MTA under a Master Lease between the City and the MTA.

In this proposed development, the City of New York will transfer 35,518 square feet of development rights to a private development team, creating a Negative Easement against the rest of NYC Transit Control Center site.

Of those 35,518 square feet, after the building is constructed, 30,466 square feet (in the cellar, first and second floors) will be acquired by the City of New York as a commercial condominium to be added to the City's MTA Master Lease for use by the MTA as office space.

In short, the City will transfer development rights for no consideration and acquire a portion of those development rights, in the form of a newly built commercial condominium, for use by the MTA, in a portion of the newly constructed affordable housing building.

Community Response

Modify the development rights transfer and negative easement to create more affordable housing.

Community Proposed Alternative Action

In order to create more affordable housing at a broader range of income bands, eliminate or reduce the square footage on-site by locating all or part of the facility to another site within Manhattan Community District 4.



For example: with the 2nd floor of the building as residential use an additional 15,000 square feet of affordable housing would be created resulting in 17 additional apartments.

15,000 gross square feet of residential area

(2,250) 15 % loss factor for public area

12,750 net square feet of residential area

725 square feet, average apt size

17 additional affordable apartments

The community remains open to discussion, negotiation, and compromise on this component of the proposed plan in order to achieve the goals of economic diversity in our neighborhood.

Non ULURP Development Matters

Façade Design

Community does not support the current façade design and requests modifications. The community requests the developers to work with MCB4 to modify the façade design to be more contextual¹⁴, considering the following:

Window layout

Create a great rhythm of repeating window layouts similar to tenements in the Preservation Area, especially along Ninth Avenue.

Building entrance

Create residential scaled entrance, eliminate the double height.

Ground floor storefronts

Provide details on layout of ground floor storefronts to re-create the feel of multiple storefronts along Ninth Avenue.

Façade materials

Choose brick more consistent with brick color and masonry materials surrounding MTA Site.

Commercial Space Use

Community supports a grocery store or supermarket for the entire commercial space at this location.

¹⁴ Appendix F. 9th Avenue Street Views

Parking

New parking lots or garages are not permitted in the Preservation area of the Special Clinton District, except under SCD 96-111 Off Street Parking Regulations through a Special Permit in Section [13-45](#) (Special Permits for Additional Parking Spaces) of the NYC Zoning Resolution.

Since the demolition of the MTA Bus Garage on Ninth Avenue in the 1990s, which created the site of the proposed development, the MTA has used the open lot for illegal surface parking for employees of the NYC Transit Control Center.

The current proposal includes below grade parking in the cellar of the proposed Affordable Housing site. That parking has been reclassified as “Vehicle Storage” with such parking classified as an integral use to the MTA Control Center operation. This action clearly avoids the Special Permit required under 96-111.

The MTA has stated in public meetings that the cellar will be used solely for MTA emergency vehicle storage, not employee or public parking.

Therefore, MCB4 requests that HPD insert a restrictive covenant in the Affordable Housing Deed, the Condominium Declaration to the City for the MTA space and City’s Master Lease to the MTA, not to permit employee parking in the cellar of this building. Instead, it should only be used for MTA Emergency Vehicles.

MCB4 further notes that given the function of the MTA Control Center supporting the subway system throughout the city, there should be no need for employee parking in the district which does not permit the construction of new parking facilities, whatsoever.

Non ULURP Operational Matters

Building Program, Services and Amenities

The Developer and Housing Works have represented:

All apartments:

- Are subject to Rent Stabilization
- Regardless of categorical status, Supportive or Affordable, will be equally distributed throughout the building. The Supportive Housing will not be clustered by apartment line or on certain floors.
- Have an onsite live-in superintendent

Amenities:

- Broadband service at no cost for all tenants
- A 3rd floor landscaped terrace of 5,400 SF, ADA accessible, with specified opening hours
- A Community Room ~1,240 square feet
 - Open to all residents of the building
 - With specified opening hours
 - Includes 2 bathrooms
 - Adjacent to landscaped terrace
 - No fee for community room use
- A Computer Room of ~250 square feet
 - No fee for computer room use, but a fee may be charged for printing, if offered
- Fitness room
- Laundry Room
- Bike room

Supportive Housing Apartments:

Independent apartments, no shared apartments, will be majority studios, with some 1 bedrooms and 2 bedrooms. They will be fully furnished and equipped with:

- Refrigerator, stove, & microwave
- Initial Kitchen Essentials including cookware, dinnerware, glassware & utensils

Fully furnished with:

- Kitchen table & chairs
- Chair or couch & coffee table
- Shelving
- Bed, dresser & nightstand
- Initial accessories including bedding, lamps, & cleaning products
- Initial bathroom accessories including towels, shower curtain, & trash cans

Referral Protocol—Homeless Apartments

Housing Works has stated the referral protocol for homeless apartments¹⁵ will be from the HRA/HASA alternate shelter system¹⁶ for those persons and households who are long term survivors of HIV.

¹⁵ Regardless of the final agreed upon number of those apartments to be included in the development.

¹⁶ Resultant from a Court decision the 1990's, with the City agreeing, for health reasons, to shelter persons and households with HIV/AIDS in individual rooms, not congregate shelter facilities.

Social Service Program

On-Site Services

- On-Site Case Management
 - Intake and assessment services for all Supportive Housing residents
 - 1:15 Case Manager/Client caseload ratio
 - Clinical Staff on-site 7 days a week during business hours, varying from 8am to 6pm
 - Services will be offered both in the Case Management office on the 3rd floor and in tenants' apartments
 - Development of person-centered service plans for all supportive housing tenants
 - Linkage to a full range social services offered by Housing Works: healthcare, behavioral health care and job training services. These services are available to tenants at various locations throughout the city, including a newly opened Federally Qualified Health Clinic (FQHC) on West 48th Street between Ninth and Tenth Avenue.
- 24-hour, 7-day Front Desk Security
 - Trained staff in lobby, 2 staff members at all times
 - All incidents reported and tracked through Housing Works internal incident reporting system
- 3rd Floor Case Management Offices
 - Designated Office Space for Case Management Team with 7 workstations
 - Private interview room

Staffing

- On-Site Staffing pattern
 - Program Manager—F/T, M to F, 9-5 pm
 - 4 Case Managers—F/T, 7 days a week, staggered hours, 8 to 6pm (for full staffing hours, see attached Appendix G1)
- Staff Professional Qualifications¹⁷
 - Case Managers—BSW, one year of relevant experience, MSW and/or CASAC strongly preferred
 - Program Coordinator—MSW or Masters in psychology or Counseling, at least 3 years of relevant experience, LMSW and/or CASAC strongly preferred
- Supervision—Program Coordinator reports to Director of Congregate Housing, who in turn reports to Senior Managing Director of Housing Programs & Clinical Services (for organizational chart, see attached Appendix G1)

¹⁷ Appendix G2. Housing Works On-Site Staff Qualifications

Social Services Funding and Contract

Award

In November 2015, Mayor de Blasio announced New York City’s commitment to developing 15,000 units of supportive housing over the next 15 years. That program is now called New York City 15/15 Supportive Housing Initiative.

Housing Works has applied for and has been awarded a NYC 15/15 Grant¹⁸ from HPD for approximately an annual contract of \$1,307,000 to provide social services to Supportive Housing tenants in the proposed development. It is noted the award is subject to final negotiation between Housing Works and the Human Resources Administration (HRA) to arrive at a final budget prior to executing a contract.

Contract Sizing

Housing Works noted that the amount awarded is on a per unit basis, and can be adjusted, when the final number of Supportive Apartments, to be included in this development, have been agreed to as part of this ULURP action.

Contract Budget--Preliminary

The current proposed preliminary annual budget¹⁹ is as follows:

Preliminary Annual Budget Proposal	Amount
Supportive Services Budget – Staffing	\$ 809,160
Operations Expense Budget – Equipment, supplies and utilities	\$ 498,205
Preliminary Annual Award Total	\$ 1,307,365
Preliminary Start-Up Budget – Furniture & Equipment for Supportive Apartments and clinical office space (please note, this is a separate, one-time budget request)	\$ 326,841

¹⁸ [New York City 15/15 Supportive Housing Initiative](#)

¹⁹ Please note this service budget is preliminary, these amounts are in draft broad categories

In other Supportive Housing developments located in MCD4, unforeseen operational needs subsequent to building opening have occurred. Therefore, the Board recommends a contingency line item be included in the initial contract budget to cover such unforeseen needs.

Contract Term

MCB4 supports a contract term for 15 years, and further supports a 4-year renewal of that contract.

Community Advisory Board

Housing Works has agreed, in conjunction with MCB4, to establish a Community Advisory Board (CAB), comprised of local stakeholders, Community Board Members and elected official representatives. The CAB is expected to meet monthly, initially after building opening and at least quarterly thereafter. However, should the need arise for problem solving, the CAB will meet monthly or as needed.

Third Party Property Manager

As part of its presentation to the HHHS Committee, Housing Works presented both its programs and its current Supportive Housing or Affordable Housing it owns and operates²⁰, versus locations where it provides social services, but not property management services. It provides social services to 449 Scatter Site apartments, leased from owners, then subsequently uses those apartments for placement of its clients. It also provides social services to 329 clients in 2 privately operated Covid Isolation Hotels.

MCB4's focus is on the properties Housing Works currently owns and operates--12 buildings with 254 apartments. 8 buildings are fully Supportive Housing with 197 apartments. 4 buildings are Affordable housing with 57 apartments, with no Supportive services. All those buildings are smaller multiple dwellings ranging from 8 to 46 units, with 8 buildings having less than 20 apartments.

Housing Works is also currently developing or renovating two new sites with 36 and 76 units, expected to open in 2025 and 2026.

This proposed development on the MTA Site would be the largest building, with the greatest number of apartments, with the greatest income diversity, owned and operated by Housing Works. Until January of 2022, due to the lack of detailed briefing to MCB4 by HPD and the Development Team, MCB4 understood that Hudson Companies, the lead developer, would

²⁰ See Appendix E

operate the building with Housing Works, having an ownership interest and providing social services.

Given this new information, due to the smaller scale of other Housing Works developments, **MCB4, as a condition of its ULURP recommendations, requests Hudson Companies or its affiliated entities provide property management services to ensure the success of the project.**

Conclusion

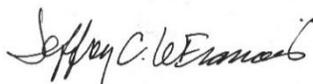
MCB4 notes the above recommendations and comments reflect the complex, detailed and long history of the proposed affordable housing development on the MTA Site. MCB4 yet again seeks compromise in bringing this project to fruition. Our positions are taken, not in isolation, but in the context of the entire community and reflect 13 years of negotiation to secure economically diverse affordable housing on a prominent site on our community's main street, Ninth Avenue. For decades, MCB4 has supported and will continue to support both Low-Income and Supportive Housing. That is MCB4's settled policy and is evidenced by our continued actions; it is not the debate regarding this site.

The MTA site is but one component of 11 affordable housing sites agreed to be preserved or constructed as part of the WRYPOA. In negotiating affordable housing mitigation for the Hell's Kitchen community as part of a major upzoning of the Western Railyards, MCB4 sought to preserve economic diversity in affordable housing throughout the District with both off and on-site preservation and construction. Those affordable housing sites range from West 23rd to West 56th Streets. The result of that negotiation was embodied in an enumerated, detailed letter dated December 10th, 2009, to then City Council Speaker Quinn signed by then Deputy Mayor Robert Lieber and Jay Cross, Vice President of the Related Companies.

Commitments made cannot be commitments discarded. The residents of neighborhoods, such as Hell's Kitchen, have put their trust in City government, and their elected officials, working in good faith and seeking compromise, often painful, to balance the greater good of the City and the effect on the local neighborhood.

MCB4 asks the City of New York to uphold its written commitments in that 2009 letter and embody them in the final approval of these ULURPs.

Sincerely,



Jeffrey LeFrancois
Chair
Manhattan Community Board



Jean Daniel Noland
Co-Chair
Clinton/Hell's Kitchen Land Use Committee



Paul Devlin
Co-Chair
Clinton/Hell's Kitchen Land Use Committee

- CC: Hon. Brad Hoylman, New York State Senator
Hon. Linda Rosenthal, New York State Assemblymember
Hon. Richard Gottfried, New York State Assemblymember
Hon. Brad Lander, New York City Comptroller
Hon. Jumaane Williams, Public Advocate
Hon. Adrienne Adams, New York City Council Speaker
Hon. Erik Bottcher, New York City Councilmember, Council District 3
Hon. Mark Levine, Manhattan Borough President
Hon. Eric Adams, New York City Mayor
Hon. Lorraine Grillo, First Deputy Mayor
Hon. Sheena Wright, Deputy Mayor for Strategic Initiatives
Hon. Meera Joshi, Deputy Mayor for Operations
Hon. Anne Williams-Isom, Deputy Mayor for Health and Human Services
Ahmed Tigani, Deputy Commissioner for Neighborhood Strategies, New York City
Housing Preservation and Development
Sylvia Li, Senior Planner, NYC Department of City Planning
Andrew Cantu, Borough Planner, NYC Department of City Planning
Aaron Koffman, Hudson Inc
Sarah Pizer, Hudson Inc. Development Director
Andrew Coamey, Senior Vice President, Housing Works

Appendices

Appendix A. Western Railyards Points of Agreement - December 10, 2009

Appendix B. Western Railyards Affordable Housing Production (completed and in construction as of 2021)

Appendix C. New Supportive Housing Projects Supported by the MCB4—2018 to 2021

Appendix D. Inclusionary Housing Sites in MCD4 from 2018-2021

Appendix E. Proposed Alternate Zoning Text Amendments to SCD 96-102 & 96-103

Appendix F. Ninth Ave Street Views

Appendix G1. Housing Works Staffing Hours & Organizational Chart

Appendix G2. Housing Works On-Site Staff Qualifications

Appendix H. Housing Works' Existing Residential Properties, Scatter Site programs, Hotels and Sites Under Development

Appendix I. 2021 NYC Area AMI, Income Bands and Percent of AMI, and 2021 NYC Area Affordable Monthly rents

Appendix J. Past MCB4 Letters Regarding MTA Site

Appendix A. Western Railyards Points of Agreement - December 10, 2009



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

December 10, 2009

Honorable Christine Quinn
Speaker
New York City Council
City Hall
New York, N.Y. 10007

Re: Western Rail Yard Rezoning Plan- City Council ULURP Actions

Dear Speaker Quinn:

Please find attached to this letter a "Points of Agreement" reflecting recent discussions among the City Council, the Administration and the Related Companies, representing the interest of RGWRY LLC, regarding the City Council's review of the Western Rail Yard Rezoning, a project which encompasses both the rezoning of the Western Rail Yard site itself as well as the provision of off-site affordable housing at two locations.

In addition to items which reflect modifications made by the City Council with respect to the ULURP actions and the associated restrictive declaration, a number of the items set forth in the "Points of Agreement" reflect commitments to future action by the Administration, while others reflect commitments to future action by the Related Companies. The Administration and the Related Companies are each providing you with this letter in acknowledgment of their respective commitments.

With respect to certain of the items described in the "Points of Agreement", implementation is subject to further review under applicable procedures, including land use and environmental review, and the receipt of additional approvals. In other cases, implementation is contingent upon the availability of funding and financing support or determinations by State or federal agencies. In all such cases, the Administration and the Related Companies, with respect to their respective commitments, will work diligently with your cooperation to achieve the goals stated in this "Points of Agreement".

We look forward to continuing to work with you and your colleagues as this project progresses towards the transfer of the Western Rail Yard site from the MTA to the Related Companies, and implementation of all the items in the "Points of Agreement" associated therewith.

Sincerely,

Handwritten signature of Robert C. Lieber in black ink.

Robert C. Lieber for the City of New York
(with respect to Points of Agreement
Sections: 1, 3 (a) – (f), 4 (b), 6 (c) & (d),
8, and 10)

Handwritten signature of Jay Cross in black ink.

Jay Cross for RGWRY LLC
(with respect to Points of Agreement
Sections: 2, 3 (g) & (h), 4 (a) & (b), 5,
(a) & (b), and 7)

POINTS OF AGREEMENT
Western Rail Yard Rezoning
December 10, 2009

I. ANTI-DEMOLITION COMMITMENTS

- (a) Anti-demolition Language: The Administration and the City Council recognize that with the construction of the Number 7 Line Subway underway and scheduled for completion by 2014, and completion of the Hudson Yards Park and Boulevard, scheduled for completion by 2014, the conditions will be in place for the substantial development forecasted in the 2004 Hudson Yards FGEIS and the 2005 West Chelsea FEIS to occur. The Administration and the City Council acknowledge the community's concerns that the growth forecasted for the Hudson Yards and adjacent areas, should it occur, could result in development pressures that may affect tenement housing that has historically provided an affordable housing resource for residents. To address these concerns, additional measures are warranted to facilitate the preservation of existing housing stock. For this purpose, the Administration agrees to support a zoning text amendment for Subareas D4 and 5 of the Special Hudson Yards District, Preservation Area P-2 of the Special Garment Center, and the Special West Chelsea District (the " Zoning Text Amendment"), in the form annexed hereto as Exhibit I.
- (b) Referral of Zoning Text Amendment: The Department of City Planning ("DCP") commits to refer the Zoning Text Amendment for public review by no later than July 1, 2010. Council Member Quinn agrees to support the Zoning Text Amendment in the form annexed hereto as Exhibit I.

2. AFFORDABLE HOUSING COMMITMENTS: WESTERN RAIL YARD ("WRY") AND EASTERN RAIL YARD ("ERY")

- (a) Related commits to build a minimum of 265 permanently affordable rental units ("Affordable Units") on the WRY and an additional minimum of 166 Affordable Units on either the WRY or ERY, in either rental or condominium buildings, for a total of 431 Affordable Units combined, contingent upon:
- (i) Availability of a tax abatement program comparable to existing tax abatement programs for either rental units or condominiums, including 20 year abatement for condominium with 20% Affordable Units;
 - (ii) Availability of tax-exempt bonds to fully finance the construction of the 80/20 rentals that Related chooses to develop to fulfill its commitment; and,
 - (iii) At the expiration of the initial real estate tax program, WRY & ERY Affordable Units will convert to permanent affordability to households at an average income of up to 90% AMI, not to exceed 125% AMI, provided that there are incentives, programs, exemptions, credits or abatements available

that will reduce the real estate taxes for the 80/20 buildings to a level consistent with real estate taxes paid prior to any phase out of the real estate tax abatement in the initial 421-a program for the building. No restrictions shall apply to the market rate units as rentals or as a conversion to condominiums after the initial 421-a real estate tax exemption period.

- (b) With respect to the distribution of Affordable Units within any 80/20 rental component of a building, Related commits to the following:
 - (i) A maximum of 50% Affordable Units on any floor; and,
 - (ii) At least one Affordable Unit on 80% of the floors included within the 80/20 rental components (assuming there are enough Affordable Units planned for at least one per floor, otherwise one per floor for as many floors as there are Affordable Units).

3. AFFORDABLE HOUSING OFF-SITE COMMITMENTS

- (a) The Department of Housing Preservation and Development (“HPD”) commits to issuing Requests for Proposals (“RFPs”) for the development of affordable housing on the City-owned sites at West 54th Street and 9th Avenue, which is under the leasehold control of the Metropolitan Transportation Authority (“MTA”), and West 48th Street and 10th Avenue, currently occupied by the Department of Environmental Protection (“DEP”) in connection with the construction of Water Tunnel No. 3. The City reiterates its commitment to propose, and Council Member Quinn reiterates her commitment to support, the provision in the City capital budget of the sum of \$40 million to construct or otherwise create new affordable housing units off-site.

HPD’s RFPs will contain the following requirements:

- (i) A height cap restriction that the local Council Member and Community Board 4 (“CB4”) understand will result in the creation of an estimated 267 units. Without the height cap restrictions, these sites would generate 312 units. The height on the DEP site will not exceed 77 feet. The height on the MTA site will not exceed 85 feet on 9th Avenue, and 99 feet on the midblock;
 - (ii) An AMI mix of 165% or under;
 - (iii) 50% two or more bedroom units; and,
 - (iv) Permanent affordability.
- (b) HPD will share the program overview with CB4 before releasing the RFPs for the off-site housing developments.
 - (c) The Administration agrees that the MTA and DEP sites will not generate an Inclusionary Zoning bonus under NYC Zoning Resolution Section 23-90, and

acknowledges that they cannot serve as the Cure for Anti-Harassment under NYC Zoning Resolution Section 96-110.

