CONDOMINIUM OFFERING PLAN

for

46-30 Center Boulevard Condominium

located at
46-30 Center Boulevard
Long Island City, New York

Total Purchase Price (184 Residential Units).....$246,165,000.00

The Building will also have one (1) Commercial Unit which will be retained by Sponsor and is not being offered for sale at this time by the Sponsor to the public under this Offering Plan.

SPONSOR:	SELLING AGENT:
East Coast 5 L.L.C.	Metropolitan Living Ltd.
290 Park Avenue South	290 Park Avenue South
New York, New York 10010	New York, New York 10010

Date of Acceptance for Filing: November 13, 2007

This Offering Plan may not be used after November 12, 2008 unless extended by amendment

THIS PLAN CONTAINS SPECIAL RISKS TO PURCHASERS. SEE PAGE 1.

THIS OFFERING PLAN IS THE SPONSOR'S ENTIRE OFFER TO SELL THE CONDOMINIUM UNITS. NEW YORK LAW REQUIRES THE SPONSOR TO DISCLOSE ALL MATERIAL INFORMATION IN THIS PLAN AND TO FILE THIS PLAN WITH THE NEW YORK STATE DEPARTMENT OF LAW PRIOR TO SELLING OR OFFERING TO SELL ANY CONDOMINIUM UNIT. FILING WITH THE DEPARTMENT OF LAW DOES NOT MEAN THAT THE DEPARTMENT OR ANY OTHER GOVERNMENT AGENCY HAS APPROVED THIS OFFERING.

PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN. (SEE SPECIAL RISKS SECTION OF THIS PLAN)

SPONSOR RETAINS THE RIGHT TO RENT UP TO FORTY NINE PERCENT (49%) OF THE UNITS. SPONSOR MAKES NO REPRESENTATION THAT IT WILL EXECUTE AGREEMENTS TO SELL MORE THAN FIFTY ONE PERCENT (51%) OF THE UNITS. SEE SPECIAL RISKS IN PART I OF THIS OFFERING PLAN FOR MORE INFORMATION.

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Part I

SPECIAL RISKS

1. The Sponsor is retaining the unconditional right to rent rather than sell up to forty nine percent (49%) of the Residential Units. Sponsor makes no representation that it will execute Purchase Agreements to sell more than fifty one percent (51%) of the Residential Units. ***Please refer to the Sections entitled "Introduction" and "Rights and Obligations of Sponsor" in Part I of this Plan for further discussion.***

2. Sponsor entered into a ground lease (the "Lease") with Queens West Development Corporation ("QWDC"), dated September 19, 2003, and will submit its leasehold interest in the Property to the Condominium Act. Each Purchaser will obtain from Sponsor a leasehold condominium interest his Unit and a proportionate undivided leasehold interest in the Condominium's Common Elements.

Prospective Purchasers are advised that the Lease term will expire on September 30, 2102. However, pursuant to the terms of the Lease, once construction of the Building is substantially complete, and after the First Unit Closing, the Board of Managers will have the option of purchasing the Property from QWDC for $1.00, plus the cost of New York State and New York City transfer taxes relating to the transaction and other closing costs, such as, but not limited to, title insurance and legal fees. While purchasing a Unit in a leasehold condominium involves a degree of risk because the value of each Unit will diminish as the Lease term runs, that risk is mitigated by the right of the Board of Managers to purchase the Property. Since the Board of Managers will assume the rights and obligations of the Tenant under the Lease upon the First Unit Closing, the Board of Mangers will have the ability to decide when and if to exercise its option to purchase the Property. It is likely that this option will not be exercised by the Board before the expiration of PILOT (Payments in Lieu of Taxes). However, pursuant to the Bylaws, so long as Sponsor shall continue to own one (1) Unit, the Board of Managers may not, without the Sponsor's prior written consent, exercise the option to purchase the Property from QWDC.

In the event that the Lease term is allowed to run until its expiration, the Board of Managers must either negotiate an extension of the Lease or negotiate a new lease with the then-holder of the fee interest in the Property. If the Board of Managers is unable to negotiate an extension to the Lease or execute a new Lease, then the leasehold estate will terminate and each Unit Owner shall be required to surrender his leasehold Condominium interest and the right to possess and occupy his Unit. As stated above, as the Lease term runs, the value of each Unit will diminish. Therefore, as the Lease term diminishes, obtaining mortgage financing, or refinancing will become increasingly difficult. Sponsor makes no representation as to the likelihood of obtaining a Lease extension or renewal or the right of any Unit Owner to remain in occupancy in his Unit once the Lease term expires. ***Please refer to the Section entitled "Introduction" and "Payments in Lieu of Taxes" in Part I of this Plan for further discussion.***

3. On or about the date of the First Unit Closing, Sponsor will sell the resident manager's Unit to the Board of Managers. The Board of Managers shall pay all title

insurance premiums, mortgage recording taxes, transfer taxes and other closing costs due in connection with its purchase of the resident manager's Unit. All Common Charges, utilities, the cost of financing the loan on the resident manager's Unit and repairs to the resident manager's Unit shall be borne by the Board of Managers, as well. The Purchase Price of the resident manager's Unit is $1,220,000. As outlined in Schedule B, which is located in Part I of this Offering Plan, the estimated closing costs for the purchase of the resident manager's Unit are $70,526. The Sponsor estimates that the monthly costs for the resident manager's Unit (excluding the closing costs) will be approximately $7,885. On or about the day of the First Unit Closing, the Board of Managers will execute and deliver one or more purchase money mortgages and notes to the Sponsor. The interest rate on the note(s) will be 6.125% per annum for a period of five (5) years, at which time a balloon payment of the entire principal balance will be due and payable. The purchase money note(s) will provide for monthly interest-only payments for the five (5) year period. Closing costs for the resident manager's Unit will be advanced by the Sponsor, as a loan to the Board of Managers, which loan will be evidenced by a promissory note bearing 0% interest, which will be repaid in twelve (12) monthly installments from the date of the First Unit Closing.

Prior to the end of the five (5) year interest-only payment period of the purchase money mortgages for the resident manager's Unit, the Board of Managers may refinance the mortgage loan(s) with another lender. No representation can be made as to the terms of such refinancing or if such refinancing shall, in fact, be available. If the Board of Managers is not able to refinance the loan(s), the Board of Managers may assess each Unit Owner in the Building for his or her allocable share of the loan, based on percentage of common interest, in order to raise sufficient funds to pay off the loan(s).

In addition, in the event that the Sponsor is delinquent in paying its Common Charges with respect to Unsold Units, it is conceivable that the Board of Managers could have a shortfall in funds that could cause it to default under the note(s) and mortgage(s), and the holder of the mortgage(s) may then foreclose on the resident manager's Unit. If the proceeds from the sale of the resident manager's Unit are insufficient to satisfy the outstanding mortgage and other fees incurred, the Board of Managers would be liable for the deficiency. In the event of such a foreclosure, the Condominium will be without a resident manager's Unit. Accordingly, alternate housing arrangements will be necessary for the resident manager, as is then required by Law. In order to prevent a foreclosure by the holder of such mortgage(s), which occurs in connection with Sponsor's delinquencies regarding Common Charges, the Board of Managers may collect the rent due from tenants of the Sponsor (if any) directly in accordance with Section 339-kk of the NYS Real Property Law.

In the event that as of the First Unit Closing, a condition of the Building does not permit the resident manager's Unit to be occupied, or if for any other reason (in the Sponsor's sole judgment) the resident manager's Unit is not suitable or available for occupancy by the resident manager, the Sponsor and the Board of Managers will enter into an interim lease for another Unit (to be selected by the Sponsor) for use as the resident manager's residence until the resident manager's Unit is ready for occupancy. Such interim lease will require the Board of Managers to pay to the Sponsor, as the rent

Purchaser thereof or with any other party, and residents of the Condominium may be comprised of both Unit Owners and tenants leasing from Sponsor in accordance with Special Risk number 1. Individuals leasing Units from Sponsor will not, except as expressly provided in their respective Use and Occupancy Agreements, have any special rights to purchase such Units. In addition, a Purchaser may be acquiring a Unit that has been previously occupied, but such Unit will be delivered at Closing free and clear of all leases and tenancies except as may otherwise be agreed to in writing by the parties. ***Please refer to the Section entitled "Rights and Obligations of Sponsor" in Part I of this Plan for further discussion.***

6. Any Use and Occupancy Agreement for a Unit entered into with a Purchaser will provide, among other things, that an uncured default by the Purchaser under the Agreement with respect to the Unit which is the subject of the Use and Occupancy Agreement will constitute a default under the lease entitling Sponsor, at its sole discretion, to terminate such Use and Occupancy Agreement in accordance with applicable law. In addition, each Agreement may provide that an uncured default by the Purchaser under any Use and Occupancy Agreement with respect to the Unit which is the subject of the Agreement will constitute a default under the Agreement entitling Sponsor, at its sole discretion, to terminate such Agreement and to exercise any remedies therein provided.

Purchasers or any other persons entering into a Use and Occupancy Agreement for a Unit shall be required to pay the legal fees of Sponsor's counsel in connection therewith upon execution of the Use and Occupancy Agreement. All other charges or other fees due under a Use and Occupancy Agreement shall be adjusted as of the Closing of the Unit. Notwithstanding any of the foregoing, Sponsor shall be under no obligation to enter into any Use and Occupancy Agreement. ***Please refer to the Section entitled "Rights and Obligations of Sponsor" in Part I of this Plan for further discussion.***

7. The Bylaws of the Condominium do not include a provision that, after the initial Sponsor voting control period, a majority of the Board of Managers must be owner-occupants or members of an owner-occupant's household who are unrelated to the Sponsor and its principals. Therefore, PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN. Further, Unit Owners who are owner-occupants and Unit Owners who are non-residents (including Sponsor) may have inherent conflicts on how the Condominium should be managed because of their differing reasons for purchasing (i.e. purchase of a Residential Unit as a home as opposed to an investment). ***Please refer to the Sections entitled "Control By Sponsor" and "Board of Managers" Part I of this Plan for further discussion***

8. Upon the earlier of (i) the Closing of title to Residential Units the percentage of Common Interests of which, in the aggregate, equals at least seventy-five (75%) percent; or (ii) five (5) years from the First Unit Closing, Sponsor, including any designee thereof, will relinquish control of the Board of Managers if it has such control and will not elect a majority of its nominees for positions on the Board of Managers, even though the total percentage of Common Interest may otherwise enable it to do so. Accordingly, it is possible that Sponsor and/or its designee(s) may control the Board of Managers for as

thereunder, the Common Charges, PILOT and other costs and expenses incurred by the Sponsor in connection with owning such Unit during the term of the interim lease. However, the mortgage payments disclosed above and in Schedule B shall not be included in the interim lease rent to be made by the Board of Managers to Sponsor, and Common Charges will be adjusted during the term of such interim lease to exclude such mortgage payments and the closing costs associated with such mortgage. In such event, the Offering Plan will be amended to disclose such interim lease and the terms thereof. ***Please refer to the Sections entitled "Notes to Schedule B" and "Rights and Obligations of Unit Owners and the Board of Managers" in Part I of this Plan for further discussion.***

4. During construction planning, a subsurface environmental investigation conducted on the Land revealed contaminants, including, but not limited to, semi-volatile organic compounds and metals in the soil and groundwater in excess of the New York State Department of Environmental Conservation's (the "DEC") standards. To address the environmental condition of the Land, the soil and groundwater underlying and surrounding the Building have undergone environmental remediation under New York's Voluntary Cleanup Program with the oversight of the DEC. Sponsor has taken, and will continue to take, all legally required steps to remediate the condition to the satisfaction of the DEC. Sponsor anticipates that the DEC will issue No Further Action letters, which indicate that no further active remedial measures are required, by the fourth quarter of 2007. However, Purchasers are advised that the soil and groundwater conditions in and around the Property must be monitored and reported to the DEC by for the foreseeable future. After the issuance of the DEC's No Further Action Letters, and after the First Unit Closing, all monitoring required by the DEC will be the Board's responsibility.

In addition, within and under the Building, an active Sub-Slab Depressurization System ("SSDS") installed by Sponsor will operate continuously to minimize the potential for residual soil gases, to the extent present, to intrude into the Building from below the floor slab by actively adjusting the pressure differential between the Building's interior and exterior. Routine and non-routine maintenance of the SSDS, which will be required by the DEC pursuant to the Site Management Plans, will be performed by the Sponsor and, after the First Unit Closing, the Board.

The estimated cost of maintaining, monitoring and certifying the compliance of the SSDS, the groundwater, and the site development soil covers in the first year of Condominium operation will be approximately $15,000. ***Please refer to the Section entitled "Description of Property and Improvements" and "Footnote 12 of Schedule B-Budget for First Year of Condominium Operation" in Part I of this Plan and the "Description of Property and Proposed Building," the Remedial Final Action Reports and the Site Management Plans, located in Part II of this Plan, for further discussion.***

5. In accordance with the terms of this Plan, Sponsor has the right to sell Units to Purchasers for investment or resale. Accordingly, it is possible that certain Unit Owners will not be residents of the Building. Sponsor has further reserved the right to enter into Use and Occupancy Agreements for any Unit after the issuance of a temporary Certificate of Occupancy covering that Unit prior to Closing of the sale with the

long as five (5) years after the First Unit Closing. ***Please refer to the Section entitled "Control By Sponsor" in Part I of this Plan for further discussion.***

9. As long as the Sponsor or any Sponsor-designee shall continue to own a Unit, but in no event for a period in excess of five (5) years from the First Unit Closing, the Board of Managers may not, without the Sponsor's or Sponsor-designee's prior written consent, (i) make any addition, alteration or improvement to the Common Elements or to any Unit or (ii) assess any Common Charge for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund, or (iii) borrow money on behalf of the Condominium (except where necessary to perform work required by law to the extent that existing reserves are insufficient). ***Please refer to the Section entitled "Control By Sponsor" in Part I of this Plan for further discussion.***

10. At the time an Agreement is executed, a Purchaser is required to make a Down Payment to Sponsor's Attorney (as Escrow Agent) in an amount equal to at least ten (10%) percent of the Purchase Price of the Unit. In the event a Purchaser defaults under the Agreement, time shall be of the essence for Purchaser to cure such default. "Time of the essence" means that if the Purchaser does not cure such default within thirty (30) days after Sponsor gives notice to the Purchaser of such default, Sponsor may, at its option, cancel such Agreement and retain, as liquidated damages, the Down Payment made by the Purchaser, together with interest earned thereon, if any.

Additionally, if a Purchaser fails for any reason to close title to the Unit on the originally scheduled Closing Date and Sponsor elects not to cancel that Purchaser's Agreement as a result of the same, the closing apportionments to be made at the Closing will be made as of the midnight of the day preceding the originally scheduled Closing Date. ***Please refer to the Section entitled "Procedure to Purchase" in Part I of this Plan for further discussion.***

11. Down Payments will be held in escrow with Citibank, N.A. Citibank, N.A. is covered by federal bank deposit insurance to a maximum of $100,000.00 per individual deposit. Escrow deposits in excess of $100,000.00 will not be federally insured in excess of $100,000.00.

12. Each Purchaser may elect to include in his or her Agreement a mortgage financing contingency clause. The financing contingency shall be effective only if Purchaser applies for financing through either First Republic Bank, 320 Park Avenue, New York, New York 10022, 646-282-3421 (the "Lender") or Thomas Funding Group, One Penn Plaza, 34th Floor, New York, New York 10119, 212-563-1234 (the "Mortgage Broker"). If Purchaser elects such financing contingency, the Purchaser must in good faith submit an application for a loan commitment to the Lender or the Mortgage Broker within five (5) days after the date (the "Contract Date") on which a fully-executed copy of the Purchase is delivered to Purchaser's attorney and promptly submit to the Lender or the Mortgage Broker, as the Lender or the Mortgage Broker may direct, all required fees, information and supporting documents necessary for processing such loan application. Sponsor shall have the right, but not the obligation, to cancel the mortgage financing contingency if Purchaser fails to submit to such copy and evidence to the Lender or the Mortgage Broker within such five (5) day time period. The contingency clause provides that Purchaser shall have forty-five (45) days from the date Sponsor accepts and delivers

the fully executed Agreement to obtain a written loan commitment for financing from a lending institution.

In the event Purchaser fails to obtain a written loan commitment within such time period, Purchaser must notify Sponsor of same within five (5) days subsequent to such forty-five (45) day period or the financing contingency is deemed waived by Purchaser, and Sponsor has the option to either declare the Agreement null and void or to obtain a mortgage loan commitment for Purchaser from the same, or another, lending institution in the same amount at the same or the then-prevailing interest rate.

Notwithstanding the foregoing, all Purchasers who desire mortgage financing, and their lenders, must execute a recognition agreement (the "Recognition Agreement"), as required by QWDC, acknowledging that the lien of the holder of the mortgage secured by the Residential Unit is subject and subordinate to the Lease, and acknowledging that the right of the holder of the mortgage secured by the Residential Unit to be paid any amount due on account of such Residential Unit mortgage is subject and subordinate to QWDC's right to receive Rent allocable to such Unit. The fact that the Residential Units are leasehold Condominium Units, subject to the Recognition Agreement, may make securing mortgage financing more difficult, and Purchasers may find that such financing is available upon terms and conditions that are not as favorable as may be available to Purchasers of condominiums in which title is held in fee simple. ***Please refer to the Section entitled "Procedure to Purchase" in Part I of this Plan for further discussion.***

13. No bond or other security has been furnished to secure the performance of the Sponsor's obligations. Although at the time the Offering Plan is accepted for filing the Sponsor will be financially capable of performing Sponsor's obligations, the subsequent ability of the Sponsor to perform its obligations will depend upon Sponsor's financial condition at that time. ***Please refer to the Section entitled "Rights and Obligations of Sponsor" in Part I of this Plan for further discussion.***

14. Sponsor and the Commercial Unit Owner (which shall be the Sponsor until an amendment is filed with the Department of Law to offer the Commercial Unit) shall not be required to offer a right of first refusal or seek or obtain approval (as the case may be) from the Condominium Board of Managers for any transfer, lease of, or alterations, repairs or improvement to its Units (provided that such alterations, repairs or improvements comply with applicable laws). ***Please refer to the Section entitled "Rights and Obligations of Sponsor" and "Rights and Obligations of Unit Owners and the Board of Managers" in Part I of this Plan for further discussion.***

15. The Building will contain one (1) Commercial Unit. The Commercial Unit may be used by the Commercial Unit Owner for any lawful purpose, except as described in this Offering Plan. The Commercial Unit Owner may subdivide the Commercial Unit and make alterations to the Commercial Units without the consent of the Condominium Board or other Unit Owners. ***Please refer to the Section entitled "The Commercial Unit" in Part I of this Plan for further discussion.***

16. Pursuant to existing regulations, Sponsor may declare this Offering Plan effective by selling a minimum of twenty-eight (28) Residential Units, which is 15%, of the Residential Units in the Building.

Purchasers should note that certain banks and other lenders impose various restrictions on loans. Such restrictions may include requiring that a certain percentage (50% or more) of the Residential Units in a building be sold before the lender will consider making a loan. Thus it may be possible for a Purchaser to experience difficulty obtaining a loan in a building where the percentage of Residential Units purchased is lower than a lender's particular sales minimum.

Even once the Offering Plan has been declared effective, lenders may still impose minimum sales requirements before granting a loan. It then may be difficult for a Purchaser to resell an apartment if prospective buyers are unable to obtain a loan due to such minimum sales requirements. ***Please refer to the Section entitled "Effective Date of Plan" in Part I of this Plan for further discussion.***

17. Purchasers shall be required to pay the New York City and New York State Transfer Taxes due upon their purchase of a Unit. Although Transfer Taxes are customarily paid by the seller in single-family and other covered transactions (other than condominium developments), the responsibility for payment of such taxes may be modified by contract. It is now customary in New York City for Purchasers of Units in condominium developments to pay Transfer Taxes. The New York City Department of Finance and New York State Department of Taxation and Finance each take the position that, where the Purchaser pays such taxes, the amount thereof will be added to the taxable consideration. ***Please refer to the Section entitled "Unit Closing Costs and Adjustments" in Part I of this Plan for further discussion.***

18. While Units are being offered for sale or lease by Sponsor or its designees, there will be a greater number of visitors to the Building than would otherwise be the case. No representation or warranty is made and no assurance is given as to when such selling or leasing activity will terminate. Neither Sponsor or its designee nor the Managing Agent shall be liable or responsible for any personal injury or for any loss or damage to personal property which may result from the failure of the Condominium's security systems and procedures, including, without limitation, those procedures with regard to any delivery of packages, provided that any such failure is not caused by the negligence of Sponsor or its designees, the Managing Agent or their respective agents.

19. Due to the size of the Building and the complex process of constructing a building in general, prospective Purchasers are advised that for a period of time following the First Unit Closing construction on and within the Building will likely be ongoing.

During at least the first year of Condominium operation, construction workers will likely be on site performing construction work on various parts of the Building. As such, prospective Purchasers are advised that the Building's systems, including, but not limited to, the elevator, heating, cooling, air conditioning ventilation system, and water system may be disrupted from time to time. Prospective purchasers are advised that all of the foregoing work may be noisy and disruptive while being performed.

In addition, prospective Purchasers are advised that the decoration and finishing of the Common Elements, including, but not limited to, the lobby and Building corridors may not be fully complete at the time of the First Unit Closing, and may, in fact, proceed for some time after the First Unit Closing, as each floor of the Building is completed. ***Please refer to the Section entitled "Introduction" in Part I of this Plan.***

20. Each Residential Unit has windows equipped with safety "stops" in lieu of window guards. For the safety of young children, no Residential Unit Owner shall remove the "stops" from the windows for any reason. Each Residential Unit Owner is responsible for the maintenance, repair and replacement of the windows (including frames) located in his Residential Unit. All replacement windows must have safety "stops" designed specifically to prevent a child from falling out of the window, as approved by the New York City Department of Health and Mental Hygiene.

Pursuant to the Bylaws, the washing of exterior windows shall only be performed by a Board-approved window washing contractor. ***Please refer to the Section entitled "Rights and Obligations of Unit Owners and the Board of Managers" in Part I of this Plan.***

21. After completion of construction, the Sponsor will apply for a Certificate of Occupancy from the New York City Department of Buildings. The Sponsor will obtain at least a Temporary Certificate of Occupancy for each Unit being conveyed prior to the Unit Closing and a permanent Certificate of Occupancy within two (2) years of the first Unit Closing, barring delays caused by *force majeure* or other reasons beyond the control of Sponsor. ***Please refer to the Section entitled "Description of Property and Improvements" in Part I of this Plan for further discussion.***

22. There is no provision for a specific reserve fund for the Condominium for the purpose of paying the cost of future capital repairs, replacements or improvements to the Premises (except that each Purchaser of a Unit shall pay into the Working Capital Fund of the Condominium a sum to equal to two (2) months of Common Charges for the Unit being purchased at closing). Unit Owners shall be obligated to pay their share of the cost of repair, replacements and improvements to the Common Elements as the need for the same arises, unless there is sufficient Working Capital or other funds available. As the Building will be newly constructed, Sponsor does not anticipate the imminent need for such capital repairs, replacements or improvements; however, no assurance or guaranty is given by the Sponsor or any of its principals, managers, members, agents, designees, employees or affiliates that such needs shall not arise in the future. ***Please refer to the Sections entitled "Reserve Fund" and "Working Capital Fund and Apportionments" in Part I of this Plan.***

23. The approximate indoor floor area of each Residential Unit has been measured from the exterior side of the Building wall or glass windows at the Building line and/or Property line enclosing the Residential Unit, or a public hallway, or public space; or from the midpoint of interior party walls separating the Residential Unit from another Unit, or public stair, or boiler flue, or trash chute, or cooling tower risers, or the two (2) main electrical risers, or the two (2) main communication risers, or building laundry room exhaust, or any other Common Elements. The floor area occupied by Common Elements bordering or within a Residential Unit (such as the Building walls, columns, vents, chase walls or areas, conduits, ducts, shafts, or pipes) have been included in the computation of the floor area of the Residential Unit, but such elements are not part of the Residential Unit. The boiler flue, trash chute, cooling tower risers, the (2) main electrical risers, the (2) main communication risers, and building laundry room exhaust are not included in the Residential Unit's indoor floor area. Since the area calculations are not based upon

measurements from interior surfaces of interior walls, these measurements significantly exceed the actual floor area of the Units. Schedule A is located in Part I of this Plan.

24. Without the Sponsor's specific prior written consent, which may be withheld for any reason or no reason, a Unit Owner may not commence any alteration, addition, or improvement which would require a construction, alteration or building permit issued by the New York City Department of Buildings, including but not limited to, the combination of two or more Units, or the finishing of any space in a Unit, until Sponsor has obtained the permanent Certificate of Occupancy for the Building. Any Unit Owner who causes a delay in the issuance of a permanent Certificate of Occupancy will be liable to other Unit Owners, the Sponsor and the Condominium Board for any fines promulgated by the New York City Department of Buildings, as well as for direct and consequential damages. ***Please see the Section of the Plan entitled "Rights and Obligations of Unit Owners and the Board of Managers" for further discussion.***

25. The contingency provided for in the Projected Budget for the First Year of Condominium Operation (Schedule B) is intended to provide a fund for unanticipated expenses not included in the budget and for increases in operating expenses above the amounts projected. No other reserve fund for capital expenditures has been established. The contingency is not intended and may not be sufficient to meet the cost of any major capital repairs or replacements which may be required. If funds are required to meet such costs, it may be necessary to increase Common Charges or institute a special assessment. ***Please refer to the Section entitled "Schedule B" in Part I of this Plan.***

26. Prospective Purchasers are advised that views of the East River and the New York City skyline will be affected by future developments, according to the New York State Urban Development Corporation Hunters Point (Queens West) Waterfront Development Land Use Improvement Project Modified General Project Plan, dated April 23, 2003 (the "General Project Plan"). Please refer to the plan page located on page 38 for a reference of planned developments in Queens West. Sponsor makes no guarantee that the General Project Plan will not be amended at a future date.

27. Sponsor shall assign to Purchaser any assignable manufacturer's warranties obtained with respect to appliances installed in the Unit, and upon receipt by the Sponsor of the applicable warranty shall assign to the Condominium Board any warranties with respect to appliances installed in Common Elements. If any warrantor is unable to perform under its warranty due to inability, unwillingness or any other reason whatsoever, neither Sponsor nor its principals, managers, members, agents, designees, employees or affiliates shall under any circumstances be considered or deemed a successor warrantor or guarantor under said warranty. Neither Sponsor nor its principals, managers, members, agents, designees, employees or affiliates has obligations or responsibilities with respect to such warranties, or the work or item warrantied, even if the warrantor goes out of business, declares bankruptcy or simply fails to fulfill the conditions of the warranty. Recourse is only to the warrantor and not to Sponsor or any of its principals, managers, members, agents, designees, employees or affiliates. ***Please see the Section of the Plan entitled "Rights and Obligations of the Sponsor" for further discussion.***

28. Sponsor intends to install operable and fixed type aluminum-framed sliding or casement tinted windows. The windows shall be coved by a one (1) year guarantee. ***Please see the Section of the Plan entitled "Description of Property and Proposed Building," located in Part II.***

29. A manhole, with approximate dimensions of 4'-0" x 4'-0", leading to an underground storm sewer pipe, will be installed within the garden at Residential Unit 105. The Unit Owner of Residential Unit 105 shall be required to provide the Board of Managers with access through Unit and across the garden to perform inspections, repairs, maintenance or replacements to the underground storm sewer pipe located therein.

In addition, a service stair, leading to the roof, will be installed on the terrace appurtenant to Residential Unit PH-A. The Unit Owner of Residential Unit PH-A shall be required to provide the Board of Managers with access through the Unit and across the terrace to perform inspections, repairs, maintenance or replacements to the roof and the mechanical equipment located thereon.

The Board of Managers shall provide owners of Units 105 and PH-A, respectively, with at least three (3) days' notice, except that no notice will be necessary in the case of an "emergency" (i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building). ***Please see the Section of the Plan entitled "Description of Property and Improvements and "Description of Property and Proposed Building," located in Part II.***

30. As fully set forth in the tax opinion letter of Seiden & Schein, P.C. (the "Tax Opinion Letter"), counsel to the Sponsor, which is found in Part I of this Plan, Unit Owners would, for Federal income tax purposes, be entitled to a deduction for mortgage interest and PILOT in the year paid or accrued under Sections 163 and 164, subject to a favorable ruling from the Internal Revenue Service. These deductions are subject, however, to certain exceptions and limitations that are more particularly discussed in the Tax Opinion. These deductions may also affect an individual Unit Owner's liability for the alternative minimum Federal income tax. Subject to a favorable ruling from the Internal Revenue Service, each individual Unit Owner would, for New York State and New York City income tax purposes, be entitled to similar deductions for the mortgage interest and PILOT paid or accrued during the taxable year. Such deductions may also affect his or her New York City minimum tax liability. As stated in the Tax Opinion Letter, Sponsor will apply to the Internal Revenue Service for a private ruling on the deductibility of PILOT.

DEFINITIONS

"Agreement"	The agreement to purchase a Unit pursuant to the Offering Plan.
"Appurtenant Interest"	With respect to any Unit, the undivided interest of the owner thereof, pursuant to the terms of Section 339-x of the Condominium Act, in and to: (i) the Common Elements; (ii) any other Units owned or leased at the time in question by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners; (iii) any proceeds of the sale or lease of Units of the nature described in subdivision (ii) above; and (iv) any other assets of the Condominium.
"Assessments"	The charges allocated and assessed by the Board of Managers to the Unit Owners, pro rata, in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in the Bylaws).
"Board", "Board of Managers" or "Condominium Board"	The Board of Managers of the Condominium.
"Building"	The structure located at 46-30 Center Boulevard, Long Island City, New York
"Closing"	The time, place and procedure by which fee title to the Unit in question is conveyed to a Purchaser pursuant to a fully executed Agreement.
"Closing Date"	The date upon which a Closing occurs.
"Commercial Common Charges"	Assessments payable to the Board by the Commercial Unit Owner for the purpose of meeting (a) Commercial Common Expenses and (b) the Commercial Unit Owner's pro rata share of General Common Expenses.
"Commercial Common Elements"	Those Common Elements which serve or benefit exclusively the Commercial Unit and/or the Commercial Unit Owner.
"Commercial Common Expenses"	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and

operation of, and any alteration, addition or improvement to, the Commercial Common Elements.