- (d) The Administration, in the attached letter from Deputy Mayor Edward Skyler dated December 10, 2009 and annexed hereto as Exhibit 2, commits to make a best effort to vacate the Department of Sanitation (“DSNY”) facilities located at 136-140 West 20th Street with a goal of completing the relocation by December 31, 2011. If DSNY is relocated from its West 20th Street facilities, HPD commits to develop the site for affordable housing at a range of incomes up to 165% AMI. In the event that DSNY is not relocated, the local Council Member and CB4 acknowledge that HPD will not be expected to make up for those units anywhere else.
- (e) SRO Preservation: HPD will work with the local Council Member and CB4 to preserve up to 150 units of privately owned SRO housing. The Council Member and CB4 acknowledge the difficulties inherent in and lengthy timeframe needed to accomplish these private acquisitions. To the extent that such acquisition(s) can be negotiated, HPD will use its programs to acquire and rehabilitate these SRO units.
- (f) HPD commits to providing CB4 with quarterly updates on the affordable housing developments that were committed as a part of the Hudson Yards and West Chelsea rezonings.
- (g) Related commits that it will seek two extensions of federal rental subsidy to its existing Mark Up to Market Project Based Section 8 HUD Contracts (or a comparable successor program) for a period of no less than 40 years from City Council approval of the WRY rezoning, for its properties known as Terrific Tenements (at 525 West 47th Street and 425 West 48th Street) and the French Apartments (at 330 West 30th Street). Related will apply for the initial extension no later than March 31, 2010. The current maximum extension is a 20 year period, and if granted, will expire in 2030. Related will then seek additional extensions totaling an additional 20 year period. Related will diligently pursue all necessary approvals to seek such extensions, provided:
 - (i) All necessary Department of Housing and Urban Development (“HUD”) and investor approvals are obtained; and,
 - (ii) The relevant financing and tax programs, including applicable real estate tax abatement programs, currently available for Section 8 housing are made available to effectuate the extensions. Related will commit to pursue extending Section 8 benefits at these properties and will diligently pursue all necessary approvals. The period of each extension will be the maximum period allowed under the program.
- (h) Related Off-site 80/20s: Related commits to guaranteeing that all existing affordable rental units in the Westport (at 500 West 56th Street) and the Tate (at 535 West 23rd Street) in Community District 4 will remain permanently affordable to

households at an average income of up to 90% AMI, not to exceed 125% AMI, provided that there are incentives, programs, exemptions, credits or abatements available that will reduce the real estate taxes for the 80/20 buildings to a level consistent with real estate taxes paid prior to any phase out of the real estate tax abatement in the initial 421-a program. No restrictions shall apply to the market rate units as rentals or as a conversion to condominiums after the initial 421-a period. This commitment is contingent on obtaining lender and investor approvals, which Related will diligently pursue.

- (i) A summary chart of the affordable housing commitments is annexed hereto as Exhibit 3.

4. WRY SCHOOL COMMITMENTS

- (a) Community Notification: Related agrees that copies of an amended Letter of Intent with the School Construction Authority (“SCA”) regarding school site selection, modified to reflect the commitments in paragraph (b) will be provided to CB4, the local school district, the Manhattan Borough President, and the local Council Member.
- (b) School Site Selection: Related commits that it will offer SCA approximately 120,000 square feet of space at Site 6 for a public school and that Site 6 will be one of the first three buildings to be built. The SCA commits that it will initiate the site selection process for the public school at Site 6 no later than July 1, 2010. Related shall only be required to offer Site 6 to the SCA and no alternate sites. In the event that the SCA rejects Site 6, for whatever reason, Related's obligation to provide space for the public school under Section 3.04 of the Restrictive Declaration (“Declaration”) is terminated.

5. COMMUNITY AND CULTURAL SPACE COMMITMENTS

- (a) Related agrees to make available a minimum of 16,000 gross square feet of space for local cultural institutions or other local arts not-for-profits.
- (b) The cultural space will be provided in at least two facilities.
- (c) Related commits to constructing the core and shell of the cultural spaces, including the distribution of base building systems to the cultural spaces, in accordance with Section 2.04(d) of the Declaration, as modified by the City Council.

6. OPEN SPACE COMMITMENTS

- (a) Related agrees to replace the member appointed by the President of the Hudson Yards Development Corporation to serve on the Open Space Advisory Board established under Section 2.02(e) of the Declaration with a member appointed by the Manhattan Borough Commissioner of the Department of Parks and Recreation (“Parks Dept”).

(b) Related agrees to change the timing of the open space payments required under Section 3.04(b)(i) of the Declaration to two payments of \$1 million each, with the 1st payment triggered by the TCO for the 2nd residential building, provided that the 2nd residential building results in a total of 500 or more units, and the 2nd payment triggered by the TCO for the 4th residential building. In the event that the 1st and 2nd residential buildings produce less than 500 total units, then the 1st payment will be triggered by the TCO for the 3rd residential building and the 2nd payment will be triggered by the TCO for the 5th residential building.

(c) Greening and Neighborhood Opens Space Development:

(i) **Street Tree Planting:** The Administration agrees to work with the City Council to review and modify, as necessary, the Parks Dept's street tree planting program to ensure that the Hudson Yards area of CB4 has an appropriate allocation of street trees. In addition, the Administration will work with Con Edison on a master plan for the appropriate location of street trees and infrastructure vaults. The Parks Dept will seek to plant trees at all viable street tree locations.

(ii) **Port Authority Sites:** The Administration will continue working with the City Council, the community and the Port Authority of NY & NJ ("Port Authority") toward creating open space on Port Authority sites within the blocks bounded by West 34th and West 41st Streets, between 9th and 10th Avenues.

(iii) The Administration agrees to establish an Open Space Task Force to review and advise on the creation of open space within the blocks described above. The Task Force will be comprised of representatives from the Department of Transportation ("DOT"), the Parks Dept, and the Hudson Yards Community Advisory Committee. The Administration will invite the Port Authority to participate on the Task Force.

a. The Administration, in coordination with the Port Authority, agrees to use the Greenstreets Program to green the "canoe" traffic island on the north side of West 36th Street, between 9th Avenue and the Lincoln Tunnel Expressway, subject to and in accordance with the following:

i. The Administration will allocate new funding to the Greenstreets Program for this greening;

ii. The Parks Dept, DOT and the Port Authority will work together to establish a plan to address greening, sidewalk and safety requirements;

iii. The nature and extent of the greening will depend upon subsurface conditions, including utilities, and infrastructure issues

at or adjacent to the canoe traffic island, which will be examined as part of the planning process;

- iv. DOT will relocate the NYPD vehicles currently parked on this island; and,
- v. The Administration will use all reasonable efforts to expedite the implementation of these plans.

(iv) Sidewalk ADA Compliance: The Administration agrees to work with the Port Authority to improve sidewalks along Dyer Avenue, between West 34th and West 36th Streets in order to upgrade to ADA standards, subject to any public safety concerns identified by either the Administration or the Port Authority with respect to any particular location. The Administration will use all reasonable efforts to achieve these upgrades.

(d) DEP Open Space Funding:

- (i) Provided that the open space proposed for the site currently occupied by DEP at 10th Avenue, between West 48th Street and West 49th Street is not mapped as park land, upon completion of Water Tunnel No. 3 DEP will fund the design of the open space and will make a capital contribution to the construction of the open space.
- (ii) DEP will not be responsible for making any contributions to the maintenance or operation of the proposed open space. A maintenance and operations plan will be created as part of the design process.

The proposed open space is identified on the map annexed hereto as Exhibit 4 as that area occupying the northeast corner of the DEP site, bounded to the north by West 49th Street, to the east by 10th Avenue, to the south by the horizontal line demarking the "Fenced Area For DEP Operations" and to the west by the solid black line identified in the map legend as an "Easement Line" and running in a north to south direction.

At an appropriate time following completion of Water Tunnel No. 3, a metes and bounds survey will be conducted to establish the boundaries of the proposed open space consistent with the description of the open space boundaries contained in the map annexed hereto as Exhibit 4.

7. DAY CARE COMMITMENTS

Related agrees to provide the Administration for Children's Services ("ACS") with additional opportunities to exercise the option for 10,000 square feet of ground floor space suitable for use as a child care center. Under Section 3.04(c) of the Declaration, as modified by the City Council, ACS may trigger the requirement for Related to offer space following the issuance of a TCO or PCO for any new building on the WRY

containing residential rental units. In that event, Related shall offer space located either in a new building on the WRY or at a nearby off-site location, provided that Related shall have no obligation to offer space in new buildings on the WRY other than Sites 1, 2 and 4. In the event that ACS accepts a space at an off-site location, Related shall have no further obligations under Section 3.04 to offer space, whether on or off site.

8. FIRE PROTECTION ASSESSMENT COMMITMENTS

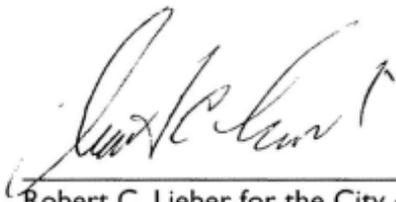
To address the potential need for new Fire Department (“FDNY”) facilities in the Hudson Yards district, if the City Council requests in 2014, the FDNY will commence a review of the fire protection needs of the district beginning January 1, 2015, and at the City Council's request every five years thereafter, until such time as all projected development has been completed.

9. ZR SECTION 93-06 AND RESTRICTIVE DECLARATION

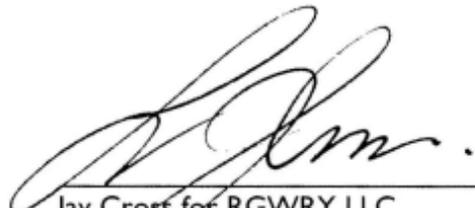
- (a) Modification of ZR Section 93-06: Under Section 93-06 of the Zoning Resolution, as modified by the City Council, the execution and recordation of a Restrictive Declaration including the modifications described in (b)- (e) below shall be required for any development or enlargement on the WRY pursuant to the zoning amendments.
- (b) City Council Approval of Modifications: Under Section 4.04 of the Declaration, as modified by the City Council, any future modifications to the provisions of the Declaration pertaining to Affordable Housing (Sec. 2.01); Public Access Areas (Sec. 2.02 (a)-(e) and (h)); Arts and Cultural Space (Sec. 2.04); the Public School, Open Space, and Day Care Mitigations (Sec. 3.04 (a)-(c)), Modification and Amendment (Sec. 4.04(a)), and the Construction Consultation Process Committee and Liaison (Sec. 6.01), that would diminish or alter the obligations of Related, shall be subject to the approval of the City Council.
- (c) Independent Monitor: Under Sections 3.07(a) and 6.01 of the Declaration, as modified by the City Council, the Independent Monitor shall prepare a quarterly report summary of activities for distribution to any Construction Consultation Process Committee established under Section 6.01 of the Declaration.
- (d) Wind Analyses: Under Section 3.02(c) of the Declaration, as modified by the City Council, Related agrees to provide copies of all final Wind Conditions Reports to Manhattan Community Board 4, the local Council Member, the Manhattan Borough President, and any Construction Consultation Process Committee established pursuant to Section 6.01 of the Declaration.
- (e) Construction Consultation Process Committee: Under Section 6.01 of the Declaration, as modified by the City Council, Related agrees that, upon request of the Construction Consultation Process Committee, Related's designated liaison shall address, on a regular basis, the questions and concerns of the Committee about construction related issues beginning at the time of issuance of the first Foundation Permit for a New Building on the WRY.

10. LANDMARKS

The Landmarks Preservation Commission (“LPC”) will conduct a preliminary review of the historic districts proposed by CB4 in their letter dated November 20, 2009 and annexed hereto as Exhibit 5, by the end of Fiscal Year 2010. During that period the LPC will also complete an evaluation of the 11 sites proposed for landmark designation by CB 4 in their letter dated November 20, 2009 and annexed hereto as Exhibit 6, to determine whether they should be considered further for landmark status.



Robert C. Lieber for the City of New York
(with respect to Points of Agreement
Sections: 1, 3 (a) – (f), 4 (b), 6 (c) & (d),
8, and 10)



Jay Cross for RGWRY LLC
(with respect to Points of Agreement
Sections: 2, 3 (g) & (h), 4 (a) & (b), 5,
6 (a) & (b), and 7)

Appendix B. Western Railyards Affordable Housing Production (completed and in construction as of 2021)

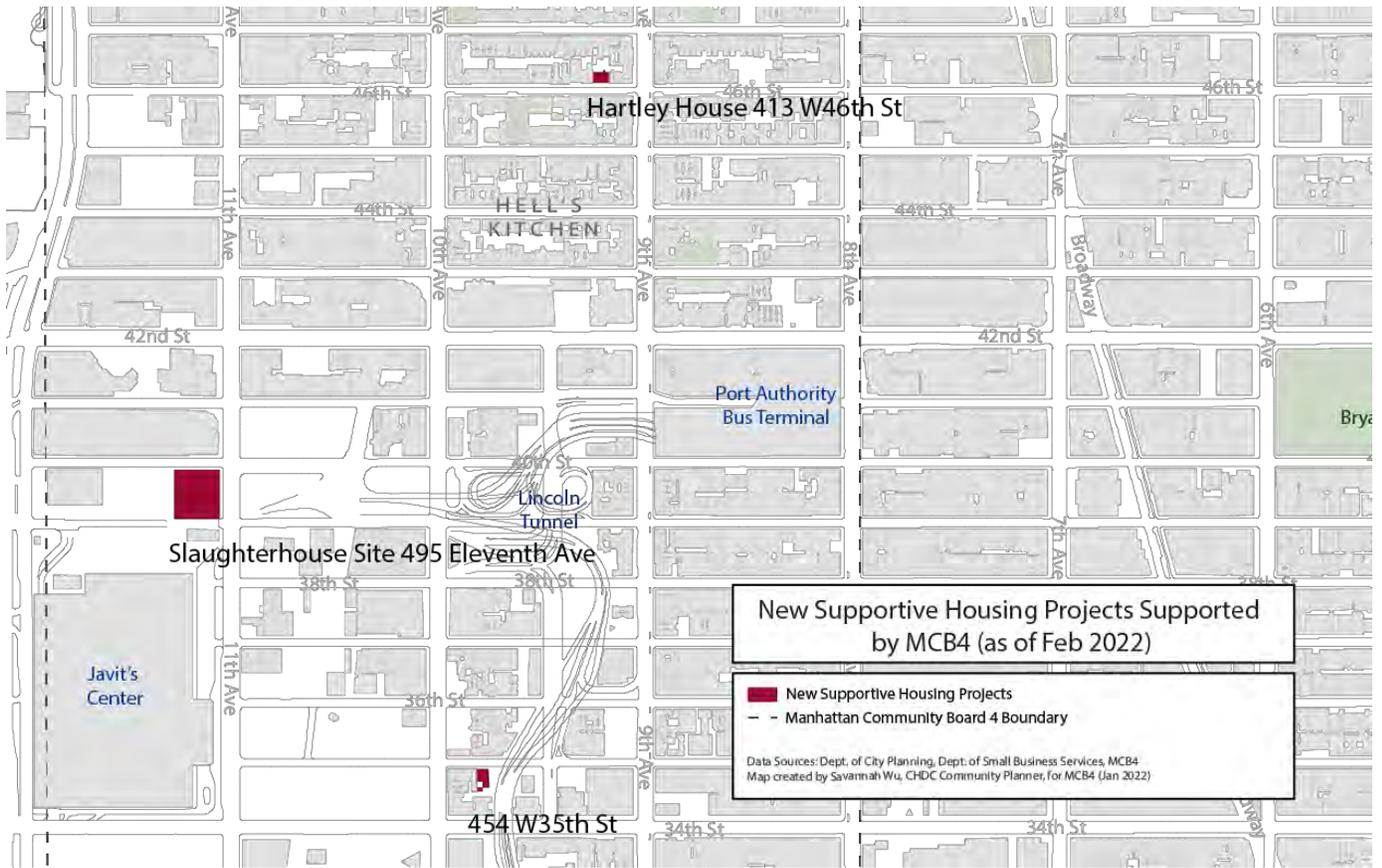
Point / Address	Summary / Project Name	Developer	Committed Dwelling Units	Affordable Units Built/Preserved	Status
Affordable Housing on ERY and WRY	Related to build a minimum of 265 permanently affordable rental units on WRY and an additional 166 on either WRY or ERY, for a total of 431 permanently affordable units	Related	431	107	Related has built 107 affordable units on the ERY.
Affordable Housing Off-Site	HPD to issue RFPs for affordable housing development on City-owned sites at 54th and 9th (MTA) and 48th and 10th (DEP).	MTA Site: Hudson Companies and Housing Works, Inc. DEP Site: Douglaston Development and the Actors Fund	267		04/09/2018 - RFPs issued 02/13/2019 - Development teams designated MTA Site: Hudson Companies and Housing Works, Inc. DEP Site: Douglaston Development and the Actors Fund
	If DSNY is relocated from its 136-140 20th Street facilities, HPD commits to develop the site for a range of incomes up to 165% of AML.		75	75	This site has been redeveloped as a park. The commitment of units is to be transferred to the Slaughterhouse Site (493 11th Avenue)
330-332 W51st Street	Stardom Hall - HPD to work with Council Member and CB4 to preserve up to 150 units of privately owned SRO housing.	Lantern Group, completed in 2017	150	112	Completed. Redevelopment of SRO units completed in Stardom Hall - 330 W 51st Street in 2017
	Related to seek two extensions of federal rental subsidy to its existing Mark Up to Market Project Based Section 8 HUD contracts -- Terrific Tenements (525-527 West 47th, and 421-425 West 48th St) and French Apartments (330 W30th St)-- for no less than 40 years from City Council approval of WRY rezoning	Related	263	263	The HAP contract for Terrific Tenements expires in 2023. At that time, Related plans to renew it for the longest term allowed by HUD, which is currently 20 years. The HAP contract French Apartments expires in 2036. At that time, Related plans to renew it for the longest term allowed by HUD,

					which is currently 20 years.
	Related to guarantee that all existing affordable housing units in the Westport and the Tate will remain permanently affordable to households averaging up to 90% of AMI, not to exceed 125% of AMI.				The 421a program expires on June 30, 2025 for Westport and June 30, 2023 for Tate. Extensions can only be done at the expiration of the current program
		Total	923	750	

[See full MCB4 Western Rail Yards Points of Agreement – Annual Tracking Report \(2022\)](#)

Appendix C. New Supportive Housing Projects Supported by the MCB4—2018 to 2021

Supportive Housing Project	Targeted Tenants & Program	Type of Units	% of AMI	Total # of Supportive Housing Units	Public Actions	Rental Subsidy
Hartley House 413 W46th St	Single senior citizens, homeless & community residents with an LGBTQ preference	22 Studios & SRO units One (1) 2-br super's unit	14 units at 50% & 8 units at 60%	23	Mayoral override required for super's unit at Carriage House	Section 8 for all units with tenants paying 30% of income
454 W35th Street	Elderly, formerly homeless, mentally ill, and community residents	67 Studios, 1-brs, & SRO units Two (2) 2-br staff units	67 units at 50% AMI	69	None	RAD Section 8 and Project Based Vouchers, with tenants paying 30% of income
Slaughterhouse Site 495 Eleventh Avenue	350 permanently affordable housing units, 75 of which will be supportive housing, for formerly homeless individuals and families, and 2,000 SF of social service support space. All proposed dwelling units will be reserved for households that meet certain income restrictions for affordability, with approximately 71 units for households with incomes having an average not exceeding 80% of area medium income (AMI), pursuant to MIH Option 2. The project also includes a supermarket, an NYPD Special vehicle parking facility, and a 680 room multi-flag hotel.	Studios, 1, 2, and 3 bedrooms.	98 at 90-110% AMI, 176 at 155-165% AMI, 75 15/15 units of supportive housing, and 114 MIH units.	75	ULURP #C 210324ZMM Zoning Map Amendment 1. To rezone the Proposed Development site from an M1-5 zoning district to a C64 (R10 equivalent). 2. To include the Proposed Development site within the Special Hudson Yards District as a new Subdistrict G. ULURP #C 210325ZRM Zoning Text Amendment 1. To modify NYC Zoning Resolution (ZR) Section 93-00 to establish a new Subdistrict G within the SHYD. 2. To modify ZR Appendix F, the Inclusionary Housing Designated Areas and Mandatory Inclusionary Housing Areas Section, to designate the Proposed Development site as a Mandatory Inclusionary Housing area.	
			Total # of Supportive Units	164		



Appendix D. Inclusionary Housing Sites in MCD4 from 2018-2021

	40% AMI	60% AMI	70% AMI	80% AMI	100% AMI	125% AMI	Total
312 W43rd St²¹	33	33				17	83
550 10th Ave²²			47			90	137
278 8th Ave²³	11	35					44
606 W30th St²⁴	31	25			14		70
601 W29th St²⁵	93	94			47		234
Total	166	187	47		61	107	568

353 units or 62% are below 60% AMI

²¹ [HHHS Letter Re 312 W43rd St](#)

²² [HHHS Letter Re 550 10th Ave](#)

²³ [HHHS Letter Re 278 8th Ave Affordable Senior Housing](#)

²⁴ [HHHS Letter Re 606 W30th St](#)

²⁵ [HHHS Letter Re 601 W29th St](#)

Appendix E. Proposed Alternate Zoning Text Amendments to SCD 96-102 & 96-103

96-102 Lot coverage regulations

LAST AMENDED 2/2/2011

Within the Preservation Area, the *open space* requirement of Article II, Chapter 3, and the *lot coverage* provisions of Section **24-11**, are not applicable. The *lot coverage* provisions of this Section apply in lieu thereof. In C6-2 Districts, for the purposes of determining *lot coverage*, any part of a *building* that is listed as a permitted obstruction in *open space* or in a *rear yard* shall not be included in *lot coverage*. For *zoning lots*, or portions thereof, located within 100 feet of the *street line* of a *wide street*, the maximum *lot coverage* shall not exceed 70 percent. For all *zoning lots*, or portions thereof, located more than 100 feet from the *street line* of a *wide street*, the maximum *lot coverage* shall not exceed 60 percent, except for portions of publicly owned zoning lots adjacent to a mass transit or water supply support facility conveyed to private entity for a publicly financed affordable housing development.

Any *development* containing *residential uses* shall provide a minimum of 20 percent of the *lot area* of a *zoning lot* as usable, landscaped open area for occupants of *dwelling units* in the *development*.

96-103 Yard regulations

LAST AMENDED 2/2/2011

The *yard* regulations of this Section apply to any *development* or *enlargement*.

For *zoning lots*, or portions thereof, located within 100 feet of the *street line* of a *wide street*, no *rear yard* shall be required.

For all *zoning lots*, or portions thereof, located more than 100 feet from the *street line* of a *wide street*, a *rear yard* having a minimum depth of 30 feet shall be required, except for portions of publicly owned zoning lots adjacent to a mass transit or water supply support facility conveyed to private entity for a publicly financed affordable housing development.

On a *through lot*, or portion thereof, more than 100 feet from the *street line* of a *wide street*, the *rear yard equivalent* provisions of Section **23-532**, paragraph (a), shall apply.

Appendix F. Ninth Avenue Street Views







Appendix G1. Housing Works Staffing Hours & Organizational Chart



57 Willoughby St, 2nd Floor, Brooklyn, NY 11201 WWW.HOUSINGWORKS.ORG



Housing Works							
Proposed Clinical Team Staffing Schedule							
Staff	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Program Coordinator		9:00am - 5:00pm					
Case Manager 1	8:00am - 4:00pm						
Case Manager 2			10:00am - 6:00pm				
Case Manager 3	9:00am - 5:00pm			8:00am - 4:00pm	8:00am - 4:00pm	8:00am - 4:00pm	8:00am - 4:00pm
Case Manager 4	10:00am - 6:00pm	10:00am - 6:00pm	10:00am - 6:00pm	10:00am - 6:00pm			9:00am - 5:00pm

Appendix G2. Housing Works On-Site Staff Qualifications



57 Willoughby St, 2nd Floor, Brooklyn, NY 11201 WWW.HOUSINGWORKS.ORG

General Qualifications for all Clinical Staff:

- Experience with and a basic understanding of HIV/AIDS, homelessness, mental illness, substance use/abuse disorders and resources available in New York City.
- Strong communication skills, both verbally and written, including the ability to communicate with all levels of management.
- Understanding of harm-reduction practices.
- Ability to maintain a high level of confidentiality.
- Ability to work a flexible schedule and occasionally work shifts associated with a department that operates 24 hours per day, 365 days per year.
- Demonstrated ability to manage information, including the maintenance of complete and accurate resident files.
- Ability to prioritize and multi-task.
- Strong mathematical, analytical and strategic skills.
- Strong interpersonal, coaching and administrative skills.
- Ability to learn and become proficient with case management software.
- Dependable & flexible.
- Must be proficient in Microsoft Outlook and Office (Word, Excel and PowerPoint).

Senior Managing Director of Housing Programs & Clinical Services (supervises Director of Congregate Housing and other Housing Directors)

- LMSW or an equivalent clinical degree required.
- Experience in the provision of clinical supervision.

Director of Congregate Housing (supervises multiple Program Coordinators)

- Master's degree in social work, psychology, counseling, or related field, and/or at least ten years of relevant experience required in a social services setting that deals with HIV/AIDS, homelessness, mental health issues and/or substance use. LCSW strongly preferred.
- At least three years of supervisory experience required.
- Bilingual (English-Spanish) is helpful.

Program Coordinator (supervises Case Managers)

- Master's degree in social work, psychology, counseling, or related field required; and/or at least three years of relevant experience required in a social services setting that deals with HIV/AIDS, homelessness, mental health issues and/or substance use. LMSW and/or CASAC strongly preferred.
- Bilingual (English-Spanish) is helpful.

Case Manager (there will be a 1:15 staff to client ratio)

- Bachelor's degree in social work, psychology, counseling, or related field required; at least one year of relevant experience required in a social services setting that deals with HIV/AIDS, homelessness, mental health issues and/or substance use. Master's degree in a relevant field and/or CASAC strongly preferred.

Appendix H. Housing Works' Existing Residential Properties, Scatter Site programs, Hotels and Sites Under Development



57 Willoughby St, 2nd Floor, Brooklyn, NY 11201 WWW.HOUSINGWORKS.ORG

Existing Residential Properties	Borough	Housing Type	Population Served	Unit Count	Bedrooms	Began Operations
Bailey-Holt House	Manhattan	Supportive Housing	Single Adults	46	46	1986
Keith D. Cylar House	Manhattan	Supportive Housing	Single Adults w/ on site FQHC	36	36	1995
Housing Works East New York Residence	Brooklyn	Supportive Housing	Single Adults w/ on site FQHC	32	32	1997
StandUp Harlem	Manhattan	Supportive Housing	Single Adults & Families	14	18	1999
Housing Works Lexington Ave	Brooklyn	Supportive Housing	Single Adults	19	19	2002
Bronx Claremont	Bronx	Low Income	Single Adults & Families	18	36	2010
Housing Works Jefferson Ave.	Brooklyn	Supportive Housing	Single Adults	12	12	2013
Bronx Lyman	Bronx	Low Income	Single Adults & Families	10	16	2014
Bronx Prospect	Bronx	Low Income	Single Adults & Families	8	17	2014
Housing Works Youth LGBT	Brooklyn	Supportive Housing	Single Adults	10	20	2017
Hall Place	Bronx	Low Income	Single Adults & Families	21	46	2018
Housing Works Hull Street	Brooklyn	Supportive Housing	Single Adults	28	28	2021
TOTAL:				254	326	
Scatter Site Programs	Borough	Housing Type	Population Served	Unit Count	Bedrooms	Began Operations
SHAP	Manhattan/Brooklyn/Bronx	Supportive Housing	Single Adults & Families	90	120	1983
Schafer Hall	Manhattan	Supportive Housing	Families	30	60	2001
Housing Works STH	Brooklyn/Bronx	Supportive Housing	Single Adults	31	31	2002
STARSI	Brooklyn/Bronx	Supportive Housing	Single Adults	20	20	2010
STARSI	Bronx	Supportive Housing	Single Adults	12	12	2012
Bailey House STH	Brooklyn/Bronx	Supportive Housing	Single Adults	43	43	2012
STARSI	Brooklyn/Bronx	Supportive Housing	Single Adults	25	25	2013
STARSI	Brooklyn/Bronx	Supportive Housing	Single Adults	20	20	2015
SHIP	Manhattan/Brooklyn/Bronx	Supportive Housing	Single Adults & Families	70	98	2015
Veteran's Housing	Manhattan	Supportive Housing	Single Adults	78	78	2016
STARSI	Bronx	Supportive Housing	Families	30	68	2019
TOTAL:				449	575	
Hotels	Borough	Housing Type	Population Served	Unit Count	Bedrooms	Began Operations
LIC - Towne	Queens	Emergency Housing	Single Adults	173	173	2020
48th St - Holiday Inn	Manhattan	Emergency Housing	Single Adults	156	156	2021
TOTAL:				329	329	
Under Development	Borough	Housing Type	Population Served	Unit Count	Bedrooms	Anticipated Operations
2605-11 Pitkin	Brooklyn	Low Income & Supportive Housing	Single Adults	36	36	2025
The Lirio	Manhattan	Low Income & Supportive Housing	Single Adults & Families	112	170	2025
Bailey-Holt House Redevelopment	Manhattan	Low Income & Supportive Housing	Housing for Single Adults	76	76	2026
TOTAL:				224	282	
GRAND TOTAL:				1256	1512	

Appendix I. 2021 NYC Area AMI, Income Bands and Percent of AMI, and 2021 NYC Area Affordable Monthly rents (Source: [NYC HPD](#))

Income Bands and Percent of AMI

Income Band	Percent of AMI
Extremely Low-Income	0-30%
Very Low-Income	31-50%
Low-Income	51-80%
Moderate-Income	81-120%

2021 New York City Area AMI

Family Size	30% AMI	40% AMI	50% AMI	60% AMI	70% AMI	80% AMI	90% AMI	100% AMI	110% AMI	120% AMI	130% AMI	165% AMI
1	\$25,080	\$33,440	\$41,800	\$50,160	\$58,520	\$66,880	\$75,240	\$83,600	\$91,960	\$100,320	\$108,680	\$137,940
2	\$28,650	\$38,200	\$47,750	\$57,300	\$66,850	\$76,400	\$85,950	\$95,500	\$105,050	\$114,600	\$124,150	\$157,575
3	\$32,220	\$42,960	\$53,700	\$64,440	\$75,180	\$85,920	\$96,600	\$107,400	\$118,140	\$128,880	\$139,620	\$177,210
4	\$35,790	\$47,720	\$59,650	\$71,580	\$83,510	\$95,440	\$107,370	\$119,300	\$131,230	\$143,160	\$155,090	\$196,845
5	\$38,670	\$51,560	\$64,450	\$77,340	\$90,230	\$103,120	\$116,010	\$128,900	\$141,790	\$154,680	\$167,570	\$212,685
6	\$41,520	\$55,360	\$69,200	\$83,040	\$96,880	\$110,720	\$124,560	\$138,400	\$152,240	\$166,080	\$179,920	\$228,360
7	\$44,400	\$59,200	\$74,000	\$88,800	\$103,600	\$118,400	\$133,200	\$148,000	\$162,800	\$177,600	\$192,400	\$244,200
8	\$47,250	\$63,000	\$78,750	\$94,500	\$110,250	\$126,000	\$141,750	\$157,500	\$173,250	\$189,000	\$204,750	\$259,875

2021 New York City Area Affordable Monthly Rents

Unit Size	30% AMI	40% AMI	50% AMI	60% AMI	70% AMI	80% AMI	90% AMI	100% AMI	110% AMI	120% AMI	130% AMI	165% AMI
Studio	\$419	\$598	\$777	\$956	\$1,135	\$1,314	\$1,547	\$1,726	\$1,905	\$2,084	\$2,263	\$2,889
One-bedroom	\$532	\$756	\$980	\$1,204	\$1,427	\$1,651	\$1,942	\$2,166	\$2,390	\$2,614	\$2,838	\$3,621
Two-bedroom	\$631	\$900	\$1,168	\$1,437	\$1,705	\$1,974	\$2,323	\$2,592	\$2,860	\$3,129	\$3,397	\$4,337
Three-bedroom	\$722	\$1,032	\$1,343	\$1,653	\$1,963	\$2,273	\$2,677	\$2,987	\$3,297	\$3,608	\$3,918	\$5,004

Appendix J. Past MCB4 Letters Regarding MTA Site



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036

tel: 212-736-4536 fax: 212-947-9512

www.nyc.gov/mcb4

Delores Rubin
Chair

Jesse R. Bodine
District Manager

February 8, 2017

Maria Torres-Springer
Commissioner
NYC Dept. of Housing Preservation & Development
100 Gold Street
New York, NY 10038

**Re: Affordable Housing RFP's
MTA & DEP Sites (806 9th Avenue & 705 10th Avenue)
Western Railyards Points of Agreement**

Dear Commissioner Torres-Springer,

Manhattan Community Board 4's (CB4) would like to welcome and congratulate you to your new role as Commissioner of Department of Housing and Preservation (HPD). We look forward to working with you and your exceptional staff on advancing the development and preservation of affordable housing with in Community District 4.

With that goal in mind CB4 writes to follow up on it's 2015 request to Department of Housing Preservation and Development (HPD) to move ahead with a singular RFP for both the **806 9th Avenue** at West 54th Street (Block 1044, Lot 3) MTA owned site and the **705 10th Avenue** at West 48th Street (Block 1077, Lot 29) DEP owned site¹.

These two publicly-owned sites were committed by the City to be developed as affordable housing as part of the Western Railyards Points of Agreement (WRYPOA)². The Western Railyards closing with Related Companies occurred on April 10, 2013. Furthermore, both sites

¹[CB4 Letter to HPD re MTA & DEP Site Status](#)

²[Western Railyards Points of Agreement](#)

are priorities in CB4' Affordable Housing Plan³ and have the full support of Council Member Corey Johnson.

The MTA Site, a former bus depot that was demolished in 1996, is currently a vacant lot used for MTA parking. The proposed building will contain approximately 124 affordable units, its height not exceeding 85 feet. The permanently affordable units will be a mix of 165% AMI or under, with 20% of the units being 80% AMI, 40% being 125% AMI, and 40% being 165% AMI. Additionally, 50% of the building's units will have 2 or more bedrooms. Under the New York City Zoning Resolution Section 23-90, the site will not generate an Inclusionary Zoning bonus.

The DEP site, a Third Water Tunnel Access Shaft site, as of October of 2016 has been vacated and DEP is now working with the administration to transfer the property to both HPD and the Department of Parks to develop separate affordable housing and public open space projects.

The proposed building will contain approximately 143 affordable units, its height not exceeding 77 feet. The permanently affordable units will be a mix of 165% AMI or under, with 20% of the units being 80% AMI, 40% being 125% AMI, and 40% being 165% AMI. Additionally, 50% of the building's units will have 2 or more bedrooms. Under the New York City Zoning Resolution Section 23-90, the site will not generate an Inclusionary Zoning bonus.

The Community Board requests to meet and begin the issuance of the Affordable Housing RFP for these two sites.

Sincerely,



Delores Rubin
Chair

cc: Hon. Gale Brewer, Manhattan Borough President
Hon. Corey Johnson, Councilmember
Daniel Hernandez, Deputy Commissioner, NYC HPD

³ [CB4 Affordable Housing Plan](#)



CITY OF NEW YORK

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Burt Lazarin
Chair

Jesse Bodine
District Manager

March 15, 2018

Maria Torres-Springer
Commissioner
NYC Department of Housing Preservation & Development
100 Gold Street
New York, NY 10038

**Re: DEP (705 10th Avenue) and MTA (806 9th Avenue)
Affordable Housing Sites**

Dear Commissioner Torres-Springer,

On February 14, 2018, the Clinton/Hell's Kitchen Land Use Committee was presented with an update by the Department of Housing and Preservation (HPD) on the forthcoming Request For Proposal (RFP) for two future affordable housing development projects ("Projects") on two publicly-owned parcels — the Metropolitan Transportation Authority site at 806 Ninth Avenue between West 53rd and West 54th Streets ("MTA Site") and the Department of Environmental Protection site at 705 Tenth Avenue between West 48th and West 49th Streets ("DEP Site") — which the City committed to develop as affordable housing as part of the Western Rail Yards Points of Agreement (WRY POA) on December 10, 2009.

On March 7, 2018, following the counsel of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board 4 (MCB4) by 35 in favor, 0 opposed, 0 abstaining, and 0 present but not eligible, voted that the recommendations in this letter and the attached Power Point Presentation (Attachment A) be included with the RFP in order to inform responding applicants of the community's and the Board's requirements for developing these Projects.

MCB4 RECOMMENDATIONS

Through MCB4's substantial engagement with the community and sustained consultation with HPD, the following recommendations have been developed. They must be implemented to insure optimal development on both the MTA and the DEP Sites.

1. One Developer

There should be one developer for both Sites.

2. No Inclusionary Housing Bonus

A restrictive declaration must be filed stating that the site cannot generate an inclusionary housing bonus or be used to satisfy the Special Clinton District Harassment Cure requirements pursuant to ZR 96-110.

3. Height Restrictions

DEP Site: The maximum height is 77 feet.

MTA Site: The maximum height along the Ninth Avenue frontage is 85 feet. Along West 54th Street, beginning 50 feet east of Ninth Avenue and through the mid block and backing against the existing MTA Control Center, the maximum height is 99 feet.

4. Income Bands

MCB4 requests that a restrictive deck establish that HPD Financing for both Projects will follow HPD's M² (Mixed-Middle-Income Program) to achieve MCB4's required income band mix: 20% of units will be affordable at 80% Area Median Income (AMI); 40% will be affordable at 125% AMI, and 40% will be affordable at 165% AMI. (HPD's M² Program funds the new construction of multi-family rental housing affordable to low-, moderate-, and middle-income families up to 165% of Area Median Income.)

5. Size and Number of Units

Both Projects combined should generate an estimated total of 267 permanently affordable units. At least 50% of the residential units in both Projects must contain two bedrooms or more.

For the DEP Site, MCB4's Affordable Housing Plan preliminary analysis proposed the following breakdown: 38 units at 80% AMI; 46 units at 125%; and, 59 units at 165%.

For the MTA Site, the Affordable Housing Plan proposed: 38 units at 80% AMI; 40 units at 125%; and 46 units at 165%.

6. Permanent Affordability

All units in both Projects must be permanently affordable.

7. No Commercial Space at the DEP Site

No retail or commercial use should be allowed on either the West 48th Street or the West 49th Street portion of the DEP Site. Twelve liquor-serving establishments already exist within 75 feet of the Site. Any additional establishment would exacerbate the problems of bars and clubs on residential blocks. And eliminating the need for commercial space on the ground level, hence reducing the ground floor-to-floor height, allows for more affordable units in the building.

8. Public Restroom and Parks Support Space on DEP Site

The block front on Tenth Avenue will be developed as public open space ("Open Space") with the function of a public park. (The Open Space will not be mapped as a public park due to DEP's

access requirements for water tunnel maintenance, but will be maintained by the New York City Parks Department.) Both Hell's Kitchen Park, diagonally southeast of the DEP Site, and the future Open Space lack the basic amenity of a comfort station. An ADA accessible public restroom must be included in the affordable housing development and accessible from the Open Space.

The building must also have a small support space, including a janitor's sink and electricity, for NYC Parks Department staff. It will be accessible from the Open Space. Parks or open spaces with comfort stations should have fixed post staff to address constituents' concerns, provide security, and perform routine maintenance.

9. Supermarket Instead of Office Space on MTA Site

Two decades ago, Ninth Avenue had three supermarkets between West 43rd and West 54th Streets. Today, there are none. With its large enough footprint, this publicly owned site is the district's sole opportunity for a supermarket which could serve the Ninth Avenue core of the Hell's Kitchen neighborhood. Allowing MTA office space in the development precludes that possibility. MCB4 will continue to work with the MTA and HPD to relieve the Project of burden to create 30,000 square feet of MTA office space.

10. No Garage on MTA Site

The site has been used by the MTA for surface parking for its employees for nearly two decades without any permit or Certificate of Occupancy. The MTA request for a garage for 15 MTA parking spaces for the site must be reconsidered. The Board notes that there is already a garage in the MTA building (directly across the street from 351 West 54th) with a "24-Hour, Active Driveway."

11. Design Recommendations

Both the MTA and DEP sites are in the Clinton Special District (CSD) in the historic Hell's Kitchen neighborhood. The majority of the buildings in the CSD are tenements, built between 1880 and 1920, often in groupings with some design variations, with facades comprised of brick and masonry. In keeping with the context of the district, the facades of the proposed buildings on the DEP and the MTA Sites should include predominantly brick and masonry with punched windows and avoid glass and panel systems.

MTA Site: The building at the MTA site should have landscaped tenant open space at the roof and the setback levels.

DEP Site: The building on the DEP Site should have windows facing north, south, and east. On the east, the building should relate to the Open Space but also provide privacy for ground floor units. The windows facing the Open Space should be noise attenuating. Balconies are not recommended.

Both ends of the building, on West 48th and West 49th Streets, should be enlivened by street trees and substantial tree beds. And the building at the DEP site should have landscaped tenant open space at the roof and the setback levels.

12. Feral Cats, DEP Site

A small population of feral cats lives on the rail cut on West 48th Street. The cats are cared for by a coalition of volunteers from the New York City Feral Cat Initiative, a program overseen by the Mayor's Alliance for NYC Animals. The volunteers trap, neuter, vaccinate, and return the cats to their territory of origin (TNR (Trap, Neuter, Return) Program). Before construction begins on platforming over the rail cut at the DEP Site, HPD must coordinate with the NYC Feral Cat Initiative to safely remove the cats.

The Board would like both Projects to have a pet-friendly policy.

13. Construction Task Force

MCB4 will form a Task Force to resolve complaints or issues arising from the construction of the buildings. The Task Force will include representatives from the local block association, business owners, the developer, City Councilmember, and MCB4.

BACKGROUND

The MTA Site, located at 806 Ninth Avenue between West 53rd Street and West 54th Street, was formerly a bus depot built in 1906. It was demolished in 1996. The site is currently a vacant lot.

The DEP site, at 705 Tenth Avenue, between West 48th Street and West 49th Street, is a Third Water Tunnel Access Shaft site. As of October 2016, the site has been vacated. DEP is now working with the City to allow for the development of affordable housing by HPD and public open space to be designed and maintained by the New York City Department of Parks and Recreation on the site.

Both sites are located within the Special Clinton District — a special district created to preserve and strengthen the residential character of a community bordering Midtown, maintain a broad mix of incomes, and insure the community is not adversely affected by new development. The community and MCB4 has long worked toward the goal of preserving affordability through restrictions on residential demolitions as well as planning for the development of new affordable units.

Western Rail Yards Points of Agreement

Executed in 2009, the Western Railyards Points of Agreement (WRY POA) specifically outline the MTA and DEP sites as affordable housing commitments from the City. The WRY POA stated that HPD would issue Requests for Proposals (RFPs) for the development of both sites. And such RFPs would be reviewed by MCB4 before being released (see Attachment B)

ULURP

As part of the development process, both sites went through the Uniform Land Use Review Process (ULURP) with the New York City Planning Commission. In its July 2009 letter to the Department of City Planning, MCB4 took a number of positions on ULURP Nos. 090422HAM, N090429ZRM, 090423HAM and 090430ZMM. (Attachment C)

MCB4 Affordable Housing Plan

The development of both sites was contingent upon Related's closing title on the Western Railyards, which would allow the MTA site to be transferred to HPD. The site transferred on October 13, 2016. At that point, MCB4 began requesting that an RFP be issued for the two sites.