"Commercial Common Interest" — The proportionate undivided interest, expressed as a numerical percentage, of the Commercial Common Elements appertaining to each Commercial Unit determined in accordance with the Declaration. The Commercial Common Interest is the basis of determining a Unit Owner's liability for a share of the Commercial Common Expenses.

"Commercial Limited Common Elements" — Those Commercial Common Elements which serve or benefit one or more, but not all, Commercial Units and/or the Commercial Unit Owners.

"Commercial Section" — The Commercial Unit, the Commercial Common Elements and the Commercial Limited Common Elements.

"Commercial Unit" — A Unit designated as a Commercial Unit in the Declaration.

"Commercial Unit Owner" — Any owner of the Commercial Unit.

"Common Charges" — Each Unit's proportionate share of the Common Expenses in accordance with its Common Interest.

"Common Elements" — All portions of the Property, other than Units. Common Elements are comprised of Residential Common Elements, Commercial Common Elements, and General Common Elements.

"Common Expenses" — Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Common Elements.

"Common Interest" — The proportionate, undivided interest in the Common Elements appertaining to each Unit as expressed in the Declaration.

"Condominium" — A form of ownership of real property in which individual Units as component parts of a whole are owned as a leasehold with the right of exclusive use, by separate individuals or entities, which separate individuals and/or entities jointly own those parts of the whole designated as Common Elements. In the context of this Declaration, the

	term "Condominium" specifically refers to 46-30 Center Boulevard Condominium.
"Condominium Act"	Article 9-B of the Real Property Law of the State of New York, as the same may be amended from time to time.
"Condominium Documents"	The Declaration and all Schedules thereto, the Bylaws, the Rules and Regulations, the Floor Plans, the form of Unit Deed and the form of Unit Owner's Power of Attorney.
"Declarant"	The Sponsor of this Offering Plan, or its designee. References to Declarant's rights throughout the Offering Plan, including the Declaration, are valid for so long as the Declarant has a leasehold interest the Property.
"Declaration" or "Declaration of Condominium"	The instrument, as may be amended from time to time, by which the Property is submitted to the provisions of the New York State Condominium Act, consistent with the provisions of the New York Condominium Act and the Bylaws.
"Department of Law"	The New York State Department of Law.
"Filing Date"	The date that the Plan is accepted for filing by the Department of Law.
"First Unit Closing"	The first Closing of title with a bona fide Purchaser of a Unit.
"Floor Plans"	The floor plans of the Units certified by a registered architect or licensed professional engineer, and filed in the Register's Office simultaneously with the recording of the Declaration, together with any supplemental floor plans thereto.
"GBL"	Section 352-e of the New York State General Business Law.
"General Common Charges"	Assessments payable to the Condominium Board by the Unit owners for the purpose of meeting General Common Expenses.
"General Common Elements"	The Land and all parts of the Building, including its foundations, support and main roof, other than the Units, the Residential Common Elements, the Residential Limited Common Elements, the Commercial Common Elements, and the Commercial Limited Common Elements.

"General Common Expenses"	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration, and operation of, and any alteration, addition, or improvement to the General Common Elements.
"Improvements"	The Building, Equipment (as defined in the Lease), sidewalks, landscaping, utilities, vaults (other than utilities outside the Improvements and vaults which are maintained by a utility company), and all other improvements and appurtenances of every kind and description erected, constructed, or placed upon the Land.
"Insurance Trustee"	A bank, a trust company or savings and loan association, having an office in the City of New York, from time to time appointed to serve as such by the Condominium Board.
"Land"	All that certain tract, plot, piece and parcel of land situate, lying and being in the County of Queens, City and State of New York, as more particularly described in Exhibit A to the Declaration.
"Law"	The laws and ordinances of any or all of the Federal, New York State, New York City, and Queens County governments, the rules, regulations, orders and directives of any or all departments, subdivisions, bureaus, agencies, or offices thereof or of any other governmental, public, or quasi-public authorities having jurisdiction over the Property and/or the Condominium, and/or the direction of any public officer pursuant to law.
"Landlord"	Queens West Development Corporation or the landlord at the time in question under the Lease.
"Lease"	The Agreement of Lease between Queens West Development Corporation and East Coast 5 L.L.C., dated September 19, 2003.
"Majority"	Majority of Unit Owners means more than fifty percent (50 %) in Common Interest in the aggregate, as may be specified herein or in the Declaration or the Bylaws with respect to any matter or matters. Any specified percentage of Unit Owners means such percentage in Common Interest in the aggregate, as may be specified herein or in the Declaration or the Bylaws with respect to any matter or

matters, provided, however, that different percentages in interest and in number of Units may be so specified.

"Managing Agent" — A person employed by the Condominium Board pursuant to Article 2, Section 2.3 of the Bylaws, who shall undertake to perform the duties and services that the Condominium Board shall direct and who shall have whatever powers the Condominium shall delegate, subject to the limitations contained in such Section of the Bylaws.

"Offering Plan" or "Plan" — The document filed with the New York State Department of Law which describes the Condominium property and pursuant to which individual Units in the Condominium are offered for sale, as the same may be amended from time to time.

"Permitted Mortgage" — A mortgage placed on a Unit made to a bank, a trust company, an insurance company, a federal savings and loan association, a pension fund or other institutional lender, the Sponsor, a Sponsor-designee, or the Seller of the Unit.

"Permitted Mortgagee" — The holder of a Permitted Mortgage.

"Operation of the Property" — The administration and operation of the Property and the maintenance, repair and replacement of, and the making of any additions and improvements to, the Common Elements.

"Person" — A natural person, corporation, partnership, limited liability company, association, trustee, or other legal entity.

"Power of Attorney" — The document, signed by Unit Owners, which appoints:

(i) the Board of Managers as attorney-in-fact, to acquire, on behalf of all Unit Owners, any Unit that the Unit Owner of which wishes to sell or abandon, together with the Appurtenant Interest thereto, and to deal with any such Units so acquired as they may determine; and

(ii) the Sponsor, as attorney-in-fact, to amend the Declaration, the Bylaws, and the Rules and Regulations of the Condominium, or any of said documents under certain conditions set forth in the Power of Attorney.

"Property" — Means and includes the Land, the Building and all other improvements thereon, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection

	therewith, which have been or are intended to be submitted to the provisions of the New York State Condominium Act.
"Purchaser"	Any Person who has entered into an agreement with Sponsor to purchase a Unit and is not in default thereunder.
"QWDC"	Queens West Development Corporation and its successors and assigns.
"QWDC Requirements"	Requirements imposed upon the Tenant under the terms of the Lease and Design Controls (as defined in the Lease) as same may be amended from time to time.
"Recording officer", "Recording" and "Recorded"	The meanings stated in section two hundred ninety of the New York State Real Property Law.
"Rent"	Collectively, payments of base rent, PILOT, the Public Maintenance Amount (as described in Schedule B herein), Impositions (as defined in the Lease), and all other sums due and payable by Tenant to or on behalf of Landlord under the terms of the Lease.
"Residential Common Charges"	Assessments payable to the Board by the Residential Unit Owners for the purpose of meeting (a) Residential Common Expenses and (b) each Residential Unit Owner's pro rata share of General Common Expenses.
"Residential Common Elements"	Those Common Elements which serve or benefit exclusively the Residential Units and/or the Residential Unit Owners.
"Residential Common Expenses"	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Residential Common Elements and/or the Residential Limited Common Elements (to the extent that such expenses are not the obligation of the Residential Unit Owners owning the Residential Units to which the Residential Limited Common Elements are appurtenant) or in connection with any services or facilities exclusively benefiting the Residential Section or the Residential Unit Owners.

"Residential Common Interest"	The proportionate undivided interest, expressed as a numerical percentage, of the Residential Common Elements appertaining to each Residential Unit determined in accordance with the Declaration. The Residential Common Interest is the basis of determining a Unit Owner's liability for a share of the Residential Common Expenses.
"Residential Limited Common Elements"	Those Common Elements which serve or benefit exclusively one or more but not all the Residential Units and/or the Residential Unit Owners including, but not limited to, all gardens, terraces and balconies appurtenant to a Residential Unit. See Exhibit B of the Declaration of Condominium in Part II of this Plan for more information.
"Residential Section"	The Residential Units, the Residential Common Elements and the Residential Limited Common Elements.
"Residential Unit"	Any Unit designated as a Residential Unit in the Declaration, and all such Residential Units, are, collectively, referred to as the "Residential Units".
"Residential Unit Owner"	Any owner of a Residential Unit, and all such owners are collectively referred to as "Residential Unit Owners".
"Rules and Regulations"	The rules and regulations of the Condominium, which are annexed as an addendum to the Bylaws, as any of the same may be amended, modified, added to, or deleted from time to time pursuant to the terms of the Bylaws, provided that they are not in conflict with the terms of the Condominium Act, the Declaration, or the Bylaws.
"Selling Agent"	Metropolitan Living Ltd., or any successor selling agent at the time in question.
"Sponsor"	The promoter of the project and/or Offering Plan to convert a particular parcel of property to Cooperative or Condominium ownership.
"Sponsor-designee"	Any Person designated by Sponsor to hold title to any Unit. Sponsor's statement in writing that a Person is a Sponsor-designee shall be conclusive evidence of such status so as to entitle such Person to all the rights of a Sponsor-designee under the Offering Plan. A Sponsor-designee shall have the right to designate a Person to succeed to its rights and any such designee shall also be deemed a "Sponsor-designee".

"Tenant"	The tenant under the Lease, which is the Sponsor, and shall be the Board from and after the First Unit Closing.
"Unit"	Any space in the Building designated as a Unit, and all such Units are collectively referred to as the "Units".
"Unit Owner"	The person or persons, or entity owning a leasehold interest in a Unit, and all such owners are collectively referred to as the "Unit Owners".
"Unit Designation"	The number, letter or combination thereof or other official designations conforming to the tax lot number, if any, designating the unit in the Declaration and on the Floor Plans.
"Unsold Residential Units"	Any Residential Unit owned by Sponsor or its designee at the time in question.
"Unsold Units"	Any Unit owned by Sponsor or its designee at the time in question.

INTRODUCTION

The Sponsor of the Property is East Coast 5 L.L.C., a New York limited liability company, having an address at 290 Park Avenue South, New York, New York 10010. The Sponsor entered into a ground lease (the "Lease") for the Property with Queens West Development Corporation ("QWDC") on September 19, 2003 for a term of 99 years, and is, therefore, a ground lessee. QWDC is a subsidiary of the New York State Urban Development Corporation ("UDC"), and is the landlord (the "Landlord") of the Property and Improvements under the terms of the Lease. QWDC has oversight of the development of the Queens West Waterfront Development Project at Hunters Point ("Queens West").

The Queens West project is designed pursuant to development controls of the UDC Modified General Project Plan (the "GPP"), as refined by design guidelines (the "Design Guidelines"). A copy of the GPP and the Design Guidelines are located in Part II of this Offering Plan, as Exhibits K and L to the Lease, respectively. QWDC is charged with the responsibility to review development plans to insure compliance with the GPP and the Design Guidelines. QWDC's review of the development plans replaces the zoning review usually carried out by the New York City Department of Buildings. However, the Department of Buildings will review compliance with the New York City Building Code and the New York State Multiple Dwelling Law.

In the leasehold condominium form of ownership, each Purchaser of a Unit owns his Unit similarly in many respects to the manner in which a private home owner owns his home. (References to the masculine gender in this Plan shall be deemed to refer to the feminine gender or plural where the context so requires and shall be deemed to include any duly formed partnership, corporation, trust, estate, fiduciary, unincorporated association or any other entity permitted to own real property in the State of New York). The Unit Owner owns a condominium leasehold interest in the Unit and is entitled to the exclusive possession thereof. The Unit Owner is also the owner, in common with the owners of all other Units, of an undivided leasehold interest in all remaining parts of the Property except for the Units themselves, including the land upon which the Units are built, the foundations and supports of the Building, the exterior walls and the roof (hereinafter called "General Common Elements"). Each Unit Owner's proportionate share (hereinafter called "Common Interests") of the Common Elements has been determined upon the basis of such Unit's floor space, location, uniqueness, overall dimensions and similar factors of relative value to other space in the Condominium. These allocations are made pursuant to Section 339-i 1(iv) of the Real Property Law, which is part of the Condominium Act.

Prospective Purchasers are advised that the Lease term will expire on September 30, 2102. Once the Lease term expires, the Board of Managers must either negotiate an extension of the Lease or negotiate a new lease with the then-holder of the fee interest in the Property. If the Board of Managers is unable to negotiate an extension to the Lease or execute a new Lease, then the leasehold estate will terminate and each Unit Owner shall be required to surrender his leasehold Condominium interest and the right to possess and occupy his Unit. In addition, as the Lease term runs, the value of each Unit will diminish. Therefore, as the Lease term diminishes, obtaining mortgage financing, or refinancing

will become increasingly difficult. Sponsor makes no guarantee that a Lease extension will be granted or that a new lease will be executed once the Lease term expires.

Notwithstanding the foregoing, pursuant to the terms of the Lease, once the Building is substantially complete, and after the First Unit Closing, the Board of Managers will have the option of purchasing the Property from the Landlord, QWDC, for $1.00 and terminating the Lease. Since the Board of Managers will assume the rights and obligations of the Tenant under the Lease upon the First Unit Closing, the Board of Mangers will have the ability to decide when and if to exercise the option to purchase the Property. However, pursuant to the Bylaws, so long as Sponsor shall continue to own one (1) Unit, the Board of Managers may not, without the Sponsor's prior written consent, exercise the option to purchase the Property from QWDC.

Rather than real estate taxes, all Unit Owners will make payments in lieu of taxes (commonly referred to as "PILOT") to QWDC. PILOT payments are considerably lower than the real estate taxes that would be assessed to each Unit in the absence of PILOT. Prospective Purchasers are advised that upon exercising the option to purchase the Property, all PILOT benefits will be forfeited and real estate taxes will be charged to each Unit by the New York City Department of Finance, based on the then-assessed valuation of each Unit. The PILOT program is currently in effect, and will continue to be in effect until September of 2027. Please see the section of the Offering Plan entitled "Payments in Lieu of Taxes," located in Part I, for more information about PILOT and the section entitled "Summary of Lease," located in Part I, for more information. A full copy of the Lease is located in Part II of this Offering Plan and all prospective Purchasers are advised to review the terms thereof prior to purchasing a Unit.

Pursuant to the Lease, QWDC shall designate Sponsor as its agent for the purpose of purchasing appliances for the initial fit-out of the Units. The lease specifies that the appliances may not be removed from the Unit unless a) they are replaced by appliances of comparable value or quality; b) the removed appliances are reinstalled within the Building within three (3) months of such removal, or c) the appliances are obsolete or worthless. The Lease specifies that by virtue of a sales tax exemption, the appliances are deemed leased to Tenant (and, by extension, to the Board).

The Condominium will be organized pursuant to Article 9B of the Real Property Law of the State of New York, as amended, which is commonly known as the New York Condominium Act (hereinafter referred to as the "Condominium Act"). The Condominium will be a qualified leasehold condominium, which is defined in section 339-e of the New York Real Property Law as a leasehold interest in real property, which is subject to the Condominium Act, the leasehold of which is held by QWDC. The Lease shall be in full force and effect on the date of the First Unit Closing. Each Purchaser will obtain from Sponsor a leasehold condominium interest his Unit and a proportionate undivided leasehold interest in the Condominium's Common Elements. Commencing at the time of the First Unit Closing, the Condominium Board will become the tenant under the Lease, and will, therefore, be responsible for complying with all of the terms therein.

The purpose of the Plan is to set forth all the terms of the offer so that prospective Purchasers have an adequate basis upon which to determine whether to purchase Units in the Condominium. The Plan may be amended from time to time when an amendment is filed with the New York State

Department of Law. All filed amendments will be served on (i) Purchasers who have executed and delivered Agreements to the Sponsor or the Selling Agent and whose Agreements are in effect, (ii) Unit Owners, and (iii) any other person who is required by law to receive such amendment. Service shall be either by personal delivery, ordinary mail or registered mail. Service by personal delivery is deemed complete upon delivery. Service by mailing shall be presumed complete on the fifth day after the date of mailing.

The Condominium is being newly constructed. It shall consist of one-hundred-eighty-four (184) Residential Units and one (1) Commercial Unit. One-hundred-eighty-three (183) of the Residential Units are being offered for sale to the public hereunder. Residential Unit 308, which will house the Building resident manager, will be sold to the Board of Managers. The Sponsor is not offering the Commercial Unit for sale at this time. The Commercial Unit is being designed for retail use, but may be used for any lawful purpose, except as stated in the Declaration.

The Building will have a variety of amenities and services for the use of Building residents, including, but not limited to, 24-hour doorman service, a washing machine and dryer in each Unit, a central laundry room for the use of all Building residents, automatic elevators, security systems and communication facilities. In addition, the Building will have an exercise room, a bicycle room (available to Purchasers on a first come, first served basis) and a package room for the use and convenience of all Residential Section residents.

Due to the size of the Building and the complex process of constructing a building in general, prospective Purchasers are advised that for a period of time following the First Unit Closing construction on and within the Building will likely be ongoing.

During at least the first year of Condominium operation, construction workers will likely be on site performing construction work on various parts of the Building. As such, prospective Purchasers are advised that the Building's systems, including, but not limited to, the elevator, heating, cooling, air conditioning ventilation system, and water system may be disrupted from time to time. Prospective Purchasers are advised that all of the foregoing work may be noisy and disruptive while being performed.

In addition, prospective Purchasers are advised that the decoration and finishing of the Common Elements, including, but not limited to, the lobby and Building corridors may not be fully complete at the time of the First Unit Closing, and may, in fact, proceed for some time after the First Unit Closing, as each floor of the Building is completed. The Sponsor does not warrant or guarantee that all of the foregoing services and amenities will be available at the First Unit Closing, as outside providers of certain services may not have completed their installations as of the First Unit Closing.

The Sponsor is retaining the unconditional right to rent rather than sell up to forty nine percent (49%) of the Residential Units. Sponsor makes no representation that it will execute Agreements to sell more than fifty one percent (51%) of the Residential Units.

All the Units being offered are intended to be sold as Condominium Units in accordance with this Plan at the prices noted in Schedule A. These prices have been established solely by the Sponsor

and are not subject to review or approval by the Department of Law or any other governmental agency. All fixtures and equipment described in this Plan are included in the offering prices listed in Schedule A. If Sponsor leases certain Units to tenants and such Units subsequently are offered, Sponsor shall amend the Plan accordingly.

As more particularly described in this Plan, the Building will include (a) the General Common Elements, (b) the Residential Section containing the Residential Units, the Residential Common Elements and the Residential Limited Common Elements, and (c) the Commercial Section containing the Commercial Unit, the Commercial Common Elements and the Commercial Limited Common Elements. The Residential Units and the Commercial Unit are, collectively, referred to herein as the "Units".

Certain Residential Unit Owners have exclusive use of a terrace appurtenant to their Residential Units, and such Unit Owners are responsible for all normal maintenance, repairs and replacements thereto. However, the costs and expenses of any structural or extraordinary repairs (meaning any non-recurring repair which requires more than the usual annual expense for ordinary wear) or replacements to any terrace (unless caused by a Residential Unit Owner) shall be charged to all Residential Unit Owners as a Residential Common Expense.

Residential Units Owners with exclusive use of a balcony appurtenant to their Residential Units are responsible for all maintenance, repairs and replacements thereto, whether structural or nonstructural, ordinary or extraordinary.

Pursuant to the Declaration, terraces and balconies appurtenant to Residential Units are part of the Residential Unit, and are shown on the floor plans included in Part II of this Offering Plan.

Each Purchaser of a Residential Unit will be required to make a contribution to the Working Capital Fund of the Residential Section. Such contribution, to be made at the time of Closing of the Residential Unit, shall be in an amount equal to two (2) months Residential Common Charges in effect at the time of closing for each Residential Unit purchased. (See the Section entitled "Working Capital Fund and Apportionments").

Each Unit Owner is privileged to mortgage his Unit generally on the terms and in such amount as he chooses. With respect to any Unit, a first mortgage or second mortgage shall be either with an institutional lender, the Sponsor, a family member, a business associate or employer or a selling Unit Owner. No Unit Owner shall be permitted to encumber his or her Unit with a third mortgage. Pursuant to this Plan, however, no Agreements shall be contingent upon a Purchaser obtaining mortgage financing. A Unit is not subject to the lien of any mortgages placed by other Unit Owners on their Units.

A Residential Unit Owner can lease his Residential Unit to anyone for a term of not less than one year, or sell his Residential Unit, without restriction or limitation, subject only to a "right of first refusal" by the Board at the same price and terms the Residential Unit Owner has been offered. Such right of first refusal is hereinafter described in the Section entitled "Rights and Obligations of the Unit Owners and the Condominium Board" in Part I of this Plan. If the Board exercises its right of first

refusal to lease a Residential Unit, the lessee of the Residential Unit will be subject to reasonable approval by the Residential Unit Owner. The Condominium Board will not have a right of first refusal with respect to the sale or lease of the Commercial Unit.

A Residential Unit Owner can alter and decorate the interior of his Residential Unit in any way he desires, subject to the Condominium Bylaws and local codes, and is obligated for the cost of his own interior decoration, maintenance and repair after Closing.

The Board of Managers does not have the right to approve or disapprove purchasers of Residential Units, and there is no limit on the number of Residential Unit Owners who may purchase for investment rather than for personal occupancy. Consequently, there may always be a substantial percentage of Unit Owners who are not owner-occupants. In addition, the Bylaws of the Condominium do not include a provision that, after the initial Sponsor voting control period, a majority of the Board of Managers must be owner-occupants or members of an owner-occupant's household who are unrelated to the Sponsor and its principals. Therefore, purchasers for their own occupancy may never gain control of the Board of Managers under the terms of this Plan. Further, Unit Owners who are owner-occupants and Unit Owners who are non-residents (including Sponsor) may have inherent conflicts on how the Condominium should be managed because of their differing reasons for purchasing (i.e. purchase of a Residential Unit as a home as opposed to an investment).

Each Unit will be taxed as a separate tax lot for PILOT purposes, and a Unit Owner will not be responsible if any of the other Unit Owners fail to pay their PILOT contribution. In the opinion of counsel for the Sponsor, a Unit Owner, like a home owner, may under most circumstances, deduct from his income for income tax purposes his PILOT contribution and the interest paid on the mortgage encumbering the Unit(s) owned by him. The Condominium Board will assess against each Unit Owner, in proportion to his respective percentage of Common Interest, charges (hereinafter called "Common Charges") for the costs of maintenance of the Common Elements and for the operation of the Property (hereinafter called "Common Expenses"), as provided in New York State Real Property Law Section 339-m. Each Residential Unit Owner will pay for electricity which is consumed within his own Unit, the charges for which will be sub-metered. Each Residential Unit Owner will be billed by the Board for the use of electricity in his Unit. The charges for gas consumed in the Residential Units shall be commonly metered, and billed to the Residential Unit Owners as a Common Charge. Gas consumed within each Residential Unit for cooking, heating, and hot water, will be collectively metered and borne by each Residential Unit Owner as a Common Expense.

Each Unit Owner is obligated to comply with the Declaration, the Bylaws, the Rules and Regulations, and any other requirements of the Condominium Board. Each Residential Unit Owner shall also be responsible for maintaining his own Unit and for making repairs within his own Residential Unit. The cost of maintenance and repair of the Common Elements shall be shared by all Unit Owners as provided above. Each Unit Owner shall have the same rights of access to, use of and benefit of the Common Elements which are not Limited Common Elements. Each Unit Owner shall also be responsible for obtaining and bearing the cost of casualty and liability insurance in connection with his respective Unit. The Condominium Board shall have the duty of obtaining casualty and liability insurance on behalf of the Condominium with respect to the Building as a whole.

The affairs of the Condominium shall be governed by the Board of Managers. From and after the first annual meetings of Unit Owners as provided in Section 3.1 of the Bylaws, the Condominium Board shall consist of four (4) persons elected or designated by the Residential Unit Owners, subject to Sponsor's rights as set forth in Subsection 3.9.3 of the Bylaws, and one (1) person elected or designated by the Commercial Unit Owner. Upon the earlier of (i) the Closing of title to Residential Units the percentage of Common Interests of which, in the aggregate, equals at least seventy-five (75%) percent; or (ii) five (5) years from the First Unit Closing, Sponsor, including any designee thereof, will relinquish control of the Board of Managers if it has such control and will not elect a majority of its nominees for positions on the Board of Managers, even though the total percentage of Common Interest may otherwise enable it to do so. Accordingly, it is possible that Sponsor and/or its designee(s) may control the Board of Managers for as long as five (5) years after the First Unit Closing.

The Condominium Board shall have the authority to manage and administer the affairs of the Condominium, including, but not limited to, the determination of Common Charges and the adoption of Rules and Regulations covering the Condominium. Please see the Section entitled "Rights and Obligations of the Unit Owners and the Condominium Board" in Part I of this Plan for further discussion.

Units may be purchased either by natural persons over the age of 18 years or by a duly formed partnership, corporation, trust, estate, fiduciary, unincorporated association, syndicate, joint venture, organization, government or any department or agency thereof, or any other entity permitted to own real property in the State of New York.

This Plan contains all of the material terms of the transaction. Copies of the Plan, all documents referred to in the Plan and all Exhibits submitted to the Department of Law in connection with the filing of the Plan will be available for inspection without charge and for copying at a reasonable charge to prospective Purchasers and their attorneys at the office of the Selling Agent or at the on-site sales office at all times such office is open. Copies of the Plan and exhibits thereto will also be available for inspection and copying at a reasonable fee at the Department of Law.

The Plan may be borrowed by a prospective Purchaser from the Sponsor upon payment of a one hundred dollar ($100.00) deposit, which amount will be fully refunded either upon (i) the prompt return of all borrowed materials in good condition or (ii) the execution of a Agreement subsequently accepted by Sponsor.

THE PURCHASE OF A CONDOMINIUM UNIT HAS MANY SIGNIFICANT LEGAL AND FINANCIAL CONSEQUENCES.THE ATTORNEY GENERAL STRONGLY URGES YOU TO READ THIS OFFERING PLAN CAREFULLY AND TO CONSULT WITH AN ATTORNEY BEFORE SIGNING AN AGREEMENT.

LEASE SUMMARY

The ground lease (the "Lease") to the Property is dated September 19, 2003. The principal provisions of the Lease are as follows:

Landlord

The landlord under the Lease is Queens West Development Corporation, a subsidiary of the New York State Urban Development Corporation, doing business as Empire State Development Corporation, having an office at 633 Third Avenue, 36th floor, New York, New York 10017.

Tenant

The Tenant under the Lease is East Coast 5 L.L.C., which is the Sponsor under this Offering Plan. As of the date of the First Unit Closing, the Board of Managers shall become the Tenant on behalf of all Unit Owners.

Term

The Lease term will expire on September 30, 2102. The Lease does not provide for a renewal and, therefore, if the Board is unable to obtain an extension to the Lease, the Unit Owners will be required to surrender their leasehold Condominium interest and vacate the Property. Purchasers are advised that as the Lease term diminishes, the value of the Units diminishes. Therefore, as the Lease Term diminishes, it may be increasingly difficult to obtain financing on a Unit or to refinance an existing mortgage on a Unit. Sponsor makes no representation as to the likelihood of obtaining a Lease extension or renewal or the right of any Unit Owner to remain in occupancy in his Unit once the Lease term expires.

Option to Purchase

Tenant has the option to purchase the Property (but excluding any publicly accessible private pedestrian space ("PAPPS"), as defined in the Lease). The option to purchase the Property may be exercised under one of two scenarios:

Scenario A: The option may be exercised by Tenant's delivery of a written notice of such exercise to Landlord at any time after the "Infrastructure Compliance Date," which, under the terms of a Project Infrastructure Agreement (the "PIA") between QWDC and Rockrose GC QW Sitework L.LC., an entity related to the Sponsor, is the first date on which (i) Rockrose GC QW Sitework L.LC., either makes its required contribution toward the Queens West infrastructure in full to QWDC or such contribution is applied towards the cost of the Queens West infrastructure and (ii) required environmental remediation to the Queens West development site has been completed. In addition, in order to exercise the option to purchase, the Building must be substantially complete.

Scenario B: The option may be exercised at any time after the Infrastructure Compliance Date (but prior to substantial completion of the Building), if an Event of Default (other than as a result of Tenant being a "Prohibited Party," as defined in the Lease) has occurred and is continuing so long as the option is exercised prior to the date which is within ninety (90) days after the receipt of a notice of termination of the Lease and provided that (i) Tenant otherwise complies with the terms of Article 34 of the Lease; and (ii) Tenant has cured all monetary Events of Default and all curable non-monetary Events of Default within such ninety (90) day period. If a curable non-monetary Event of Default cannot be reasonably cured within such ninety (90) day period, Tenant must have promptly commenced a curative action and must provide Landlord with an agreement confirming its obligation to complete such cure; (iii) Tenant must deliver the exercise notice; (iv) Tenant must still be in possession at the time of the exercise. The Building must be substantially completed under Scenario B, within the time frame proscribed in Article 34 of the Lease. Article 34 of the Lease is located in Part II on page 742.

If Tenant exercises its option to purchase the Property pursuant to Article 34 of the Lease, then Landlord shall sell, transfer, assign and convey to Tenant Landlord's fee interest in the Property, including all easements, rights-of-way, privileges, appurtenances, and rights pertaining the Property, and all fixtures, machinery, equipment and improvements owned by Landlord and attached or appurtenant to, or located on, or used in connection with the use or operation of the Property. The purchase price of the Property shall be $1.00. The Property shall be sold subject to the Lease, unless Tenant elects otherwise at the closing of title. However, once the option to purchase is exercised, neither Tenant nor any Unit Owner will be entitled to any benefits by reason of the ownership of the Improvements by Landlord as a public entity, including, but not limited to, PILOT. As discussed below, PILOT benefits expire on September 19, 2027. Tenant (which, after the First Unit Closing, will be the Board of Managers) should consider the expiration date of PILOT, and the affect that exercising the option to purchase the Property will have on PILOT benefits, prior to exercising the option to purchase. Purchasers are advised that pursuant to the Bylaws, so long as Sponsor shall continue to own one (1) Unit, the Board of Managers may not, without the Sponsor's prior written consent, exercise the option to purchase the Property from QWDC. However, Sponsor and the other Unit Owners should not have conflicting interests with regard to the decision to maintain or terminate PILOT benefits since both parties benefit from PILOT and would be impacted negatively by the early termination of PILOT benefits.

Upon closing title, the Tenant's requirements under the Lease, as discussed in this section of the Offering Plan, and as provided in the Lease, such as, but not limited to, the obligation to pay the Public Maintenance Amount (discussed below) and to maintain particular limits of insurance under the Lease (also discussed below) shall terminate. However, under the terms of the Lease, the Landlord has the right to require the Tenant to participate with other owners and/or lessees in Queens West in an association for the purpose of maintaining and/or providing security to portions of Queens West that are open and accessible to the public. If such an association is formed, Landlord may

required Tenant to pay annual dues to such association, in an amount not to exceed the annual Public Maintenance Amount.

Pursuant to Article 34 of the Lease, if Tenant exercises the option to purchase the Property, then Tenant will also be responsible for the cost of New York State and New York City transfer taxes relating to the transaction as well as other closing costs, such as, but not limited to, title insurance and legal fees.

Base Rent

Pursuant to the Lease, the base rent, a fixed amount payable by the Tenant to the Landlord, is $1.00 annually, payable on the first day of each Lease Year (as defined in the Lease).

Payment in Lieu of Taxes ("PILOT")

Pursuant to the Lease, real estate taxes will not be assessed against the Property or the Units for a period of twenty-four (24) years, commencing on September 19, 2003. Rather, the Tenant must pay the Landlord an annual sum, payable in equal semi-annual installments, which is referred to as a "Payment in Lieu of Taxes" or "PILOT." Therefore, while each Unit will become a separate tax lot once the Declaration is recorded with the New York City Register's Office, County of Queens, PILOT payments will be made directly to the Landlord by the Board of Managers and not to the New York City Department of Finance. For each tax year (which is defined in the Lease as each successive twelve (12) month period (the "PILOT Period"), the Tenant shall pay to Landlord an annual sum, in equal semi-annual installments, as follows:

PILOT Year	PILOT
1 (9/19/03-9/18/04)	$ 29,242
2 (9/19/04-9/18/05)	$ 30,120
3 (9/19/05-9/18/06)	$ 31,024
4 (9/19/06-9/18/07)	$ 31,954
5 (9/19/07-9/18/08)	$ 31,954
6 (9/19/08-9/19/09)	$ 31,954
7 (9/19/09-9/18/10)	$ 31,954
8 (9/19/10-9/18/11)	$ 31,954
9 (9/19/11-9/18/12)	$ 31,954
10 (9/19/12-9/18/13)	$ 31,954
11 (9/19/13-9/18/14)	$ 31,954
12 (9/19/14-9/18/15)	$ 31,954
13 (9/19/15-9/18/16)	$ 31,954
14 (9/19/16-9/18/17)	$ 31,954

PILOT Year	PILOT
15 (9/19/17-9/18/18)	$ 31,954
16 (9/19/18-9/18/19)	$ 31,954
17 (9/19/19-9/18/20)	$ 31,954
18 (9/19/20-9/18/21)	$ 31,954
19 (9/19/21-9/18/22)	$ 31,954
20 (9/19/22-9/18/23)	$ 31,954
21 (9/19/23-9/18/24)	$ 321,016
22 (9/19/24-9/18/25)	$ 661,293
23 (9/19/25-9/18/26)	$1,021,698
24 (9/19/26-9/18/27)	$1,403,132

At the end of the PILOT Period, Tenant shall pay PILOT to Landlord in an amount equal to the actual taxes that would be due to the City of New York if the Property were not completely exempt from real estate taxes, less any real estate tax abatement and/or exemption that the Property would actually qualify for based on all of the existing circumstances in the event Tenant were the fee owner of the Property.

Should Tenant exercise its right to purchase the Property, then all PILOT benefits will be forfeited and each Unit will be separately assessed for real estate tax purposes by the New York City Department of Finance. All real estate tax payments shall then be paid directly to the Department of Finance.

Public Maintenance Amount

Commencing upon the issuance of the first Temporary Certificate of Occupancy for the residential portion of the Building, and continuing throughout the term of the Lease, Tenant shall pay to Landlord, as charges additional to the base rent, the annual sum equal to the product of thirty-five cents ($.35) adjusted for inflation and the total floor area above grade, excluding mechanical space (the "Public Maintenance Amount"). The Public Maintenance Amount is intended to cover the costs associated with maintaining and/or providing security for portions of Queens West that are open and accessible to the public. For the first year of Condominium operation, the estimated Public Maintenance Amount due to Landlord is $64,199. The Public Maintenance Amount shall be paid to Landlord in equal quarterly installments on the first day of each three month period. See Schedule B for further information on the Public Maintenance Amount.

Impositions

Tenant shall pay Landlord all of the following charges, which are imposed by a federal, state or local government agency, department, corporation, commission, board,

bureau, instrumentality or political subdivision (other than Landlord): (i) real property assessments other than real estate taxes imposed by the City of New York; (ii) personal property taxes; (iii) occupancy and rent taxes; (iv) water, water meter, and sewer rents, rates and charges; (v) excises; (vi) license and permit fees; (vii) service charges with respect to police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply, if any (viii) fines, penalties and other similar governmental charges applicable to the foregoing and any interest or cost with respect thereto and (ix) except for real estate taxes imposed by the City of New York, any and other governmental levies, fees, transfer taxes, rents, assessments or taxes and charges. Each imposition must be paid on the due date of such imposition, meaning the last date that such imposition can be paid without any fine, penalty, interest or cost being added or imposed by reason of non-payment.

Use

Tenant has the right to occupy the Building in accordance with the Certificate of Occupancy, and for no other purpose, subject to the provisions of the Lease.

Block Subtenant Restriction

The Lease provides that no person (as defined in the Lease) may be a subtenant under more than one residential sublease. By extension, this means that no Purchaser shall purchase more than one (1) Residential Unit. However, the Lease provides that this restriction shall not apply to fifteen percent (15%) of the Units in the Building. Therefore, twenty-seven (27) Residential Units are available to Purchasers who desire to own more than one (1) Residential Unit.

Insurance

Tenant is required to maintain, at is sole cost and expense, insurance which covers the full replacement cost of the Building, including an "agreed amount" endorsement and any increase in value from increased costs. The replacement value of the Building shall be determined from time to time, but not less frequently than required by the insurer and, in any event, at least once every three (3) years. With respect to flood and earthquake coverage, such policy may have sublimits of $50,000,000.00 for the Building.

Tenant shall also be required to maintain Commercial General Liability Insurance; Boiler and Machinery Insurance; Worker's Compensation Insurance; if applicable, Business Automobile Liability insurance for any automobile, including all owned, non-owned and hire vehicles; all other insurance and endorsements in such amounts as may be required by Landlord, in its reasonable determination.

Tenant shall be required at its sole cost and expense, at all times during the Lease Term, to provide and keep in force, on an "agreed amount" basis, rental value insurance in an amount equal to not less than the amount of one (1) year's then current base rent,

PILOT, Public Maintenance Amount and insurance premiums on policies required to be maintained by Tenant under the terms of the Lease.

Damage or Destruction

Damage or destruction to the Improvements shall not relieve Tenant from its obligations under the Lease. However, if during the ten year period prior to the expiration date of the Lease, the Property is damaged so that the estimate of the cost to restore or repair it exceeds twenty percent (20%), of the replacement cost of the Improvements, Tenant may terminate the Lease by written notice to Landlord within 90 days after such casualty, subject to limitations outlined in Article 8 of the Lease.

Tenant shall give prompt notice of damage to the Improvements, in whole or part, except no notice shall be required if the estimated cost of the restoration is (i) on or prior to September 19, 2027, less than $1,000,000 or (ii) after September 19, 2027, less than $1,000,000 adjusted for inflation. Tenant, at its sole cost and expense, shall restore the Improvemetns to as nearly as possible to the condition, quality, character and class as existed prior to the casualty.

Assignment, Subletting, Mortgaging

Tenant may assign the Lease or any portion of its interest therein or sublet all or any portion of the Property, subject to limitations described in Article 10 of the Lease.

Tenant may encumber its interest in the Lease with a mortgage provided that Landlord is given ten (10) days' prior notice of such financing and, not later than ten (10) days after requested by Landlord, all loan documents that Landlord may reasonably request.

Repairs and Maintenance

Tenant is obligated to take good care of the Property, to keep and maintain the Property in a first class condition, and to make all repairs therein. In addition, Tenant is obligated to construct, maintain, repair, replace and restore Private Open Spaces, which are secure recreational spaces for Building residents, and are only accessible from the residential portion of the Building.

Changes and Alterations

Tenant may not demolish, replace or materially alter the Improvements or any part thereof, or make any addition thereto (hereinafter "Capital Improvements"), unless Tenant obtains and delivers to Landlord copies of all permits, licenses, consents,

certificates and/or approvals from applicable governmental authorities. Further, all Capital Improvements shall be of a such a character so as not to reduce the value of the Property below its value immediately before construction of such Capital Improvement. No construction of any Capital Improvement shall commence until Tenant shall have delivered to Landlord certificates with respect to the insurance policies required under the Lease, and, if applicable, a complete set of "As Built" plans; an updated survey; a Permanent Certificate of Occupancy therefore issued by the New York City Department of Buildings; and, to the extent the costs exceeds (i) prior to the thirty-fifth anniversary of the commencement date of the Lease, $250,000 or (ii) on or after the thirty-fifth anniversary of the commencement date of the Lease $250,000 adjusted for inflation, lien waivers issued by each contractor with respect to services performed and materials provided in connection with the Capital Improvement.

Events of Default

Each Unit Owner shall appoint the Board of Managers as his attorney-in-fact for the purpose of paying all charges due under the terms of the Lease, and performing and observing all of the terms covenants and conditions of the Lease. Each "Event of Default" is enumerated in Article 24 of the Lease. Broadly, they include events such as: failure to timely pay base rent or additional charges under the Lease; failure on the part of Sponsor (as Tenant) to substantially complete the Building by the scheduled completion date pursuant to the Lease; failure by Tenant to perform one or more of the terms of the Lease; Tenant's admitted failure that it is unable to pay its debts as they become due; if Tenant makes an assignment for the benefit of creditors; if Tenant files a voluntary petition under Title 11 of the United States Code; if within ninety (90) days after the commencement of any proceeding against Tenant seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the present or future federal bankruptcy code, such proceeding shall not have been dismissed; if within ninety (90) days after the appointment, without the consent or acquiescence of Tenant, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or similar official of Tenant, such appointment has not been vacated or stayed on appeal or otherwise; if Tenant abandons the Property; subject to conditions in the Lease, if the Lease is assigned, subleased, transferred, mortgaged or encumbered without Landlord's approval; if a levy under execution or attachment is made against the Property and such execution or attachment is not vacated or removed within thirty (30) days; if Tenant fails to maintain its entity existence in good standing or to pay applicable taxes when due and such failure continues for thirty (30) days after notice from Landlord or a governmental entity; if any governmental entity or other person imposes a lien or asserts a claim against Tenant, the Property or the Landlord which arises as a result of an environmental condition which affects the Property or affects other property and is required to be addressed by law, as a result of releasing of any contaminant into the environment, or as a result of the violation of any environmental law except as limited in the Lease, provided that such lien or claim shall not constitute an Event of Default, if, within forty-five (45) days after the assertion of such lien or claim Tenant cures or corrects the condition which forms the basis for the lien, or pursues a defense which is satisfactory to Landlord, or pursues the legal

proceedings for an injunction and, in any event, posts a bond or other security to secure the cure or correction of the basis for the lien or claim; if Developer is in monetary or material non-monetary default under the Infrastructure Agreement; any Event of Default under any other Stage II Ground Lease under which Tenant is a tenant, but only if the foundations of the Building has not been completed; if the Tenant is or becomes a prohibited party, as that term is defined in the Lease; if any agent, contractor, subcontractor or employee of Tenant working in connection with the Property discriminates against any person on the basis of race, creed, color, religion, national origin, ancestry, sex, age, disability, or marital status in violation of the Lease or fails to carry out their obligations under the Lease and all relevant exhibits thereto.

Purchasers are advised that Events of Default may, under certain circumstances stipulated in the Lease, lead to termination of the Lease by Landlord. However, no termination of the Lease shall relieve Tenant from its liabilities and obligations, including monetary obligations under the terms of the Lease.

Condemnation

If all or substantially all of the Property is taken for any public or quasi-public purpose by the exercise of the right of condemnation or eminent domain or by agreement among Landlord, Tenant and those authorized to exercise such right, the Lease and Term shall terminate and expire on the date of such taking. If less than all or substantially all of the Property is taken, the Lease and the Term shall continue without abatement of the base rent and additional charges under the Lease, provided, however, there shall be an equitable adjustment for PILOT thereafter due by Tenant and Landlord.

If the temporary use of all or any part of the Property is taken for any public or quasi public purpose by the exercise of the right of condemnation or eminent domain or by agreement among Landlord, Tenant and those authorized to exercise such right, Tenant shall give prompt notice thereof to Landlord. The Term shall not be reduced and Tenant shall continue to pay the full base rent and additional charges pursuant to the Lease. However, Tenant shall be entitled to receive any award or payments for use, subject to the terms of the Lease.

THE FOREGOING DOES NOT PURPORT TO BE SUMMARY OF THE ENTIRE LEASE. THE COMPLETE LEASE IS INCLUDED IN PART II OF THIS PLAN AND SHOULD BE CAREFULLY REVIEWED BY EACH PURCHASER AND HIS OR HER ATTORNEY.

DESCRIPTION OF PROPERTY AND IMPROVEMENTS

The Property has a land area of approximately 30,529 square feet and is located in an area of Long Island City, Queens known as Queens West. The Sponsor will construct one (1), eighteen (18) story mixed-use building on the Property. The street address of the Property shall be 46-30 Center Boulevard, Long Island City, New York. Zoning of the Property is granted by the Queens West Development Corporation ("QWDC") and the Empire State Development Corporation ("ESDC"). The Property is located on a portion of land known as Operable Unit One and on a portion of land of Operable Unit Two within the Queens West development site.

The Building will include (a) the General Common Elements, (b) the Residential Section containing the Residential Units, the Residential Common Elements and the Residential Limited Common Elements, and (c) the Commercial Section containing the Commercial Units, the Commercial Common Elements and the Commercial Limited Common Elements.

The Condominium is being newly constructed and shall consist of one-hundred-eighty-four (184) Residential Units and one (1) Commercial Unit. One (1) of the Residential Units shall house the Building resident manager and is being offered for sale to Condominium Board. The Commercial Unit, which is not being offered for sale at this time, shall be located on the first floor level. It is being designed for use for retail use, but may be used for any lawful purpose, except as provided in the Declaration (see the section entitled "The Commercial Unit" for more information about use restrictions in the Commercial Unit). All fixtures and equipment described in this Plan are included in the offering prices listed in Schedule A.

No representation is made with respect to the continued ownership by Sponsor of all or any portion of the Commercial Unit or as to who the tenants or occupants of any portion of the Commercial Unit may be at any time or as to the uses to which any portion of the Commercial Unit may be put at any time (except that the Commercial Unit may be used for any lawful purpose or as otherwise limited by the Plan).

The Building will be constructed in accordance with the New York City Building Code, and with all applicable building laws. The Building shall be classified as a Class 1C (Non-Combustible) building. Please see the architect's Description of Property and Proposed Building in Part II of this Plan for details about the Building construction.

Construction will commence upon issuance of a building permit by the New York City Buildings Department. After completion of construction, the Sponsor will apply for a Temporary and Final Certificate of Occupancy from the New York City Department of Buildings. The First Unit is expected to be completed on or about October 1, 2008. The Sponsor will obtain a Temporary Certificate of Occupancy prior to the First Unit closing and a Final Certificate of Occupancy within two (2) years of the first Unit Closing.

Several Residential Units have a garden, a balcony or a terrace which, pursuant to the Declaration, are part of the Residential Unit. It is the Residential Unit Owner's responsibility to maintain, repair and replace the concrete pavers that cover the garden or terrace surface, at such Residential Owner's sole cost and expense. The costs and expenses of any structural or extraordinary repairs (meaning any non-recurring repair

which requires more than the usual annual expense for ordinary wear) or replacements to any terrace (unless caused by a Residential Unit Owner) shall be charged to all Residential Unit Owners as a Residential Common Expense.

Residential Units Owners with exclusive use of a balcony appurtenant to their Residential Units are responsible for all maintenance, repairs and replacements thereto, whether structural or nonstructural, ordinary or extraordinary. Structural and nonstructural repairs and replacements to any balcony shall be made by the Board, at the Board's discretion, and charged to each Unit Owner having access to such balcony.

Prospective Purchasers of Units 101, 102 and 103 are advised that the corridor leading to these Units be inclined and will not be completely level.

A manhole, with approximate dimensions of 4'-0" x 4'-0", leading to an underground storm sewer pipe, will be installed within the garden at Residential Unit 105. The Unit Owner of Residential Unit 105 shall be required to provide the Board of Managers with access through Unit and across the garden to perform inspections, repairs, maintenance or replacements to the underground storm sewer pipe located therein.

In addition, a service stair, leading to the roof, will be installed on the terrace appurtenant to Residential Unit PH-A. The Unit Owner of Residential Unit PH-A shall be required to provide the Board of Managers with access through the Unit and across the terrace to perform inspections, repairs, maintenance or replacements to the roof and the mechanical equipment located thereon.

The Board of Managers shall provide owners of Units 105 and PH-A, respectively, with at least three (3) days' notice, except that no notice will be necessary in the case of an "emergency" (i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building).

During construction planning, a subsurface environmental investigation conducted on the Land revealed contaminants, including, but not limited to, semi-volatile organic compounds and metals in the soil and groundwater in excess of the New York State Department of Environmental Conservation's (the "DEC") standards. To address the environmental condition of the Land, the soil and groundwater underlying and surrounding the Building are undergoning environmental remediation under New York's Voluntary Cleanup Program with the oversight of the DEC. Sponsor has taken, and will continue to take, all legally required steps to remediate the condition to the satisfaction of the DEC. Sponsor anticipates that the DEC will issue No Further Action letters, which indicate that no further active remedial measures are required, by the fourth quarter of 2007. Prospective Purchasers are advised to review the provisional Final Remedial Action Report for Operable Unit One and the Final Remedial Action Report for Operable Unit Two ("RAR" or "RARs"), which are located in Part II of this Offering Plan without appendices. A copy of the RARs with appendices will be made available in the office of the Sponsor or Selling Agent for review by appointment. Sponsor represents that the Offering Plan will be amended to disclose the terms of the final version of the RAR for Operable Unit One once it is approved by the DEC.

Notwithstanding that the DEC will issue No Further Action letters in connection with the environmental remediation of the Property site, for the foreseeable future an active Sub-Slab Depressurization System ("SSDS") will be required to operate continuously in and under the Building in order to minimize the potential for residual sub-slab soil gases, to the extent present, to intrude into the Building by actively adjusting the pressure differential between the Building's interior and exterior. All maintenance of the SSDS will initially be performed by the Sponsor. However, after the First Unit Closing and the issuance of the DECs No Further Action letters, all SSDS maintenance will be the responsibility of the Board of Mangers at its sole cost and expense.

In addition, Purchasers are advised that the soil and groundwater conditions in and around the Property, as well as the composite cover system on the Property (which includes the asphalt covered roads, the concrete covered sidewalks, clean fill cover in landscaped areas and concrete building slabs) must also be monitored, maintained, and certified to the DEC, for the foreseeable future. After the issuance of the DEC's No Further Action Letters, and after the First Unit Closing, all monitoring, on-going maintenance and certifications required by the DEC will be the Board's responsibility at its sole cost and expense.

Further details about the required environmental monitoring, maintenance and certification requirements to which the Property will be subject are disclosed in the provisional Site Management Plan for Operable Unit One and the final Site Management Plan for Operable Unit Two (each a "Site Management Plan"), which are located in Part II of this Offering Plan, without appendices. A copy of the Site Management Plans with appendices will be made available in the office of the Sponsor or Selling Agent for review by appointment. Sponsor represents that the Offering Plan will be amended to disclose the terms of the final Site Management Plan for Operable Unit One once it is approved by the DEC.

The estimated cost of maintaining, monitoring and certifying the compliance of the SSDS, the groundwater, and the site development soil covers in the first year of Condominium operation will be approximately $15,000. Please refer to Footnote 12 of Schedule B for further details.

Prospective Purchasers are advised that views of the East River and the New York City skyline will be affected by future developments, according to the New York State Urban Development Corporation Hunters Point (Queens West) Waterfront Development Land Use Improvement Project Modified General Project Plan, dated April 23, 2003 (the "General Project Plan"). Please refer to the plan page following this section for a reference of planned developments in Queens West. Sponsor makes no representation or guarantee that the General Project Plan will not be amended at a future date.

Parking for Building residents may be available from public parking garages in the vicinity of the Building. Sponsor makes no guarantee about whether a parking space will be available to Building residents in any public parking garage.

Building Services and Facilities

a. **Doorman**

It is presently contemplated that the Residential Section will have a doorman on duty twenty-four (24) hours a day, seven (7) days a week. Each Unit have an intercom linked to the doorman station in the Building lobby.

b. **Elevator Service**

Three (3) automatic passenger elevators will be in service twenty-four (24) hours a day, seven (7) days a week, for the exclusive use of Residential Unit Owners and their guests. One of the passenger elevators shall also be available for the use of all Unit Owners as a service elevator.

c. **Laundry**

Each Residential Unit will contain a washing machine and a clothes dryer. There will also be one (1) central laundry room on the first floor of the Building.

d. **Refuse Disposal**

There will be trash rooms on each floor serving the Residential Units on floors two (2) through seventeen (17) leading directly to the compactor located in the trash room on the first floor. Residents on the first floor will deposit their trash in a trash room located on the first floor corridor. Trash on the first floor will be collected by a porter and brought to the trash room for compacting.

e. **Exercise Room**

There will be an exercise room on the first floor of the Building which will be available for the exclusive use of residents. The exercise room will be open from approximately 6:00 a.m. to 11:00 p.m., or as otherwise determined by the Residential Board. The exercise room will initially contain the equipment described in the Description of Property and Proposed Building set forth in Part II of the Plan.

f. **Bicycle Storage Room**

Sponsor intends to construct a bicycle room, located on the first floor, which will be designed to accommodate approximately sixty-five (65) bicycles. The bicycle room will be available to Purchasers free of charge, on a first come, first served basis. The bicycle room will be secured with a lock and key system. Only residents of the Building will be allowed to store a bicycle in the Building's bicycle room.

All determinations with respect to the continuance of the foregoing services, if initially made available, will be made by the Board, which will be controlled by Sponsor

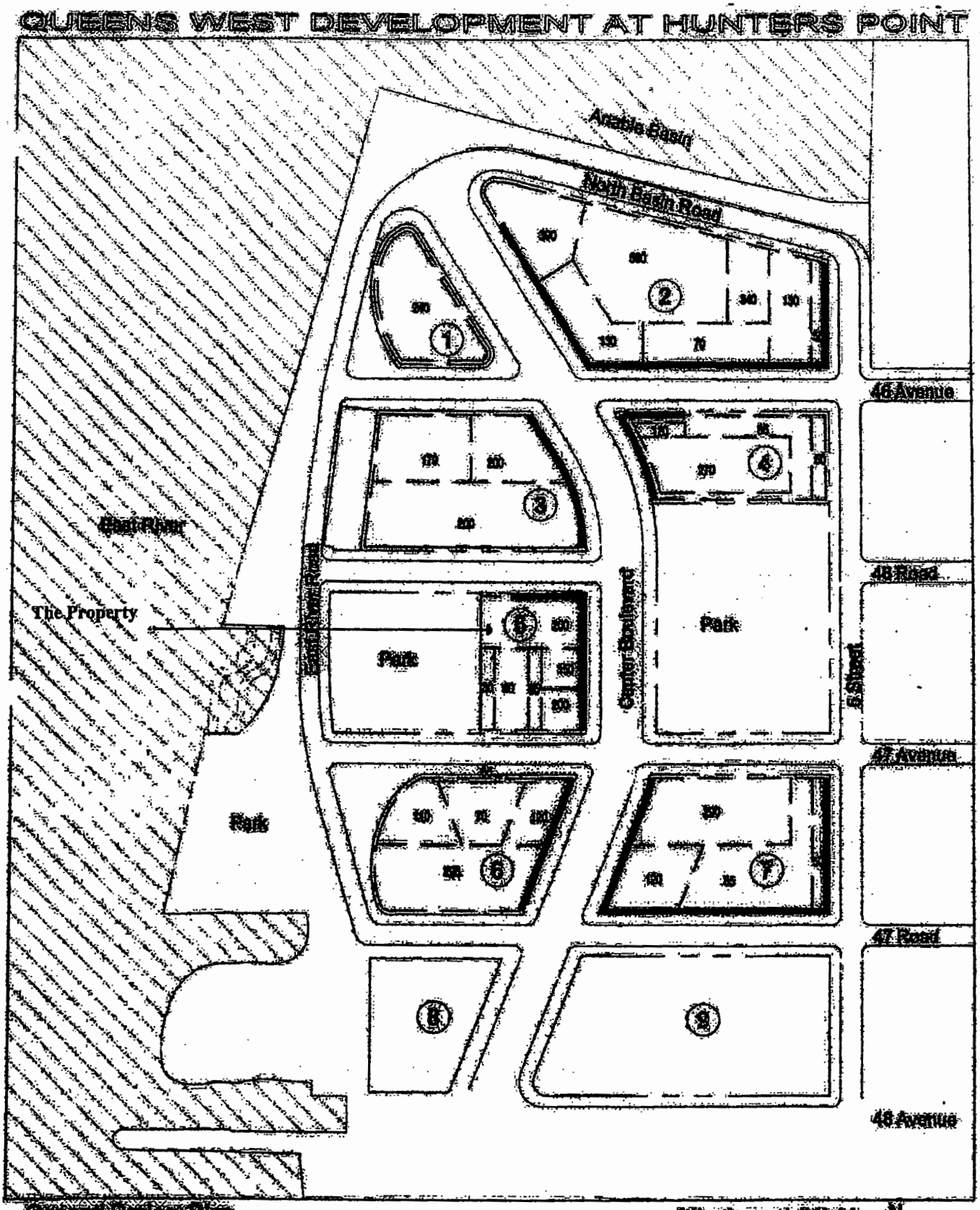
during the Sponsor control period as described in the Section of the Plan entitled "Control by Sponsor.") Please refer to the Description of the Property set forth in its entirety in Part II of the Plan for further details regarding services and facilities at the Property.

Neither Sponsor, the Managing Agent nor the Board will in any event be liable for the availability, interruption, discontinuance or quality of any of the foregoing services, including, but not limited to, any services provided by any outside company or person other than Building personnel, or for any injury to person or damage to property resulting from any act or omission of such company or persons or their employees or agents, except to the extent that any such injury to person or damages to property occurs as a result of the negligence of Sponsor, the Managing Agent or any of the Boards, as the case may be.

Parks and Waterfront Esplanade

QWDC intends to cause park spaces to be constructed throughout the Queens West development, which will include both passive and active recreation areas, as well as a public waterfront esplanade for the enjoyment of the general public (herein referred to as the "Park Spaces"). See the section entitled "Location and Area Information" for further details.

When complete, the Park Spaces are expected to be owned and maintained by the State of New York. Sponsor makes no representation as to when the Park Spaces will be completed and open for public use, nor does it warrant or represent how the final design scheme of the Park Spaces will appear upon completion. Unit Owners and the general public will be subject to the rules and regulations, if any, promulgated by the State of New York and any other governmental, public, or quasi-public authorities having jurisdiction over the Park Spaces.


QUEENS WEST DEVELOPMENT AT HUNTERS POINT
Anable Basin
North Basin Road
46 Avenue
East River
The Property
Park
Center Boulevard
5 Street
48 Road
Park
47 Avenue
47 Road
48 Avenue
General Project Plan
Bulk Controls - Stage 2
Attachment #4b(i)
N

LOCATION AND AREA INFORMATION

Location
The property is located on a 22 acre development parcel, situated on the Long Island City waterfront at Center Boulevard and 47th Avenue, in the Borough of Queens, City of New York. The neighborhood is evolving from what was once a manufacturing area into a diverse mix of high rise rentals, condominiums, and retail spaces.

Transportation
Transportation to and from the Condominium is available by subway, water taxi, railroad, bus, or limousine service. The Condominium is serviced by the 7 subway line which has entrances at Jackson Ave and Vernon Blvd. The E,V and G subways are located northeast of the Condominium at 23rd Street-Ely Avenue. New York Water Taxi runs ferry service from Hunters Point to 34th Street and Pier 11 in Manhattan. Passenger railroad service is provided by the Long Island Railroad at the Hunters Point Station. The Q103 bus runs locally along Vernon Boulvard between Astoria and Hunters Point.

By automobile, the neighborhood is serviced by the Brooklyn Queens Expressway and Long Island Expressway, and has easy access to the Queens Midtown Tunnel and the Queensboro/59th Street Bridge. The Condominium is in driving distance to New York City's two major airports, Kennedy International and LaGuardia.