In 2015, MCB4 released an Affordable Housing Plan, which outlines the development of affordable housing units within our district. That Plan includes both the MTA and DEP sites. Under the plan, the proposed AMI distribution was consistent with the 2009 MCB4 letter regarding the ULURP.

CONCLUSION

HPD plans to release the RFP this month (March 2018) and to begin receiving submissions this June. Proposals will be selected in the winter of 2018/2019.

MCB4 thanks HPD for its long and productive engagement with MCB4 on these important affordable housing developments. We look forward to working with HPD and with the developer to ensure that these Projects honor the commitments made in the Western Rail Yards Points of Agreement.

Sincerely,



Burt Lazardin
Chair
Manhattan Community Board 4



Jean-Daniel Noland
Chair
Clinton/Hell's Kitchen Land Use Committee

Cc: Hon. Jerry Nadler, U.S. Congress
Hon. Brad Hoylman, New York State Senate
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Richard Gottfried, New York State Assembly
Hon. Linda Rosenthal, New York State Assembly
Hon. Corey Johnson, Speaker, New York City Council
Hon. Helen Rosenthal, City Council

Enclosures:

Attachment A: Power Point Presentation

Attachment B: Western Railyards Points of Agreement dated December 10, 2009

Attachment C: Letter to Commissioner Burden, dated July 27, 2009

ATTACHMENT A

POWER POINT PRESENTATION

Clinton/Hell's Kitchen RFP

806 9th Avenue & 705 10th Avenue

Permanent Affordable Housing & Open Space



Manhattan Community Board 4

Clinton/Hell's Kitchen RFP

The Clinton/Hell's Kitchen RFP is comprised of two permanent affordable housing sites:

- MTA Site – located at 806 9th Avenue
- DEP Site – located at 705 10th Avenue

Both sites were commitments in the Western Rail Yards Points of Agreement, an agreement between the New York City Council and the Mayor's Office regarding the Hudson Railyards rezoning, which was executed on December 10, 2009.

Western Rail Yards Points of Agreement

POINTS OF AGREEMENT

**Western Rail Yard Rezoning
December 10, 2009**

3. AFFORDABLE HOUSING OFF-SITE COMMITMENTS

- (a) The Department of Housing Preservation and Development ("HPD") commits to issuing Requests for Proposals ("RFPs") for the development of affordable housing on the City-owned sites at West 54th Street and 9th Avenue, which is under the leasehold control of the Metropolitan Transportation Authority ("MTA"), and West 48th Street and 10th Avenue, currently occupied by the Department of Environmental Protection ("DEP") in connection with the construction of Water Tunnel No. 3. The City reiterates its commitment to propose, and Council Member Quinn reiterates her commitment to support, the provision in the City capital budget of the sum of \$40 million to construct or otherwise create new affordable housing units off-site.

HPD's RFPs will contain the following requirements:

- (i) A height cap restriction that the local Council Member and Community Board 4 ("CB4") understand will result in the creation of an estimated 267 units. Without the height cap restrictions, these sites would generate 312 units. The height on the DEP site will not exceed 77 feet. The height on the MTA site will not exceed 85 feet on 9th Avenue, and 99 feet on the midblock;
 - (ii) An AMI mix of 165% or under;
 - (iii) 50% two or more bedroom units; and,
 - (iv) Permanent affordability.
- (b) HPD will share the program overview with CB4 before releasing the RFPs for the off-site housing developments.
- (c) The Administration agrees that the MTA and DEP sites will not generate an Inclusionary Zoning bonus under NYC Zoning Resolution Section 23-90, and

Western Rail Yards Points of Agreement

Requirements for RFP

- Height cap of 77 feet for the DEP site and 85 feet on 9th Avenue and 99 feet on the midblock for the MTA site
- 267 permanently affordable units
- An AMI mix of 165% or under
- 50% two or more bedroom units

Process

- HPD to share program overview with MCB4 before releasing RFPs

MCB4 Revised Approval Conditions—June 2017

MTA Site

Height, Bulk, and Use

- Setting a height limit of 85 feet along the 9th Avenue frontage and of 99 feet on West 54th Street, beginning 50 feet east of 9th Avenue and through the midblock backing against the existing MTA Control Center.

Affordability Bands

- A restrictive declaration that 20% of units will be affordable at 80% AMI; 40% will be affordable at 125% AMI, and 40% will be affordable at 165% AMI
- At least 50% of the residential units contain two bedrooms or more

MTA Use

- The elimination of the 30,000 square feet reserved for the MTA office/training space
- The elimination the 15 MTA parking spaces planned for the site
- The RFPs to select a developer for this site must be developed in consultation with MCB4

Other Considerations

- A restrictive declaration that the site cannot generate an Inclusionary Housing bonus or be used to satisfy the SCD District Harassment Cure requirements pursuant to ZR § 96-110

MCB4 Revised Approval Conditions—June 2017

DEP Site

Height, Bulk, and Use

- Setting the height limit for the site at 77 feet
- No retail and/or commercial use allowed on the West 49th Street portion of the DEP site, as such an addition would exacerbate the problems of bars and clubs on residential blocks

Affordability Bands

- A restrictive declaration that 20% of units will be affordable at 80% AMI; 40% will be affordable at 125% AMI, and 40% will be affordable at 165% AMI
- At least 50% of the residential units contain two bedrooms or more

Relationship to DEP/Parks Open Space

- A permanent easement for unobstructed light and air from the DEP water access tunnel site to the east
- Comfort stations for public use in conjunction with the DEP open space must be included in the affordable housing development
- Parks Department has agreed to a landscape architect to design the open space

Other Considerations

- The RFPs to select a developer for this site must be developed in consultation with MCB4
- A restrictive declaration that the site cannot generate an Inclusionary Housing bonus or be used to satisfy the SCD District Harassment Cure requirements pursuant to ZR § 96-110

MTA Site – 806 9th Avenue

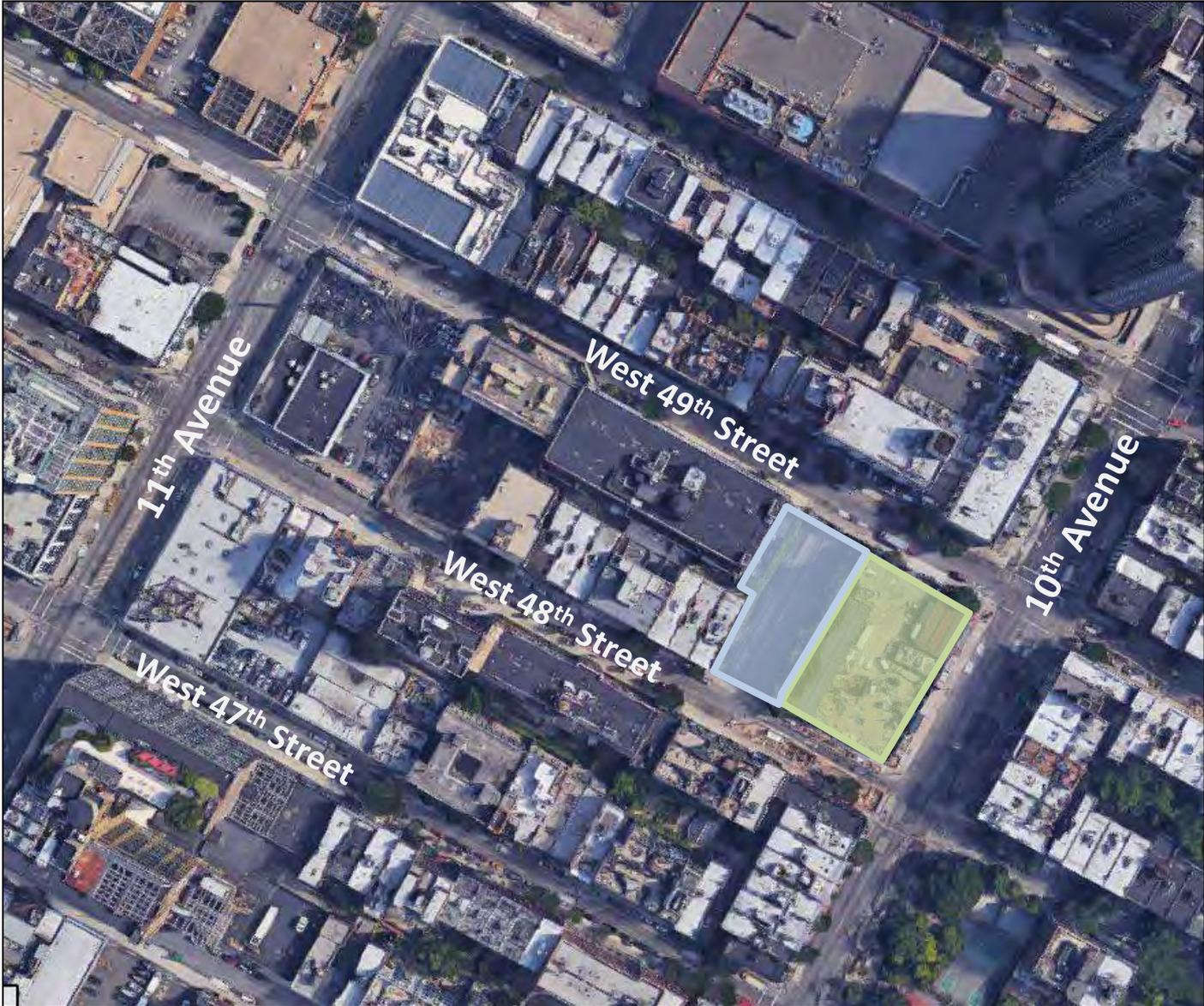


 Residential

MTA Site – 806 9th Avenue



DEP Site – 705 10th Avenue



- Residential
- Open Space

DEP Site – 705 10th Avenue



View from 10th Avenue facing west

MCB4 Approval Conditions– MTA Site

March 7, 2018

Building Design & Program

- Height not to exceed 85 feet on 9th Avenue and 99 feet in the midblock (50 feet east of 9th Avenue)
- Façade to be predominantly brick and masonry with punched windows
- Architecture should relate to surrounding context of 4 to 6 story brick and masonry tenements
- Landscaped tenant open space to be developed at roof and setback levels
- Commercial space to be a supermarket for the community
- MCB4 will continue to work with MTA to relieve project of burden to create 30,000 square feet of MTA office space

Neighborhood Context – MTA Site



MCB4 Approval Conditions – DEP Site

March 7, 2018

Building Design & Program

- Height not to exceed 77 feet
- Façade to include predominantly brick and masonry with punched windows
- Architecture should relate to surrounding context of 4 and 5 story brick and masonry tenements
- Building to have windows facing south, north, and east
- No commercial space at first floor¹
- HPD Design Guidelines be modified to create both a lower ground floor and slightly lower floor to floor heights to create another floor within height limit
- With an additional floor, the unit count can be increased
- Landscaped tenant open space to be developed at roof and setback levels

¹ Current zoning includes C1-5 commercial overlay at first floor. However, midblock commercial use is not compatible with context of block

MCB4 Approval Conditions – DEP Site

March 7, 2018

Building's Relation to Open Space

- Public open space to include an ADA Accessible public restroom and support space for Park staff
- Building design to relate to open space on 10th Avenue but also provide privacy to ground floor apartments along east façade facing open space

Neighborhood Context – DEP Site



MCB4 Unit Affordability and Size Approval Conditions

Clinton/Hell's Kitchen RFP

AMI Distribution

AMI	Percent
80% AMI	20%
125% AMI	40%
165% AMI	40%

Affordability Mix

- Production of between 200 and 230 permanently affordable apartments
- AMI mix of 80 %, 125% & 165% with no income eligibility gaps
- The HPD M² program funding be used to achieve community desired AMI mix

Apartment Distribution

- 50% of the units to be two or more bedroom units

WRYP OA Commitments

- Neither site to generate an Inclusionary Housing bonus
- Neither site to satisfy a Cure for Harassment

Appendix

MCB4 Documents Pertaining to MTA & DEP Sites

MCB4 requests that all respondents to the Clinton/Hell's Kitchen RFP, in order to better understand background, context, and project sites, please review the following documents and MCB4 letters:

- [Western Rail Yards Points of Agreement. *December 10, 2009*](#)
- [MCB4 Letter re: ULURP Nos. 090422HAM, N090429ZRM, 090423HAM and 090430ZMM. *July 27, 2009.*](#)
- [MCB4 Letter re: Affordable Housing RFPs. *October 7, 2015.*](#)
- [MCB4 Letter re: Affordable Housing RFPs. *February 8, 2017.*](#)
- [MCB4 Letter re: Affordable Housing RFPs. *June 7, 2017.*](#)
- [MCB4 Letter re: Affordable Housing RFPs. *March 15, 2018.*](#)

ATTACHMENT B

WESTERN RAIL YARDS
POINTS OF AGREEMENT



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

December 10, 2009

Honorable Christine Quinn
Speaker
New York City Council
City Hall
New York, N.Y. 10007

Re: Western Rail Yard Rezoning Plan- City Council ULURP Actions

Dear Speaker Quinn:

Please find attached to this letter a "Points of Agreement" reflecting recent discussions among the City Council, the Administration and the Related Companies, representing the interest of RGWRY LLC, regarding the City Council's review of the Western Rail Yard Rezoning, a project which encompasses both the rezoning of the Western Rail Yard site itself as well as the provision of off-site affordable housing at two locations.

In addition to items which reflect modifications made by the City Council with respect to the ULURP actions and the associated restrictive declaration, a number of the items set forth in the "Points of Agreement" reflect commitments to future action by the Administration, while others reflect commitments to future action by the Related Companies. The Administration and the Related Companies are each providing you with this letter in acknowledgment of their respective commitments.

With respect to certain of the items described in the "Points of Agreement", implementation is subject to further review under applicable procedures, including land use and environmental review, and the receipt of additional approvals. In other cases, implementation is contingent upon the availability of funding and financing support or determinations by State or federal agencies. In all such cases, the Administration and the Related Companies, with respect to their respective commitments, will work diligently with your cooperation to achieve the goals stated in this "Points of Agreement".

We look forward to continuing to work with you and your colleagues as this project progresses towards the transfer of the Western Rail Yard site from the MTA to the Related Companies, and implementation of all the items in the "Points of Agreement" associated therewith.

Sincerely,

Handwritten signature of Robert C. Lieber in black ink.

Robert C. Lieber for the City of New York
(with respect to Points of Agreement
Sections: 1, 3 (a) – (f), 4 (b), 6 (c) & (d),
8, and 10)

Handwritten signature of Jay Cross in black ink.

Jay Cross for RGWRY LLC
(with respect to Points of Agreement
Sections: 2, 3 (g) & (h), 4 (a) & (b), 5,
(a) & (b), and 7)

POINTS OF AGREEMENT
Western Rail Yard Rezoning
December 10, 2009

I. ANTI-DEMOLITION COMMITMENTS

- (a) Anti-demolition Language: The Administration and the City Council recognize that with the construction of the Number 7 Line Subway underway and scheduled for completion by 2014, and completion of the Hudson Yards Park and Boulevard, scheduled for completion by 2014, the conditions will be in place for the substantial development forecasted in the 2004 Hudson Yards FGEIS and the 2005 West Chelsea FEIS to occur. The Administration and the City Council acknowledge the community's concerns that the growth forecasted for the Hudson Yards and adjacent areas, should it occur, could result in development pressures that may affect tenement housing that has historically provided an affordable housing resource for residents. To address these concerns, additional measures are warranted to facilitate the preservation of existing housing stock. For this purpose, the Administration agrees to support a zoning text amendment for Subareas D4 and 5 of the Special Hudson Yards District, Preservation Area P-2 of the Special Garment Center, and the Special West Chelsea District (the " Zoning Text Amendment"), in the form annexed hereto as Exhibit I.
- (b) Referral of Zoning Text Amendment: The Department of City Planning ("DCP") commits to refer the Zoning Text Amendment for public review by no later than July 1, 2010. Council Member Quinn agrees to support the Zoning Text Amendment in the form annexed hereto as Exhibit I.

2. AFFORDABLE HOUSING COMMITMENTS: WESTERN RAIL YARD ("WRY") AND EASTERN RAIL YARD ("ERY")

- (a) Related commits to build a minimum of 265 permanently affordable rental units ("Affordable Units") on the WRY and an additional minimum of 166 Affordable Units on either the WRY or ERY, in either rental or condominium buildings, for a total of 431 Affordable Units combined, contingent upon:
- (i) Availability of a tax abatement program comparable to existing tax abatement programs for either rental units or condominiums, including 20 year abatement for condominium with 20% Affordable Units;
 - (ii) Availability of tax-exempt bonds to fully finance the construction of the 80/20 rentals that Related chooses to develop to fulfill its commitment; and,
 - (iii) At the expiration of the initial real estate tax program, WRY & ERY Affordable Units will convert to permanent affordability to households at an average income of up to 90% AMI, not to exceed 125% AMI, provided that there are incentives, programs, exemptions, credits or abatements available

that will reduce the real estate taxes for the 80/20 buildings to a level consistent with real estate taxes paid prior to any phase out of the real estate tax abatement in the initial 421-a program for the building. No restrictions shall apply to the market rate units as rentals or as a conversion to condominiums after the initial 421-a real estate tax exemption period.

- (b) With respect to the distribution of Affordable Units within any 80/20 rental component of a building, Related commits to the following:
 - (i) A maximum of 50% Affordable Units on any floor; and,
 - (ii) At least one Affordable Unit on 80% of the floors included within the 80/20 rental components (assuming there are enough Affordable Units planned for at least one per floor, otherwise one per floor for as many floors as there are Affordable Units).

3. AFFORDABLE HOUSING OFF-SITE COMMITMENTS

- (a) The Department of Housing Preservation and Development (“HPD”) commits to issuing Requests for Proposals (“RFPs”) for the development of affordable housing on the City-owned sites at West 54th Street and 9th Avenue, which is under the leasehold control of the Metropolitan Transportation Authority (“MTA”), and West 48th Street and 10th Avenue, currently occupied by the Department of Environmental Protection (“DEP”) in connection with the construction of Water Tunnel No. 3. The City reiterates its commitment to propose, and Council Member Quinn reiterates her commitment to support, the provision in the City capital budget of the sum of \$40 million to construct or otherwise create new affordable housing units off-site.

HPD’s RFPs will contain the following requirements:

- (i) A height cap restriction that the local Council Member and Community Board 4 (“CB4”) understand will result in the creation of an estimated 267 units. Without the height cap restrictions, these sites would generate 312 units. The height on the DEP site will not exceed 77 feet. The height on the MTA site will not exceed 85 feet on 9th Avenue, and 99 feet on the midblock;
 - (ii) An AMI mix of 165% or under;
 - (iii) 50% two or more bedroom units; and,
 - (iv) Permanent affordability.
- (b) HPD will share the program overview with CB4 before releasing the RFPs for the off-site housing developments.
 - (c) The Administration agrees that the MTA and DEP sites will not generate an Inclusionary Zoning bonus under NYC Zoning Resolution Section 23-90, and

acknowledges that they cannot serve as the Cure for Anti-Harassment under NYC Zoning Resolution Section 96-110.

- (d) The Administration, in the attached letter from Deputy Mayor Edward Skyler dated December 10, 2009 and annexed hereto as Exhibit 2, commits to make a best effort to vacate the Department of Sanitation (“DSNY”) facilities located at 136-140 West 20th Street with a goal of completing the relocation by December 31, 2011. If DSNY is relocated from its West 20th Street facilities, HPD commits to develop the site for affordable housing at a range of incomes up to 165% AMI. In the event that DSNY is not relocated, the local Council Member and CB4 acknowledge that HPD will not be expected to make up for those units anywhere else.
- (e) SRO Preservation: HPD will work with the local Council Member and CB4 to preserve up to 150 units of privately owned SRO housing. The Council Member and CB4 acknowledge the difficulties inherent in and lengthy timeframe needed to accomplish these private acquisitions. To the extent that such acquisition(s) can be negotiated, HPD will use its programs to acquire and rehabilitate these SRO units.
- (f) HPD commits to providing CB4 with quarterly updates on the affordable housing developments that were committed as a part of the Hudson Yards and West Chelsea rezonings.
- (g) Related commits that it will seek two extensions of federal rental subsidy to its existing Mark Up to Market Project Based Section 8 HUD Contracts (or a comparable successor program) for a period of no less than 40 years from City Council approval of the WRY rezoning, for its properties known as Terrific Tenements (at 525 West 47th Street and 425 West 48th Street) and the French Apartments (at 330 West 30th Street). Related will apply for the initial extension no later than March 31, 2010. The current maximum extension is a 20 year period, and if granted, will expire in 2030. Related will then seek additional extensions totaling an additional 20 year period. Related will diligently pursue all necessary approvals to seek such extensions, provided:
 - (i) All necessary Department of Housing and Urban Development (“HUD”) and investor approvals are obtained; and,
 - (ii) The relevant financing and tax programs, including applicable real estate tax abatement programs, currently available for Section 8 housing are made available to effectuate the extensions. Related will commit to pursue extending Section 8 benefits at these properties and will diligently pursue all necessary approvals. The period of each extension will be the maximum period allowed under the program.
- (h) Related Off-site 80/20s: Related commits to guaranteeing that all existing affordable rental units in the Westport (at 500 West 56th Street) and the Tate (at 535 West 23rd Street) in Community District 4 will remain permanently affordable to

households at an average income of up to 90% AMI, not to exceed 125% AMI, provided that there are incentives, programs, exemptions, credits or abatements available that will reduce the real estate taxes for the 80/20 buildings to a level consistent with real estate taxes paid prior to any phase out of the real estate tax abatement in the initial 421-a program. No restrictions shall apply to the market rate units as rentals or as a conversion to condominiums after the initial 421-a period. This commitment is contingent on obtaining lender and investor approvals, which Related will diligently pursue.