Parks, Recreation and Cultural Activities
The Condominium is within walking distance to a variety of public parks, including Gantry Plaza State Park, Socrates Sculpture Park, Hunters Point Community Park, and Queens Bridge Park. The Condominium is also within walking distance to Water Taxi Beach, New York City's first urban beach, located on East River Wharf. The neighborhood's recreational activities include fishing, kayaking and strolling or jogging along the waterfront esplanade.

The various art centers have long attracted thousands of tourists to the neighborhood. Most notable are PS1 Contemporary Art Center, American Museum of the Moving Image, The Noguchi Museum, Socrates Sculpture Park and the Fisher Landau Center for Art. The LaGuardia Performing Arts Center presents high quality culturally diverse programs geared towards families and students which include jazz jams, film festivals, dance concerts and theatre productions.

Medical, Educational and Religious Facilities
New York City is home to many great medical institutions. A number of hospitals, such as New York University Medical Center, Beth Israel Medical Center, Mount Sinai Hospital of Queens and North Shore University Hospital of Forest Hills are all easily accessible to the Condominium.

The Condominium is located within Public School District 30 and is assigned to PS78 located at 48-09 Center Blvd. The closest public high school is HS for Information Technology located at 21-16 44th Road. Additionally, there are public high schools with

various specialties available within the City of New York with entrance by competition or competitive exam, such as High School of Performing Arts and Stuyvesant High School. **Sponsor, however, makes no guarantee or representation as to which school a child residing at the Building may actually attend.**

There are houses of worship of most major denominations in the vicinity of the Condominium.

Municipal Services
The City of New York provides water, sanitation, police and fire services to the Building.

The local police station is 108 Precinct, located at 5-47 50th Ave, between 5th St. and Vernon Blvd.

The local fire station is Engine 258/Ladder 115, located at 10-40 47th Ave in Long Island City.

Zoning Designation
The area has special development controls granted by Queens West Development Corporation and the Empire State Development Corporation, R10 Equivalent.

Snow Removal
The street front of the Property (not including the sidewalk) is maintained, and the snow will be removed therefrom, by the City of New York. Snow removal on the sidewalk in front of and elsewhere on the Property will be performed by the superintendent.

Mailing Address
The mailing address for the Condominium is 46-30 Center Boulevard, Long Island City, New York 11109.

General
Sponsor makes no representation to the continued existence of any of the named establishments or transportation lines. Additionally, no representation is made that future construction in the neighborhood surrounding the Condominium will not result in the obstruction of the views from any windows.

OFFERING PRICES AND RELATED INFORMATION

SCHEDULE A

46-30 Center Boulevard Condominium

The Projections in the SCHEDULE A assume that the first year of Condominium Operation will be from October 1, 2008 to September 30, 2009 (1)

UNIT	# BDS	# BATHS	Approximate Indoor Floor Area Sq. Ft. (2)	Approximate Outdoor Floor Area Sq. Ft.	Outdoor Type Garden Terrace Balcony	Offering Price (3)	% of Common Interest (4) Residential Common Interest (4)	% of Common Interest (4) General Common Interest (4)	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Monthly	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Annual	Estimated Total Common Charges Including PILOT (6) Monthly	Estimated Total Common Charges Including PILOT (6) Annual
101	1	1	777	299	Terrace	$865,000	0.3772%	0.3760%	$ 10.01	$ 120.15	$ 642.20	$ 7,706.36
102	2	2	1,153	192	Terrace	$1,395,000	0.4994%	0.4979%	$ 13.26	$ 159.11	$ 850.38	$ 10,204.61
103	3	3	1,653	941	Garden	$2,225,000	0.8310%	0.8285%	$ 22.06	$ 264.73	$ 1,414.91	$ 16,978.94
104	2	2	1,204	1,551	Garden	$1,695,000	0.6882%	0.6861%	$ 18.27	$ 219.24	$ 1,171.77	$ 14,061.21
105	1	1	838	1,409	Garden	$1,075,000	0.5306%	0.5290%	$ 14.09	$ 169.03	$ 903.42	$ 10,840.99
106	2	2	1,437	1,441	Garden	$1,855,000	0.7619%	0.7596%	$ 20.23	$ 242.73	$ 1,297.33	$ 15,567.91
107	3	3	1,842	1,184	Garden	$2,400,000	0.8814%	0.8787%	$ 23.40	$ 280.78	$ 1,500.70	$ 18,008.45
201	3	3	1,492	84	Terrace	$1,465,000	0.6037%	0.6019%	$ 16.03	$ 192.32	$ 1,027.91	$ 12,334.90
202	2	2	1,159	64	Terrace	$1,200,000	0.4774%	0.4760%	$ 12.68	$ 152.10	$ 812.94	$ 9,755.31
203	1	1	777			$760,000	0.3205%	0.3195%	$ 8.51	$ 102.10	$ 545.69	$ 6,548.25
204	2	2	1,153			$1,295,000	0.4630%	0.4616%	$ 12.29	$ 147.51	$ 788.41	$ 9,460.94
205	3	3	1,653			$1,795,000	0.6526%	0.6506%	$ 17.33	$ 207.90	$ 1,111.18	$ 13,334.20
206	1	1	762	365	Terrace	$895,000	0.3840%	0.3828%	$ 10.19	$ 122.33	$ 653.82	$ 7,845.79
207	1	1	748	728	Terrace	$895,000	0.4467%	0.4454%	$ 11.86	$ 142.32	$ 760.65	$ 9,127.84
208	2	2	1,196	1,165	Terrace	$1,575,000	0.6339%	0.6320%	$ 16.83	$ 201.95	$ 1,079.39	$ 12,952.69
209	1	1	777	1,117	Terrace	$950,000	0.4687%	0.4673%	$ 12.44	$ 149.32	$ 798.06	$ 9,576.75
210	1	1.5	877	196	Terrace	$895,000	0.3956%	0.3944%	$ 10.50	$ 126.01	$ 673.51	$ 8,082.06
211	3	3	1,627			$1,575,000	0.6427%	0.6408%	$ 17.06	$ 204.76	$ 1,094.40	$ 13,132.79
212	3	3	1,563	875	Terrace	$2,150,000	0.7843%	0.7820%	$ 20.82	$ 249.87	$ 1,335.51	$ 16,026.12
213	3	3	1,781	357	Terrace	$2,275,000	0.7688%	0.7665%	$ 20.41	$ 244.92	$ 1,309.04	$ 15,708.51
301	3	3	1,492	64	Balcony	$1,480,000	0.8094%	0.6076%	$ 18.18	$ 194.14	$ 1,037.65	$ 12,451.79
302	2	2	1,159	64	Balcony	$1,210,000	0.4819%	0.4805%	$ 12.79	$ 153.53	$ 820.55	$ 9,846.66
303	1	1	777	66	Balcony	$775,000	0.3360%	0.3350%	$ 8.92	$ 107.05	$ 572.17	$ 6,866.01
304	2	2	1,153			$1,305,000	0.4674%	0.4660%	$ 12.41	$ 148.89	$ 795.78	$ 9,549.38
305	3	3	1,653	66	Balcony	$1,825,000	0.6714%	0.6694%	$ 17.83	$ 213.90	$ 1,143.26	$ 13,719.15
306	1	1	762	66	Balcony	$795,000	0.3303%	0.3293%	$ 8.77	$ 105.22	$ 562.39	$ 6,748.66
307	1	1	748	66	Balcony	$760,000	0.3242%	0.3232%	$ 8.61	$ 103.27	$ 551.96	$ 6,623.49
308	2	2	1,196			$1,220,000	0.4838%	0.4824%	$ 12.84	$ 154.14	$ 823.61	$ 9,885.77
309	1	1	777			$785,000	0.3234%	0.3224%	$ 8.59	$ 103.03	$ 550.65	$ 6,607.85
310	1	1.5	883			$855,000	0.3563%	0.3553%	$ 9.46	$ 113.52	$ 606.72	$ 7,280.64
311	3	3	1,629	74	Balcony	$1,605,000	0.6638%	0.6618%	$ 17.62	$ 211.48	$ 1,130.22	$ 13,562.69
312	2	2	1,272	357	Terrace	$1,600,000	0.5813%	0.5795%	$ 15.43	$ 185.18	$ 989.73	$ 11,876.78
313	2	2	1,416	357	Terrace	$1,800,000	0.6384%	0.6345%	$ 16.90	$ 202.74	$ 1,083.61	$ 13,003.33

****Estimated Total Common Charges Deductible for Income Tax Purposes**

UNIT	# BDS	# BATHS	Approximate Indoor Floor Area Sq. Ft. (2)	Approximate Outdoor Floor Area Sq. Ft.	Outdoor Type Garden Terrace Balcony	Offering Price (3)	% of Common Interest (4) Residential Common Interest (4)	% of Common Interest (4) General Common Interest (4)	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Monthly	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Annual	Estimated Total Common Charges Including PILOT (6) Monthly	Estimated Total Common Charges Including PILOT (6) Annual
401	3	3	1,492	64	Balcony	$1,495,000	0.6151%	0.6133%	$ 16.33	$ 195.97	$ 1,047.39	$ 12,568.68
402	2	2	1,159	64	Balcony	$1,220,000	0.4864%	0.4849%	$ 12.91	$ 154.95	$ 828.17	$ 9,938.01
403	1	1	777	66	Balcony	$780,000	0.3391%	0.3381%	$ 9.00	$ 108.02	$ 577.34	$ 6,928.14
404	2	2	1,153			$1,315,000	0.4717%	0.4703%	$ 12.52	$ 150.27	$ 803.15	$ 9,637.81
405	3	3	1,653			$1,825,000	0.6650%	0.6630%	$ 17.65	$ 211.85	$ 1,132.31	$ 13,587.77
406	1	1	762			$795,000	0.3205%	0.3195%	$ 6.51	$ 102.11	$ 545.75	$ 6,548.94
407	1	1	746			$760,000	0.3143%	0.3134%	$ 8.34	$ 100.14	$ 535.21	$ 6,422.54
408	2	2	1,196			$1,230,000	0.4883%	0.4868%	$ 12.96	$ 155.57	$ 831.46	$ 9,977.51
409	1	1	777			$790,000	0.3263%	0.3253%	$ 8.66	$ 103.96	$ 555.62	$ 6,667.44
410	1	1.5	877			$860,000	0.3650%	0.3639%	$ 9.69	$ 116.27	$ 621.45	$ 7,457.43
411	3	3	1,629	74	Balcony	$1,620,000	0.6700%	0.6680%	$ 17.79	$ 213.46	$ 1,140.87	$ 13,690.47
412	1	1	930	357	Terrace	$1,050,000	0.4545%	0.4531%	$ 12.07	$ 144.79	$ 773.86	$ 9,286.26
413	1	1.5	1,056	357	Terrace	$1,150,000	0.5032%	0.5017%	$ 13.36	$ 160.31	$ 856.80	$ 10,281.65
501	3	3	1,492	64	Balcony	$1,510,000	0.6209%	0.6190%	$ 16.48	$ 197.79	$ 1,057.13	$ 12,685.57
502	2	2	1,159	64	Balcony	$1,230,000	0.4909%	0.4894%	$ 13.03	$ 156.37	$ 835.78	$ 10,029.35
503	1	1	777	66	Balcony	$785,000	0.3421%	0.3411%	$ 9.08	$ 108.99	$ 582.52	$ 6,990.26
504	2	2	1,153			$1,325,000	0.4760%	0.4746%	$ 12.64	$ 151.65	$ 810.52	$ 9,726.24
505	3	3	1,653	66	Balcony	$1,855,000	0.6841%	0.6820%	$ 18.16	$ 217.94	$ 1,164.61	$ 13,977.78
506	1	1	762	66	Balcony	$805,000	0.3363%	0.3352%	$ 8.93	$ 107.12	$ 572.55	$ 8,870.61
507	1	1	746	68	Balcony	$770,000	0.3300%	0.3290%	$ 8.76	$ 105.13	$ 561.92	$ 6,742.99
508	2	2	1,196			$1,240,000	0.4928%	0.4913%	$ 13.08	$ 157.00	$ 839.10	$ 10,069.24
509	1	1	795			$795,000	0.3363%	0.3352%	$ 8.93	$ 107.12	$ 572.55	$ 8,870.61
510	1	1.5	877			$865,000	0.3683%	0.3672%	$ 9.78	$ 117.32	$ 627.06	$ 7,524.70
511	3	3	1,583	74	Balcony	$1,635,000	0.6583%	0.6563%	$ 17.48	$ 209.73	$ 1,120.94	$ 13,451.32
512	2	2	1,443	715	Terrace	$1,895,000	0.7288%	0.7266%	$ 19.35	$ 232.18	$ 1,240.92	$ 14,891.10
601	3	3	1,492	64	Balcony	$1,525,000	0.6266%	0.6247%	$ 16.63	$ 199.61	$ 1,066.87	$ 12,802.45
602	2	2	1,159	64	Balcony	$1,240,000	0.4953%	0.4938%	$ 13.15	$ 157.80	$ 843.39	$ 10,120.70
603	1	1	777	66	Balcony	$790,000	0.3452%	0.3441%	$ 9.16	$ 109.96	$ 587.70	$ 7,052.39
604	2	2	1,153			$1,335,000	0.4803%	0.4789%	$ 12.75	$ 153.03	$ 817.89	$ 9,814.68
605	3	3	1,653			$1,855,000	0.6774%	0.6754%	$ 17.98	$ 215.81	$ 1,153.44	$ 13,841.33
606	1	1	762			$805,000	0.3262%	0.3253%	$ 6.66	$ 103.93	$ 555.49	$ 6,665.83
607	1	1	746			$770,000	0.3199%	0.3190%	$ 8.49	$ 101.92	$ 544.75	$ 6,536.98
608	2	2	1,196			$1,250,000	0.4973%	0.4958%	$ 13.20	$ 158.43	$ 846.75	$ 10,160.97
609	1	1	777			$800,000	0.3322%	0.3311%	$ 8.62	$ 105.81	$ 565.55	$ 6,786.63
610	1	1.5	935	174	Terrace	$1,100,000	0.4267%	0.4274%	$ 11.38	$ 136.58	$ 729.98	$ 8,759.70
611	2	2	1,207			$1,175,000	0.5016%	0.5001%	$ 13.32	$ 159.81	$ 854.13	$ 10,249.56
612	2	2	1,142	307	Terrace	$1,575,000	0.5365%	0.5349%	$ 14.24	$ 170.92	$ 913.52	$ 10,962.28

****Estimated Total Common Charges Deductible for Income Tax Purposes**

UNIT	# BDS	# BATHS	Approximate Indoor Floor Area Sq. Ft. (2)	Approximate Outdoor Floor Area Sq. Ft.	Outdoor Type Garden Terrace Balcony	Offering Price (3)	% of Common Interest (4) Residential Common Interest (4)	% of Common Interest (4) General Common Interest (4)	Estimated Payment in Lieu Of Real Estate Taxes **(PILOT) (5) Monthly	Estimated Payment in Lieu Of Real Estate Taxes **(PILOT) (5) Annual	Estimated Total Common Charges Including PILOT (6) Monthly	Estimated Total Common Charges Including PILOT (6) Annual
701	3	3	1,492	84	Balcony	$1,540,000	0.6323%	0.6304%	$ 16.79	$ 201.43	$ 1,076.61	$ 12,919.35
702	2	2	1,159	64	Balcony	$1,250,000	0.4998%	0.4983%	$ 13.27	$ 159.22	$ 851.00	$ 10,212.06
703	1	1	777	66	Balcony	$795,000	0.3482%	0.3471%	$ 9.24	$ 110.93	$ 592.88	$ 7,114.53
704	2	2	1,153			$1,345,000	0.4847%	0.4832%	$ 12.87	$ 154.41	$ 825.26	$ 9,903.12
705	3	3	1,653	66	Balcony	$1,885,000	0.6968%	0.6946%	$ 18.50	$ 221.97	$ 1,186.37	$ 14,236.41
706	1	1	762	66	Balcony	$835,000	0.3422%	0.3412%	$ 9.09	$ 109.03	$ 582.71	$ 6,992.58
707	1	1	746	66	Balcony	$780,000	0.3359%	0.3348%	$ 8.92	$ 107.00	$ 571.87	$ 6,862.49
708	2	2	1,196			$1,260,000	0.5018%	0.5003%	$ 13.32	$ 159.86	$ 854.39	$ 10,252.71
709	1	1	777			$805,000	0.3351%	0.3341%	$ 8.90	$ 106.74	$ 570.52	$ 6,846.23
710	2	2	1,206	304	Terrace	$1,600,000	0.5662%	0.5645%	$ 15.03	$ 180.39	$ 964.15	$ 11,569.77
711	3	3	2,024	239	Terrace	$2,595,000	0.6788%	0.8761%	$ 23.33	$ 279.96	$ 1,496.32	$ 17,955.89
801	3	3	1,492	64	Balcony	$1,555,000	0.6380%	0.6381%	$ 16.94	$ 203.26	$ 1,086.35	$ 13,036.24
802	2	2	1,159	64	Balcony	$1,260,000	0.5043%	0.5027%	$ 13.39	$ 160.65	$ 858.62	$ 10,303.41
803	1	1	777	66	Balcony	$800,000	0.3512%	0.3502%	$ 9.32	$ 111.90	$ 598.05	$ 7,176.65
804	2	2	1,153			$1,355,000	0.4890%	0.4875%	$ 12.98	$ 155.78	$ 832.63	$ 9,991.55
805	3	3	1,653			$1,885,000	0.6898%	0.6877%	$ 18.31	$ 219.76	$ 1,174.58	$ 14,094.91
806	1	1	762			$835,000	0.3320%	0.3310%	$ 8.81	$ 105.75	$ 565.23	$ 6,782.73
807	1	1	746			$780,000	0.3255%	0.3245%	$ 8.64	$ 103.71	$ 554.29	$ 8,651.42
808	2	2	1,196			$1,270,000	0.5063%	0.5047%	$ 13.44	$ 161.29	$ 862.04	$ 10,344.44
609	1	1	777			$810,000	0.3380%	0.3370%	$ 8.97	$ 107.67	$ 575.49	$ 6,905.83
810	2	2	1,090	397	Terrace	$1,475,000	0.5434%	0.5418%	$ 14.43	$ 173.12	$ 925.30	$ 11,103.56
611	2	2	1,459	310	Terrace	$1,695,000	0.6742%	0.6721%	$ 17.90	$ 214.77	$ 1,147.90	$ 13,774.84
901	3	3	1,492	64	Balcony	$1,570,000	0.6437%	0.8418%	$ 17.09	$ 205.08	$ 1,096.09	$ 13,153.13
902	2	2	1,159	64	Balcony	$1,270,000	0.5087%	0.5072%	$ 13.51	$ 162.07	$ 866.23	$ 10,394.75
903	1	1	777	66	Balcony	$805,000	0.3543%	0.3532%	$ 9.41	$ 112.86	$ 603.23	$ 7,238.78
904	2	2	1,153			$1,365,000	0.4933%	0.4918%	$ 13.10	$ 157.16	$ 840.00	$ 10,079.98
905	3	3	1,653	66	Balcony	$1,915,000	0.7094%	0.7073%	$ 18.83	$ 226.00	$ 1,207.92	$ 14,495.04
906	1	1	762	66	Balcony	$845,000	0.3482%	0.3471%	$ 9.24	$ 110.93	$ 592.88	$ 7,114.53
907	1	1	746	66	Balcony	$810,000	0.3417%	0.3407%	$ 9.07	$ 108.86	$ 581.83	$ 6,981.99
908	2	2	1,196			$1,280,000	0.5108%	0.5092%	$ 13.56	$ 162.72	$ 869.68	$ 10,436.17
909	1	1	795			$815,000	0.3482%	0.3471%	$ 9.24	$ 110.93	$ 592.88	$ 7,114.53
910	2	2	1,090			$1,265,000	0.4678%	0.4664%	$ 12.42	$ 149.03	$ 796.51	$ 9,558.13
911	2	2	1,459	74	Balcony	$1,595,000	0.6324%	0.6305%	$ 16.79	$ 201.46	$ 1,076.77	$ 12,921.19

**Estimated Total Common Charges Deductible for Income Tax Purposes

UNIT	# BDS	# BATHS	Approximate Indoor Floor Area Sq. Ft. (2)	Approximate Outdoor Floor Area Sq. Ft.	Outdoor Type Garden Terrace Balcony	Offering Price (3)	% of Common Interest (4) Residential Common Interest (4)	% of Common Interest (4) General Common Interest (4)	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Monthly	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Annual	Estimated Total Common Charges Including PILOT (6) Monthly	Estimated Total Common Charges Including PILOT (6) Annual
1001	3	3	1,492	64	Balcony	$1,585,000	0.6495%	0.6475%	$ 17.24	$ 206.90	$ 1,105.83	$ 13,270.02
1002	2	2	1,159	64	Balcony	$1,280,000	0.5132%	0.5117%	$ 13.62	$ 163.49	$ 873.84	$ 10,486.10
1003	1	1	777	66	Balcony	$810,000	0.3573%	0.3562%	$ 9.49	$ 113.83	$ 608.41	$ 7,300.90
1004	2	2	1,153			$1,375,000	0.4977%	0.4962%	$ 13.21	$ 158.54	$ 847.37	$ 10,168.42
1005	3	3	1,653			$1,915,000	0.7022%	0.7001%	$ 18.64	$ 223.72	$ 1,195.71	$ 14,348.47
1006	1	1	762			$845,000	0.3377%	0.3367%	$ 8.96	$ 107.58	$ 574.97	$ 6,899.62
1007	1	1	746			$810,000	0.3311%	0.3301%	$ 8.79	$ 105.49	$ 563.82	$ 6,765.86
1008	2	2	1,196			$1,290,000	0.5153%	0.5137%	$ 13.68	$ 184.15	$ 877.33	$ 10,527.90
1009	1	1	777			$820,000	0.3438%	0.3428%	$ 9.13	$ 109.53	$ 585.42	$ 7,025.02
1010	2	2	1,090			$1,275,000	0.4719%	0.4705%	$ 12.53	$ 150.33	$ 803.48	$ 9,641.73
1011	2	2	1,459	74	Balcony	$1,625,000	0.6380%	0.6361%	$ 16.94	$ 203.25	$ 1,086.33	$ 13,035.93
1101	3	3	1,492	64	Balcony	$1,600,000	0.6552%	0.6532%	$ 17.39	$ 208.72	$ 1,115.58	$ 13,386.90
1102	2	2	1,159	64	Balcony	$1,290,000	0.5177%	0.5161%	$ 13.74	$ 164.92	$ 881.45	$ 10,577.45
1103	1	1	777	66	Balcony	$815,000	0.3604%	0.3593%	$ 9.57	$ 114.80	$ 613.59	$ 7,363.03
1104	2	2	1,153			$1,385,000	0.5020%	0.5005%	$ 13.33	$ 159.92	$ 854.74	$ 10,256.85
1105	3	3	1,653	66	Balcony	$1,945,000	0.7221%	0.7199%	$ 19.17	$ 230.03	$ 1,229.47	$ 14,753.67
1106	1	1	762	68	Balcony	$855,000	0.3542%	0.3531%	$ 9.40	$ 112.83	$ 603.04	$ 7,236.48
1107	1	1	746	66	Balcony	$820,000	0.3476%	0.3465%	$ 9.23	$ 110.72	$ 591.79	$ 7,101.49
1108	2	2	1,196			$1,300,000	0.5197%	0.5182%	$ 13.80	$ 165.58	$ 884.97	$ 10,619.63
1109	1	1	777			$825,000	0.3467%	0.3457%	$ 9.21	$ 110.46	$ 590.38	$ 7,084.61
1110	2	2	1,090			$1,285,000	0.4760%	0.4745%	$ 12.64	$ 151.63	$ 810.44	$ 9,725.33
1111	2	2	1,459	74	Balcony	$1,655,000	0.6436%	0.6417%	$ 17.09	$ 205.04	$ 1,095.89	$ 13,150.67
1201	3	3	1,492	64	Balcony	$1,615,000	0.6609%	0.6589%	$ 17.55	$ 210.55	$ 1,125.32	$ 13,503.79
1202	2	2	1,159	64	Balcony	$1,300,000	0.5222%	0.5206%	$ 13.86	$ 166.34	$ 889.07	$ 10,668.80
1203	1	1	777	68	Balcony	$820,000	0.3634%	0.3623%	$ 9.65	$ 115.77	$ 618.76	$ 7,425.15
1204	2	2	1,153			$1,395,000	0.5063%	0.5048%	$ 13.44	$ 161.30	$ 862.11	$ 10,345.28
1205	3	3	1,653			$1,945,000	0.7147%	0.7125%	$ 18.97	$ 227.67	$ 1,216.84	$ 14,602.03
1206	1	1	762			$855,000	0.3434%	0.3424%	$ 9.12	$ 109.40	$ 584.71	$ 7,016.50
1207	1	1	746			$820,000	0.3367%	0.3357%	$ 8.94	$ 107.27	$ 573.36	$ 6,880.29
1208	2	2	1,196			$1,310,000	0.5242%	0.5226%	$ 13.92	$ 167.01	$ 892.61	$ 10,711.36
1209	1	1	795			$830,000	0.3572%	0.3561%	$ 9.48	$ 113.78	$ 808.12	$ 7,297.45
1210	2	2	1,090			$1,295,000	0.4801%	0.4786%	$ 12.74	$ 152.94	$ 817.41	$ 9,808.93
1211	2	2	1,459	74	Balcony	$1,685,000	0.6492%	0.6473%	$ 17.24	$ 206.83	$ 1,105.45	$ 13,265.41

**Estimated Total Common Charges Deductible for Income Tax Purposes

UNIT	# BDS	# BATHS	Approximate Indoor Floor Area Sq. Ft. (2)	Approximate Outdoor Floor Area Sq. Ft.	Outdoor Type Garden Terrace Balcony	Offering Price (3)	% of Common Interest (4) Residential Common Interest (4)	% of Common Interest (4) General Common Interest (4)	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Monthly	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Annual	Estimated Total Common Charges Including PILOT (6) Monthly	Estimated Total Common Charges Including PILOT (6) Annual
1401	3	3	1,492	64	Balcony	$1,630,000	0.6666%	0.6646%	$ 17.70	$ 212.37	$ 1,135.06	$ 13,620.68
1402	2	2	1,159	64	Balcony	$1,310,000	0.5266%	0.5250%	$ 13.98	$ 167.77	$ 896.68	$ 10,760.14
1403	1	1	777	66	Balcony	$825,000	0.3664%	0.3653%	$ 9.73	$ 116.74	$ 623.94	$ 7,487.28
1404	2	2	1,153			$1,405,000	0.5106%	0.5091%	$ 13.56	$ 162.68	$ 889.48	$ 10,433.72
1405	3	3	1,653	66	Balcony	$1,975,000	0.7347%	0.7325%	$ 19.51	$ 234.07	$ 1,251.02	$ 15,012.29
1406	1	1	762	66	Balcony	$865,000	0.3601%	0.3590%	$ 9.56	$ 114.73	$ 613.20	$ 7,358.43
1407	1	1	746	66	Balcony	$830,000	0.3534%	0.3523%	$ 9.38	$ 112.59	$ 601.75	$ 7,220.98
1408	2	2	1,196			$1,320,000	0.5287%	0.5271%	$ 14.04	$ 168.44	$ 900.26	$ 10,803.10
1409	1	1	795			$835,000	0.3601%	0.3590%	$ 9.56	$ 114.73	$ 613.20	$ 7,358.43
1410	2	2	1,090			$1,305,000	0.4842%	0.4827%	$ 12.85	$ 154.24	$ 824.38	$ 9,892.53
1411	2	2	1,459	74	Balcony	$1,715,000	0.6548%	0.6529%	$ 17.38	$ 208.62	$ 1,115.01	$ 13,380.15
1501	3	3	1,492	64	Balcony	$1,660,000	0.6752%	0.6732%	$ 17.93	$ 215.10	$ 1,149.67	$ 13,798.01
1502	2	2	1,159	64	Balcony	$1,335,000	0.5333%	0.5317%	$ 14.16	$ 169.90	$ 908.10	$ 10,897.17
1503	1	1	777	66	Balcony	$845,000	0.3710%	0.3699%	$ 9.85	$ 118.19	$ 631.71	$ 7,580.47
1504	2	2	1,153			$1,430,000	0.5171%	0.5156%	$ 13.73	$ 164.75	$ 880.53	$ 10,566.37
1505	3	3	1,653			$1,995,000	0.7302%	0.7280%	$ 19.38	$ 232.61	$ 1,243.25	$ 14,918.99
1506	1	1	762			$885,000	0.3506%	0.3495%	$ 9.31	$ 111.68	$ 596.88	$ 7,162.62
1507	1	1	746			$850,000	0.3437%	0.3427%	$ 9.13	$ 109.50	$ 585.28	$ 7,023.33
1508	2	2	1,196			$1,345,000	0.5355%	0.5338%	$ 14.22	$ 170.58	$ 911.72	$ 10,940.69
1509	1	1	795			$860,000	0.3646%	0.3635%	$ 9.68	$ 116.16	$ 620.82	$ 7,449.89
1510	2	2	1,090			$1,330,000	0.4883%	0.4868%	$ 12.96	$ 155.54	$ 831.34	$ 9,976.14
1611	2	2	1,459	74	Balcony	$1,755,000	0.6833%	0.6613%	$ 17.61	$ 211.30	$ 1,129.36	$ 13,552.27
1601	3	3	1,492	84	Balcony	$1,690,000	0.6838%	0.6817%	$ 18.15	$ 217.84	$ 1,164.28	$ 13,971.34
1602	2	2	1,159	64	Balcony	$1,360,000	0.5400%	0.5384%	$ 14.34	$ 172.04	$ 919.52	$ 11,034.19
1603	1	1	777	66	Balcony	$865,000	0.3756%	0.3744%	$ 9.97	$ 119.64	$ 639.47	$ 7,673.66
1604	2	2	1,153			$1,455,000	0.5236%	0.5220%	$ 13.90	$ 166.81	$ 891.58	$ 10,699.02
1605	3	3	1,653	68	Balcony	$2,045,000	0.7537%	0.7514%	$ 20.01	$ 240.11	$ 1,283.35	$ 15,400.23
1606	1	1	762	66	Balcony	$920,000	0.3691%	0.3680%	$ 9.80	$ 117.58	$ 628.45	$ 7,541.35
1607	1	1	746	66	Balcony	$885,000	0.3622%	0.3611%	$ 9.62	$ 115.38	$ 616.69	$ 7,400.23
1608	1	1.5	1,036	501	Terrace	$1,295,000	0.5813%	0.5795%	$ 15.43	$ 185.17	$ 989.71	$ 11,876.52
PHA	3	3	2,107	1,147	Terrace	$3,100,000	1.1931%	1.1894%	$ 31.67	$ 380.09	$ 2,031.47	$ 24,377.60