- (i) A summary chart of the affordable housing commitments is annexed hereto as Exhibit 3.

4. WRY SCHOOL COMMITMENTS

- (a) Community Notification: Related agrees that copies of an amended Letter of Intent with the School Construction Authority (“SCA”) regarding school site selection, modified to reflect the commitments in paragraph (b) will be provided to CB4, the local school district, the Manhattan Borough President, and the local Council Member.
- (b) School Site Selection: Related commits that it will offer SCA approximately 120,000 square feet of space at Site 6 for a public school and that Site 6 will be one of the first three buildings to be built. The SCA commits that it will initiate the site selection process for the public school at Site 6 no later than July 1, 2010. Related shall only be required to offer Site 6 to the SCA and no alternate sites. In the event that the SCA rejects Site 6, for whatever reason, Related's obligation to provide space for the public school under Section 3.04 of the Restrictive Declaration (“Declaration”) is terminated.

5. COMMUNITY AND CULTURAL SPACE COMMITMENTS

- (a) Related agrees to make available a minimum of 16,000 gross square feet of space for local cultural institutions or other local arts not-for-profits.
- (b) The cultural space will be provided in at least two facilities.
- (c) Related commits to constructing the core and shell of the cultural spaces, including the distribution of base building systems to the cultural spaces, in accordance with Section 2.04(d) of the Declaration, as modified by the City Council.

6. OPEN SPACE COMMITMENTS

- (a) Related agrees to replace the member appointed by the President of the Hudson Yards Development Corporation to serve on the Open Space Advisory Board established under Section 2.02(e) of the Declaration with a member appointed by the Manhattan Borough Commissioner of the Department of Parks and Recreation (“Parks Dept”).

(b) Related agrees to change the timing of the open space payments required under Section 3.04(b)(i) of the Declaration to two payments of \$1 million each, with the 1st payment triggered by the TCO for the 2nd residential building, provided that the 2nd residential building results in a total of 500 or more units, and the 2nd payment triggered by the TCO for the 4th residential building. In the event that the 1st and 2nd residential buildings produce less than 500 total units, then the 1st payment will be triggered by the TCO for the 3rd residential building and the 2nd payment will be triggered by the TCO for the 5th residential building.

(c) Greening and Neighborhood Opens Space Development:

(i) Street Tree Planting: The Administration agrees to work with the City Council to review and modify, as necessary, the Parks Dept's street tree planting program to ensure that the Hudson Yards area of CB4 has an appropriate allocation of street trees. In addition, the Administration will work with Con Edison on a master plan for the appropriate location of street trees and infrastructure vaults. The Parks Dept will seek to plant trees at all viable street tree locations.

(ii) Port Authority Sites: The Administration will continue working with the City Council, the community and the Port Authority of NY & NJ ("Port Authority") toward creating open space on Port Authority sites within the blocks bounded by West 34th and West 41st Streets, between 9th and 10th Avenues.

(iii) The Administration agrees to establish an Open Space Task Force to review and advise on the creation of open space within the blocks described above. The Task Force will be comprised of representatives from the Department of Transportation ("DOT"), the Parks Dept, and the Hudson Yards Community Advisory Committee. The Administration will invite the Port Authority to participate on the Task Force.

a. The Administration, in coordination with the Port Authority, agrees to use the Greenstreets Program to green the "canoe" traffic island on the north side of West 36th Street, between 9th Avenue and the Lincoln Tunnel Expressway, subject to and in accordance with the following:

i. The Administration will allocate new funding to the Greenstreets Program for this greening;

ii. The Parks Dept, DOT and the Port Authority will work together to establish a plan to address greening, sidewalk and safety requirements;

iii. The nature and extent of the greening will depend upon subsurface conditions, including utilities, and infrastructure issues

at or adjacent to the canoe traffic island, which will be examined as part of the planning process;

- iv. DOT will relocate the NYPD vehicles currently parked on this island; and,
- v. The Administration will use all reasonable efforts to expedite the implementation of these plans.

(iv) **Sidewalk ADA Compliance:** The Administration agrees to work with the Port Authority to improve sidewalks along Dyer Avenue, between West 34th and West 36th Streets in order to upgrade to ADA standards, subject to any public safety concerns identified by either the Administration or the Port Authority with respect to any particular location. The Administration will use all reasonable efforts to achieve these upgrades.

(d) **DEP Open Space Funding:**

- (i) Provided that the open space proposed for the site currently occupied by DEP at 10th Avenue, between West 48th Street and West 49th Street is not mapped as park land, upon completion of Water Tunnel No. 3 DEP will fund the design of the open space and will make a capital contribution to the construction of the open space.
- (ii) DEP will not be responsible for making any contributions to the maintenance or operation of the proposed open space. A maintenance and operations plan will be created as part of the design process.

The proposed open space is identified on the map annexed hereto as Exhibit 4 as that area occupying the northeast corner of the DEP site, bounded to the north by West 49th Street, to the east by 10th Avenue, to the south by the horizontal line demarking the "Fenced Area For DEP Operations" and to the west by the solid black line identified in the map legend as an "Easement Line" and running in a north to south direction.

At an appropriate time following completion of Water Tunnel No. 3, a metes and bounds survey will be conducted to establish the boundaries of the proposed open space consistent with the description of the open space boundaries contained in the map annexed hereto as Exhibit 4.

7. DAY CARE COMMITMENTS

Related agrees to provide the Administration for Children's Services ("ACS") with additional opportunities to exercise the option for 10,000 square feet of ground floor space suitable for use as a child care center. Under Section 3.04(c) of the Declaration, as modified by the City Council, ACS may trigger the requirement for Related to offer space following the issuance of a TCO or PCO for any new building on the WRY

containing residential rental units. In that event, Related shall offer space located either in a new building on the WRY or at a nearby off-site location, provided that Related shall have no obligation to offer space in new buildings on the WRY other than Sites 1, 2 and 4. In the event that ACS accepts a space at an off-site location, Related shall have no further obligations under Section 3.04 to offer space, whether on or off site.

8. FIRE PROTECTION ASSESSMENT COMMITMENTS

To address the potential need for new Fire Department (“FDNY”) facilities in the Hudson Yards district, if the City Council requests in 2014, the FDNY will commence a review of the fire protection needs of the district beginning January 1, 2015, and at the City Council's request every five years thereafter, until such time as all projected development has been completed.

9. ZR SECTION 93-06 AND RESTRICTIVE DECLARATION

(a) Modification of ZR Section 93-06: Under Section 93-06 of the Zoning Resolution, as modified by the City Council, the execution and recordation of a Restrictive Declaration including the modifications described in (b)- (e) below shall be required for any development or enlargement on the WRY pursuant to the zoning amendments.

(b) City Council Approval of Modifications: Under Section 4.04 of the Declaration, as modified by the City Council, any future modifications to the provisions of the Declaration pertaining to Affordable Housing (Sec. 2.01); Public Access Areas (Sec. 2.02 (a)-(e) and (h)); Arts and Cultural Space (Sec. 2.04); the Public School, Open Space, and Day Care Mitigations (Sec. 3.04 (a)-(c)), Modification and Amendment (Sec. 4.04(a)), and the Construction Consultation Process Committee and Liaison (Sec. 6.01), that would diminish or alter the obligations of Related, shall be subject to the approval of the City Council.

(c) Independent Monitor: Under Sections 3.07(a) and 6.01 of the Declaration, as modified by the City Council, the Independent Monitor shall prepare a quarterly report summary of activities for distribution to any Construction Consultation Process Committee established under Section 6.01 of the Declaration.

(d) Wind Analyses: Under Section 3.02(c) of the Declaration, as modified by the City Council, Related agrees to provide copies of all final Wind Conditions Reports to Manhattan Community Board 4, the local Council Member, the Manhattan Borough President, and any Construction Consultation Process Committee established pursuant to Section 6.01 of the Declaration.

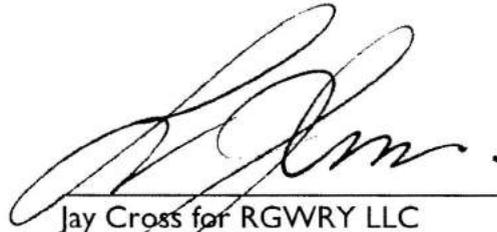
(e) Construction Consultation Process Committee: Under Section 6.01 of the Declaration, as modified by the City Council, Related agrees that, upon request of the Construction Consultation Process Committee, Related's designated liaison shall address, on a regular basis, the questions and concerns of the Committee about construction related issues beginning at the time of issuance of the first Foundation Permit for a New Building on the WRY.

10. LANDMARKS

The Landmarks Preservation Commission ("LPC") will conduct a preliminary review of the historic districts proposed by CB4 in their letter dated November 20, 2009 and annexed hereto as Exhibit 5, by the end of Fiscal Year 2010. During that period the LPC will also complete an evaluation of the 11 sites proposed for landmark designation by CB 4 in their letter dated November 20, 2009 and annexed hereto as Exhibit 6, to determine whether they should be considered further for landmark status.



Robert C. Lieber for the City of New York
(with respect to Points of Agreement
Sections: 1, 3 (a) – (f), 4 (b), 6 (c) & (d),
8, and 10)



Jay Cross for RGWRY LLC
(with respect to Points of Agreement
Sections: 2, 3 (g) & (h), 4 (a) & (b), 5,
6 (a) & (b), and 7)

ATTACHMENT C

LETTER TO COMMISSIONER BURDEN



CITY OF NEW YORK

MANHATTAN COMMUNITY BOARD FOUR

330 West 42nd Street, 26th floor New York, NY 10036
tel: 212-736-4536 fax: 212-947-9512
www.ManhattanCB4.org

John Weis
Chair

ROBERT J. BENFATTO, JR., ESQ.
District Manager

July 27, 2009

Director Amanda M. Burden
Department of City Planning
22 Reade Street
New York, New York 10007

**Re: ULURP Nos. 090422HAM, N090429ZRM, 090423HAM and 090430ZMM
West 48th and 49th Streets, west of 10th Avenue and 806 Ninth Avenue
Off-site Affordable Housing sites a/k/a DEP site and MTA site, respectively**

Dear Director Burden:

At the recommendation of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board 4 (CB4), having held a duly noticed public hearing on ULURP application numbers 090422HAM, N090429ZRM, 090423HAM and 090430ZMM adopted the following resolution by roll call vote at its meeting on July 22, 2009 with 23 in favor, 10 opposed, 0 abstaining and 1 present but not eligible to vote). The resolution recommends **denial** of each Application **unless certain conditions are met**.

OVERVIEW

The above applications contemplate the disposition, zoning text and map changes, and zoning map changes relating to two off-site affordable housing developments, at 806 Ninth Avenue and West 48th Street and West 49th Street, west of Tenth Avenue. These Off-site Actions ("Off-site Actions") are related actions to the larger proposed redevelopment ("Proposed Actions") of the Western Rail Yards ("WRY"), located from West 30th Street to West 33rd Street between 11th and 12th Avenues.

Both sites are located in the Special Clinton District ("SCD") and are publicly-controlled by the Department of Environment Protection ("DEP") and the Metropolitan Transit Authority ("MTA") respectively. The off-site affordable housing development sites were identified in a Memorandum of Understanding ("MTA MOU") between the Metropolitan Transportation Authority ("MTA") and the Mayor of the City of New York dated July 11th, 2007. The goals of MTA MOU were acknowledged in a letter from Councilmember Quinn to the Deputy Mayor Dan Doctoroff also dated July 11th, 2007 (Attachments A and B).

The Proposed Actions include the adoption of zoning map and text amendments to the New York City Zoning Resolution ("ZR") and related land use action to permit the

development of the WRY as a mixed-use community with new commercial, residential and open space, including approximately:

- 5.7 million square feet of total development;
- 1.14 million square feet of commercial space;
- 4.56 million square feet of residential;

The resultant changes will encompass, *inter alia*, zoning map and text amendments and accessory parking special permits pursuant to ULURP; the leasing of, with option to purchase, development rights over the WRY, establishment of new legal grades on West 33rd Street between 11th and 12th Avenues; site selection by NYC School Construction Authority (“SCA”) for an elementary/intermediate public school; and the disposition and construction of two off-site affordable housing buildings, the subject of the above referenced ULURP applications.

GENERAL COMMENTS

At the outset, Manhattan Community Board 4 (“CB4”) celebrates its economic diversity and welcomes development of affordable housing for all income levels. However, the development of the two off-site affordable projects has been the subject of an ongoing spirited debate within the community with widespread community consensus against that part of the special permit seeking height increases beyond what is now permitted within the SCD.

The applications for these two publicly owned sites, located between West 48th and West 49th Street west of Tenth Avenue (“DEP Site”) and 806 Ninth Avenue (“MTA Site”), contemplate the construction of a combined 312 affordable units. While the Off-site Actions are currently limited to a zoning text and district map amendment and a zoning map amendment, the ultimate development of these sites is predicated upon future land use actions.

DEP Site

Current Actions

- 1) Disposition of City Owned Property and UDAAP designation for Manhattan Block 1077, Lot 29 for development as affordable housing.
- 2) Text Amendment to the Special Clinton District Map to map Other Area on Block 1077, Lot 29 to facilitate the development of the site as affordable housing.

Future Actions

- 3) The request for the grant of a Special Permit pursuant to ZR § 96-104 to increase the height from 66 feet to 99 feet.
- 4) The request for the grant of a Special Permit pursuant to ZR § 74-681 to build over the below grade Amtrak railroad right of way.

MTA Site

Current Actions

- 5) Disposition of City Owned Property and UDAAP designation for Manhattan Block 1044, Lot 3 for development as affordable housing.
- 6) Zoning Map Amendment on Block 1044, Lot 3, to include a C1-5 overlay to facilitate the development of the site as affordable housing.

Future Actions

- 7) The request for the grant of a Special Permit pursuant to ZR § 96-104 to increase the height from 85 feet (as-of-right) to 115 feet along Ninth Avenue at the MTA site.
- 8) The request for the grant of a Special Permit for General Large Scale Development on the MTA site to facilitate the development of the site as affordable housing.

Community members were outspoken against granting any Special Permits pursuant to ZR § 96-104 in the Preservation Area of the SCD. Such a Special Permit would allow developments in the midblock a maximum height of 99 feet from the as of right height of 66 feet, and developments on the avenues up to 115 feet from the as of right height of 85 feet. Community members were very wary of granting such permits given the strong commitment to preserve both the existing fabric of the community and overall quality of life. In the 38-year history of the SCD, only two such applications have been approved in the Preservation Area.¹ Both of these applications were opposed by CB4 as neither successfully argued that the public benefit outweighed the goals of the SCD in preserving its unique residential character.

At the same time however, the community supports the proposed housing programs for each site and welcomes securing affordable housing for the hard-to-reach 80%/125%/165% AMI (moderate and middle income) bands (Attachment C). However, many residents believe that these projects should proceed at the as-of-right heights of 66 feet and 85 feet respectively. Instead of granting the Special Permit pursuant to ZR § 96-104 to allow the requested increased height on these buildings as proposed, the community would like to see more affordable housing incorporated on-site at the WRY.

Although CB4 has previously taken a position to support Special Permits at these sites (Attachment D), our current position has now been modified to reflect the goal to balance the community's need to maximize affordable housing while at the same time preserve the residential and low-rise character of our neighborhood.

The off-site development of affordable units as mitigation for the WRY cannot take the place of a realistic plan to develop affordable units as part of the on-site development. CB4 is emphatic in its desire to see that this project integrates units affordable to those of low, moderate, and middle incomes. The WRY on-site plan must also include a firm commitment that at least 20% of all on-site residential units be developed as affordable, in perpetuity.

¹ 360 West 43rd Street and 404 West 54th Street

AFFORDABLE HOUSING

The Need for a Commitment to a Comprehensive Affordable Housing Plan.

CB4 has strongly articulated a policy for future housing growth affordable to a full range of incomes. We cannot and will not support any WRY development plan that does not provide the amount and type of permanent affordable housing the community needs to retain its diversity. We disagree with the DEIS conclusion that “*the Proposed Actions would not significantly alter or substantially accelerate the study area’s long-term trend toward increasing residential development, affluence and residential desirability.*” The City should be mitigating the market trend through public policy initiatives and commitment of resources to ensure affordability for all New Yorkers, not just those with the highest incomes. The Proposed Actions present an opportunity to mitigate and balance that trend to promote inclusiveness for all New Yorkers, not to rationalize creating a high income exclusive community on the Westside. The construction of a great number of market-rate housing units balanced only by the small number of low-income housing that may be created under existing programs, e.g., 80/20 and inclusionary bonuses, does not achieve the community’s goal and is unacceptable.

CB4 has consistently advocated that 30% of the residential development on this public site known as the WRY must be allocated to permanent affordable housing for low-, moderate- and middle-income families. This message was strongly reinforced by the community’s comments in reviewing each of the proposals by the respondents to the Request for Proposal’s (“RFP”). The New York Times concurs with this position and ran an editorial in March 2008 identifying the need for more affordable housing on the Far West Side. (Attachment E) Yet the RFPs required only that any rental housing be built using New York State Housing Finance Agency’s (“HFA”) 80/20 program. Condominium or cooperative units are exempt from any affordable housing requirement, and none of the rental units are required to be permanently affordable.

Public land is one of the few places where government can require that development address the housing needs of a broad range of New Yorkers. ***The WRY is the largest publicly owned development site left in Manhattan.*** While the MTA has a corporate responsibility to maximize the value it gets for the property, it is also a public entity; it is appropriate that the MTA’s drive for financial gain be tempered by standards of public responsibility that would not apply to either a privately held corporation or a private land owner.

It is astounding that between 6,000,000 to 7,000,000 square feet will be developed for market-rate and commercial interest in the WRY, yet a just and adequate plan has not yet been fully developed to provide permanent affordable housing for New Yorkers of all incomes, particularly at a time when the need for affordable housing is so critical. CB4 cannot support the Proposed Actions in the absence of a permanent and realistic affordable housing program.

The DEIS states that only 379-390 units out of a total of 4,624 to 5,762 residential units will be affordable. How can this number be considered inclusive? It is simply unacceptable. Furthermore, the temporarily affordable units will only be for those households earning <60% AMI, with no provisions for moderate and middle income families. Such a mix will create a polarized household income range on the WRY and exclude moderate and middle income households, the backbone of our city.

After many productive discussions during the 2005 Hudson Yards rezoning process, the City and CB4 were able to achieve 28% permanent affordability that included provisions for production of moderate income housing through both a modified Inclusionary Housing Bonus and development of off-site publicly-owned land. Although the WRY proposal includes a special on-site Inclusionary Bonus, given the inherent difficult site conditions - with the extreme density proposed on such a limited lot area, CB4 is doubtful the development team will be able to access that housing bonus. CB4 appreciates and welcomes the proposed off-site moderate and middle income developments with a projected 312 affordable apartments. ***However, the plan for the WRY, even including those moderate and middle income off-site affordable developments, falls far short of the commitment achieved in the Hudson Yards rezoning with less than 4.5% of the square feet dedicated for the development of permanently affordable apartments.***

Moreover, this new neighborhood will not be a healthy neighborhood unless it includes the broadly diverse population that is this City's hallmark. CB4's response and comments to the proposed off-site housing at the DEP site, 505 West 48th Street, and the MTA site, 806 Ninth Avenue, are in our related letter.

REQUESTS FOR AFFORDABLE HOUSING MITIGATION

1. *Not less than 20% of all residential units constructed on-site in the WRY must be permanently affordable.*²
2. *Identify additional publicly owned off-site affordable housing sites in CB4 for either construction or preservation of permanently affordable housing to achieve an overall goal of 30% affordability in the WRY development. Commit the use of this existing publicly owned land to develop and construct affordable housing (Attachments F and G). In particular, CB4 recommends the sites below for consideration:*
 - 136 West 20th Street (DSNY)
 - 415 West 40th Street (PANY/NJ)
3. *Preserve existing affordable housing within CB4 subject to subsidy expiration. (Attachment H) Specifically, those properties currently owned by the applicant, RG WRY LLC, an affiliate of The Related Companies:*

² Permanently affordable shall mean that apartments are so designated by deed restriction, regulatory agreement or other legal instrument and may not be converted to market rate units after a given expiration date of a mortgage, tax incentive or any other government program. These specific units shall remain affordable in perpetuity.

- 425 West 48th Street
 - 525 West 47th Street
4. *Establish a dedicated fund within existing resources to preserve Single Room Occupancy units in CB4 as mitigation of the anticipated loss of SRO units as a result of the Proposed Actions.* (Attachment I) There are over 1000 SRO units noted to be at risk in the WRY study area, CB4 requests preservation of existing SRO housing with at least a 60% community resident requirement.
 5. *Implement the 2005 commitments to apply the Demolition Restrictions of the SCD in both the Hudson Yards Special District and West Chelsea Special District to preserve existing housing.*
 6. *Conversion over time of on-site low income units to moderate and middle income units.* At the expiration of affordability restrictions for the on-site affordable units built under the 80/20 financing program and upon the vacancy of the tenant and legal successor(s), make those units permanently affordable to households tenants with a range of moderate and middle incomes as follows:
 - 20% of the affordable units shall be available to people with incomes up to 80% of the Area Median Income (AMI);
 - 50% of the affordable units shall be available to people with incomes up to 125% of AMI; and
 - 30% of affordable units shall be available to people with incomes up to 165% of AMI.

Accomplish this conversion overtime through deed restriction and regulatory agreement to supplement the bond covenants, similar to the extended use restrictions on Low Income Housing Tax Credit developments.

7. *Affordable housing distribution within mixed income developments.* Eighty% of the floors of any mixed income building should have at least one affordable unit and there should be no more than 33% affordable units on any floor.
8. *Affordable housing must become available to the real estate market at a similar rate to the market rate housing.* The Restrictive Declaration should model such language from the existing Restrictive Declaration used in the Riverside South development in the West 60's.
9. *Developments of affordable housing on- or off-site units should require of at least 50% two-bedroom or greater units.*
10. *The administering agent should be an independent non-profit organization.*

THE ULURP APPLICATIONS

In light of the above enumerated concerns, CB4 has carefully reviewed these ULURP applications; our comments and recommendations follow.

1) ULURP No. 090422HAM--Disposition of City Owned Property and UDAAP designation for Manhattan Block 1077, Lot 29 for development as affordable housing (DEP Site)

CB4 recommends denial of the City Owned Property and UDAAP designation for Manhattan Block 1077, Lot 29 for development as affordable housing (DEP Site) ULURP No. 090422HAM, unless the following conditions are met:

The Affordable Housing Component

- A restrictive declaration be filed that restricts development of the site for affordable housing in perpetuity as follows:
 - 20% of the units be affordable to those earning 80% Area Median Income;
 - 40% of the units be affordable to those earning 125% Area Median Income; and
 - 40% of the units be affordable to those earning 165% Area Median Income.
- At least 50% of the developed units must be family-sized i.e. two bedrooms or larger.
- A permanent easement is granted for unobstructed light and air from the DEP water access tunnel site to the east. Because of the peculiarities of this development site, fronted by a park and/or undeveloped DEP water tunnel access along its eastern border and being situated over the railroad cut, CB4 is not opposed to a future special permit to reduce the lot coverage requirement and to reduce the rear yard depth. However, light and air, including operational windows along the eastern façade cannot be obstructed by the DEP water tunnel structures or subsequent security measures.
- Any future action at this site for a Special Permit pursuant to ZR § 96-104, seeking to increase building height, must not exceed a proposed 76 feet total in height. CB4 arrived at the 76 foot height limitation as a compromise between the City and the strongly held principles of community residents who care deeply about both maximizing affordable housing opportunities while preserving the residential, low-rise character of the neighborhood (Attachment J).
- No retail and/or commercial use shall be included in the development. The community strongly opposes the proposed use to include street level retail on West 49th Street. Retail commercial uses on the residential side streets are a growing problem now exacerbating an already problematic bar/club use on residential blocks, which is negatively impacting the character of the neighborhood.
- DEP release the portion of the site not being used by DEP (that portion over the rail cut and a strip of terra firma to the west) by 2010 in order to allow affordable housing development to proceed prior to 2013.

- The City’s prior commitment to use public funds to develop this project must be codified in a Follow-Up Corrective Actions (“FUCA”) memorandum of understanding that is executed simultaneously with the rezoning action for the WRY.
- A restrictive declaration be filed stating that the site cannot generate an inclusionary housing bonus or be used to satisfy the SCD District Harassment Cure requirements pursuant to ZR § 96-110.
- Comfort stations for public use in conjunction with the DEP open space be included in the affordable housing development. and
- The RFPs to select a developer for this site be developed in consultation with CB4.

The Open Space Component

Finally, as part of a negotiated agreement between the City, DEP and CB4, the area immediately east of the affordable housing site shall be developed as open space and shall be used as a park with programming for young children. Currently, CB4 ranks 58th among 59 Community Districts throughout the city.

More than a decade ago, the use of the land fronting Tenth Avenue between West 48th and 49th Streets was committed for public open space. In the Negative Declaration dated May 25, 1993, DEP assured CB4 that the site was “to be used for occasional tunnel maintenance and that shaft would be 5 feet by 3 feet with a 14 inch diameter” (Attachment K). By letters dated February 28, 2005 from Adrian Benepe of the New York City Department of Parks (“NYCDP”) and dated September 7, 2006 by Deputy Commissioner Alfonso R. Lopez from DEP to Manhattan Borough President Scott Stringer (Attachments L and M), both city agencies restated their commitment for public open space on the balance of this site. At that point, even the area that DEP needed for access was intended to be accessible to the public as a park extension. ***We learned only late last week , on July 16th, 2009, that the West 49th Street site is now intended to serve as the main west side access point to the water tunnel and that security and maintenance needs will result in the full half-block being paved and fenced and that ownership will remain with DEP; therefore:***

- Resolution of the exact dimensions of the publicly-accessible open space in relation to the portion of the site needed by DEP for access to the water tunnel, **must be codified in writing by DEP.**
- A clear written timeline for acquisition and development of this open space must be included in the overall WRY development plan and **be codified in writing by DEP.**
- The identification by the Mayor’s office of a DEP or other agency controlled site for replacement open space to be located within a sub-area of CB4 (West 34th to West 57th Streets and West of 8th Avenue), equal to that open space lost due to

DEP's expanded site usage for water tunnel maintenance ((currently approximated at 120 by 200 feet in dimension).

- A written commitment from DEP for the hiring of a landscape architect to plan the landscaping and use of both the undisputed northern portion of open space and the southern portion maintenance area. A further written commitment for the funding of such open space improvements with the agreement to continue to include CB4 and the surrounding community in its development process.

2) ULURP No. N090429ZRM--Text Amendment to the Special Clinton District Map to map Other Area on Block 1077, Lot 29 to facilitate the development of the site as affordable housing

The proposed Zoning Text Amendment seeks to move the boundaries of the Preservation Area of the SCD to the east so that the proposed development falls within the Other Area, which has less stringent rear yard requirements and overall greater lot coverage. This proposed action, reducing the Preservation Area, is in direct contravention with CB4's longstanding policy to expand the Preservation Area. It is also inconsistent with the Department of City Planning's ("DCP") own framework for the 11th Avenue Rezoning that will extend the boundaries of the Preservation Area westward to within 100 feet of 11th Avenue.

This site is unique. It is situated over a rail cut with open space and the DEP access for the water tunnel extends the full length of its eastern façade. The proposed building form makes best use of the site, maximizes the number of affordable units, and has adequate light and air, given the open space to the east. However, we strongly believe that the regulations are best modified through text amendments governing rear yard requirements and permitting greater lot coverage.

CB4 recommends denial of the Zoning Text Amendment for Manhattan Block 1077, Lot 29 (DEP Site) for development as affordable housing), ULURP No. N090429ZRM, unless the following conditions are met:

- The boundaries of the Preservation Area are not changed and that modifications as necessary to expand both rear yard requirements and lot coverage are accomplished through subsequent text amendments.

3) ULURP No. 090423HAM, Disposition of City Owned Property and UDAAP designation for Manhattan Block 1044, Lot 3 for development as affordable housing (MTA Site)

CB4 recommends denial of the City Owned Property and UDAAP designation for Manhattan Block 1044, Lot 3 for development as affordable housing (MTA Site) ULURP No. 090423HAM, unless the following conditions are met:

- A restrictive declaration be filed that restricts development of the site for affordable housing, in perpetuity, as follows:
 - 20% of the units be affordable to those earning 80% Area Median Income;
 - 40% of the units be affordable to those earning 125% Area Median Income; and
 - 40% of the units be affordable to those earning 165% Area Median Income;
- At least 50% of the units developed must be family-sized i.e. two bedrooms or larger.
- The elimination of the 30,000 square feet reserved for the MTA office/training space; additional MTA needs can be accommodated at the existing MTA Control Center (“Control Center”) to the east or on the 7,000,000 square feet to be developed on-site at the WRY. It is outrageous to expect MTA needs to be accommodated within the small lot area dedicated to affordable housing.
- Any future action at this site for a Special Permit pursuant to ZR § 96-104, seeking to increase building height, must maintain a building height of 85 feet along Ninth Avenue frontage, and on West 54th Street, beginning 50 feet east of Ninth Avenue and through the midblock backing against the existing MTA Control Center, the building height must be no greater than 99 feet. CB4 arrived at the 85 and 99 foot height limits at this site as a compromise between the City and strongly held principles of community residents who care deeply about both maximizing affordable housing opportunities while preserving the residential, low-rise character of the neighborhood (Attachment N).
- Eliminate the 15 MTA parking spaces planned for the site.
- ***MTA release the city owned site from the NYCTA master lease upon approval of the WRY ULURP by the City Council, not a release contingent upon construction start at the WRY.*** The off-site housing is mitigation under the DEIS for the Proposed Actions, namely the rezoning from an FAR of 2.0 to an FAR of 10.0. Therefore, when the zoning is approved the mitigation is required.
- The RFP to select a developer for this site be developed in consultation with CB4.
- The City’s prior commitment of public financing to develop this project be codified in a FUCA memorandum of understanding that is executed simultaneously with the rezoning action for the WRY.
- A restrictive declaration be filed stating that the site cannot generate an inclusionary housing bonus or be used to satisfy the CSD District Harassment Cure requirements pursuant to ZR § 96-110.
- The designation of two potential landmarks identified in the WRY DEIS: (Attachments O, P and Q)
 - *St. Benedict the Moor Church, 342 West 53rd Street* – NYCL- and S/NR-eligible: Erected in 1869 and designed by R.C. McLane & Sons, the church has seen various congregations and parishioners over its more than 100-year history, yet most famously served as the first black Roman Catholic Church north of the Mason Dixon line. In 1921, due to African American migration to the north, the congregation moved to Harlem and the church was reassigned to the Spanish Order of Franciscans in 1954 who have occupied the site ever since. The church stands as a vestige of

the days when the neighborhood of Clinton/Hell's Kitchen was a thriving African-American neighborhood.

- *Tenement Blockfront (781-795 9th Avenue)* – S/NR-eligible
This collection of Hell's Kitchen tenements serves as a reminder of the late 19th century residential character of Ninth Avenue. The Renaissance-inspired stone, brick, terra cotta, and metal ornamentation and largely extant cornices present a valuable collection of tenement architecture.

4) ULURP No. 090430ZMM—Zoning Map Amendment to Block 1044, Lot 3, to include a C1-5 overlay to facilitate the development of the site as affordable housing

This requested Zoning Map change seeks to cover the entire zoning lot with a C1-5 overlay thus permitting a future action that will include a Large Scale Development Plan reducing rear yard requirements and relaxing lot coverage restrictions. Similar to the DEP site, we believe that the proposed building form makes best use of the site, maximizes the number of affordable units and has adequate light and air. However, we are concerned by the wider latitude granted to a developer in a Large Scale Development Plan and the unforeseen consequences. In the history of the SCD, a Large Scale Development plan has never been used. To permit one now on this site would set a precedent for the entire Special District. Similar to the DEP site, we strongly believe that the rear yard and lot coverage regulations are best modified through text amendments.

This proposed action also anticipates a future action for a Special Permit to increase the building height along Ninth Avenue to 115 feet. At the conclusion of the well attended and very engaged public debates on the two off-site developments, we delicately balanced the concerns of the community and arrived at an overall compromise to maximize the affordable units and to preserve community character.

Accordingly, CB4 recommends denial of Zoning Map Amendment ULURP No. 090430 ZMM, unless the following conditions are met:

- C1-5 map amendment covering the entire zoning lot be denied; the City and/or future developers commit to not filing a Large Scale Residential Plan for the site and instead accomplish desired modifications as necessary to rear yard requirements and lot coverage through subsequent text amendments. If a C1-5 map amendment is approved against our objections then the commercial FAR be limited to one (1) FAR.

NOW, THEREFORE, BE IT RESOLVED that Manhattan Community Board 4 recommends denial of **ULURP Nos. N 090429ZRM, 090430ZMM, N090423HAM, 090422HAM** unless the above enumerated conditions are met.

Sincerely,



John Weis, Chair
Manhattan Community Board 4

Elisa Gerontianos, Chair
Clinton/Hell's Kitchen Land Use Committee



Joe Restuccia, Co-Chair
Housing Health and Human
Services Committee

Sarah Desmond
Housing Health and Human
Services Committee

ATTACHMENTS

- A. MTA Memorandum of Understanding, dated July 11, 2007
- B. July 11th, 2007 letter from Councilmember Quinn to the Deputy Mayor Dan Doctoroff
- C. AMI Income Chart
- D. October 14, 2008 letter from CB4 to the New York City Planning Commission
- E. New York Times, "Finally, A Vision for the West Side", March 28, 2008
- F. Map of Publicly Owned Land in CB4: Potential Affordable Housing Sites North of 35th Street
- G. Map of Publicly Owned Land in CB4: Potential Affordable Housing Sites South of 35th Street
- H. Map of Existing Affordable Housing in CB4 Subject to Expiration
- I. Table of SROs in CB4
- J. CB4 recommended massing of DEP Site
- K. May 25, 1993 DEP Negative Declaration
- L. February 28, 2005 letter New York City Department of Parks to CB4
- M. September 7, 2006 letter from DEP to Manhattan Borough President Scott Stringer
- N. CB4 recommended massing of MTA Site
- O. Proposed Individual Landmarks Map
- P. Proposed Individual Landmarks Table
- Q. Proposed Individual Landmarks Photos

CITY OF NEW YORK

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Burt Lazarin
Chair

Jesse Bodine
District Manager

August 7, 2018

Maria Torres-Springer
Commissioner
NYC Department of Housing Preservation & Development
100 Gold Street
New York, NY 10038

**Re: Clinton/Hell's Kitchen RFP
DEP (705 Tenth Avenue) and MTA (806 Ninth Avenue)
Affordable Housing Sites**

Dear Commissioner Torres-Springer,

At its July 11, 2018 meeting, the Clinton/Hell's Kitchen Land Use Committee of Manhattan Community Board 4 (MCB4) discussed the addendums issued to the Clinton/Hell's Kitchen RFP. The RFP was released by the Department of Housing Preservation and Development (HPD) on April 9, 2018, and outlines the requirements for creating affordable housing on publicly-owned sites. The first site is a Metropolitan Transportation Authority site at 806 Ninth Avenue between West 53rd and West 54th Streets ("MTA Site"). The second site is the Department of Environmental Protection site at 705 Tenth Avenue between West 48th and West 49th Streets ("DEP Site"). The City committed to developing both sites as affordable housing as part of the Western Rail Yards Points of Agreement (WRY POA) on December 10, 2009.

On July 25, 2018, following the counsel of its Clinton/Hell's Kitchen Land Use Committee, Manhattan Community Board 4 by 28 in favor, 0 opposed, 0 abstaining, and 1 present but not eligible, voted to recommend that HPD work with RFP respondents to produce a development plan that will reflect the information outlined below.

Background

The MTA Site, located at 806 Ninth Avenue between West 53rd Street and West 54th Street, was formerly a bus depot built in 1906. It was demolished in 1996. The site is currently a vacant lot.

The DEP site, at 705 Tenth Avenue, between West 48th Street and West 49th Street, is a Third Water Tunnel Access Shaft site. As of October 2016, the site has been vacated. DEP is now working with the City to allow for the development of affordable housing by HPD and public open space to be designed and maintained by the New York City Department of Parks and Recreation on the site.

Both sites are located within the Special Clinton District — a special district “created to preserve and strengthen the residential character of a community bordering Midtown, maintain a broad mix of incomes, and insure the community is not adversely affected by new development”¹. The community and MCB4 have long worked toward the goal of preserving affordability through restrictions on residential demolitions as well as planning for the development of new affordable units.

The RFP was released on April 9, 2018 and has had three addendums issued to date:

- Addendum 1 – issued May 30, 2018
- Addendum 2 – issued June 12, 2018
- Addendum 3 – issued July 5, 2018

The addendums are intended to assemble the most frequently asked questions about the RFP and provide clear answers so all respondents have the same information. However, upon reviewing the addendums, MCB4 found several issues, including inconsistencies with the Western Rail Yards Points of Agreement and other commitments previously made by HPD.

Responses to the RFP were due on July 13, 2018.

Single Developer

In its first Addendum, HPD stated that it is “open to selecting one development team for both sites,” adding that “[i]f different teams have the top proposal for each site, HPD may select more than one development team.

The Board has consistently stated its preference for a single developer. This requirement will make the construction management and engagement with the community more efficient from the community’s perspective.

No Supportive Housing in Either Site

In Question 11 in Addendum 1, HPD suggested that supportive sites could be included in either site.

MCB4 requests that no supportive housing be included in these sites. The Community District has a great degree of supportive housing in the area. These buildings total 1,860 units².

¹ [Department of City Planning](#)

² See Attachment A: Supportive Housing in MCD4

The Board welcomes supportive housing in our community. However, these sites have long been envisioned as providers of affordable apartments for families at 80% to 165% of the Area Median Income.

Project Costs for MTA Site – 806 Ninth Avenue

HPD has set forth the following requirements for the MTA Site:

- Walls separating the MTA garage from other uses must be blast resistant
- Walls separating MTA office space from other uses must be blast resistant
- All MTA uses, with the exception of parking, must be above grade
- Separate egress must be provided to the MTA office space
- Separate egress must be provided to the MTA garage
- MTA must have separate mechanical systems, with a preference for a separate entrance for MTA

Collectively, these requirements will result in a cost burden for the project. The Board requests that HPD work to develop economical solutions to ensure that MTA's needs are met and that the development of affordable housing on the site is not hindered by these requirements.

Lot line windows at DEP Site

In its first Addendum, Question 49 provides a link to a DOB bulletin regarding lot line openings in lieu of stating that the windows on the eastern side of the DEP Site will not be considered lot line windows due to the required open space to the east.

MCB4 requests that HPD clarify with all potential developers that the windows on the eastern portion of the site are not lot line windows.

Parking at DEP Site

In Question 51 in Addendum 1, HPD stated that parking can be included in the DEP Site.

The Board requests that the site not include parking, especially since there will be a minimal cellar and FAR should be used for residential space.

Streetwall

In Question 40 in Addendum 1, HPD noted that the louvers for the MTA site must be approximately 40 feet above grade.

MCB4 would like to note that the proposed building will be required to have a height of 85 feet along the Ninth Avenue frontage and of 99 feet on West 54th Street, beginning 50 feet east of Ninth Avenue and through the midblock. Per Section 96-332 of the Zoning Resolution, the streetwall on the eastern portion of the site must be a minimum of 50 feet. A design for the louvers will have to take these requirements into consideration.

Other Issues

HPD must make it clear that any specifications outlined in the WRY POA are further conditions to the zoning requirements. Although Adendum 2 does state that this is the case with respect to bulk regulations, HPD should continue to make it clear to potential developers that *all* of the details in the WRY POA must be complied with.

Conclusion

MCB4 thanks HPD for its long and productive engagement with MCB4 on these important affordable housing developments. We look forward to working with HPD and with the developer to ensure that these projects honor the commitments made in the Western Rail Yards Points of Agreement.

Sincerely,



Burt Lazarin
Chair
Manhattan Community Board 4



Jean-Daniel Noland
Chair
Clinton/Hell's Kitchen Land Use Committee

Enclosure

Cc: Hon. Jerry Nadler, U.S. Congress
Hon. Brad Hoylman, New York State Senate
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Richard Gottfried, New York State Assembly
Hon. Linda Rosenthal, New York State Assembly
Hon. Corey Johnson, Speaker, New York City Council
Hon. Helen Rosenthal, City Council
Kevin Parris, Housing Preservation and Development
Zlata Kobzantsev, Housing Preservation and Development
Eunice Suh, Housing Preservation and Development
Lacey Tauber, Housing Preservation and Development
Annie White, Department of City Planning

ATTACHMENT A
Supportive Housing in MCD4

Street Address	Street Name	Development Name	Developer	Current # of Units
105	West 17th St.			18
226	West 20th	Volunteers of America		52
527	West 22nd St.	Flemister House		50
300	West 46th St.		CHDC	70
327	West 43rd St.		Project Return	6
347	West 37th St.		Fountain House	30
424	West 47th St.		Fountain House	15
441	West 47th St.		Fountain House	19
454	West 35th St.		CHDC	55
552	West 53rd St.		CHDC	53
351	West 42nd St.	Holland House	Project Renewal	300
155	West 22nd St.	St. Francis II	Franciscans	115
148	8th Ave.	St. Francis III	Franciscans	80
448	West 48th St.		Project Renewal	41
427	West 52nd St.	Covenant House		21
255	West 43rd St.	Times Square Hotel	Common Ground	652
516	West 50th St.	Postgraduate Center Community Residence I		21
521	West 49th St.	Clinton Family Inn	Homes for the Homeless	18
475	West 57th St.	The Aurora	Common Ground & The Actors Fund of America	178
502	West 42nd St.		CHDC	66

1,860



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LOWELL D. KERN
Chair

JESSE R. BODINE
District Manager

November 23, 2021

Louise Carroll, Commissioner
NYC Department of Housing Preservation and Development
100 Gold Street
New York, NY 10007

Re: MTA Site, 806 9th Ave Proposed Affordable Housing – The Lirio

Dear Commissioner Carroll,

The Proposed Project for the MTA Site Request for Proposal (“Application”) by New York City Housing and Preservation Department (“HPD”), Hudson Inc., and Housing Works for the development of the MTA Site, 806 9th Ave (the “Project”) located on the east side of 9th Avenue between 53rd and 54th Streets, was discussed at the September 30th, 2021 meeting of Manhattan Community Board 4’s (MCB4) Clinton / Hell’s Kitchen Land Use Committee. The proposed plan for building program, apartment distribution, AMI bands, and proposed land use actions were presented.