**Estimated Total Common Charges Deductible for Income Tax Purposes

UNIT	# BDS	# BATHS	Approximate Indoor Floor Area Sq. Ft. (2)	Approximate Outdoor Floor Area Sq. Ft.	Outdoor Type Garden Terrace Balcony	Offering Price (3)	% of Common Interest (4) Residential Common Interest (4)	% of Common Interest (4) General Common Interest (4)	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Monthly	Estimated Payment In Lieu Of Real Estate Taxes **(PILOT) (5) Annual	Estimated Total Common Charges Including PILOT (6) Monthly	Estimated Total Common Charges Including PILOT (6) Annual
1701	3	3	1,492	84	Balcony	$1,720,000	0.6924%	0.6903%	$ 18.38	$ 220.57	$ 1,178.89	$ 14,146.68
1702	2	2	1,159	84	Balcony	$1,385,000	0.5467%	0.5451%	$ 14.51	$ 174.18	$ 930.93	$ 11,171.21
1703	1	1	777	66	Balcony	$885,000	0.3801%	0.3790%	$ 10.09	$ 121.10	$ 647.24	$ 7,766.84
1704	2	2	1,153			$1,480,000	0.5301%	0.5285%	$ 14.07	$ 168.88	$ 902.84	$ 10,831.67
1705	3	3	1,653			$2,045,000	0.7488%	0.7465%	$ 19.88	$ 238.54	$ 1,274.94	$ 15,299.34
1706	1	1	762			$920,000	0.3591%	0.3580%	$ 9.53	$ 114.41	$ 611.50	$ 7,337.95
1707	1	1	746			$885,000	0.3521%	0.3511%	$ 9.35	$ 112.18	$ 599.58	$ 7,194.98
1708	1	1.5	1,036	127	Balcony	$1,175,000	0.5067%	0.5052%	$ 13.45	$ 161.43	$ 862.80	$ 10,353.62
PH1	3	3	1,879	131	Terrace	$2,450,000	1.3398%	1.3357%	$ 35.57	$ 426.81	$ 2,281.20	$ 27,374.36
PH2	2	3	1,484	222	Terrace	$1,935,000	1.1036%	1.1003%	$ 29.30	$ 351.58	$ 1,879.11	$ 22,549.27
PH3	2	3	1,499	228	197/31 Terr/Bal	$2,075,000	1.1158%	1.1124%	$ 29.62	$ 355.45	$ 1,899.81	$ 22,797.77
PH4	2	3	1,763	130	99/31 Terr/ Bal	$2,450,000	1.2610%	1.2572%	$ 33.48	$ 401.73	$ 2,147.17	$ 25,765.99
PH5	3	4	2,260	210	169/41 Terr/Bal	$3,250,000	1.6239%	1.6189%	$ 43.11	$ 517.33	$ 2,764.97	$ 33,179.64
PH6	2	3	1,679	614	543/71 Terr/ Bal	$2,650,000	1.3678%	1.3637%	$ 36.31	$ 435.74	$ 2,328.94	$ 27,947.29
PH7	2	3	1,432	245	214/31 Terr/ Bal	$2,050,000	1.0762%	1.0730%	$ 28.58	$ 342.86	$ 1,832.51	$ 21,990.14
PH8	2	3	1,495	268	237/31 Terr/Bal	$2,025,000	1.1266%	1.1232%	$ 29.91	$ 358.90	$ 1,918.22	$ 23,018.66
PH9	2	3	1,839	407	163/244 Balconies	$2,575,000	1.4061%	1.4016%	$ 37.32	$ 447.90	$ 2,394.00	$ 28,727.98
TOTAL RESIDENTIAL			214,062	24,820		$246,165,000	100.0000%	99.6976%	$ 2,654.79	$ 31,857.38	$ 170,270.17	$ 2,043,242.00
Commercial Unit			600			n/a	100.0000%	0.3024%	$ 8.05	$ 96.62	$ 296.25	$ 3,555.00
Units Total			214,662			$246,165,000	n/a	100.0000%	$ 2,662.84	$ 31,954.00	$ 170,566.42	$ 2,046,797.00

**Estimated Total Common Charges Deductible for Income Tax Purposes

NOTES TO SCHEDULE A

1. Amounts are projected on the assumption that the first year of Condominium operation will be the year from October 1, 2008 to September 30, 2009. The actual first year of Condominium operation may be earlier or later than that period.

2. The square foot area of the Units set forth in the floor plans and in **Exhibit B** to the Declaration are approximate and were obtained by using the method customarily used in New York City to measure condominium apartments.

   The approximate indoor floor area of each Residential Unit has been measured from the exterior side of the Building wall or glass windows at the Building line and/or Property line enclosing the Residential Unit, or a public hallway, or public space; or from the midpoint of interior party walls separating the Residential Unit from another Unit, or public stair, or boiler flue, or trash chute, or cooling tower risers, or the two (2) main electrical risers, or the two (2) main communication risers, or building laundry room exhaust, or any other Common Elements. The floor area occupied by Common Elements bordering or within a Residential Unit (such as the Building walls, columns, vents, chase walls or areas, conduits, ducts, shafts, or pipes) have been included in the computation of the floor area of the Residential Unit, but such elements are not part of the Residential Unit. The boiler flue, trash chute, cooling tower risers, the (2) main electrical risers, the (2) main communication risers, and building laundry room exhaust are not included in the Residential Unit's indoor floor area. Since the area calculations are not based upon measurements from interior surfaces of interior walls, these measurements significantly exceed the actual floor area of the Units.

3. Sponsor has reserved the right to change the purchase prices (as well as other terms of sale) of Units not subject to executed Agreements, so Purchasers may pay different prices for similar Units. See the Section entitled "Changes in Prices and Units" in Part I of this Plan for further discussion. In addition to paying the purchase prices of their Units, Purchasers will be responsible for paying certain closing adjustments and Closing Costs (see the Section entitled "Unit Closing Costs and Adjustments" in Part I of this Plan for further discussion).

   The Condominium shall consist of one-hundred-eighty-four (184) Residential Units and one (1) Commercial Unit. One-hundred-eighty-three (183) Residential Units are being offered for sale to the public hereunder. One (1) Residential Unit will be offered to the Board of Managers to house the Building's resident manager. Although the Sponsor is not offering the Commercial Unit for sale at this time, the Sponsor reserves the right to do so at any time in the future. Should the Sponsor decide to sell the Commercial Unit in the future, it shall then file an appropriate amendment with the Department of Law.

4. The Common Interest of each Unit has been determined, pursuant to Section 339-i(1)(iv) of the Condominium Act. In accordance with such method of calculation,

the Common Interests have been determined based primarily upon a comparison of the floor areas of the Units, such to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of the Common Elements for exclusive or shared use and the overall dimensions of the particular Unit.

The aggregate Common Interests of all of the Units equal one hundred percent.

5. According to the Lease, the Payment in Lieu of Taxes ("PILOT") amount for the first year of Condominium operation will be approximately $31,954.00. Please see the section entitled "Payment in Lieu of Taxes," located in Part I of this Plan, for further details about PILOT.

Each Unit Owner will pay to the Board their Unit's pro rata share of the Property's PILOT as part of Common Charges based upon each Unit's percentage of Common Interest. The Board will pay such PILOT to QWDC, as required under the Lease.

Post-construction real estate tax assessment information is not disclosed herein because the Board of Managers is unlikely to exercise the option to purchase the Property within the first year of Condominium operation and forfeit PILOT benefits. However, should the Sponsor continue to own any Residential Units at the time that the Board of Managers desires to purchase the Property, and if Sponsor consents to such decision, then Sponsor will disclose the post-construction real estate tax information for each Unit by duly filing an amendment to the Offering Plan with the Department of Law.

In the opinion of Seiden & Schein, P.C., counsel to Sponsor, the tax laws existing on the date of this Plan in general permit a Unit Owner who itemizes his deductions to deduct from income for the purposes of Federal, New York State and New York City income taxes, any PILOT actually paid by such Unit Owner with respect to his Unit. However, the amount of such deductions may vary from year to year due to changes in the amount of the PILOT payable by the Unit Owner. Prospective Purchasers should refer to the Section entitled "Income Tax Deductions to Residential Unit Owners and Tax Status of the Condominium" in Part I of this Plan, as well as to the "Counsel's Tax Opinion letter" for further discussion.

6. These projections have been based upon the projections contained in "Projected Budget for First Year of Condominium Operation - Schedule B," which were made based on the assumption that the first year of Condominium operation will be from October 1, 2008 to September 30, 2009. The actual first year of operation may be earlier or later. In the event the actual or anticipated commencement date of the first year of condominium operation is to be delayed by six months or more, Sponsor will amend the Plan to include a revised budget with current projections. If the amended budget exceeds this projected budget by 25% or more, Sponsor will offer all Purchasers (other than Purchasers who are then in default beyond any applicable grace period, if the Plan has been declared effective) the right to rescind their Agreements within not less than fifteen days

after the presentation date of the amendment containing such revised budget, and any Purchaser electing rescission pursuant to such offer will have their Down Payments and any interest accrued thereon returned.

In addition to the payment of Common Charges, each Unit Owner will incur additional expenses for:

a. mortgage payments under any loan or loans obtained to finance the purchase of the Unit;

b. the cost of electricity supplied to the Unit;

c. the cost of interior repairs to, and the maintenance, painting and decoration of, the Unit, including, without limitation, the equipment and appliances contained in the same, and any appurtenant Limited Common Elements;

d. the cost of any insurance that the Unit Owner may desire to carry covering the furniture, belongings, equipment and other personal property in the Unit, as well as his or her liability to others for personal injury or property damage as a result of occurrences in the Unit;

e. telephone and cable television charges; and

f. PILOT (see footnote 5 above and Schedule A).

SCHEDULE B
BUDGET FOR FIRST YEAR OF CONDOMINIUM OPERATION
OCTOBER 1, 2008 - SEPTEMBER 30, 2009

Projected Income

Residential Common Charges (1)	$2,043,242
Commercial Common Charges (2)	$3,555
Residential Miscellaneous Income (3)	$22,758
Total	$2,069,555

Projected Expenses

		Residential	Commercial
Labor (4)	$542,231	$541,288	$943
Resident Manager's Unit (5)	$165,144	$165,144	$0
Heating & Hot Water (6)	$180,000	$179,456	$544
Gas for Cooking (7)	$22,440	$22,440	$0
Electricity (8)	$324,000	$324,000	$0
Water Charges & Sewer Rent (9)	$77,714	$77,714	$0
Repairs, Maintenance & Supplies (10)	$150,000	$149,546	$454
Service Contracts (11)	$44,722	$44,683	$39
Envioronmental Maintenance, Monitoring and Certifications (12)	$15,000	$14,955	$45
Insurance (13)	$260,000	$259,213	$787
Management Fee (14)	$73,600	$73,377	$223
Legal Fees & Audit Fees (15)	$20,000	$19,940	$60
QWDC Fee (16)	$64,199	$64,005	$194
QWDC Rent (17)	$1	$0.996975	$0.003025
Payment in Lieu of Taxes (18)	$31,954	$31,857	$97
Contingency (19)	$98,550	$98,381	$169
Total	$2,069,555	$2,066,000	$3,555

NOTES TO SCHEDULE B

PROJECTED BUDGET FOR FIRST YEAR OF CONDOMINIUM OPERATIONS

OCTOBER 1, 2008 – SEPTEMBER 30, 2009

1. Residential Common Charges - $2,043,242

   The Condominium's projected expenses for the first year of operation pertaining to the Residential Units were allocated among the Residential Units in accordance with their respective percentage interests in the Residential Common Elements. The Common Charges projected herein are based upon estimated expenses for the twelve (12) month period beginning October 1, 2008.

   If the projected date of commencement of Condominium Operation is delayed by more than six (6) months from the projected budget year in the Offering Plan, the Plan will be amended to include a revised budget disclosing the current projections. If such amended projections exceed the original projections by twenty-five percent (25%) or more, Sponsor will offer all Purchasers the right, for a period of fifteen (15) days, to rescind their Agreements and have their deposits refunded, with any interest earned thereon.

2. Commercial Common Charges - $3,555

   Costs associated with respect to the Commercial Unit will be borne solely by the Commercial Unit Owner. Therefore, Residential Units will not be sharing in costs associated with the Commercial operations. Conversely, the Commercial Unit Owner will not be allocated costs associated with operation of the Residential Units.

3. Miscellaneous Residential Income - $22,758 (Residential Only)

   Based upon the following:

   a) RCN: An agreement with RCN Telecom Services of New York, Inc., 28 West 23rd Street, New York, NY 10010. RCN shall pay the Condominium Association a fee, ten percent (10%), based on receipts. The fee is based on the number of residential subscribers in the Building for the services offered by RCN. It is projected that the Condominium will receive approximately $5,000 per annum in fees from RCN.

   b) Leo Vend: An agreement with Leo Vend, 312 Bayville Avenue, Bayville, NY 11709 for two (2) vending machines, one for snacks and one for drinks, to be located in the first floor laundry room. Leo Vend shall pay the Condominium Association a fee of $0.05 per item sold. The fee is based on the amount of sales; as such same fluctuates from month-to-month. It is projected that the Condominium will receive approximately $50 per annum in fees from Leo Vend.

c) RMH Management Corp.: An agreement with RMH Management Corp., P.O. Box 401, Alpine, NJ 07620 for automated teller machine ("ATM"). RMH will pay the Condominium Association $0.20 per transaction made on the ATM. The transaction fee is based on the number of transactions made; as such same fluctuates from month-to-month. It is projected that the Condominium will receive approximately $500 per annum in fees from RMH Management Corp.

d) Hercules Corp.: an agreement with Hercules Corp., 550 West John Street, Hicksville, NY 11801 for building laundry facilities. Hercules Corp. will pay the Condominium annual rent in the amount of $17,208.

The Miscellaneous Income that is received by the Condominium is used to offset the Residential Common Charges.

4. Labor – $542,231($541,288 Residential/$943 Commercial)

The Building will be staffed by Local 32BJ, SEIU, Union employees via a Contract between Local 32BJ, SEIU and the Condominium Board, which will take effect on or immediately after the First Unit Closing. All estimated payroll costs in Schedule B therefore reflect for union employees. All wages, salary and benefit costs, including applicable payroll taxes, are based on comparable rates currently in effect within similar buildings as of the date of the Plan. The budgeted amount consists of the estimated costs for the following Building labor staff:

- One (1) full time Resident Manager earning $26.44 per hour, working 40 hours per week.
- One (1) full time Handy Person earning $20.62 per hour, working 40 hours per week.
- Three (3) full time Porters, each earning $18.69 per hour, working 40 hours per week.
- Four (4) full time Door Persons, each earning $18.69 per hour, working 40 hours per week.

The payroll taxes and benefits include FICA, Federal and New York State unemployment insurance, workers' compensation, disability insurance, and appropriate sick pay, vacation pay and clinic days pay. The level of staffing described in this Schedule B complies with all applicable housing and labor laws.

The allocation of wages and related expenses for the Building staff are calculated pursuant to the allocation of Percentage of Common Interest (99.6976% Residential/.3024% Commercial) as set forth in Schedule A of the Offering Plan.

The Commercial Unit Owner does not share in the Building staff expense, including payroll taxes and benefits, for door persons. The Commercial Unit Owner does share in the Building staff expense, including payroll taxes and benefits, for the resident manager, handy person and porters pursuant to the allocation of Percentage of Common Interest (99.6976% Residential/.3024% Commercial) as set forth in Schedule A of the Offering Plan.

No warranty is made to the actual wages, salaries, benefits and related payroll taxes and similar expenses that will be applicable and in effect during the first year of Condominium operation. However, the projected expenses for wages, salaries and benefits, as well as the assumptions described herein, are believed to be reasonable and reflect the experience of Sponsor's budget expert in comparable buildings.

The following schedule sets forth a detailed breakdown of the anticipated labor costs:

Wages		Residential	Commercial
Resident Manager – 1	$ 55,000	$ 54,834	$166
Handy Person – 1	$ 42,890	$ 42,760	$130
Porters – 3	$116,626	$116,273	$353
Door Persons – 4	$155,501	$155,501	$ 0
Total	$370,016	$369,367	$649
Payroll Taxes			
FICA	$28,306	$28,257	$50
FUTA	$ 504	$ 503	$ 1
SUI	$ 2,772	$ 2,767	$ 5
Disability Insurance	$ 842	$ 841	$ 1
Total	$32,425	$32,368	$57
Local 32BJ, AFL-CIO, Fund Contributions			
Health Fund	$69,975	$69,857	$118
Pension Fund	$24,804	$24,762	$ 42
Training, Scholarship, & Safety Fund	$ 1,314	$ 1,312	$ 2
Legal Fund	$ 2,016	$ 2,013	$ 3
Supplemental Retirement & Savings Fund	$ 4,680	$ 4,672	$ 8
Total	$102,789	$102,616	$173
Worker's Compensation			
10% NYS Assessment Charge	$37,002	$36,937	$65

Total Labor Cost	$542,231	$541,288	$943

5. Resident Manager's Unit - $165,144 (Residential Only)

As additional consideration for his duties and the convenience of Condominium owners, the Resident Manager shall be permitted to occupy the Residential Manager's Unit as a tenant of the Board of Managers. The Resident Manager's Unit, located on the 3rd floor and known as Unit 308, will be sold to the Condominium Association for $1,220,000 subject to an interest only loan based upon a rate of 6.125% for five (5) years.

The expenses for the Resident Manager's Unit consists of interest payments on the interest only note, Common Charges, PILOT, transfer taxes, mortgage recording tax, title insurance and recording charges attributable to Unit 308, which will be acquired on or after the first day of the First Unit Closing by the Condominium Association on behalf of the Unit Owners.

The following items were included in the calculation of the carrying costs:

Closing Costs – One Time Only

Title insurance premiums for fee & mortgage (approximately):	$ 4,651
Recording costs for deed & power of attorney (approximately):	$ 300
Mortgage recording tax (approximately):	$26,505
Recording cost of mortgage (approximately):	$ 250
NYC Real Property Transfer Tax (approximately):	$17,702
NYS Transfer Tax, deed stamps (approximately):	$ 4,970
NYS Mansion Tax (approximately):	$12,423
Legal fee of Sponsor's attorney (approximately):	$ 1,750
Required Contribution to Working Capital Fund, Equal to Two Months Common Charges (approximately):	$ 1,625
Legal fee of Sponsor's attorney for reviewing & clearing title (approximately):	$ 350
Total (approximately)	$70,526

Annual Costs

Annual Cost on Interest-Only Loan:	$74,725
Estimated Common Charges Payments, Including Payments In Lieu of Real Estate Taxes (PILOT):	$ 9,752
Estimated Parking Costs:	$ 4,800
Estimated Mobile Phone Costs:	$ 1,200
Estimated Electric:	$ 4,000
Total Annual:	$94,618
Total Carrying Costs:	$165,144

The entire purchase of the Resident Manager's Unit will be financed by the Sponsor and/or an institutional lender (sometimes hereinafter collectively called the "Lender"). The Condominium Board will give the Lender a promissory note for the total purchase price of the Unit and a first mortgage on the Resident Manager's Unit to secure repayment of the note.

As stated above, there will be a one (1) time only payment of the closing costs on the Resident Manager's Unit. Sponsor will advance the funds necessary to cover the closing costs of the Unit and will be repaid by the Condominium Association pursuant to a promissory note bearing 0% interest which will require repayment of the debt in twelve (12) equal monthly installments. Repayment will be made from the Working Capital Fund and the Condominium Association's Contingency Fund.

Other fees which cannot be estimated because they pertain to events outside of Sponsor's control and/or statutory requirement include Purchaser's attorney's fee, lender's attorney's fee, possible title endorsement charges, possible commitment fee or loan origination fee, appraisal fee, application fee, credit check fee and monthly Common Charges prospectively from the Closing Date.

In the event that as of the First Unit Closing, a condition of the Building does not permit the Resident Manager's Unit to be occupied, or if any other reason (in the Sponsor's sole judgment) the Resident Manager's Unit is not suitable or available for occupancy by the Resident Manager, the Sponsor and the Condominium Association will enter into an interim lease for another Unit (to be selected by the Sponsor) for use as the Resident Manager's residence until the Resident Manager's Unit is ready for occupancy. Such interim lease will require the Condominium Association to pay to the Sponsor, as the rental there under, the Common Charges, PILOT and other costs and expenses incurred by the Sponsor in connection with owning such Unit during the term of the interim lease. In such event, the Plan will be amended to disclose such interim lease and the terms thereof. Please refer to Special Risk 3 .

6. Heating & Hot Water - $180,000 ($179,456 Residential/$544 Commercial)

The cost estimate for heating and hot water is prepared by I.M. Robbins P.C., 15 West 44th Street, New York, NY 10036. The same takes into consideration taxes and inflation.

Heating and hot water in the building will be provided by gas fired, hot water boilers manufacture by AERCO, Model #BMK-2.0, and the burners shall be Benchmark AERCO, gas only, located at the back of the building on the ground floor.

The boilers will provide hot water to heat exchangers for residential use. Hot water is distributed to the various areas by two (2) pipe distribution systems. Heat will be provided to residential apartments through the injection of heated water to the heat pump circulating loop. Heating capacities of heat pumps for residential apartments are based on 70 degree water and 70 degree ENT air temperatures. The system is designed to meet

ASHRAE 90.1 Standards as per Queens West Development Corp. Please refer to Paragraph N ("Heating & Air Conditioning") of the Architect's Report for further information.

The Commercial Condominium Unit will be provided with valved outlets for heating hot water supply and return from the Building's heating system. The Commercial Unit will provide for its' own hot water via hot water heaters.

7. Gas for Cooking - $22,440 (Residential Only)

The estimate for the gas consumed by the Residential Units for cooking is prepared by I. M. Robbins P.C., 15 West 44th Street, New York, NY 10036. The same takes into consideration taxes and inflation. Gas will be provided by Consolidated Edison. Gas for the Common Elements and Residential Units will be collectively metered. (The Commercial Unit will be separately metered for cooking gas.)

Natural Gas for Cooking
1,870,000 Cu. Ft./Yr.
$12.00 per 1,000 Cu. Ft.

In view of the varying costs of energy, it is not possible to predict with any certainty whether the estimated figures will reflect the actual cost to be incurred during the first year of Condominium operation. The actual cost for gas will vary depending upon various factors, including the amount of consumption and conservation measures, if any, adopted by the Board or individual residents, the rates of the utility company (which fluctuate periodically) and the possibility of changes in the methods of calculating charges by the utility company.

8. Electricity - $324,000 (Residential Only)

The estimate for the cost of electricity is prepared by I. M. Robbins P.C., 15 West 44th Street, New York, NY 10036. Same includes the electricity consumed by the Common Elements, including but not limited to, interior and exterior lighting, elevators, pumps, fans and other Building systems. The estimate also takes into consideration taxes and inflation. Each Residential Unit will be submetered from the Condominium's master electric meter for their lighting, heat pumps (i.e., air conditioning units) and appliance usage to such Residential Unit. Each Residential Unit will be back billed for their usage of electricity by the Condominium. Please refer to Schedule B-1 for an estimate of electricity costs for the Residential Units. The Commercial Unit will be separately metered for electricity.

Electricity
1,800,000 KW/Hr./Yr.
$0.18 per KW/Hr.

In view of the varying costs of energy, it is not possible to predict with any certainty whether the estimated figures will reflect the actual cost to be incurred during the first year of Condominium operation. The actual cost for electricity will vary depending upon various factors, including the amount of consumption, the severity of the weather, conservation measure, if any, adopted by the Board or individual Unit residents, the rates of the utility company (which fluctuate periodically), and the possibility of changes in the methods of calculating charges by the utility company.

9. Water Charges & Sewer Rents - $77,714 (Residential Only)

The estimate for the cost of water charges and sewer rent is prepared by I. M. Robbins P.C., 15 West 44th Street, New York, NY 10036. The same takes into consideration taxes and inflation. The City of New York provides municipal water and sewer services to the Building.

Water and sewer services will be provided primarily to the Residential Common Elements and the Residential Units for domestic hot and cold water, lavatories and sanitary sewage. The General Common Elements will use water service in connection with the Building's fire protection system, which does not consume water except in the cases of testing and an emergency. As the fire protection system will consume negligible or inconsequential amounts, no costs for water or sewer services will be included for this item in the General Common Expenses.

Water Charges & Sewer Rents
18,200 CCF
$4.27/CCF

The Commercial Unit will be separately metered for water. The Condominium will provide condenser water to the Commercial Condominium Unit at a cost of $350 per ton, per year. Same will increase 2% per year. The Condominium will bill the Commercial Condominium Unit Owner quarterly for the cost of condenser water.

The actual cost of water and sewer services will depend, in part, on the level of water consumption and the rates and formulas for these services set by The City of New York. Consumption will largely be affected by the amount of water usage in the individual Residential Units.

10. Repairs, Maintenance & Supplies - $150,000 ($149,546 Residential/$454 Commercial)

This figure was prepared by Rockrose Development Corp. based upon experience managing buildings of comparable size and amenities. It represents the estimated allocated cost to the Residential section for ordinary maintenance, repairs and supplies of the Building's General Common Elements and the Residential Common Elements; including periodic painting, cleaning supplies, light bulbs, fixtures, hardware, rubbish bags, etc. used in connection with the operation of the Building's General Common Elements and Residential Common Elements. The Unit Owner expenses include, but are

not limited to repair and maintenance of Residential Unit air conditioning units, appliances, painting of Residential Units, etc. The total expense for Repairs, Maintenance & Supplies is estimated to be $150,000 of which $149,546 is allocated to the Residential section pursuant to its' Common Interest Percentage and $454 is allocated to the Commercial section pursuant to its' Common Interest Percentage.

No amount is included for items covered by construction warranties or for the cost of any major capital expenditure in the Building. The budgeted number does not include repairs, painting, maintenance or supplies (including appliances) for individual Units, which are the responsibility of the individual Residential Unit Owner or the Non-Residential Units, which are the responsibility of the individual Non-Residential Unit Owners.

11. Service Contracts - $44,722 ($44,683 Residential/$39 Commercial)

This estimate is intended to cover annual service contracts for monitoring, services, repair and maintenance of the following systems in the Condominium. Included in the Contingency Fund of Schedule B are reasonable sums for possible increases and costs which may occur prior to and during the first year of Condominium operation. No warranty is made that the actual cost for these or other services will be in accordance with this projection:

		Residential	Commercial	Term
Elevators:	$25,200	$25,200	N/A	1/2008-12/2011
Boilers:	$ 4,850	$ 4,835	$15	1/2008-12/2008
Water Treatment:	$ 7,000	$ 6,979	$21	1/2008-12/2008
Exterminating:	$ 4,130	$ 4,130	N/A	1/2008-12/2008
Fire Alarm:	$ 900	$ 897	$3	1/2008-12/2008
Building Link:	$ 2,642	$ 2,642	N/A	1/2008-12/2008
Total	$44,722	$44,683	$39	

The service contracts were provided by the following sources:

Elevators: An elevator maintenance contract with Transel Elevator Inc., 509-525 West 34th Street, New York, NY 10001. The annual cost of elevator maintenance contract $25,200.

Boilers: A boiler maintenance service contract with Champion Combustion, 8019 17th Avenue, Brooklyn, NY 11214. The cost of the maintenance service contract is for the entire Building is $4,850 of which $4,835 is allocated to the Residential section pursuant to its' Common Interest Percentage and $15 is allocated to the Commercial section pursuant to its' Common Interest Percentage.

Water Treatment Services: A service contract for water treatment services from Drew Water Services, 608 West 132nd Street, New York, NY 10027. The cost of the

maintenance service contract for the entire Building is $7,000 of which $6,979 is allocated to the Residential section pursuant to its' Common Interest Percentage and $21 is allocated to the Commercial section pursuant to its' Common Interest Percentage.

Exterminating Services: Based upon a proposal from Banzai de Bug Inc., P.O. Box 2630, New York, NY 10009. The cost of the maintenance service contract is $4,130.

Fire Alarm: Based upon a proposal from AFA Protective Systems, Inc., 519 Eighth Avenue, New York, NY 10018. The cost of the maintenance service contract is $900 of which $897 is allocated to the Residential section pursuant to its' Common Interest Percentage and $3 is allocated to the Commercial section pursuant to its' Common Interest Percentage.

Building Computer System: Based upon a proposal from BuildingLinl.com, LLC, 38-18 33rd Street, Long Island City, NY 11101. The cost of the building's web based computer system contract is $2,642.

12. Environmental Monitoring, Maintenance and Certification - $15,000 ($14,955 residential/ $45 Commercial)

The Property is located on a portion of land known as Operable Unit One and on a portion of land known as Operable Unit Two within the Queens West development site ("Operable Unit" or "Operable Units"). The Condominium will be responsible for the costs of all monitoring, on-going maintenance and certifications required by the New York State Department of Environmental Conservation in connection with the environmental remediation performed pursuant to New York's Voluntary Cleanup Program.

The cost of monitoring the building's Sub-Slab Depressurization System for the first year of Condominium operation will be approximately $5,000. Further information about the Sub-Slab Depressurization System is available in the section of the Offering Plan entitled "Description of Property and Improvements" located in Part I and in the Remedial Action Reports and Site Management Plans, located in Part II of the Offering Plan.