At its regularly scheduled full Board meeting on October 6th, 2021, MCB4 voted 33 in favor, 5 opposed, 4 abstaining and 1 present but not eligible to vote, **to firmly reject the current proposal.**

The proposal fundamentally violates:

1. **The 2009 Western Railyards Points of Agreement (WRYPOA)**¹ made with the Mayor’s Office, the City Council and the Related Companies regarding the development of Western Railyards, which committed to build affordable housing to mitigate the major upzoning of the Western Railyards, and the directive of HPD to locate moderate and middle-income housing on publicly-owned land, such as the MTA and DEP sites.

These locations were one component of an overall agreement to create low-, moderate-, and middle-income housing to mitigate the impacts of the Western

¹ [Western Railyards Rezoning Points of Agreement - executed December 10,2009](#)

Railyards Rezoning. For a total of 1,419 units, there are 1,032 low-income units (below 60% AMI) or 72.7% of total affordable units agreed to in the WRYPOA (see table in Appendix).

The applicant has taken compliance with certain terms of the 2009 agreement that work to their advantage, such as limiting additional height on the street portion of the development site, yet has chosen to ignore the most critical term of providing housing for moderate- and middle-income residents. This selective use of compliance with the Agreement is unacceptable.

2. **HPD's own 2018 RFP Process** which was described by the Commissioner of HPD as follows²:

“Through this RFP, we are making good on the promise of the Hudson Yards development plan and looking to generate dynamic proposals that will add to the fabric of the neighborhood and respond to the needs and priorities of the community.”

3. **Manhattan Community Board 4's Affordable Housing Plan**³, which aims at maintaining diversity in our neighborhood, with various ranges of income for low, moderate, and middle-income families.
4. **The Department of City Planning's long-held land use collaboration with MCB4**, by proposing land use and zoning text changes, is more extensive than necessary to facilitate this project. These changes potentially present a direct threat to the residential zoning and character of the Special Clinton District. Further, these proposed land use and zoning text changes were communicated to MCB4 only one day before the public presentation.

Clearly something has gone very wrong in the development of this proposed project.

This September 30th, 2021 Committee meeting marked the first public discussion and hopefully the beginning of a process to re-establish trust and bring this project to fruition in a way that is ***balanced, community-driven***, and acceptable to the community at large, and as close as possible to the original commitment stated in the Western Railyards Points of Agreement. The Board looks forward to meeting with HPD to work towards MCB4's goal of fostering equitable, quality affordable housing that is economically integrated into our District.

Background

Site

The MTA Site, a former bus depot that was demolished in 1996, is currently a vacant lot used for MTA employee parking. The MTA Site is in the Preservation Area of the Special Clinton District subject to that Area's protective height and bulk zoning text

² [Clinton/Hell's Kitchen RFP Press Release - April 9, 2018](#)

³ [MCB4 Affordable Housing Plan - revised September 2019](#)

restrictions. Its underlying zone is R8 with ground floor commercial overlay (C1-5). See Appendix for overall timeline of the proposed MTA Site Development.

Western Railyards Points of Agreement – MTA Site Requirements⁴

- Height cap of 85 ft on 9th Ave and 99 ft on midblock (via Special Permit)
- AMI mix of 165% or under
- 50% two or more bedroom units
- Permanent affordability
- HPD will share the program overview with MCB4 before releasing the RFPs for the off-site housing development
- Under the New York City Zoning Resolution Section 23-90, the site will not generate an Inclusionary Zoning bonus.

MCB4 Follow Up and Communication from HPD

In 2009, 806 9th Ave is included in the Western Railyards Points of Agreement, the City committed to developing 806 9th Avenue and 705 10th Avenue for moderate- and middle-income affordable housing.

In 2015, MCB4 created a comprehensive MCD4 district-wide Affordable Housing Plan⁵, in which the DEP and MTA Sites were included. That plan included a more exact proposed income mix for both the MTA and the DEP sites, with the Board writing in October 2015⁶ to then HPD Commissioner Vicki Been, requesting to begin discussions for the RFP.

In 2017, MCB4 further clarified its request⁷ for HPD's RFP of the proposed building to contain approximately 124 affordable units, with the permanently affordable units to serve a range of incomes: a mix of 165% AMI or under, with 20% of the units being 80% AMI, 40% being 125% AMI, and 40% being 165% AMI.

In February 2018, HPD made a public presentation to MCB4 regarding the MTA/DEP Sites. HPD stated that the RFP would now include a 15% homeless housing requirement. MCB4 understood that change and expressed the need and its preference for homeless family housing instead of single person households, in a letter dated March 15, 2018.⁸ At HPD's request, MCB4 developed a presentation of its site requirements, to be included

⁴ Page 3-4, [Western Railyards Rezoning Points of Agreement - executed December 10, 2009](#)

⁵ [MCB4 Affordable Housing Plan - revised September 2019](#)

⁶ [MCB4 Letter - October 7, 2015](#)

⁷ [MCB4 Letter - February 8, 2017](#)

⁸ [MCB4 Letter - March 15, 2018](#)

by reference and linked, in HPD's RFP⁹. In April 2018, the RFP was announced for 806 9th Avenue.

On August 7, 2018, MCB4 wrote to HPD regarding the addendums to RFP after it was issued between May 30th and July 5th, 2018.¹⁰ Specifically, in response to a developer question, HPD noted Supportive Housing could be included in the site. MCB4 requested no Supportive Housing be included as Manhattan Community District 4 had, at that time, 1,860 existing units of Supportive Housing.

In February 2019, MCB4 learned by press release that the MTA Site has been awarded by HPD for Supportive Housing development with a 60% majority of homeless apartments for single person households instead of a moderate and middle-income development with 15% set aside for homeless families.

On September 5, 2019, MCB4 met with City Council/Hudson/Housing Works re MTA Site.

On February 19, 2020, MCB4 had a follow up meeting with HPD/Developer re MTA Site.

On August 26, 2020, MCB4 leadership meets with Speaker Johnson, who requests MCB4 meet with Development team and to work out a compromise. MCB4 agrees, however, there is no communication or follow up from the Developer or HPD from August 2020 through early September 2021.

On August 18, 2021, MCB4 meets with Speaker Johnson staff & Manhattan Borough President's Office re MTA Site development.

On September 9, 2021, MCB4 has a briefing meeting on the project with HPD, Speaker Johnson staff & Manhattan Borough President's Office and the MTA Site Development Team re proposed development.

On September 29, 2021, MCB4 sent presentation by Developer for September 30th public meeting and learns of proposed full block rezoning from residential to commercial and creation of new Special Permit to modify lot coverage in the Preservation Area of the Clinton Special District.

On September 30, 2021, MCB4 has its first public meeting on the MTA Site at the CHKLU Committee.

⁹ [Clinton/Hell's Kitchen RFP - 2018](#)

¹⁰ [MCB4 Letter – August 7, 2018](#)

Current Proposal

The proposed Supportive Housing development of 112 apartments would serve homeless and low-income residents. 94 apartments, a majority of the development, are for low and very low-income households between 40 to 60% AMI (\$33,440 to \$64,440). The 17 remaining apartments would be for low-income households at 70 and 80% AMI (\$58,520 to \$85,920).

Further, 67 of 112 apartments are reserved for homeless households referred from the Department of Homeless Services' shelter system, with on-site case management by Housing Works.

The proposed development also includes 30,000 square feet of office space for the MTA, an MTA parking garage for emergency vehicles, and approximately 10,000 square feet of commercial space.

HPD Selection Process

The selection of this development is completely inconsistent with HPD's RFP, which sought to, in HPD's own words, from the HPD issued RFP:

- “Ensure that 100% of the residential units are affordable to a mix of household incomes and comply with HPD-HDC Term Sheets.¹¹”
- “Implement a development program that clearly addresses the Site and neighborhood context and considers Manhattan Community Board 4's recommendations.¹²”

It needs to be noted again, that MCB4 originally only learned of this major change in agreed upon housing program by press release in February 2019. In the Board's long relationship and history with HPD over multiple Mayoral administrations, never have the provisions of an RFP, which was carefully and fully negotiated with the Clinton/Hell's Kitchen community, been entirely ignored.

HPD's Changing Rationale for Ignoring its Own RFP & WRY Affordable Housing Commitments

In the past year, while not divulging any project details, HPD has presented the following rationales for eliminating the commitment to produce moderate- and middle-income housing at the MTA Site:

- “Supportive Housing is an important need for the City.”

¹¹ [Clinton/Hell's Kitchen RFP - 2018, page 11](#)

¹² [Ibid.](#)

MCB4 has supported this City-wide need by welcoming and approving over 2,043 beds of Supportive Housing (60% homeless) in 24 developments in MCD4. Additionally, in MCD4, there are 23 homeless shelters & social services facilities, for a total of 973 beds. MCB4 continues to support the creation of supportive housing.

In fact, the Western Railyards POA includes 150 units of SRO Preservation, with the Lantern Group's development at 330-32 West 51st contributing towards that commitment. Further at MCB4's request, 75 units of Supportive Housing were included at the Slaughterhouse Site, 493 11th Avenue. MCB4 has a long history of approving supportive housing developments as far back as 1991 during the Dinkins administration.

The Board's and the broader community's support of Supportive Housing is well known. The need and community support for Supportive Housing is not the issue, using this site designated for moderate and middle-income housing, for another purpose is the matter at hand.

- “We have a homeless crisis; homelessness is much worse today.”

Our City has been in a homeless crisis for decades. From 2014 to 2021, according to DHS published statistics, the homeless population has ranged around 58,000 persons per year (Statistics attached in Appendix). Those numbers are horrible and indicative of a great human need in our City. That is why MCB4 has long supported the development of thoughtfully sited and well-run Supportive Housing in the community district. But for success and long-term integration, the development of Supportive Housing and homeless services must be planned and distributed throughout the five boroughs, not clustered in a part of one community district.

- “Times have changed, we no longer have the past administration's priorities, our focus is on low-income housing, the greatest need.”

While the proposed development at the MTA Site has the majority, 94 apartments, for households below 60% AMI, HPD's Housing Connect website lists 29 sites for a total of 674 units, in Manhattan, Brooklyn, Bronx, and Queens, for households between 110-165% AMI (see Appendix). Unbelievably, 4 blocks away, Capitol Apartments, a long-term Section 8 building at 241 West 51st Street, has 28 apartments available for households at 130-165% AMI. That information clearly demonstrates that the development of low-income housing instead of middle-income housing at this location has been a political, not a planning choice.

Overreaching Proposed Land Use Actions

The proposed land use actions include the standard disposition of City Owned property and prior agreed Special Permit for an additional height from 66 to 99 feet. However, also proposed are:

- Rezoning the entire block from West 54th to West 53rd, 9th Avenue to 150 west of 8th Avenue, from an R8 residential zone to a C6-2 commercial zone.¹³
- Creation of new Special Permit in the Preservation Area of the Clinton Special District to allow greater building lot coverage.

Neither the above actions, which have undergone extensive environmental review and preparation both with HPD and Department of City Planning, were disclosed to the community until September 29th, 2021, one day before the public meeting.

It is not uncommon, to facilitate a publicly sponsored development to propose zoning, zoning text changes or seek a Mayoral Zoning Override. However, the standard City practice is to present such proposed changes to the Community Board, discuss means and mechanisms, and arrive on an approach through consensus and agreement. Specifically, and historically, in the Special Clinton District, the majority of needed, project specific changes have been accomplished through text amendment, not rezoning, to limit the applicability of such changes in scope and geographic location.

Further, in the Special Clinton District, underlying rezoning has been changed only to extend the Residential zoning into Manufacturing zones to permit and/or legalize housing development. Since 1973, in the Preservation Area, the City of New York has never rezoned an underlying Residential zone to a Commercial zone.

The above actions are overreaching, going well beyond project facilitation, having a broader impact on residential and public authority buildings not on the project site. The rezoning is unprecedented and raises questions in the community regarding HPD's and DCP's intent.

CHKLU Committee Deliberation & Public Response

The CHKLU meeting was attended by over 130 members of the public and Community Board. There was extensive Committee deliberation and a major community testimony that the proposed plan was not consistent with the Western Railyards Points of Agreement and Hudson Yards Points of Agreements, part of mitigation for the massive upzonings in the neighborhood. The overwhelming majority of the community response centered around those commitments and need to create and maintain an economically integrated community. The Committee members and the public reiterated the community and Board's support of Supportive Housing, and this intent of the proposed project, but not at the MTA Site. 6 individuals spoke in favor, 4 of which were either Housing Works staff or clients.

Members of various block associations, along with a number of community residents, such as the West 55th Street Block Association and West 47/48th Streets Block

¹³ The existing 4.2 FAR would not be affected

Association, also spoke up about the dire need for moderate and middle-income housing, as agreed to in the City's Western Railyards formal commitments. Lifelong residents noted that they and their children want to stay in the neighborhood but cannot afford market-rate apartments rents. At the same time, they earn too much to qualify for low-income housing at 60% of AMI. These are working class, moderate-and middle-income households who are excluded from housing in MCD4.

Committee members also raised the question of reducing the 30,000 square feet allocated to the MTA in order to increase available FAR for more affordable housing. The MTA's income stream derived from the Western Railyards was its central benefit, not seeking additional office space at this constrained affordable housing site.

Committee members and members of the public noted that the income bands between 80-165% of AMI provide affordable housing for a range of civil servants and government workers, those people who enable our city to function daily.

HPD representatives sought to assure the Board and the community that this was the beginning of the process, and the agency would work with the community to meet the needs expressed.

The community was extremely disappointed in the Developer's presentation, and especially in the lack of engagement and transparency by the Administration. The rezoning actions were met with complete disapproval both as to process and substance. **The CHKLU Committee voted unanimously against the project as currently proposed.**

Conclusion

As evidenced in the 2001-2005 affordable housing negotiations of the Hudson Yards Rezoning, the Board has long supported creating a community with affordable housing available to a broad range of income bands. In fact, the Affordable Housing production under the Hudson Yards and the West Chelsea Points of Agreement have produced 2,628 units of affordable housing, with 1,733 at or below 60% AMI.¹⁴

The Board remains committed the ongoing production of affordable housing, but seeks a broad income mix, to serve low-, moderate- and middle-income households, instead of creating stratified housing and a neighborhood, for only the highest and the lowest income households.

Further, the City has memorialized this commitment in the Western Railyards Points of Agreement document executed in December 10, 2009¹⁵: *"HPD's RFPs will contain the*

¹⁴ See Appendix for full list.

¹⁵ [Western Railyards Points of Agreement - December 10, 2009](#)

following requirements: . . . an AMI mix of 165% or under . . . 50% two or more bedroom units; and, permanent affordability.”

MCB4 continues to support the creation of well-sited supportive housing. In the past two years, MCB4 requested, and in 2020, was successful in working with the Slaughterhouse Site¹⁶ Developer and HPD to add 75 units of supportive housing, as a component of the 350 permanently affordable apartments in the development. That project is in the final stages of ULURP.

Furthermore, as stated in the NYC Zoning Resolution, 96-00 Special Clinton District Zoning, one guiding principle is to “*permit rehabilitation and new construction within the area in character with the existing scale of the community and at rental levels which will not substantially alter the mixture of income groups currently residing in the area...* ”.¹⁷

The Board has been involved in engagement, discussion, and negotiation with two Mayoral administrations, and this project will now have its public approvals in a third Mayoral administration. The Board is in the 20th year of discussing the Hudson Yards rezoning and the accompanying mitigation through affordable housing components. It has been 12 years since the Western Railyards Points of Agreement was approved and executed in 2009, 5 years in which the Board has asked for information to start the RFP. In the last 3 years, there have only been 3 meetings about the MTA Site Project. This lack of consultative and public process must be resolved moving forward.

An overwhelming majority of the Board and the public are deeply disappointed in the proposal. **The project in its current form is not acceptable.**

Sincerely,



Lowell D. Kern
Chair
Manhattan Community Board 4



Jean Daniel Noland
Chair
Clinton\Hell’s Kitchen Land Use Committee

cc: Hon. Bill DeBlasio, Mayor
Vicki Been, Deputy Mayor
Hon. Corey Johnson, Speaker of City Council
Hon. Scott Stringer, NYC Comptroller
Hon. Gale A. Brewer, Manhattan Borough President
Hon. Jumaane Williams, Public Advocate
Hon. Linda B. Rosenthal, NYS Assembly

¹⁶ 495 11th Ave

¹⁷ [Zoning Resolution 96-00 Special Clinton District](#)

Hon. Richard Gottfried, NYS Assembly
Hon. Brad Hoylman, NYS Senate
Hon. Robert Jackson, NYS Senate
Anita Laremont, Chair, City Planning Commission
HPD
Hudson Inc.
Housing Works

Appendix

- A. Affordable Units Committed to in Western Railyards Points of Agreement
- B. Overall Timeline of the proposed MTA Site Development (806 9th Ave)
- C. NYC Housing Connect Affordable Units (above 80% AMI) as of Oct. 2021
- D. Special West Chelsea & Hudson Yards District Affordable Housing Production
- E. NYC Homeless Population Statistics – Total Number of DHS Shelter Residents Per Year (rounded)

Appendix A. Affordable Units Committed to in Western Railyards Points of Agreement

Site	Low-Income (Below 60% AMI)	Moderate & Middle- Income (80-165% AMI)	Total
ERY and WRY	431		431
806 9 th Ave MTA Site & 705 10 th Ave DEP Site		312	312
SRO Preservation	150		150
Terrific Tenements	88		88
French Apartments	223		223
Sanitation Site		75	75
500 W56 th Street Westport	77		77
535 W23rd Street The Tate	63		63
Total	1,032	387	1,419
Percentage of Total	72.7%	27.3%	100%

Source: [Western Railyards Rezoning Points of Agreement \(executed December 10, 2009\)](#)

Appendix B. Overall Timeline of the proposed MTA Site Development (806 9th Ave)

- 1996 The MTA Site, a former bus depot, was demolished and is currently a vacant publicly owned lot used for MTA parking
- 2001 DCP and MCB4 began discussing the Hudson Yards Rezoning, included rezoning and development of Eastern and Western Railyards, proposed West Side Stadium over Western Railyards
- 2004 At DCP & HPD's request, MCB4 presents inventory and maps all publicly owned sites in MCD4 for affordable housing development to mitigate impact of Hudson Yards rezoning, inventory includes the MTA Site
- 06/21/2004 Hudson Yards Rezoning Certified
- MTA Site not included in Hudson Yards Rezoning mitigation
- 01/19/2005 Hudson Yards Rezoning Adopted
- 05/2005 West Side Stadium plan collapsed after lack of approval by NYS Public Authorities Control Board
- 2007-2008 Plan for WRY reconceived. Community and Mayor's office agreed the WRY 3 blocks will be redeveloped as residential housing and commercial buildings with a large public space. As preparation for that plan and ULURP, the issue of affordable housing was again raised. Mayor's Office includes MTA & DEP sites for affordable housing use in WRY's ULURP
- 12/10/2009 WRY Points of Agreement Executed, outlining MTA and DEP sites as moderate and middle-income affordable housing commitments from the City
- 12/21/2009 Hudson Yards ULURP Completed
- 04/10/2013 WRY leased from MTA by the Related Companies.
- 2013-2015 No communication received from HPD
- 10/07/2015 MCB4 Letter to HPD Commissioner requesting to discuss RFP
- 06/2017 MCB4 Revised Approval Conditions for the MTA Site
- 03/15/2018 MCB4 Letter to HPD Commissioner on Approval Conditions
- 04/09/2018 HPD issues RFP¹⁸, incorporates MCB4 conditions by reference and linked
- 02/13/2019 HPD Designates Development Teams
- 9/30/2021 First Public Meeting regarding Proposed Development on MTA Site

¹⁸ [Clinton / Hell's Kitchen RFP](#)

Appendix C. NYC Housing Connect Affordable Units (above 80% AMI) as of Oct. 2021

NYC Housing Connect Affordable Units (above 80% AMI) by Apartment Size

	Studio	1-BR	2-BR	3-BR	Total
Number of Units	94	316	211	53	674

NYC Housing Connect Affordable Units (above 80% AMI) by AMI Distribution

	Units at 110% AMI	Units at 120% AMI	Up to 130% AMI	Up to 140% AMI	Units at 165% AMI
Number of Units	74	35	477	73	15

NYC Housing Connect Affordable Units (above 80% AMI) by Borough

	Manhattan	Brooklyn	Bronx	Queens	Total
Number of Units	75	215	198	186	674

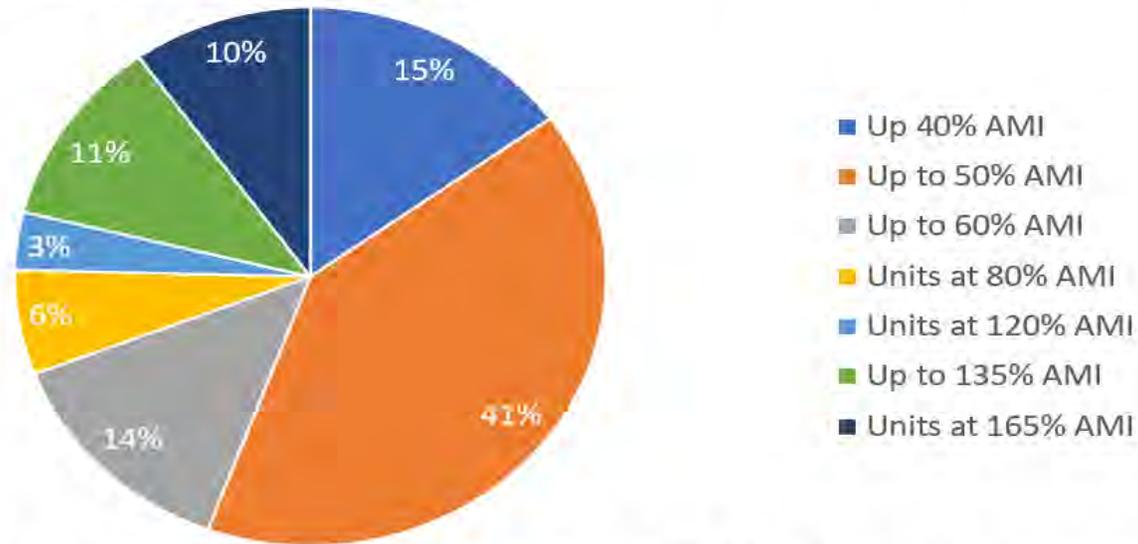
Appendix C: NYC Housing Connect Affordable Apartments Above 80% AMI (as of 10/6/2021)

Name	Address	Neighborhood	Borough	Affordable Units (above 80% AMI)	Units at 110% AMI	Units at 120% AMI	Up to 130% AMI	Up to 140% AMI	Units at 165% AMI	Studio	1-BR	2-BR	3-BR
Capitol Towers	254 West 51st Street – Waitlist	Clinton / Hell's Kitchen	Manhattan	28			13		15	13	15		
1510 Gates Ave	1510 Gates Ave, Brooklyn, NY 11237	Bushwick	Brooklyn	21			21			5	5	11	
111 Varick Street	111 VARICK STREET, NEW YORK, NY 10013	Hudson Square	Manhattan	5			5			1	3	1	
Apex Place Apartments	62-11 108th Street and 108-75 62nd Drive, Forest Hills, NY 11375	Forest Hills	Queens	147	74			73		15	59	59	14
7 Dey Street	7 Dey St, New York, NY 10007	Financial District	Manhattan	42			42			4	30	8	
148-37 88th Avenue Apartments	148-37 86 AVENUE, JAMAICA, NY 11435	Jamaica	Queens	33			33			1	19	12	1
1600 East 19 Street	1600 EAST 19 STREET, BROOKLYN, NY 11230	Midwood	Brooklyn	7			7				3	4	
Bushwick and Evergreen	340 EVERGREEN AVENUE, BROOKLYN, NY 11221	Bushwick	Brooklyn	67			67			16	11	6	34
1634 Church Avenue	1634 Church Ave, Brooklyn, NY 11226	Prospect Park South	Brooklyn	4			4				4		
3315 & 3317 Parkside Place	3315 Parkside Pl, Bronx, NY 10467	Norwood	Bronx	6			6				4	2	
555 Waverly Avenue Apartments Phase II	555 Waverly Ave, Brooklyn, NY 11238	Clinton Hill	Brooklyn	13			13			5	7	1	
567 Ocean Parkway Apartments	567 OCEAN PARKWAY, BROOKLYN, NY 11218	Kensington	Brooklyn	11			11			2	8	1	

Name	Address	Neighborhood	Borough	Affordable Units (above 80% AMI)	Units at 110% AMI	Units at 120% AMI	Up to 130% AMI	Up to 140% AMI	Units at 165% AMI	Studio	1-BR	2-BR	3-BR
761 East 233rd Street Apartments	773 E 233rd St, Bronx, NY 10466	Wakefield	Bronx	35	35					4	28	3	
30-79 31st Street Apartments	30-79 31 STREET, ASTORIA, NY 11102	Astoria	Queens	3			3				3		
186 East 205th Street Apartments	186 E 205th St, Bronx, NY 10458	Jerome Park	Bronx	19			19			5	9	5	
276 Grand Concourse Apartments	276 GRAND CONCOURSE, BRONX, NY 10451	Mott Haven	Bronx	65			65			10	36	15	4
2369 & 2377 Hoffman Street	2369 HOFFMAN STREET, BRONX, NY 10458	Little Italy/ Belmont	Bronx	6			6				2	4	
The Posh at 1941 Coney Island Avenue	1941 CONEY ISLAND AVENUE, BROOKLYN, 11223 11223	Midwood	Brooklyn	13			13			3	8	2	
1035 Cortelyou Road	1035 CORTELYOU ROAD, BROOKLYN, NY 11218	Ditmas Park	Brooklyn	1			1					1	
29-28 Newtown Avenue Apartments	29-28 NEWTOWN AVENUE, ASTORIA, NY 11102	Astoria	Queens	3			3				3		
The Arches	228 EAST 135 STREET, BRONX, NY 10451	Mott Haven	Bronx	60			60			1	25	34	
1068 Fulton Street	1068 FULTON STREET, BROOKLYN, NY 11238	Bed-Stuy	Brooklyn	13			13				6	7	
65 Woodbine Street Apartments	65 WOODBINE STREET, BROOKLYN, NY 11221	Bushwick	Brooklyn	3			3				3		

Appendix D:

Special West Chelsea & Hudson Yards District Affordable Housing Production, AMI Bands Distribution (completed and in construction as of 2021)



For a total of 2,628, there are **1,733 units below 60% AMI, or 66%** of total affordable housing production.

Special Hudson Yards & West Chelsea District Affordable Housing Production

(completed and in construction as of 2021)

Address	Project Name	Developer	Affordable Units
Special West Chelsea District			
450 W 17th St	Caledonia	The Related Companies	59
303 10th Ave	Port 10	Atlantic Development Group	18
316 11th Ave	The Ohm	Douglaston Development	74
500 W 30th St	Abington House	The Related Companies	77
525 W 28th St	AVA High Line	Avalon Bay	138
507 W 28th St	507 West 28th Street	Lalezarian Properties	75
529 W 29th St	(Manhattan Plaza Transfer)	The Related Companies	125
401 W 25th St	Elliot-Chelsea	Artimus	168
425 W 18th St	Fulton Houses	Artimus	158
601 W 29 th St		Douglaston Development	234
606 W 30 th St		Lalezarian Properties	70
		Subtotal	1,196
Special Hudson Yards District			
510-550 West 45th Street	Gotham West	Gotham	682
401 West 31st Street	The Eugene	Brookfield Properties	103
515 West 36th Street		Lalezarian Properties	50
455 West 37th Street		TF Cornerstone	78
350 West 37th Street	Townsend	Lalezarian Properties	42
505 West 37th Street	505W37	Rockrose Development	169
310 West 38th Street	Emerald Green	Glenwood Management	120
509 West 38th Street	Henry Hall	Imperial Companies	46
330 West 39th Street	Crystal Green	Glenwood Management	42
555 10th Avenue	555Ten	Extell	150
		Subtotal	1,482
		Grand Total	2,628

Appendix: E

NYC Homeless Population Statistics

Total Number of DHS Shelter Residents Per Year (rounded)

2012: 46,000

2013: 50,000

2014: 58,000

2015: 65,000

2016: 57,000

2017: 59,000

2018: 59,000

2019: 59,000

2020: 58,000

2021(ytd): 50,000

Source: [DHS Data Dashboard Tables \(2012-2021\)](#),
stats per year are sum of monthly totals from tables



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JESSE R. BODINE
District Manager

December 10, 2021

Louise Carroll, Commissioner
NYC Department of Housing Preservation and Development
100 Gold Street
New York, NY 10007

Anita Laremont, Chair & Director
City Planning Commission & Department of City Planning
120 Broadway
New York, NY 10271

**Re: Proposed MTA (806 9th Ave) and DEP (705 10th Ave) Site Affordable Housing
Developments -- Proposed Zoning and Zoning Text Changes**

Dear Commissioner Carroll and Chair Laremont,

On November 19th, 2021, New York City Department of Housing Preservation and Development (HPD) and the Department of City Planning (DCP) briefed Manhattan Community Board 4 (MCB4) regarding the proposed underlying zoning and proposed Special Clinton District zoning text changes for the MTA Site, 806 9th Ave, located on the east side of Ninth Avenue between West 53rd and West 54th Streets, and the DEP Site, 705 10th Ave, located on the west side of Tenth Avenue between West 48th and West 49th Streets. This briefing was the first disclosure in detail of the proposed changes and the underlying rationale.

At its regularly scheduled Executive Committee meeting on November 22nd, 2021, the Chair and members of the Clinton/Hell's Kitchen Land Use Committee reported the details of that briefing to the full Executive Committee. After discussion and consideration, irrespective of the merits of the proposed affordable housing developments, the Executive Committee recommended to the Full Board that the changes in the underlying zoning and the proposed text changes were overly broad, inconsistent with the residential character of the community and not required to execute the proposed developments. Instead, the Board supports using the framework of the existing Special Permits for height and setback, and the use of Mayoral Zoning Overrides to accomplish

any other needed zoning requirements for the proposed developments. Therefore, the Board at its December 1, 2021 Full Board meeting, voted 41 in favor, 0 opposed, 0 abstaining, and 2 present but not eligible to vote, to firmly reject the proposed underlying zoning changes and Special Clinton District text amendments.

Background

MTA Site

The MTA Site, a former bus depot that was demolished in 1996, is currently a vacant lot used for MTA employee parking. The MTA Site is in the Preservation Area of the Special Clinton District subject to that Area's protective height and bulk zoning text restrictions. Its underlying zone is R8 with ground floor commercial overlay (C1-5).

DEP Site

The DEP Site, a Third Water Tunnel Access Shaft site, as of October of 2016, has been vacated and DEP has been working with the administration to transfer the property to both HPD and the Department of Parks to develop separate affordable housing and public open space projects. The DEP Site is in the Preservation Area of the Special Clinton District subject to that Area's protective height and bulk zoning text restrictions. Its underlying zoning is R8 with a ground floor commercial overlay (C2-5).

Western Railyards Points of Agreement (WRY POA) – MTA & DEP Site Requirements¹

- Height cap of 77 ft for DEP Site and 85 ft on Ninth Ave and 99 ft on midblock (via Special Permit)
- AMI mix of 165% or under
- 50% two or more bedroom units
- Permanent affordability
- HPD will share the program overview with MCB4 before releasing the RFPs for the off-site housing development

This letter does not address the issue of lack of compliance with the proposed income bands committed under the WRY POA or the introduction of a 100% supportive housing development at the MTA Site, which the Board has written to HPD about on November 23, 2021. This letter only speaks to the zoning and land use issues raised by the proposed rezoning and proposed Clinton Special District zoning text changes, and their effect on the future residential character of the Clinton/Hell's Kitchen community.

Background on Proposed Special District Rezoning & Text Changes

In consideration that these proposed changes were under review for a minimum of 6-8 months in preparation for an Environmental Impact Assessment and the Uniform Land Use Review Procedure (ULURP) process, it is unconscionable that DCP and HPD would brief the Board only weeks before a proposed ULURP Certification. That lack of briefing and collaboration on

¹ Page 3-4, [Western Railyards Rezoning Points of Agreement - executed December 10, 2009](#)

proposed rezoning and Special Clinton District text changes in itself breaks precedent in the DCP's 48-year collaborative and working relationship with MCB4.

The Special Clinton District is a carefully crafted zoning document that has been the bulwark of neighborhood preservation of the Clinton/Hell's Kitchen area for decades. Private and public sector developers have always met in advance and discussed proposed changes to the Clinton Special District, 9-12 months prior to making actual proposals. The DCP, developers and the Community Board would then hash out the details of any proposed changes, working together to severely limit their applicability to enable development of a site without creating district-wide precedent.

When public sites have been involved, whether they be small-scale, such as a Fountain House residence, at 441 West 47th Street, requiring a text change for community facility use or large-scale, such as the development of the Gotham West project at 592-608 Eleventh Ave, 507-553 West 44th Street, and 508-558 West 45th Street, nearly an entire city block, creating 1,250 units. The Department of City Planning has always worked with the Board to arrive at an agreement for the minimal changes needed for rezoning and/or text changes. MCB4 has always been exceptionally flexible with text changes needed to develop permanently affordable housing.

After the New York City Convention Center² had been announced in 1972, the area was subject to major developer speculation, vacating of tenants from fully occupied residential buildings and demolition. As a result of those actions to protect and preserve the Clinton/Hell's Kitchen residential neighborhood, the City of New York established the Special Clinton District in 1973 to preserve existing housing and prevent the commercialization of the Clinton/Hell's Kitchen District. In the General Purposes section of the New York City Zoning Resolution, Section 96-00, Special Clinton District, one of the main goals stated is to: "(a) to preserve and strengthen the residential character of the community."³

Proposed Zoning Map Changes

The MTA Site is on a 150-foot by 150-foot (22,500 square foot) lot. However, the proposed rezoning covers not only the site of the affordable housing, but extends further to the east by 500 feet, to 150 feet west of Eighth Avenue and covers the full 200-foot block width of the MTA Control Center, between West 54th to West 53rd Streets on Ninth Avenue. The proposed rezoning is from an R8 residential zone, in the heart of the Preservation Area, to a C6-2 commercial zone. The proposed rezoning area was slightly modified from the September 30th, 2021, presentation to remove tenements along West 53rd Street between Eighth and Ninth Avenues from the proposed rezoning.

The DCP offered that the rezoning accommodates not only the requirements to build 30,000 square feet of office and garage space for the MTA on the MTA Site, but also to clean up the

² Originally sited for the West Side piers between West 43rd to West 46th Streets.

³ [Chapter 6 - Special Clinton District \(CL\)](#)

institutional use of the MTA Control Center under residential zoning. This action is not needed for feasibility of the affordable housing project. The entire MTA Control Center must be removed from the proposed rezoning.

To MCB4's knowledge, the MTA has not requested for their property to be rezoned. If and when there is a request, that should be managed in a separate, publicly transparent ULURP process. Only actions needed to develop the proposed affordable housing on the MTA Site should be included in any ULURP Certification regarding 806 Ninth Avenue.

Since 1973, MCB4 and DCP have worked together to extend the residential underlying zoning both in the preservation area and in the excluded areas. Residential zoning was extended west of Tenth Avenue to Eleventh Avenue between 1990 and 2009, and the excluded areas, such as the Gotham West site and the former Clinton Urban Renewal Area, was rezoned from manufacturing to residential zones. Since the District's inception, there has never been a rezoning in the sub-district known as the Preservation Area, the community's residential core from residential to commercial. This rezoning precedent must not be set.

Proposed Clinton Special District Zoning Text Changes

Since 1973, there has only been three Special Permits allowed in the Clinton Special District:

- Under Section 96-104 for height and setback in the Preservation Area
- Under Section 96-108 for demolition of buildings in the Preservation Area
- Under Section 96-23 for height and setback in the Perimeter Area

The Special Permits under Section 96-104 and 108 have existed since the initial adoption in 1973, and Section 96-23 since 2011. In the District's 48-year history, there has been one application for demolition under Section 96-108, three applications under Section 96-104 for height and setback, and only two granted. There have been no applications under Section 96-23.

The application of Section 96-104 for increase in height and setback, at both the DEP and MTA affordable housing sites was the subject of serious controversy at the time of the WRY Rezoning and a compromise regarding limitations to those permits was reached and embodied in the WRY POA. MCB4 continues to support the use of those permits at the DEP and MTA Sites.

The proposed text changes seek to modify the Section 96-104 height and setback permit and for the first time, to include the ability to vary rear yard and lot coverage requirements. These proposed changes would apply for the entire Preservation Area from West 43rd to West 53rd Streets, 100 feet west of Eighth Avenue, to an irregular boundary west of Tenth Avenue. The proposed text changes are far reaching and create an ability for higher lot coverage and lesser rear yard requirements.

The building typology in the Clinton community is predominantly old law tenements on 25 by 100-foot lots. Many buildings are between 80-90 feet deep with rear yards of only 10 to 15 feet.

The provisions governing Section 96-102 on Lot coverage regulations and Section 96-103 on Yard regulations, were established to ensure new construction would not further compromise the light and air of the adjacent historically overbuilt tenements. MCB4 does not agree with the establishment of a Preservation Area-wide Special Permit, the result of which would be to undercut that long-stated zoning requirement to preserve light and air for adjacent residents. The current zoning provisions of height and setback should not be modified.

Development Process

This process continues to be non-transparent, with no community consultation as to the means and methods to facilitate the zoning needs of both developments. The Board wants to further note that the proposed changes are independent of the Board's stated position on lack of compliance with the proposed AMI bands, which are not consistent with the Western Railyards Points of Agreement.

It has been past practice for both DCP and HPD to meet with, and consult with, Manhattan Community Board 4 regarding any zoning text changes needed to facilitate an affordable housing development. The Board has not been provided any proposed text as of the briefing on November 19, 2021.

Further, the Board has worked with multiple administrations regarding Mayoral Zoning Overrides when text changes were not sufficient to facilitate affordable housing. This wholesale approach to district-wide or subdistrict-wide zoning text changes is not acceptable. Further, it has become viewed by many members of the community as a Trojan Horse, changes being made to the district in the name of an affordable housing development. After deliberation at the Executive Committee on November 22, 2021, MCB4 has taken the following position.

MCB4 Position

MTA Site

The Board does not agree with any proposed rezoning from R8 to C6-2 at the heart of the Preservation Area of the Special Clinton District, no such action has been taken since 1973. The MTA is not the applicant and has not requested a rezoning for its control center. If and when it requires a rezoning, it should go through the standard ULURP process and not benefit from this affordable housing project through a dramatic change in use from residential to commercial. Any changes to accommodate the proposed 30,000 SF of commercial use for the MTA should be handled via Mayoral Zoning Override.

Secondly, the proposed zoning text creates new Special Permits for lot coverage and rear yard, and the consolidation of those permits with the existing Special Permits for height and setback. The Board does not agree with this action. The Special Permit for height in the Preservation Area has not been touched since 1973 and should not be further modified to include variances from lot

coverage or rear yard as stated in the Zoning Resolution, Chapter 6, Section 96-102 Lot coverage regulations⁴ and Section 96-103 Yard regulations.⁵

Any changes to accommodate the proposed MTA Site project should be handled through Mayoral Zoning Override, not zoning text change, affecting the entire Preservation Area.

Further, given that the driving factor in these proposed rezoning and zoning text changes derives from the MTA's need for 30,000 SF of office space, the Board now questions that need. Recently, the MTA has a current pending sale of its headquarters at 341-347 Madison Ave. It has received over a \$1,000,000,000 from the sale of the Eastern and Western Railyards. Yet this proposed affordable housing project must deliver 30,000 square feet of office and garage space? A reduction of that space would reduce the scope of a Mayoral Zoning Override and provide more affordable housing at this location.

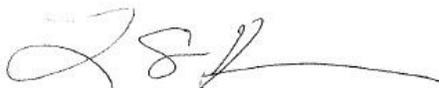
DEP Site

It was stated that rear yard zoning text was also needed. Given the development is over a rail right of way, in the Zoning Resolution Chapter 4 Section 74-681, Development within or over a railroad or transit right-of-way or yard⁶, any needed change in lot coverage or rear yard can be managed through that Special Permit, which has been managed in the past through that Special Permit for 11 overbuilds between West 43rd and West 56th Streets.

Conclusion

One affordable housing site and the MTA's office needs should not set precedent in the Special Clinton Zoning District. The proposed rezoning should be managed through Mayoral Zoning Override. The Special Clinton District Special Permit under Section 96-104 should not be amended and needed lot coverage and rear yard requirements should be managed through Mayoral Zoning Override.

Sincerely,



Lowell D. Kern
Chair
Manhattan Community Board 4



Jean-Daniel Noland
Chair
Clinton/Hell's Kitchen Land Use Committee

⁴ [Chapter 6 - Special Clinton District \(CL\), 96-102 Lot coverage regulations](#)

⁵ [Chapter 6 - Special Clinton District \(CL\), 96-103 Yard regulations](#)

⁶ [Chapter 4 Special Permits by the City Planning Commission, Section 74-681 Development within or over a railroad or transit right-of-way or yard](#)

Cc: Hon. Brad Hoylman, State Senator
Hon. Robert Jackson, State Senator
|Hon. Linda Rosenthal, NYS Assemblymember
Hon. Richard Gottfried, NYS Assemblymember
Hon. Bill DeBlasio, Mayor
Hon. Vicki Been, Deputy Mayor,
Hon. Corey Johnson, NYC Council Speaker
Hon. Scott Stringer, NYC Comptroller
Hon. Gale Brewer, Manhattan Borough President
Hon. Jumaane Williams, Public Advocate
HPD Team
Hudson Inc.
Housing Works