There is an estimated $16,000, per quarter, charge for certification of the ground water wells and Sub-Slab depressurization System, as well as the monitoring and certification of the site development covering, as described in greater detail in the Site Management Plan for each Operable Unit. The annual total cost for the certification of the Operable Units will be approximately $128,000. Since the area of the Land is approximately 30,529 square feet, which is approximately 7.64 percent of the combined square footage of the Operable Units (399,982sf), the Condominium's share of the certification charge is projected to be approximately $9,799 for the first year of operation ($128,000 x 7.64%).

Based upon information provided by TRC Engineers, Inc., 1430 Broadway, New York, New York 10018, the total cost of monitoring and certifying the compliance of both the

Sub-Slab depressurization System and the ground water wells in the first year of condominium operation will be approximately $15,000.

13. Insurance - $260,000 ($259,213 Residential/$787 Commercial)

The budget amount is projected on the basis of an estimate of insurance costs provided by Tannenbaum-Harber Co., Inc., 320 West 57th Street, New York, New York 10019 by letter dated 14 November 2006 projecting a cost of $260,000, for the entire Building of which $259,213 is allocated to the Residential section and $787 is allocated to the Commercial section.

The cost of workers compensation and NYS Disability is not reflected above, as this amount is included in the cost projections for labor.

The proposed coverage waives co-insurance (agreed amount clause) and is written on a replacement cost basis. Based on its recent construction, the policy limits quoted should be adequate to replace the existing building in the event of a total loss.

In addition, the coverage described herein will provide:

- each Unit Owner is an additional insured as respects common areas
- there will be no cancellation without notice to the Board of Managers
- a waiver of subrogation as respects Unit Owners of the Condominium
- a waiver of invalidity because of the acts of the insured and Unit Owners
- a waiver of prorate reduction if unit owners obtain additional coverage

Prospective owners should note that insurance premiums could increase depending on market conditions. The projection is believed to be reasonable.

Each Unit Owner should consider the desirability of obtaining additional insurance coverage, at his or her own expense, against the following risks (which will not be included in the insurance coverage obtained by the Sponsor on behalf of the Condominium Board):

- Fire or casualty losses to the contents of his or her Unit and any appurtenant Limited Common Elements, replacements, additions, upgraded fixtures and improvements therein; and
- Liability for personal injury or property damage as a result of occurrences in his or her own unit and any appurtenant Limited Common Elements.

Property Coverage

Building – "All Risk"	$87,255,000
Agreed Amount – Replacement Cost	$ 0
Rents – "All Risk"	$ 4,650,000
Building Ordinance/Demolition/Increase Cost of Construction	$10,000,000

Property Deductible	$ 10,000
Flood & Earthquake	$50,000,000
Flood Deductible – Zone A	$ 500,000
Earthquake Deductible	$ 25,000

Comprehensive General Liability

General Aggregate	$ 2,000,000
Each Occurrence	$ 1,000,000
Personal & Advertising Injury	$ 1,000,000
Products/Completed Operations Aggregate	$ 1,000,000
Fire Damage Legal Liability	$ 50,000
Medical Payments – Each Person	$ 5,000
Hired & Non-Owned Auto Liability	$ 1,000,000

Directors & Officers Liability

Each Occurrence	$ 1,000,000
Aggregate	$ 1,000,000

Commercial Umbrella

Each Occurrence	$ 100,000,000

Boiler & Machinery

Comprehensive Form – Combined Limit	Included
Property Damage/Business Interruption	Included
Deductible	$ 10,000
	72 Hrs. Business Income

Fidelity Bond

Limit for Employee Dishonesty	$ 100,000
Deductible	$ 1,000

Total Annual Premium	$ 260,000

The property policy also provides Elevator Collision Coverage.

Note: This is only a general description of proposed coverage provided. For a detailed description of the terms of a policy, refer to the policy itself.

The total premium for these various coverages is estimated at $260,000 and is based on current pricing and terms available and cannot be guaranteed.

The coverage does not include claims for personal injury or property damage resulting from occurrences in individual Units, nor does it include coverage of the furniture or personal property of Unit Owners. This premium waives the coinsurance requirement (Agreed Amount Clause) and is written on a replacement cost basis. The replacement cost valuation is based on approximately $337 per square foot. In the opinion of the insurance agency, the Building limit quoted should cover the cost to replace the building.

This quotation is an indication of insurance premiums at current rates. Because conditions in the insurance marketplace are volatile, it is not possible to predict what the premiums will be for the first year of condominium operation. Purchasers should be aware of the possible of rate increases.

Sponsor will procure, on behalf of the Board, on or before the date of the First Closing, the general liability insurance required to be carried by the Condominium.

The fire, casualty and general liability insurance carried by the Condominium will provide that each Unit Owner is an additional insured party.

14. Management Fee - $73,600 ($73,377 Residential/$223 Commercial)

Prior to the First Unit Closing, the Board of Managers will enter into a Management Agreement with Rockrose Development Corp. (the "Managing Agent"), having an office at 290 Park Avenue South, New York, New York 10010. Principals of the Managing Agent are also Principals of the Sponsor. The Managing Agent will be responsible for the property's day-to-day management needs. The cost of Management Fee for the entire Building is $73,600 of which $73,377 is allocated to the Residential Section and $223 is allocated to the Commercial Section, based on each section's Percentage of Common Interest.

The Management Agreement will be for an initial period of five (5) years and will provide that the Managing Agent will receive $73,600 for the first (1st) year, paid in twelve (12) equal installments of $6,133.33; $75,808 for the second (2nd) year, paid in twelve (12) equal installments of $6,317.33; $78,082 for the third (3rd) year, paid in twelve (12) equal installments of $6,506.83; $80,424 for the fourth (4th) year, paid in twelve equal installments of $6,702; and $82,837 for the fifth (5th) year, paid in twelve equal installments of $6,903.08. The Managing Agent has represented that, based on information available to the Managing Agent, the annual fees conforms with fee guidelines generally accepted in the industry and is reasonable. Please refer to the section of the Plan entitled "Management Agreement" for further details.

This falls within market standards for mixed-use Buildings of similar size and type located within New York City. This Management Fee includes billing and collection services, day-to-day phone availability, on-site inspections and attendance at Board meetings.

15. Legal & Audit Fees - $20,000 ($19,940 Residential/$60 Commercial)

This expense involves the auditing fees associated with preparation of the first year certified financial statement, as well as providing an allowance for possible miscellaneous legal services. The cost for Legal and Audit for the entire Building is $20,000 of which $19,940 is allocated to the Residential Section and $60 is allocated to the Commercial Section, based on each section's Percentage of Common Interest as follows:

		Residential	Commercial
Legal Fees:	$ 9,000	$ 8,973	$27
Audit Fees:	$11,000	$10,967	$33
Total Fees:	$20,000	$19,940	$60

The budget amount is based on a proposal in a letter dated September 11, 2006, from Newman, Newman and Kaufman, LLP, Certified Public Accountants, located at 575 Underhill Boulevard, Syosset, New York 11791, as to the cost of preparation of an annual audited statement and applicable government taxes. It is estimated that for the initial year of operation the cost for the accounting services will be $11,000. The balance, $9,000, is intended to provide for miscellaneous legal services to the Condominium Board.

16. Queens West Development Corp. Fee - $64,199 ($64,005 Residential/$194 Commercial)

The Condominium Association will pay a yearly fee (the "Public Maintenance Amount") to Queens West Development Corp. on the first (1st) day of each three (3) month period occurring during each Public Maintenance Amount Lease Year, as defined in the Lease. The annual sum of the payment is equal to the product of (i) thirty-five cents ($0.35) adjusted for inflation (indexed to CPI as of 2003) and (ii) the Total Floor Area, as defined in the Lease. The Public Maintenance Amount Payment begins on the date the building receives the Temporary Certificate of Occupancy (the "TCO Date").

There are multiple factors that go into calculating the CPI, which include but not limited to household spending, prices of goods in selected areas, number of consumers, etc. Additionally, the CPI is further adjusted based on regions, cities and boroughs. As such, it is extremely difficult to project the actual amount of the Public Maintenance Amount Payment due for the first year of Condominium operation. The actual Public Maintenance Amount Payment due for the first year of Condominium operation will depend on the growth of the CPI. Please refer to the Lease for further discussion.

17. Queens West Development Corp. Rent - $1 ($0.996975 Residential/ $0.003025 Commercial)

As per the ground lease dated September 19, 2003, between Queens West Development Corporation, as Landlord, and East Coast 5 L.L.C., as Tenant, the Condominium

Association will pay to Queens West Development Corp. the amount of One Dollar ($1.00) in annual Rent.

18. Payment in Lieu of Taxes (PILOT) - $31,954 ($31,857 Residential/$97)

The PILOT projected herein has been calculated pursuant to the terms of the Lease. PILOT is due in advance and in equal semi-annual installments during such Tax Year. Please refer to the Lease and to the Offering Plan section entitled "Payments in Lieu of Taxes" for further discussion.

19. Contingency - $98, 550 ($98,381 Residential/$169 Commercial)

The contingency fund was prepared by Rockrose Development Corp. and is intended to provide for any unanticipated expenses and is to be used at the discretion of the Board of Managers. The reserve for contingencies has been calculated on the basis of approximately five percent (5%) of the sum of all operating expenses to cover unanticipated cost increases and possible omitted items. The Contingency is calculated based on the Common Interest Percentage of both the Residential Section and Commercial Section and on the expenses of each.

In the event that the actual first year of operation of the Condominium begins later than the projected commencement date of October 1, 2008 as shown on this schedule, the additional operating costs could exceed this amount. The reserve for contingencies does not include a reserve for major capital replacements, for which no provision is made under this budget.

I.M. ROBBINS P.C.

CONSULTING ENGINEERS / 15 WEST 44TH STREET / NEW YORK, N.Y. 10036
TELEPHONE: (212) 944-5566 / FAX: (212) 944-5597

46-30 Center Boulevard Condominium
Queens West Development - Site 5
Electrical Estimates for Individual Units
Schedule B-1

The following is an estimate of annual electric energy costs for lighting, seasonal heating (Heat Pump operation) air conditioning, and for operating the typical electrical appliances located in a number of typical Residential Units.

The estimated KWHR per year per square foot and annual cost of electricity per square foot utilized by Individual Residential Units are 24.6 KWHR/Sq.Ft./Year and $4.43 per square foot, based on Con Edison rate of $0.18 per KW Hour. The following table lists Annual Cost of Electricity for Residential Units.

TYPE BEDRM/BATH	SQ. FT.	TOTAL ANNUAL KWHR	TOTAL ANNUAL COST
1 / 1	746	18352	$3304
1 / 1	777	19115	$3442
1 / 1.5	877	21575	$3885
1 / 1.5	935	23001	$4142
2 / 2	1153	28364	$5108
2 / 2	1196	29422	$5298
2 / 3	1763	43370	$7810
3 / 3	1492	36704	$6610
3 / 3	1653	40664	$7323
3 / 4	2260	55596	$10012

The projected rates are not guaranteed and it must be expected that these rates will increase with the passage of time and may be affected by many factors which are beyond the control of the Sponsor. Purchasers must be aware that the projections are only estimates and actual consumption will be metered and will vary based on the actual size of the Residential Unit, the personal needs of occupants, outdoor weather, and market conditions.

Very truly yours,



Marc Robbins, P.E.

MR/tt

BROWN HARRIS STEVENS

Established 1873

COMPLIANCE WITH RPL 339-i

New York State Department of Law
120 Broadway, 23rd Floor
New York, New York 10271

Attention: Investment Protection Bureau

June 13, 2007

Re: Condominium Offering Plan
46-30 Center Boulevard Condominium
Long Island City, New York ("Property")

Dear Sir/Madam:

East Coast 5 L.L.C. ("Sponsor") of the Condominium Offering Plan ("Offering Plan") for the Property retained Brown Harris Stevens ("Firm") to review the percentage of Common Interest in the Common Elements allocated to each Unit in the Property set forth in Schedule A of the Offering Plan.

The Firm is licensed as a real estate brokerage firm in the State of New York. With over 70 years in the industry, our experience in this field includes current management of the operation of 200 condominium and cooperative buildings in Manhattan.

The Common Interest of each Unit has been determined in accordance with Real Property Law Section 339-i.1 based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use, and the overall dimensions of the particular Unit in accordance with subsection (iv).

In the Firm's opinion, within the framework of Real Property Law Section 339-i.1, this method of determining Common Interest is reasonable and equitable.

The Firm certifies that it is not owned or controlled by Sponsor and that it has no financial interest in the offering other than its fee for services rendered in connection with the review of the Schedule A and preparation of this letter. The Firm understands that a copy of this letter is intended to be incorporated into the Offering Plan.

BROWN HARRIS STEVENS

Established 1873

All capitalized terms not defined in this letter shall have the meaning ascribed to them in the Offering Plan.

Very truly yours,

BROWN HARRIS STEVENS

By: _____
Name: Sharon Locatell
Title: Executive Director

Sworn to before me this
13th day of June, 2007

_____
Notary Public

VALERIE TOMLINSON
NOTARY PUBLIC, State of New York
No. 01TO6160621
Qualified in Kings County
Commission Expires February 12, 2011

THE COMMERCIAL UNIT

There will be one (1) Commercial Section in the Condominium containing one (1) Commercial Unit which is not being offered for sale by Sponsor. The Commercial Unit is being designed for retail use, but may be used for any lawful purpose. The Commercial Unit is located on the first floor of the Building.

All or any part of the Commercial Unit may be leased or subleased by the Commercial Unit Owner. No representation is made with respect to: (a) the uses to which the Commercial Unit or any part thereof may be put at any time, or (b) who, as tenant(s), will operate or occupy the Commercial Unit or any part thereof at any time, or (c) Sponsor's continued ownership of the Commercial Unit or any part thereof. The Commercial Unit may be used for any lawful purpose under the applicable building codes and zoning ordinances, including (without limitation), as model Units, or as a sales office, or as an office for the leasing, rental or management of one or more such Units, without any charge or fee by the Condominium Board, at such rents, and upon such terms and conditions, as Sponsor or the Unit Owner and any tenant(s) may agree. However, the Commercial Unit may not be used as an Adult Establishment or as an Adult Physical Culture Establishment, as defined in Article I, Chapter 2 of the New York City Zoning Resolution, or for the sale of bail bonds, or as an Off Track Betting facility, or as a check cashing facility, or as a nightclub or as a cabaret, or for any purpose that violates the terms of the Lease or any QWDC Requirements.

The Commercial Unit Owner has rights which differ from the Residential Unit Owners. The Condominium Board and the Residential Unit Owners will not have the right to disapprove either any change in the use of the Commercial Unit (or any part thereof), or any amendment to the Building's Certificate of Occupancy to authorize another use for the Commercial Unit (or any part thereof). In addition, a Commercial Unit Owner has the right to freely sell or lease its Commercial Unit or any part thereof without the Condominium Board having any right of first refusal to purchase or lease, or to procure a third party to purchase or lease, the same (see "Rights and Obligations of the Unit Owners and the Board of Managers" for further discussion). Such differences will not have a material adverse impact on the Condominium, except that Sponsor can not make a representation as to the future use of the Commercial Unit or the impact that such use may have on the Condominium. So long as Sponsor continues to own the Commercial Unit, Sponsor shall have the right to elect or designate one (1) member of the Board of Managers.

The percentage interest of the Commercial Units in the Common Elements is based upon floor area, location, uniqueness, overall dimensions and similar factors of relative value to other space in the condominium, pursuant to Section 339-i(1)(4) of the New York Condominium Act. Generally, each Commercial Unit Owner must pay its share of the Common Expenses based on its percentage interest in the Common Elements. In addition, the Commercial Unit Owner will be required to pay the expenses attributable to the cost of fire and casualty insurance to the extent that such cost exceeds the cost of comparable insurance in a building which does not contain any mercantile

space. No Commercial Unit Owner, however, is required to contribute to the Common Expenses or to pay any special assessment to the extent same is used for repair, renovation or decoration of the Residential Section.

The By-Laws of the Condominium expressly authorize the Condominium Board to allocate certain specific expense items and apportion Common Expenses against the Commercial Units other than in proportion to the Commercial Units' aggregate appurtenant interest in the Common Elements. Article 11 of the Bylaws sets forth arbitration as the method of resolving disputes between the Commercial Unit Owner and the Board of Managers concerning any special allocations.

The Common Charges payable by each Commercial Unit Owner (as set forth in Schedule B) are believed to be sufficient to cover the expenses fairly attributable to such Commercial Unit.

CHANGES IN PRICES AND UNITS

Subject to conditions hereinafter set forth, Sponsor has the right to change the amount of any purchase prices from the amounts shown in Schedule A of the Plan. The purchase prices set forth in Schedule A must be changed by a duly filed amendment to the Plan when the change of price is an across the board increase or decrease affecting one or more lines of Residential Units or Residential Unit models, or is to be advertised, or is a price increase for an individual Purchaser. The Sponsor may enter into an Agreement with a Purchaser to sell one or more Residential Units at purchase prices lower than those set forth in Schedule A without filing an amendment. Purchase prices may be negotiated by Sponsor under certain circumstances. Unless it constitutes a discriminatory inducement, Sponsor reserves the right to negotiate with Purchasers the following aspects of the purchase price of Residential Units: decorating allowances, payment of fees otherwise paid by Purchasers, payment of all or part of Purchaser's financing costs, price reductions tied to rental of Residential Units, reduced down payment deposits (but at least $1,000.00) and extra custom work. Furthermore, Sponsor reserves the right to amend the Plan from time to time to add and/or delete negotiable terms. No party other than Sponsor will have the right to approve any changes in price, whether before or after the First Unit Closing.

If Sponsor changes the purchase price of one or more Residential Units, the Purchaser of such Residential Unit may pay, or may have paid, more or less than other Purchasers of comparable Residential Units having the same Common Interest. However, a price change will not alter the Common Interest of, or the amount of the Common Charges payable by, the Residential Unit Owners.

In order to meet the possible varying demands for number and type of Units, or to meet the particular needs of prospective Purchasers, or for any other reason, Sponsor reserves the right to change: (a) the layout of, or number of rooms in, Unsold Units, and (b) the size and/or number of Unsold Units by subdividing one or more Unsold Units into two or more separate Units, by combining two or more separate Unsold Units into one or more Unsold Units, by altering the boundary walls of any Unsold Unit, or otherwise, including, without limitation, the use of any portion of the Common Elements adjacent to such Unsold Units to the extent that such portion is not required to be maintained as Common Elements pursuant to the terms of the Declaration and the Bylaws. Subject to the terms of the last three paragraphs of this Section, such right may be exercised by Sponsor from time to time, both before and after the First Unit Closing, without the consent or approval of any Selling Agent, the Managing Agent, the Condominium Board, any Unit Owner, any mortgagee or any other party. However, Sponsor will first obtain the approval of all governmental authorities having jurisdiction thereof whose approval is required by law. No change will be made by Sponsor in the size or number of Units, their respective percentages of Common Interest, or in the size or quality of Common Elements except by amendments to the Offering Plan and the Declaration. Unless the affected Purchaser provides a written consent, no material change will be made by Sponsor in Unit size, layout or percentage of Common Interest if an Agreement has been executed and delivered to the Sponsor for that Unit and such Purchaser is not in default.

If Sponsor changes the size and/or number of Unsold Units, Sponsor will increase or decrease the Common Interests appurtenant thereto accordingly. However, the aggregate amount of the Common Interests of all the Units will always remain at 100%. As a result of such reapportionment, the amount of the Common Charges and the real estate taxes and assessments payable by the owners of the Unsold Units affected thereby will be increased or decreased proportionately, but the amount of the Common Charges and the real estate taxes and assessments payable by the owners of Units unaffected thereby will not vary.

This Plan will be amended to reflect any change in the size of a Unit, number of Units, percentage of Common Interests of Unsold Units or a change in the size or quality of any Common Element. However, the layout and number of rooms in Unsold Units may be changed without prior notice.

With the exception of Sponsor's aforementioned right to combine or separate Unsold Units, and use any portion of the Common Elements adjacent to such Unsold Units (such as common walls or hallways) to the extent that such Common Elements are not required to be maintained as Common Elements pursuant to the terms of the Declaration and Bylaws, prior to the First Unit Closing no material change will be made in the size and no adverse material change will be made in the quality of Common Elements unless Purchasers not in default receive a right to rescind for fifteen (15) days after the presentation of the exercise of such right. After the First Unit Closing, unless all Purchasers consent, no material change will be made in the size and no material adverse change will be made in the quality of Common Elements.

Once the Declaration is recorded, no change may be made in the number of Units or number of rooms within a Unit, nor may the size of any Unit be changed by subdivision or combination or alteration of boundary walls, or otherwise, nor may the Common Interest of any Unit be changed, unless the Declaration is amended and such amendment is duly recorded. The Plan will be amended in the event of any such changes. As more particularly provided in the Declaration, Sponsor or its designee, as the owner of an Unsold Unit, will have the right itself to so amend the Declaration to effectuate such change, without the Condominium Board, the other Unit Owners or any mortgagee consenting to, or executing, such amendment. However, no change of a Unit's Common Interest will be made without obtaining the prior written consent of the owner of such Unit.

To the extent permitted by law, if the size or configuration of a Unit is changed in compliance with the Plan, the Declaration and/or the Bylaws and, in connection therewith, a wall, space or other area forming a part of the Common Elements servicing and benefiting only such Unit is razed or incorporated in the Unit, then such Common Element shall be deemed for the exclusive use and benefit of the owner of such Unit and the Unit's Common Interest will remain unchanged.

INTERIM USE AND OCCUPANCY AGREEMENTS

Sponsor or its designee reserves the right, freely and without restriction, to rent or lease vacant Units to Purchasers, both before and after the First Unit Closing, provided that a temporary Certificate of Occupancy has been issued for the Unit(s). However, once an Agreement is signed for a vacant Unit, and for so long as such Agreement is in effect, such Unit may only be rented to the Purchaser thereof. Such agreement, if entered into (an "Interim Use and Occupancy Agreement") will be for such use and occupancy fee, and upon such other terms as may be mutually agreed upon. The term of such Interim Use and Occupancy Agreement shall be for a period which will expire on the earlier of the date of the Closing of such Unit or six months after the execution date of the Interim Use and Occupancy Agreement. In the event this Plan is abandoned, the Purchaser may, at any time at his or her sole option, cancel the Interim Use and Occupancy Agreement and remove from the Building upon thirty (30) days' prior written notice to the Sponsor at the address set forth on the cover page of this Plan. Should Purchaser rescind his or her Agreement pursuant to any permitted rescission, the Interim Use and Occupancy Agreement shall terminate thirty (30) days thereafter and Purchaser shall be obligated to vacate the Unit no later than that time.

An Interim Use and Occupancy Agreement will provide that an uncured default by the Purchaser under the Agreement will constitute a default under the Interim Use and Occupancy Agreement, entitling the landlord (i.e., Sponsor), at its sole option, to terminate the Interim Use and Occupancy Agreement. The Agreement contains a similar cross-default provision entitling Sponsor to cancel the Agreement in the event that the Purchaser fails to cure a default under the Interim Use and Occupancy Agreement within any applicable grace period. However, before the Sponsor may utilize a default under the Interim Use and Occupancy Agreement to declare a default under the Agreement, the Sponsor must (i) obtain an order of eviction or other judgment or order from a court or agency of competent jurisdiction against the interim occupant or (ii) the interim occupant must have vacated the Unit. The interim occupant (i.e., the Purchaser) must vacate the Unit within five (5) days after any default under the Agreement which remains uncured after five (5) days.

PROCEDURE TO PURCHASE

The Agreement

A Person desiring to purchase a Unit in the Condominium, or the authorized parties thereof if the Person is other than a natural person, shall be required to execute in quadruplicate an Agreement in the form set forth in Part II of this Plan and return it to the Sponsor, together with a check in the amount of ten percent (10%) of the Purchase Price, drawn to the order of "Seiden & Schein, P.C., as Escrow Agent". This Down Payment may be increased for special work in the Unit ordered by the Purchaser and agreed to by the Sponsor and itemized in the Agreement. Seiden & Schein, P.C. shall be the "Escrow Agent" pursuant to the Agreement and Offering Plan.

Purchasers will be afforded not less than three (3) business days to review this Plan and all filed amendments prior to executing an Agreement. If a Purchaser has not been afforded at least three (3) business days prior to executing an Agreement, such Purchaser will have seven (7) days after delivering an executed Agreement together with the Down Payment to rescind the Agreement and have the Down Payment refunded promptly. Such rescinding Purchaser must either personally deliver a written notice of rescission to the Selling Agent within the 7-day period or mail the notice of rescission to the Selling Agent and have the mailing post-marked within the 7-day period.

The Agreement shall not be binding upon the Sponsor until a duplicate thereof, executed by the Sponsor, is delivered to Purchaser. In any such case, unless the Agreement, executed as aforesaid, is delivered to Purchaser within twenty (20) days after same is received by the Sponsor, it shall be deemed rejected and canceled and all monies paid by Purchaser shall be promptly refunded, without interest, and upon such refund being made, neither party shall have any further rights or obligations hereunder with respect to the other. The Sponsor shall have the right to reject the Agreement without cause or explanation to Purchaser, provided such rejection is not based upon gender, race, creed, color, national origin or ancestry or other ground proscribed by law.

The Agreement gives Purchaser the option of not exercising his right to purchase the Unit. In the event that Purchaser elects not to exercise its right to purchase the Unit, by closing title in accordance with the terms of the Agreement, Seller shall have the right to retain, as liquidated damages, all payments made hereunder, but in no event to exceed ten percent (10%) of the Purchase Price. Seller agrees not to seek the remedy of specific performance in connection with the Agreement in the event that Purchaser elects not to exercise its right to purchase the Unit in accordance with the terms of the Agreement.

After this Plan is declared effective, the Sponsor shall fix dates for Closing title to all Units for which Agreements have been fully executed. Sponsor will give each Purchaser not less than thirty (30) days' prior written notice of the date, time and place (in the City of New York) for the transfer of title to his Unit. Purchasers may, but are not required to, waive this thirty (30) day notice. At Closing, such Purchaser shall pay the balance of the Purchase Price stated in the Agreement with his unendorsed, personal

certified check or by official cashier's check. However, such Purchaser may apply the proceeds of any financing obtained by such Purchaser to make such payment, provided that it is made in the form stated above.

It is anticipated that the first Residential Unit will close title on or about October 1, 2008. If such closing day is delayed twelve (12) months or more, purchasers will be offered a right of rescission.

Escrow

All checks constituting the "Down Payment" are to be made payable to the order of "Seiden & Schein, P.C., as Escrow Agent" and all checks in payment of the balance of the Purchase Price (due at the Closing) are to be made payable to the order of Sponsor or as otherwise directed by Sponsor, with all checks, in either case, drawn on a member bank of the New York Clearing House Association.

In accordance with Section 71-a(3) of the Lien Law, Section 352-h and Section 352-e (2-b) of the New York General Business Law and the Attorney General's regulations promulgated thereto the Sponsor has appointed the law firm of Seiden & Schein, P.C. as Escrow Agent to hold all monies, including all deposits, Down Payments, deposits or advances, received by Sponsor, directly or through its agents, employees or agents (if any) either prior to or subsequent to the closing of title to a Unit (the "Consummation of Plan"), in trust in a segregated special escrow account titled, "Seiden & Schein, P.C., Attorney Account" (the "Escrow Account"). The name of Purchaser shall be added to the title of a sub-account of the Escrow Account, which shall be at Citibank, N.A. at its office located at 399 Park Avenue, New York, New York. Such funds shall be deposited within five (5) business days after the Agreement is executed by all necessary parties and, except as otherwise stated in the Plan, shall be held there until actually employed in connection with the consummation of this Plan. Seiden & Schein, P.C. is located at 570 Lexington Avenue, New York, New York 10022 (telephone number 212-935-1400). The signatories on the Escrow Account authorized to withdraw funds are the principal attorneys of the firm who are Jay G. Seiden, Esq., and Alvin Schein, Esq., both of whom have an office at 570 Lexington Avenue, New York, New York 10022.

Section 71-a(3) of the Lien Law, as applicable herein, also provides in part for the following, although Department of Law regulations are more restrictive:

(a) Down Payments shall be placed in an interest bearing account if so requested by Purchaser. Such down payment, with any accumulated interest, shall remain the property of the Purchaser, except as otherwise provided by law.

(b) Down Payments will be retained in escrow as set forth above until: (i) Sponsor performs under the terms of the Agreement or (ii) Purchaser rescinds, if permitted, or defaults in release or discharge of Sponsor's

liability to refund such down payment or (iv) transfer of title to the Unit to the Purchaser, or (v) release by mutual consent of Sponsor and Purchaser.

(c) The Down Payment will be held in an interest-bearing account, provided Purchaser furnishes a completed W-8 or W-9 form, and, unless the Purchaser defaults, interest will be credited to the Purchaser at Closing. The account is a variable-rate account, paying money market rates. The interest rate to be earned in the Escrow Account will fluctuate daily and is currently less than 1% per annum. Interest will begin to accrue upon deposit of the Down Payment, which is to be made in accordance with the preceding paragraphs.

(d) Citibank, N.A. is covered by federal bank deposit insurance to a maximum of $100,000.00 per individual deposit. No fees of any kind from the account principal may be deducted. Sponsor shall bear any administrative cost for maintenance of the account.

Within ten (10) business days after tender of the Down Payment submitted with the Agreement, the Escrow Agent will notify the Purchaser that such funds have been deposited into the Escrow Account and will provide the account number. If the Purchaser does not receive notice of such deposit within fifteen (15) business days after tender of the Down Payment, the Purchaser may cancel the purchase and rescind so long as the right to rescind is exercised within ninety (90) days after tender of the Down Payment. Rescission may not be afforded where proof satisfactory to the Attorney General is submitted establishing that the escrowed funds were timely deposited and requisite notice was timely mailed to the Purchaser in conformity with the Attorney General's regulations.

The only other time monies received for the purchase of a Unit shall be disbursed from the Escrow Account are (a) at the closing of title to a Unit by such Purchaser; or (b) upon a default by a Purchaser which is not cured within any time periods permitted, provided that no Down Payment to be released pursuant to an uncured default shall be released prior to the Consummation of the Plan. Any withdrawals or disbursement of funds from the Escrow Account shall be made only upon the written approval by an officer in the firm of Seiden & Schein, P.C., despite the fact that Citibank, N.A. may be a party to an escrow agreement with respect to such account or accounts. The amounts paid by the Purchasers prior to Closing will be handled in accordance with the escrow and trust fund provisions of the Section 352-h and Section 352-e (2-b) of the New York General Business Law and the Attorney General's regulations promulgated thereto. If this Offering is not consummated for any reason, Purchaser shall not lose any of his Down Payment. Any provision of any Agreement, contract or agreement, whether oral or in writing, by which a Purchaser purports to waive or indemnify any obligation of the Escrow Agent holding trust funds is absolutely void. The provisions of the Attorney General's regulations concerning escrow/trust funds shall prevail over any conflicting or inconsistent provision in the Offering Plan or in an Agreement. Please refer to Part II of this Offering Plan for a copy of the Escrow Agreement between Sponsor and the Escrow Agent.

The Escrow Agent will hold funds in escrow until otherwise directed in:

(i) a writing signed by both Sponsor and Purchaser or;

(ii) a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or

(iii) a judgment or order of a court of competent jurisdiction.

If there is no written agreement between the parties to release the escrowed funds, the Escrow Agent will not pay the funds to the Sponsor until the Escrow Agent has given the Purchaser written notice of not fewer than ten (10) business days. Thereafter, the funds may be paid to the Sponsor unless the Purchaser has already made application to the Department of Law pursuant to the dispute resolution provisions of the Attorney General's regulations and has so notified the Escrow Agent in accordance with such provisions.

The Sponsor will not object to the release of the escrowed funds to

(i) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Plan or an Amendment to the Plan; or

(ii) all Purchasers after an Amendment abandoning the Plan is accepted for Filing by the Department of Law.

Purchasers and the Escrow Agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the down payment and any interest thereon. The Sponsor must avail itself of this procedure if there is a dispute which needs to be resolved. A form for this purpose is set forth in Part II of this Plan. The Party applying for a determination must send all other parties a copy of the application.

Pending the determination of Department of Law to grant or deny the application, Sponsor, the Purchaser and the Escrow Agent shall abide by any interim directive issued by the Department of Law. If the application permitting release of funds is granted, the deposit and any interest earned thereon shall be disposed of in accordance with the determination of the Department of Law, subject to any court action in which preliminary relief is granted. The Department of Law shall act upon the application within 30 days after its submission to the Department of Law, by either making a determination or notifying the parties that an extension of time in which to do so is necessary for stated reasons.

If the application seeking release of funds is denied, the Escrow Agent shall continue to hold the deposit and any interest earned thereon until: (i) both Sponsor and the Purchaser direct payment to a specified party in accordance with a written direction signed by both Sponsor and the Purchaser; or (ii) a judgment or order of a court of competent jurisdiction is served on the Escrow Agent; or (iii) the Escrow Agent deposits the disputed amount into court.

In no event shall the Escrow Agent release funds in dispute, other than a payment of such funds into court, until such dispute is finally resolved either by determination of the Department of Law or by order or judgment of a court of competent jurisdiction or by written agreement of Sponsor and the Purchaser.

Any conflict between the Plan and the Agreement shall be resolved in favor of the Plan. If Purchaser shall fail to pay any portion of the purchase price when due, fail to close title on the date, hour and place specified by Sponsor or fail to perform any of Purchaser's other obligations, including, without limitation, the obligation to furnish any lender promptly with such information as such lender may require, and the obligation to accept a commitment on the terms set forth in the Agreement, such failure shall constitute a default by Purchaser, and Sponsor may send notice to Purchaser of Sponsor's intention to cancel the Agreement if such default is not timely cured. TIME IS OF THE ESSENCE FOR PURCHASER TO CURE ANY DEFAULT UNDER THE AGREEMENT WITHIN THE APPLICABLE PERIOD. "Time is of the essence" means that if such default is not cured within thirty (30) days from the mailing date of such written notice, Seller may (but shall not be obligated to) elect to cancel the Agreement by notice of cancellation to Purchaser sent after the cure period has expired. Upon such cancellation by Sponsor, the Down Payment monies held with respect to the particular Unit, but not more than ten percent (10%) of the Purchase Price, shall be paid over to the Sponsor as and for liquidated damages and thereafter the Agreement shall become null and void. In the event a default is disputed in writing by notice from Purchaser to Seiden & Schein, P.C., during the time to cure period and the default, in Sponsor's opinion, is not timely cured, and Sponsor thereafter cancels the Agreement, then Seiden & Schein, P.C. shall have the right to continue to hold the Down Payment pending resolution of such dispute (judicial or otherwise) or pay the Down Payment into court. Sponsor shall not seek the remedy of specific performance in connection with Agreements as to which there has been a default by Purchaser.

Issuance of Temporary Certificate of Occupancy Within Two Years of Signing Agreement

Sponsor shall substantially complete construction of the Residential Unit, as evidenced by the issuance of at least a temporary Certificate of Occupancy covering the Residential Unit, within a period of two (2) years from the date that an Agreement is signed by the Purchaser of such Residential Unit and by Sponsor. Notwithstanding the foregoing, if an "Event of Delay" occurs, this 2-year period shall be extended for a period of time equal to the length of the Event of Delay. An Event of Delay is defined as strikes or other labor disputes, shortages of labor or materials, weather conditions, acts of God, acts of the federal, state or municipal governments or any governmental agency, including, but not limited to, building or other code inspections and approvals, governmental regulations, fire or other casualties and any other delays allowed by Law. It is the express intent of this disclosure that the parties' rights and obligations under the Agreement be construed in the manner necessary to exempt the Agreement and the sale of the Residential Unit from registration under the Interstate Land Sales Full Disclosure Act, which is regulated by the United States Department of Housing and Urban

Development, and both Purchaser and Sponsor expressly waive any right or provision of the Agreement that would otherwise preclude any exemption, and such right or provision shall be severed from the Agreement and given no effect.

Notwithstanding anything contained in the Agreement to the contrary, in the event of Sponsor's default of this provision, Purchaser shall have all remedies available at law and in equity without limitation or restriction, including the right of rescission.

Release of Down Payments

Sponsor reserves the right to amend the Offering Plan to provide for the security of Down Payments made pursuant to Agreements with letters of credit issued by JPMorgan Chase Bank or another institutional lender. At Sponsor's option, all Down Payments made after the acceptance of the Amendment by the Department of Law shall be released from escrow. Down Payments, if any, made prior to the acceptance of the Amendment by the Department of Law shall be released from escrow only with the consent of the affected Purchasers.

Risk of Loss

The risk of loss from fire or other casualty with respect to the Unit shall remain with the Sponsor until the Closing of title for the Unit. The Sponsor, at its sole discretion, reserves the right to either repair or restore such Unit, whereupon Purchaser shall be obligated to close without an abatement in the purchase price, or not repair or restore and grant Purchaser the right to rescind the Agreement. Notwithstanding the above, in the event that Purchaser, or one claiming by or through Purchaser, enters into possession of the Unit prior to the Closing of title, then Purchaser shall bear the risk of loss or other casualty with respect to the Unit for damages not covered by Sponsor's insurance. Additionally, Purchaser shall be responsible for damage to, or loss or other condition in, the Unit and Sponsor shall not be obligated to repair any damages to the Unit or its appliances, fixtures and equipment in excess of what is covered by its insurance policy.

Power of Attorney

At the Closing of title to a Unit, and simultaneously with the delivery to Purchaser of the deed conveying the Unit, Purchaser shall execute and acknowledge the Power of Attorney to the Board of Managers in the form contained in Part II of this Plan. Purchaser shall deliver such executed Power of Attorney to Sponsor or as directed by Sponsor at the Closing of title for recording and Purchaser shall pay the recording fee. Failure to do so shall constitute a default by Purchaser pursuant to the Agreement.

Mortgage Financing Contingency

The Agreement, as set forth in Part II of the Plan, contains a mortgage financing contingency clause. A Purchaser of a Unit may obtain mortgage financing in an amount not to exceed eighty (80%) percent of the Purchase Price. The financing contingency shall be effective only if Purchaser applies for financing through either First Republic Bank, 320 Park Avenue, New York, New York 10022, 646-282-3421 (the "Lender") or Thomas Funding Group, One Penn Plaza, 34th Floor, New York, New York 10119, 212-563-1234 (the "Mortgage Broker"). Sponsor's contact person at the Lender is Marianne Johnson and its contact person at the Mortgage Broker is Thomas Wiggin. If Purchaser elects such financing contingency, Purchaser must in good faith submit the financing application for such mortgage financing to the Lender or the Mortgage Broker within five (5) days after Sponsor accepts and delivers to Purchaser the fully executed Agreement and promptly submit the Lender or the Mortgage Broker, as the Lender or the Mortgage Broker may direct, all required fees, information and supporting documents necessary for processing such loan application. Sponsor shall have the right, but not the obligation, to cancel the mortgage financing contingency if Purchaser fails to submit to the Lender or the Mortgage Broker the application for such mortgage financing within such five (5) day time period. Purchaser shall be obligated, upon request from Seller, to forward a copy of his or her filed mortgage application to Seller. The contingency clause provides that Purchaser shall have forty-five (45) days from the date Sponsor accepts and delivers the fully executed Agreement to obtain a written loan commitment for financing from a lending institution.

In the event Purchaser fails to obtain a written loan commitment within such time period, Purchaser must notify Sponsor of same within five (5) days subsequent to such forty-five (45) day period or the financing contingency is deemed waived by Purchaser.

(a) In the event that Sponsor does not elect to exercise "Sponsor's Option" (as such term is hereinafter defined), the Agreement may be declared null and void by Sponsor pursuant to written notice to Purchaser postmarked or delivered within ten (10) days subsequent to such forty-five (45) day period.

(b) Unless waived by Sponsor, Sponsor, if it so desires, shall then have the option ("Sponsor's Option") to obtain, within sixty (60) days after receipt of such notice, a mortgage loan commitment for Purchaser from the same, or another, lending institution in the same amount at the same or the then-prevailing interest rate. In the event that Sponsor does elect to exercise Sponsor's Option, but no such mortgage loan commitment is obtained, the Agreement may be declared null and void by Sponsor pursuant to written notice to Purchaser postmarked or delivered within ten (10) days subsequent to such sixty (60) day period.

In the event no such financing is furnished, Purchaser, provided it has not already waived the financing contingency as set forth above, may also declare the Agreement null

and void by written notice to the Sponsor postmarked or delivered within ten (10) days subsequent to such sixty (60) day period, or within ten (10) days subsequent to such notification by Sponsor to Purchaser that Sponsor has waived Sponsor's Option, whichever is sooner. In such event, the Down Payment shall be returned to Purchaser with interest, if any. If such notice is not sent within such ten (10) day period, the financing contingency clause shall be deemed waived. No other financing contingency is permitted by this Offering Plan. Notwithstanding anything to the contrary contained herein, Sponsor shall have no obligation to either secure a mortgage loan for Purchaser from another lending institution or take back a purchase money mortgage from Purchaser. Additionally, failure of Purchaser to comply with the terms and conditions of the commitment which are unrelated to Sponsor's responsibility to perform under the terms of the Plan does not relieve Purchaser of its obligation to close title.

If the Purchaser obtains a mortgage loan commitment within the time period set forth above, the Agreement shall nonetheless be subject to Purchaser's loan commitment being in full force and effect at the First Unit Closing, provided, however, that any expiration of a commitment as a result of Purchaser's refusal, inability or unwillingness to close title, or Purchaser's delay in closing title, or the revocation of a commitment by a lending institution resulting from Purchaser's acts or omissions, including but not limited to, Purchaser's failure to satisfy any of the conditions of the commitment, shall be excepted from this requirement, and Purchaser shall be deemed to have waived any financing contingency within the Agreement. Purchaser shall take all possible steps to maintain his commitment, including good faith application for an extension of such commitment to the same lending institution and written application to at least one (1) other lending institution, all at the prevailing rate of interest. In the event Purchaser notifies Sponsor within thirty (30) days after the expiration date of his previous loan commitment by registered mail of his inability to obtain an extension of such previous loan commitment or a new loan commitment, the Agreement shall be null and void and Purchaser's down payment shall be returned by Sponsor. Failure to provide such notification shall be deemed a waiver of the financing contingency by Purchaser and that the Agreement is deemed binding.

No other financing contingency is permitted by this Plan. Notwithstanding anything to the contrary contained herein, Sponsor shall have no obligation to either secure a mortgage loan for Purchaser from another lending institution or take back a purchase money mortgage from Purchaser. Additionally, failure of Purchaser to comply with the terms and conditions of the commitment which are unrelated to Sponsor's responsibility to perform under the terms of the Plan does not relieve Purchaser of its obligation to close title.

Notwithstanding the foregoing, all Purchasers who desire mortgage financing, and their lenders, must execute a recognition agreement (the "Recognition Agreement"), as required by QWDC, acknowledging that the lien of the holder of the mortgage secured by the Residential Unit is subject and subordinate to the Lease, and acknowledging that the right of the holder of the mortgage secured by the Residential Unit to be paid any amount due on account of such Residential Unit mortgage is subject and subordinate to QWDC's right to receive Rent allocable to such Unit. The fact that

the Residential Units are leasehold Condominium Units, subject to the Recognition Agreement, may make securing mortgage financing more difficult, and Purchasers may find that such financing is available upon terms and conditions that are not as favorable as may be available to Purchasers of condominiums in which title is held in fee simple.

Credit Check

All Purchasers must provide the Selling Agent with necessary authorization for the Selling Agent to conduct a credit check of the Purchaser.

The Agreement and Plan do not contain, and will not be modified to contain, any provision waiving the Purchaser's rights or abrogating the Sponsor's obligations under the Offering Plan or under Article 23-A of the General Business Law, other than the ability of Purchaser to waive his right to thirty (30) days prior written notice to the closing of title to the Unit.

ASSIGNMENT OF AGREEMENTS

No assignment of an Agreement of a Purchaser shall be permitted without Sponsor's prior written consent, which may be withheld or delayed for any reason or no reason.

Any purported assignment by a Purchaser in violation of the Agreement will be voidable at the option of Sponsor. Sponsor's refusal to consent to an assignment will not entitle a Purchaser to cancel the Agreement or give rise to any claim for damages against Sponsor. Under no circumstances will Sponsor consent to an assignment of the Agreement in which the Purchaser will receive consideration over and above the purchase price payable to Sponsor. If Sponsor, in its sole discretion consents to a Purchaser's request for an assignment of the Agreement, the assignee of the Agreement shall be required to close title to the Unit on the originally scheduled Closing Date set forth in the Agreement. If Sponsor, in its sole discretion, consents to a Purchaser's request for an assignment of the Agreement, then the Purchaser shall be required to pay Sponsor's attorneys a fee of $500.00, in advance, for preparation of an assignment agreement and any necessary revisions to the other Closing documents.

EFFECTIVE DATE OF PLAN

All Agreements signed by Sponsor shall be contingent upon Sponsor's declaring the Offering Plan effective pursuant to the requirements and terms of the Plan. These requirements, stated below, must be satisfied within one year of the date the Plan is accepted for filing unless the Plan is amended so as to extend this period. However, any amendment to the Plan is hereby deemed to extend this time period to the same extent that the Plan is extended by such amendment. The closing of title to any Unit may not occur until after the Plan has been declared effective and an amendment has been filed substantiating same, and the Condominium Declaration and Bylaws have been duly recorded.

1. This Plan may not be declared effective until Agreements have been executed and delivered by bona fide Purchaser(s), including investors, for at least twenty-eight (28), which is 15%, of the Units in the Building.
2. After the conditions in the preceding Paragraph 1 have been met, Sponsor may, at its option, declare this Plan effective.
3. When Agreements have been executed and delivered for the sale of one hundred forty eight (148), which is 80%, of the Units in the Building, and all the conditions referred to in the foregoing Paragraph 1 have been met, Sponsor must declare this Plan effective.

The Plan will not be declared effective based on Agreements (i) signed by Purchasers who have been granted a right of rescission that has not yet expired or been waived; (ii) if the Purchaser has had not fewer than three (3) business days to review the Offering Plan and all amendments prior to executing an Agreement; or (iii) with any Purchaser who is the Sponsor, the selling agent, or the Managing Agent or is a principal of the Sponsor, the selling agent, or the Managing Agent or is related to the Sponsor, the selling agent or the Managing Agent or to any principal of the Sponsor or selling agent or the Managing Agent by blood, marriage or adoption. However, a Purchaser other than Sponsor or a principal of the Sponsor may be included if the Sponsor has submitted proof satisfactory to the Department of Law establishing the Purchaser is bona fide.

The Offering Plan may be declared effective by (i) an amendment to the Offering Plan or (ii) by personal service of notice on every Purchaser or by commencement of service by mail stating that the Offering Plan is declared effective and submitting an amendment to the Department of Law within five (5) days confirming that the Offering Plan was declared effective. The First Unit Closing shall not occur until the Offering Plan is declared effective and the effectiveness amendment is accepted for filing by the Department of Law.

The Plan may be abandoned, at Sponsor's sole option, at any time before the amendment substantiating effectiveness is filed and before all of the Units offered hereunder have been purchased. The Plan, if abandoned, shall be abandoned by

amendment, together with form RS-3, filed with the Department of Law in appropriate form. Such amendment shall explain the basis for abandonment and must state how any funds received pursuant to the Plan will be distributed. All monies paid by Purchasers pursuant to Agreements shall be refunded to them in full, with interest, if any, within twenty (20) days of such abandonment. The Sponsor may not abandon the Plan after the amendment substantiating effectiveness is filed for any reason other than (i) a defect in title which cannot be cured without litigation or cannot be cured for less than one-half of one percent of the total amount of the Offering, or (ii) substantial damage or destruction of the Building by fire or other casualty which cannot be cured for less than one-half of one percent of the total amount of the Offering, or (iii) the taking of any material portion of the Property by condemnation or eminent domain. Notwithstanding the foregoing, there will be no obligation on the part of the Sponsor to incur expense or engage in litigation to cure title defects.

The Plan will be declared effective by the mailing or personal delivery of written notice to all Purchasers. Within three (3) business days after such notice is given, an amendment to the Plan will be submitted by Sponsor stating that the Plan has been declared effective. If requested, Sponsor will submit to the Department of Law copies of all Agreements, together with any amendments or modifications to such Agreements, within five (5) business days after the request is received.

The First Unit Closing shall not occur until either a temporary or permanent Certificate of Occupancy covering the Unit to be conveyed has been issued for the Building by the New York City Department of Buildings. Please see the Sections in Part I of this Plan entitled "Description of Property and Improvements" and "Rights and Obligations of Sponsor" for further information.

TERMS OF SALE

The Units, when sold by the Sponsor, will be sold as a leasehold condominium interest to Purchasers, who may be individuals, a duly formed partnership, corporation, trust, estate, fiduciary, unincorporated association, syndicate, joint venture, organization, government, any department or agency thereof, or any other entity which is permitted to own property in the State of New York. The sale of the Units will be made at the respective offering prices set forth in **Schedule A** of this Plan, as such prices may be changed by the Sponsor as set forth in the Section entitled "Changes in Prices and Units" in Part I of this Plan, and will include the respective undivided interests in the Common Elements. At the closing of title to an individual Unit, the Purchaser will pay to the Sponsor the balance of the purchase price for the Unit. Insurable title to the Unit and its appurtenant interests in the Common Elements will be conveyed as directed by the Sponsor by Bargain and Sale Deed with Covenants against Grantor's Acts and containing the provisions set forth in subdivision 5, Section 13 of the Lien Law, and will be insurable by a title company, licensed by the State of New York, as being free and clear of all liens and encumbrances other than those set forth below. The form of leasehold condominium unit deed is set forth in Part II of the Plan, but does not state all of the restrictions listed below.

Title to the Unit and its appurtenant interests in the Common Elements shall be conveyed subject to:

1. The state of facts as shown by survey made by Arkadiusz Wodkiewicz, L.S. "Jerry" d/b/a JWS Co. Consulting Surveying dated November 23, 2005;

2. Any additional state of facts an updated survey might show, provided that if any updated survey reveals any additional encroachments, GNY Liberty Abstract, L.L.C. must be willing to insure against removal of the Building for so long as the Building may stand;

3. Covenant and Restriction: "Provided, nevertheless, and these presents are upon the express condition that there shall not be made, erected, carried on or permitted upon any portion of the hereby granted premises, any nuisance, trade or business generally offensive to the neighborhood" as recited in deeds recorded in Liber 115 cp 5, Liber 115 CP 171, Liber 132 cp 317 and Liber 132 CP 321, covering Block 21, Lot 1.

4. Covenants and restriction set forth in Agreement dated 9-14-1960 made between PEPSI-COLA COMPANY and THE CITY OF NEW YORK recorded in Liber 7292, page 398. Also shown on Map entitled "Showing the Elimination of 47th Avenue from the point 446.96 feet west of 5th Street to the U.S. Bulkhead Line of the East River, including the layout of a Permanent Sewer Easement from a point in 47th Avenue 446.96 feet west 5th Street to the U.S. Bulkhead Line of the East River" dated 9-30-1959 bearing No. 4039; and also shown on a map entitled "Discontinuing and closing 47th Avenue from the point 446.96 feet west 5th Street to the

U.S. Bulkhead Line of the East River, pursuant to Chapter 15, of the Administrative Code of the City of New York" dated 10-01-1959 bearing the No. 4090. And also as set forth in the Deed by THE CITY OF NEW YORK to PEPSI-COLA COMPANY dated 12-01-1960 and recorded 12-20-1960 in Liber 7296 cp 643;

5. Mapping Agreement among THE CITY OF NEW YORK, THE NEW YORK ECONOMIC DEVELOPMENT CORPORATION and QUEENS WEST DEVELOPMENT CORPORATION dated 12-20-1994, unrecorded.

6. Rights of the Federal Government under the Federal Navigational Servitude to enter upon and take possession of land now or formerly lying below the high water mark of East River or Berrians Creek. Notwithstanding such rights, this policy states it will insure that the possession of the insured in said lands will not be disturbed by reason of the exercise of said rights, and if any of said lands are taken by the United States of America by reason thereof, that compensation will be paid therefor as in condemnation.

7. The terms, including option to purchase, covenants, conditions and agreements of the Agreement of Lease and memorandum thereof. However, the policy insures the option to purchase the Property under separate endorsement to the policy.

8. Terms, covenants, restrictions, conditions and easements set forth in the Easement, Covenant and Restriction Agreement made by and between PepsiCo, Inc. and Queens West Development Corporation dated as of 9/19/2003 and recorded under CRFN #2003000387876 in the New York City Register's Office for the County of Queens;

9. Zoning Lot Description in CRFN 2006000633842;

10. Zoning Lot Description in CRFN 2006000633843;

11. Terms, covenants and condition of lease recited in Memorandum of Agreement of Lease made between QUEENS WEST DEVELOPMENT CORPORATION, as Lessor, and EAST COAST 5 L.L.C., as Lessee, dated as of 9-19-2003 recorded 9-25-2003 under CRFN 2003000387881;

12. Terms, covenants and condition of Letters Patent in Reel 1107 page 995 and CRFN 2003000387873;

13. Rights of the United States Government to establish harbor, bulkhead or pierhead lines or to change or alter any such existing lines and to remove or compel the removal of fill and improvements thereon including buildings or other structures, from land now or formerly lying below the high water mark of the East River without compensation to the insured;

14. Rights of the United States Government, the State of New York and the City of New York or any of their departments or agencies to regulate and control the use of the piers, bulkheads, land under water and land adjacent thereto;

15. Riparian rights and easements of others over the East River. However, the policy does not insure any riparian rights or easements in favor of the owner of the premises;

16. Declaration of Covenants and Restrictions by Queens West Development Corporation, dated March 30, 2007 and recorded on April 2, 2007 under CRFN 2007000168695;

17. Zoning and building ordinances, resolutions, restrictions and regulations of municipal authorities having jurisdiction and any amendments thereto, now or hereafter adopted, providing same will not be violated by the existing structure (as renovated by Sponsor) the contemplated use under the Plan;

18. The Declaration, the Bylaws, the Maps and the Floor Plans of the Condominium to be recorded in the Register's Office, as the same may be amended from time to time;

19. Easements in favor of adjoining Units and in favor of the Common Elements for the continuance of all encroachments of such adjoining Units or Common Elements on the Unit, existing as a result of construction of the Building, or construction of the individual Units, or which may have come or may come into existence as a result of settling or shifting of the Building, or as a result of repair or restoration of the Building or any portion thereof, or of any adjoining Unit or of the Common Elements made by or with the consent of the Board of Managers after damage or destruction by fire or other casualty or after a taking in condemnation or eminent domain proceedings, or by reason of any alteration or repair to the Common Elements, made by or with the consent of the Board of Managers, so that any such encroachments may remain so long as the Building shall stand. Each Unit shall be subject to the aforesaid easements in favor of all other Units. In addition, each Unit shall have, and shall be subject to, easements of subjacent support and necessity in favor of such Unit or in favor of other Units and the Common Elements;

20. Easements in favor of the other Units to use the pipes, wires, ducts, conduits, cables, public utilities and other Common Elements located in the Unit or elsewhere on the Property and serving such other Units;

21. Revocability of the right to maintain street vaults and other areas, if any, under sidewalks;

22. Consents by Sponsor or any former owner of the Property for the erection of any structure or structures on, under or above any street or streets on which the Property may abut;

23. Any easement or right of use created in favor of any public utility company for electricity, steam, gas, telephone, water or other service, and the right to use, maintain and repair wires, cables, terminal boxes, lines, service connections, poles, mains, facilities and the like upon, under and across the Property;

24. Service and/or maintenance contracts and agreements, if any, in effect on the date of the First Unit Closing;

25. Encroachments of stoops, areas, cellar steps, doors, ledges, window sills, bay windows, trim, coping, cornices, vaults, chutes, fuel oil lines, gas lines, drainage pipes, standpipes, sewerage pipes, foundations, footings, retaining walls, fences, fire escapes, air conditioning units, canopy and similar projections, if any, on, over or under the Property or the streets or sidewalks or property abutting the Property and rights of governmental authorities and adjoining property owners to require the removal of any such projections, and variations between record lines of the Property and fences, walls, retaining walls and the like, if any;

26. All covenants, declarations, restrictions, reservations, agreements and easements of record, if any, which are still in force and effect on the date of the First Unit Closing, provided that they are not violated by and do not prevent legal use of the Units at the Property nor prevent the existence of the present structure;

27. The lien of any unpaid real estate tax, and the lien of any water charges or sewer rents generally, (which shall be apportioned at Closing);

28. Any Sidewalk Notices of record (provided that Sponsor shall indemnify and hold the Condominium Board harmless from damages associated with any liens which arise from such Sidewalk Notices);

29. Any variations between tax lot lines and lines of record title; and

30. Standard printed exceptions contained in the form of title insurance policy then issued by the title insurance company insuring Purchaser's title to its Unit.

Closings of title shall take place concurrently with or after the following events have occurred:

(a) The issuance of a temporary or permanent Certificate of Occupancy for the Unit being closed or the Building;

(b) The recordation in the Queens County Office of the Register's Office of the Declaration and the Bylaws, and the filing in said Register's Office of Floor Plans of the Building showing the layout, location and approximate dimensions of the Units and the Unit designations, certified by the Tax Assessor of the City of New York as conforming to the official tax lot number for each such Unit and including an Architect's statement as required by Section 339-p of Article 9-B of the Real Property Law of the State of New York certifying that the Floor Plans fully and fairly depict the layout, location, Unit designations and approximate dimensions of the particular Unit or Units as built;

(c) The discharge of all duly recorded liens affecting the Unit to be closed and its undivided Common Interest and the recording of a partial release which releases such Unit and its undivided Common Interest from such lien, if any, as required by Section 339-r of the Real Property Law;

(d) The serving by personal delivery or ordinary mail to the Purchaser written notice of the Closing date not less than thirty (30) days prior to Closing of title, unless Purchaser elects to waive the thirty (30) day requirement; and the affording to Purchaser of an opportunity to inspect the Unit and the Common Elements; and

(e) The amending of the Offering Plan by Sponsor with an amendment substantiating that the Plan has been declared effective and confirming that the Units to be closed have been constructed in accordance with the applicable plans and specifications and that Sponsor has satisfied, or will satisfy prior to Closing of title, all of the requirements of this Section titled "Terms of Sale".

The risk of loss from fire or other casualty with respect to the Unit shall remain with the Sponsor until the Closing of title for the Unit. The Sponsor, at its sole discretion, reserves the right to either repair or restore such Unit, whereupon Purchaser shall be obligated to close without an abatement in the purchase price, or not repair or restore and grant Purchaser the right to rescind the Purchase Agreement. Notwithstanding the above, in the event that Purchaser, or one claiming by or through Purchaser, enters into possession of the Unit prior to the Closing of title, then Purchaser shall bear the risk of loss or other casualty with respect to the Unit for damages not covered by Sponsor's insurance. Additionally, Purchaser shall be responsible for damage to, or loss or other condition in, the Unit and Sponsor shall not be obligated to repair any damages to the Unit or its appliances, fixtures and equipment in excess of what is covered by its insurance policy.

All personal property located within the Unit that is owned by the Sponsor and which is described in this Plan in the Purchase Agreement is included in the conveyance to the Unit Purchaser, unless specifically indicated otherwise. All personal property affixed to or located within the Common Elements that is owned by the Sponsor is included in the property transferred to the Condominium by the Declaration.

UNIT CLOSING COSTS AND ADJUSTMENTS

General

The estimated Closing costs, expenses and adjustments to be borne by each Purchaser of a Unit will be as set forth below. Such costs are only estimates and are subject to change:

(a) Payment to GNY Liberty Abstract, L.L.C., 885 Second Avenue, 17th Floor, New York, New York 10017 (212-616-4803) (the "Title Company"), or to any other title insurer selected by Purchaser, of the cost of fee title insurance, if Purchaser elects to obtain title insurance. Fee title insurance rates, as quoted by the Title Company, as of the date of this Plan are as follows:

(i) For fee title insurance policies up to $1,000,000.00, a base rate of $239.00 for the first $35,000.00 coverage; $3.97 per additional thousand dollars of purchase price up to $50,000.00; plus $3.23 per thousand dollars of purchase price in excess of $50,000.00 up to $100,000.00; plus $2.60 per thousand dollars of purchase price in excess of $100,000.00 up to $500,000.00; plus $2.37 per thousand dollars of purchase price in excess of $500,00.00 up to 1,000,000.00.

(ii) For fee title insurance policies in excess of $1,000,000.00 or more, a base rate of $281.00 for the first $35,000.00 coverage; $4.66 per additional thousand dollars of purchase price up to $50,000.00; plus $3.80 per thousand dollars of purchase price in excess of $50,000.00 up to $100,000.00; plus $3.05 per thousand dollars of purchase price in excess of $100,000.00 up to $500,000.00; plus $2.78 per thousand dollars of purchase price in excess of $500,00.00 up to $1,000,000.00; plus $2.56 per thousand dollars of purchase price in excess of $1,000,000.00 up to $5,000,000; plus $2.27 per thousand dollars of purchase price in excess of $5,000,000.00 up to $10,000,000.00; plus $2.14 per thousand dollars of purchase price in excess of $10,000,000.00 up to $15,000,000.00; plus $1.93 per thousand dollars of purchase price in excess of $15,000,000.00.

Purchasers may purchase title insurance through any title insurance company and are not required to purchase title insurance through the Title Company. GNY Liberty Abstract, L.L.C. is an entity affiliated with the Sponsor.

(b) Recording fee for recording the leasehold deed and power of attorney of approximately $300.00.

(c) If a purchase money mortgage is obtained from a lending institution, the Purchaser may expect to incur the following costs:

(i) Legal fees of the lending institution's attorney;

(ii) Mortgage title insurance policy costs for a mortgage title insurance policy naming the lending institution as the insured. Mortgage title insurance rates as quoted by the title company as of the date of this Plan will cost a base rate of $344.00 for the first $35,000.00 in coverage; plus $5.55 per additional thousand dollars of coverage from $35,001.00 up to $50,000.00; plus $4.54 per thousand dollars of coverage in excess of $50,000.00 up to $100,000.00; plus $3.64 per thousand dollars of coverage in excess of $100,000.00 up to $500,000.00; plus $3.31 per thousand dollars of coverage in excess of $500,000.00 up to $1,000,000.00; plus $3.05 per thousand dollars of coverage in excess of $1,000,000.00 to $5,000,000.00. Please note that if a mortgage title policy is purchased simultaneously with a fee insurance policy and through the same company, mortgage insurance coverage rates shall be discounted;

(iii) A mortgage recording tax of 2.05% of the amount of the mortgage actually executed by Purchaser for mortgages in the amount of less than $500,000.00. The mortgage recording tax for mortgages in the amount of $500,000.00 or more is 2.175% after the $30.00 deduction on the first ten thousand dollars of mortgage amount. Lenders are required to pay one quarter of one percent of the 2.05% tax or 2.175% tax, as the case may be, thereby reducing Purchaser's cost to 1.80% less $30.00 or 1.925% less $30.00, as the case may be;

(iv) Recording fee for recording of the mortgage, approximately $250.00; and

(v) Commitment fee or origination fee, appraisal fee, application fee, credit fee, if any, charged by the lending institution.

(d) New York City Real Property Transfer Tax, currently equal to one percent (1%) of the purchase price with respect to single Units which are sold for $500,000.00 or less, and 1.425% of the purchase price where the consideration is greater than $500,000.00. Although it is often customary in real estate transactions involving sales of multi-family buildings or single family homes for the seller to pay these transfer taxes and the transfer taxes in (e) immediately below, it is now customary in condominium development projects in the New York Metropolitan area, for the Purchaser to pay such transfer taxes. Under this Offering Plan and the Agreement, Purchasers are required to pay these taxes as a Closing cost. For purposes of paying this tax with respect to this Project, consideration also includes the amount of New York City Real Property Transfer Tax and New York State Transfer Taxes (deed stamps) to be paid for the Unit, so that the effective tax rate is 1.014% of the purchase price where the purchase price is $500,000.00 or less and 1.451% where the purchase price is $500,000.00 or more.

not otherwise have had to pay but for an unauthorized delay in closing of title by Purchaser.

In addition to the above costs, each Purchaser of a Unit will be responsible for the fees and expenses of his own attorney, if any. As a result of the variable factors with respect to each Unit, such as purchase price, terms of a possible mortgage commitment and mortgage application and appraisal costs, fees of Purchaser's attorney and fees of the attorney representing Purchaser's lending institution, Sponsor suggests that Purchasers review their closing costs with an attorney.

The Purchaser will be required to pay to the Condominium Board the Common Charges (which include PILOT) allocable to his Unit monthly in advance. Common Charges assessed during the month in which title to the Unit closes shall be adjusted with the Sponsor as of the midnight preceding the Closing Date, provided, however, that Sponsor shall be reimbursed by Purchaser for the cost of any Common Charges which Sponsor was obligated to pay to the Board of Managers as a result of any unauthorized delay in Closing of title by Purchaser. The amount of such Common Charges to be assessed against each Unit will be fixed by the Board of Managers. Common Charges to be initially assessed are expected to conform to those shown in **Schedule A** contained herein.

Water and sewer charges for the Building will be adjusted between the Sponsor and the Condominium as of the midnight preceding the First Unit Closing.

The Board of Managers shall keep all such funds in a separate account for the purpose of paying the PILOT for the Property when due. Sponsor shall also pay into this special account with respect to any Units owned by it.

Partial Assignments of Sponsor's Construction Loan Mortgage

As of the Filing Date, Sponsor has not obtained a construction loan mortgage (a "Mortgage"), although it is Sponsor's intention to obtain a Mortgage at a future date, and Sponsor will duly file an amendment to the Offering Plan if and when it obtains a Mortgage. Sponsor's intention is for the Mortgage lender to assign a portion of the Mortgage to each Purchaser's lender, with the lender's cooperation, when and if a Purchaser obtains financing. Each Purchaser's loan would, therefore, consist of a portion of the assigned Mortgage, for mortgage tax purposes.

Mortgage assignments (as opposed to new mortgages) are exempt from mortgage recording tax. Since a portion of the Mortgage would be assigned to each Purchaser's lender as each Unit is conveyed from Sponsor to Purchaser, the Purchaser would be exempt from paying mortgage recording tax to the City and State of New York to the extent that his mortgage consists of the assigned Mortgage. At the Closing, Sponsor would receive a payment from Purchaser equal to (but not in excess thereof) the mortgage tax that would otherwise be payable to the City and State of New York on the recording of Purchaser's mortgage.

The New York City Department of Finance has taken the position that when a Purchaser purchases two or more Units, the New York City Transfer Tax will be 1.425% where the consideration is $500,000.00 or less and 2.625% where the consideration is greater than $500,000.00.

(e) New York State Transfer Taxes (deed stamps), which are currently at the rate of $2.00 per each $500.00 of consideration or part hereof. Pursuant to the terms of this Plan, this tax is an obligation of the Purchaser. For purposes of paying this tax with respect to this Project, consideration also includes the amount of New York City Real Property Transfer Tax and New York State Transfer Taxes (deed stamps) to be paid for the Residential Unit, so that the effective rate of State Transfer Tax is $2.03 per $500.00 of consideration, where the purchase price is less than $500,000.00 and $2.038 per $500.00 where the purchase price is $500,000.00 or more.

(f) Under Section 1402-a of the Tax Law of the State of New York, a "Mansion Tax" of one percent (1%) of consideration (or part thereof attributable to the real property being conveyed) is payable by the grantee (i.e., Purchaser) on each conveyance of residential real property, including condominium units, where the consideration for the entire conveyance is $1,000,000.00 or more. Residential real property includes a 1-3 family house, an individual condominium unit and a cooperative unit that is or may be used, in whole or in part, as a personal residence.

(g) The legal fees of Sponsor's attorneys in the amount of $1,750.00 will be payable by Purchaser to Seiden & Schein, P.C. An additional fee of $500 per Closing shall be due and payable to Sponsor's attorneys for any Unit Closing which occurs outside the office of Seiden & Schein, P.C. Further, an additional fee of $500 shall be payable by Purchaser to Sponsor's attorneys for the work involved for each assignment and/or cancellation of an Agreement or contract. Assignments are permitted only pursuant to the terms of the Offering Plan. An additional fee of $500 shall be due and payable to Sponsor's attorneys for any previously scheduled Unit Closing which is adjourned by Purchaser less than five (5) business days before such Unit Closing is scheduled to occur. A further additional fee of $350.00 shall be payable by Purchaser to Sponsor's attorneys for reviewing and clearing title prior to closing.

(h) At the time of the closing of title to each Unit, the Purchaser of such Unit shall pay into the Working Capital Fund of the Condominium an amount equal to two (2) months of Common Charges for the Unit being purchased at the time of the Closing.

(i) PILOT from the midnight preceding the date of the Closing through the end of the PILOT payment period within which the Closing Date occurs, which shall be one half of a year, provided, however, that Sponsor shall be reimbursed by Purchaser for the cost of any PILOT which Sponsor would

The partial mortgage assignment would have no adverse impact on the purchase price of the Unit or on Purchaser's mortgage payment. Pursuant to the terms of the Agreement, a form of which is located in Part II of this Offering Plan, all Purchasers will be required to advise their lender of this provision in the Offering Plan and in the Agreement, and make a good faith effort to cooperate with Sponsor and Sponsor's lender in connection with the partial assignment of its Mortgage.

The entire contents of this Section entitled "Partial Assignments of Sponsor's Construction Loan Mortgage" as well as those in the immediately preceding section above entitled "General," as same may be revised or amended, shall be deemed to be incorporated into the Agreement for each Unit.

Example of Closing Costs

A numerical example for the costs set forth in this section of the Offering Plan for a typical Unit with a hypothetical purchase price of $800,000.00 and a mortgage of $500,000.00 are set forth below. Tax, insurance and recording rates are subject to change:

1. title insurance premiums for fee and mortgage, including the simultaneous mortgage discount: $2,652.00
2. recording costs for deed and power of attorney: approximately $300.00
3. mortgage recording tax: $10,845.00
4. recording cost of mortgage: approximately $250.00
5. New York City Real Property Transfer Tax: $11,608.00
6. New York State Transfer Tax (deed stamps): $3,260.00
7. New York State Mansion Tax: $0
8. legal fee of Sponsor's attorney (at the office of Sponsor's attorney): $1,750.00
9. legal fee of Sponsor's attorney for reviewing and clearing title: $350.00; and
10. Reimbursement of PILOT paid by Sponsor.

Other fees which cannot be estimated because they pertain to events outside of Sponsor's control and/or statutory requirement include Purchaser's attorney's fee, lender's attorney's fee, possible title endorsement charges, possible commitment fee or loan origination fee, appraisal fee, application fee, credit check fee and monthly Common Charges prospectively from the Closing Date.

RIGHTS AND OBLIGATIONS OF SPONSOR

No bond or other security has been furnished to secure the performance of the Sponsor's obligations. Although at the time the Offering Plan is accepted for filing the Sponsor will be financially capable of performing Sponsor's obligations, the subsequent ability of the Sponsor to perform its obligations will depend upon Sponsor's financial condition at that time.

Sponsor makes the representations set forth below with respect to certain obligations under this Plan:

1. Prior to the First Unit Closing, Sponsor will obtain a permanent or temporary Certificate of Occupancy for the Building, or, alternatively, will obtain a temporary Certificate of Occupancy for the Unit that is being closed. If the First Unit Closing occurs prior to the issuance of a permanent Certificate of Occupancy for the Building, Sponsor shall maintain in escrow an amount reasonably necessary to complete the work required to obtain a permanent Certificate of Occupancy, as determined and certified by Sponsor's architect.

2. The Sponsor will pay all expenses incurred prior to the establishment of the Condominium in connection with its operation and will bear and pay all costs and expenses incurred in connection with the creation of the Condominium whenever such costs or expenses are incurred, or in connection with the sale of all of the Units held or owned by the Sponsor, except as noted in the Section entitled "Closing Costs and Adjustments" in Part I of this Plan, and will pay or have paid, except as otherwise provided in this Plan, all selling expenses of Sponsor, including, but not limited to, advertising and printing costs, architect's fees, attorneys' fees (other than for individual Units), organization costs, brokerage commissions, engineers' fees, appraisal and any surveying fees and costs.

3. The Sponsor will pay all Common Charges from the date of the First Unit Closing, including PILOT, special Assessments and other expenses allocable to any Units owned by the Sponsor, so long as Sponsor shall continue to own the same. However, where Purchaser has caused an unauthorized delay in closing of title, Sponsor shall be entitled to certain reimbursement of Common Charges (including PILOT). Sponsor represents that it has the financial resources to meet its obligations with respect to Unsold Units. Sponsor's financial obligations to the Condominium will be funded from sales proceeds and/or its own funds.

4. At or prior to the First Unit Closing, any liens affecting the Units being conveyed shall be satisfied and discharged, or bonded, and their appurtenant Common Interest shall either be satisfied by a satisfaction price duly recorded or released therefrom by partial release duly recorded.

5. Immediately following the First Unit Closing, Sponsor will assign to the Condominium Board, and the Condominium Board will, on behalf of all Unit Owners, assume, all assignable service and maintenance contracts and agreements relating to the Property. The Condominium will indemnify Sponsor against all claims and liability thereunder that relate to matters and events occurring on or after the day upon which the First Unit Closing occurs.

6. Sponsor shall be responsible for the repair of any damage to a Unit from a casualty or other cause that occurs before the Closing of that Unit.

7. Sponsor shall procure fire and casualty insurance coverage on behalf of the Condominium, at the Condominium's expense, to be effective at the First Unit Closing, in the amount set forth in Note numbered 12 to **Schedule B** in Part I of this Plan, which Schedule sets forth the Projected Budget for First Year of Condominium Operation.

8. In the event of the voluntary dissolution or liquidation of the Sponsor or the transfer of ten (10) or more Units in the Condominium, the principals comprising the Sponsor will provide financially responsible entities or individuals who will assume the status and the obligations of the Sponsor for those Unit(s) under the Offering Plan, applicable laws or regulations.

9. Sponsor shall be obligated to defend any suits or proceedings arising out of its acts or omissions, but shall not be obligated to indemnify the Board of Managers or the Unit Owners against any such suits or proceedings.

   Sponsor shall not be liable for or obligated to defend any suits, proceedings or claims (i) as to any Unit arising out of any occurrence taking place on or after the earlier of the closing of title to such Unit or the leasing thereof to, or at the direction of, any Purchaser, or (ii) as to the Common Elements, arising out of any occurrence taking place on or after the date of the recording of the Declaration, except suits, proceedings or claims arising out of acts or omissions of Sponsor or representations made by Sponsor in the Offering Plan. Sponsor shall not be liable for or obligated to defend any suits, proceedings or claims arising out of any occurrence which was prior to the date of the First Unit Closing except suits, proceedings or claims arising out of acts or omissions of Sponsor.

10. Sponsor shall deliver a set of "as-built" plans to the Board of Managers.

11. At the Unit closing, Sponsor shall assign to the Unit Owner any manufacturer's warranties with respect to equipment and appliances installed in the purchased Unit(s). Any warranties with respect to equipment and appliances installed in the Common Elements shall be assigned to the Board of Managers. If any warrantor is unable to perform under its warranty due to inability, unwillingness or any other reason whatsoever, neither Sponsor nor its principals, managers, members, agents, designees, employees or affiliates shall under any circumstances be considered or deemed a successor warrantor or guarantor under said

warranty. Neither Sponsor nor its principals, managers, members, agents, designees, employees or affiliates has obligations or responsibilities with respect to such warranties, or the work or item warrantied, even if the warrantor goes out of business, declares bankruptcy or simply fails to fulfill the conditions of the warranty. Recourse is only to the warrantor and not to Sponsor or any of its principals, managers, members, agents, designees, employees or affiliates.

12. Sponsor shall build and complete the Building in accordance with the building plans and specifications identified in the Plan. However, Sponsor reserves the right to substitute equipment, appliances, or materials of equal or greater quality or design.

13. Sponsor shall keep copies of the Plan, Exhibits and documents referred to in the Plan on file at Sponsor's offices for six (6) years from the date the Declaration is recorded.

14. In accordance with Section 339-p of the Real Property Law, a registered architect or licensed professional engineer shall certify within reasonable tolerances that the floor plans filed with the recording of the Declaration are a substantially accurate copy of portions of the plans of the Building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings.

15. During the time the principal of the Sponsor controls the Board of Managers, it is within its sole power to enforce the obligations of the Sponsor pursuant to the Plan and pertaining to the Common Elements. Therefore, Sponsor agrees that during such period it will, in its capacity as the Board of Managers, enforce such obligations when required to do so by a resolution duly passed by a majority of the Unit Owners, excluding Sponsor, at a special meeting of the Unit Owners called for such purpose.

16. The Purchaser of a Unit shall inspect such Unit prior to the Closing Date and shall execute at such time an inspection statement acknowledging the Purchaser's acceptance of the Unit in good condition and in accordance with the terms of the Plan. However, if a Purchaser finds that Sponsor's improvements as described in the Plan or in the Agreement for such Unit or other writing duly executed and delivered by Sponsor, have not been fully completed, although such improvements have been substantially completed, then Sponsor or its designated representative and the Purchaser will at the time of such execution agree upon and set forth in the inspection statement a list of the incomplete work to be completed in the Unit by Sponsor following the Closing for such Unit. Sponsor's obligation thereunder shall survive delivery of the deed to the Purchaser. The failure of Sponsor to complete such work shall not be a ground for the Purchaser to delay the closing. Sponsor and its contractors, subcontractors agents and employees, will have a right of access to enter the Unit after closing in order to complete the work on the inspection statement.

17. Sponsor shall obtain No Further Action letters (the "No Further Action Letters") from the New York State Department of Environmental Conservation (the "DEC") in connection with the environmental remediation on the Property. Upon the issuance of the No Further Action Letters, and after the First Unit Closing, the Board of Managers shall assume all ongoing responsibilities related to monitoring and maintaining the environmental conditions on the Property, and certifying the condition thereof to the DEC, as per the DEC's requirements. The estimated cost of maintaining, monitoring and certifying the compliance of the environmental remediation in the first year of Condominium operation will be approximately $15,000. Please refer to Footnote 12 of Schedule B for further details.

18. As of the Filing Date, Sponsor had a leasehold mortgage with Fleet National Bank, which is intends to satisfy prior to the First Unit Closing. Sponsor did not obtain construction financing as of the Filing Date.

Each of the obligations of the Sponsor contained in this section shall be enforceable by any Unit Owner as to its Unit or the Board of Managers on behalf of the Unit Owners as to Common Elements. The representations contained in paragraphs 1 through 18 of this Section shall survive delivery of the deed, as stated. All representations under the Plan, all obligations pursuant to the GBL, and such additional obligations under the Plan which are to be performed subsequent to the closing of each Unit, will survive delivery of the deed. Sponsor makes no other representation or warranties except as provided herein. However, nothing herein shall be construed to limit any rights which Purchasers may otherwise have pursuant to Article 23-A of the General Business Law, Part 20 of the Regulations promulgated by the Attorney General, and this Offering Plan.

Warranties

The Sponsor will promptly correct any material patent defects in the construction and/or renovation of the Building and the Units therein, or in the installation or operation of any mechanical equipment therein, due to substantially improper workmanship or material substantially at variance with the architectural plans and specifications, (a) provided that Sponsor is notified of such defects in writing by the Unit Owner as to the Unit affected within six (6) months from the date of Closing of title to such Unit or, (b) with respect to Common Elements, provided that Sponsor is notified by the Board within one (1) year from the First Unit Closing. If any defect in the Common Elements can only be detected after said period by occupancy of a particular Unit, Sponsor will correct said defect in the construction of the Common Elements or in the installation or operation of any mechanical equipment therein due to improper workmanship or materials substantially at variance with the architectural plans and specifications, if notified by the Board within one (1) year from Closing of title to or first leasing of that particular Unit.

Sponsor will also correct any latent defects in the construction of the Building and the Units therein or in the installation or operation of any mechanical equipment therein due to substantially improper workmanship or material substantially at variance with the architectural plans and specifications, provided it is notified of such defects in writing by the Unit Owner as to such Unit within one (1) year from the Closing of such Unit or is notified by the Board with respect to Common Elements within one (1) year after the First Unit Closing. Sponsor, in its sole discretion, shall select the method of correcting any defect. On three (3) days' notice from Sponsor, the Board and/or the Unit Owner in question shall allow Sponsor, Sponsor's contractors and/or the Managing Agent access to the Unit in question on any weekday which is not celebrated as a federal or state holiday to inspect and/or correct such defect. The quality of construction shall be comparable to local standards customary in the particular trade and in accordance with the plans and specifications.

Sponsor shall be deemed to have discharged any obligation it may have with respect to patent or latent defects, as the case may be, if (i) Sponsor is not notified within the time periods specified herein or (ii) the Board and/or the Unit Owner in question prevents Sponsor, Sponsor's contractors and/or the Managing Agent access to the Unit in question as provided herein, or (iii) Sponsor shall have corrected the defect in accordance with the practice of the industry as determined by Sponsor's general contractor or architect or engineer, in their sole discretion.

Sponsor makes no warranties as to kitchen appliances, except that it will assign to the Purchaser any manufacturer's warranties thereon and any manufacturer's warranties existing for other items in Purchaser's Unit to the extent same are assignable. If any warrantor is unable to perform under its warranty due to inability, unwillingness or any other reason whatsoever, neither Sponsor nor its principals, managers, members, agents, designees, employees or affiliates shall under any circumstances be considered or deemed a successor warrantor or guarantor under said warranty. Neither Sponsor nor its principals, managers, members, agents, designees, employees or affiliates has obligations or responsibilities with respect to such warranties, or the work or item warrantied, even if the warrantor goes out of business, declares bankruptcy or simply fails to fulfill the conditions of the warranty. Recourse is only to the warrantor and not to Sponsor or any of its principals, managers, members, agents, designees, employees or affiliates.

Notwithstanding the foregoing, Sponsor will not be responsible for correcting or repairing any latent defects of construction or defects in the installation or operation of any appliances, equipment or fixtures with respect to which assignable warranties or other undertakings (however denoted) from contractors, materialmen, or others, are assigned to the Board or Unit Owners. **In addition, in no event shall the Sponsor be responsible for any condition resulting from (i) normal wear and tear or natural deterioration or from the normal settling or shifting of the Building (ii) for defects of an insubstantial nature, such as, without limitation, partial or total death of any trees, shrubs, bushes or other landscape improvements, nail pops, ridging on sheet rock walls, lumber shrinkage, door sticking or window sticking due to weather, door warpage, scratches in stone or porcelain surfaces, bath and kitchen tile grouting, walls not square, electrical plates not straight, discoloration or shrinkage, slight separation between base and floor, (iii) normal settlement and deflection or any**

consequential damage resulting therefrom including, without limitation, cracks in any concrete roof pavers, or concrete cracks which do not impair the structural soundness of the Building, (iv) variations in any floor levels, (v) ceiling imperfections, (vi) minor painting defects, (vii) alignment of bathroom finishes, (viii) air infiltration from windows, (ix) normal plumbing system, heating system and air conditioning system noises, (x) normal floor noises and creaking, (xi) carpet or floor discoloring or stretching, (xii) variations in width, length or tone of wood floor strips, also, normal shrinkage or expansion of wood flooring due to changes in moisture content of wood, (xiii) repair of chips, scratches, mars, breaks or other defects in windows and window sashes, sliding glass doors, shower doors, electrical fixtures and globes, painted surfaces, sinks, tubs, basins, kitchen cabinets and countertops, vanity tops and cabinets, ceramic tile, marble floors, saddles, appliances, woodwork and doors, mirrors, hardware, appliance cabinets and flooring, (xiv) subsequent to the Unit Closing, paint touch-ups, repairs of dented appliances, or replacement of fluorescent light ballasts, (xv) cracks or variations in tone, finish or color of any stone used in bathrooms or cracks, variations in tone, finish or color of vanity tops or other stone surfaces, (xvi) salting or color variation in exterior colored mortar and deep colored brick, (xvii) ponding and/or controlled drainage on the roof surface, or (xviii) cracks in any pressure treated wood or redwood used or intended for use outside the Building. Sponsor shall be obligated to repair only abnormally chipped stone, formica, granite, Corian, and porcelain surfaces, which repair shall be made by filling the stone, formica, granite, or Corian, or refinishing the porcelain, but Sponsor shall not be obligated to replace such stone, formica, granite, Corian or porcelain surfaces.

Except as expressly set forth herein, Sponsor has no obligation to correct or repair any defect or conditions in the Units, Common Elements or Building. The foregoing sets forth the entire obligation of Sponsor to correct any defects and none other shall be implied. Sponsor shall have no obligation to repair or replace any defect resulting from the failure by the appropriate Unit Owner or the Board to properly service or maintain a particular item or items. Additionally, Sponsor shall have no obligation to repair or replace any defect resulting directly or indirectly from work done by any individual or entity retained by the Board or any Unit Owner(s).

THE ITEMS AND CONDITIONS DESCRIBED ABOVE IN ARE NOT DEFECTS AND MAY BE FOUND IN ANY NEWLY CONSTRUCTED BUILDING. PURCHASERS WHO PURCHASE A UNIT IN THE BUILDING OR IN ANY OTHER NEWLY CONSTRUCTED BUILDING MAY EXPERIENCE SOME OR ALL OF THESE ITEMS AND CONDITIONS IN THEIR UNITS OR THE COMMON ELEMENTS. SPONSOR HAS NO OBLIGATION TO CORRECT OR REPAIR ANY OF SUCH ITEMS AND CONDITIONS AND SHALL NOT BE LIABLE TO ANY PURCHASER OR CONDOMINIUM BOARD THEREFOR. IF PURCHASER OR CONDOMINIUM BOARD DESIRES TO CORRECT OR REPAIR ANY SUCH ITEMS OR CONDITIONS, TO THE EXTENT THEY CAN BE CORRECTED OR REPAIRED, THE PURCHASER OR CONDOMINIUM BOARD WILL HAVE TO PROCEED AT

ITS SOLE COST AND EXPENSE AND/OR ANY WARRANTIES OR UNDERTAKINGS ASSIGNED TO IT BY SPONSOR.

NOTHING CONTAINED IN THIS SECTION WILL BE CONSTRUED SO AS TO RENDER SPONSOR LIABLE FOR CONSEQUENTIAL DAMAGES (WHETHER BASED ON NEGLIGENCE, BREACH OF CONTRACT, BREACH OF WARRANTY, OR OTHERWISE), IT BEING INTENDED THAT SPONSOR'S SOLE OBLIGATION UNDER THIS SECTION WILL BE TO REPAIR OR REPLACE ANY DEFECTIVE ITEM OF CONSTRUCTION UPON, AND SUBJECT TO, THE TERMS AND CONDITIONS SET FORTH ABOVE. ADDITIONALLY, EXCEPT AS EXPRESSLY SET FORTH ABOVE, SPONSOR WILL HAVE NO OBLIGATION TO CORRECT OR REPAIR ANY DEFECTIVE OR OTHER CONDITIONS IN THE BUILDING (INCLUDING IN THE UNSOLD UNITS AND THE COMMON ELEMENTS) OR IN, OR WITH RESPECT TO, ITS INSTALLATIONS, APPARATUSES, FIXTURES, FINISHES, MATERIALS, AND APPURTENANCES ASIDE FROM ANY SPONSOR WARRANTIES AND UNDERTAKINGS WITH RESPECT TO THE CONSTRUCTION AND COMPLETION OF THE BUILDING CONTAINED IN THIS SECTION, NO OTHER WARRANTIES OR UNDERTAKINGS SHALL BE IMPLIED. THE HOUSING MERCHANT IMPLIED WARRANTY LAW DOES NOT APPLY TO THIS OFFERING. HOWEVER, REGARDLESS OF ANY OF THE ABOVE STATEMENTS, SPONSOR HAS A DUTY TO CONSTRUCT THE PREMISES IN ACCORDANCE WITH ALL APPLICABLE CODES AND FILED PLANS AND SPECIFICATIONS.

Sponsor's Rights of Access

(a) General

As a condition of sales of Units pursuant to this Plan, Sponsor reserves to itself, its successors, assigns, designees, invitees, contractors, agents, employees and tenants, any and all easements and rights of access, in and to Units, Common Elements and Limited Common Elements consistent with the purposes of the Plan and Sponsor's rights and obligations thereunder.

(b) Examples of Specific Easements and Rights of Access Reserved by Sponsor

Without in any way limiting the generality of rights reserved in Paragraph (a) above, such rights reserved to Sponsor and its designee(s) specifically include the following:

1) The right to maintain any vacant and Unsold Unit(s) as general and sales and leasing office(s) and/or Model Unit(s) and to maintain

personnel at the Property, to post signs, and to conduct other activities connected with promotion, sales or leasing, such as inspection by and display of vacant or leased Units, as well as all Common Elements and Limited Common Elements, to prospective purchasers or lessees;

2) Right of access in and to Units, Common Elements and Limited Common Elements for purposes of repair, refurbishment, correction, alterations, finishing, servicing (including but not limited to garbage collection) and similar work;

3) Right to show vacant or leased Units;

4) Right to obtain unlimited front door keys upon request; and

5) Utility and other easements for the benefit of Unit Owners, Common Elements and Limited Common Elements.

Sponsor, all Sponsor-designees, and any partner of any entity affiliated directly or indirectly with Sponsor shall exercise all rights of access so as to limit, to the extent practicable, unnecessary interference with use of the Property by Unit Owners. Sponsor, all Sponsor-designees, and any partner of any entity affiliated directly or indirectly with Sponsor agree to repair damage directly attributable to and caused by Sponsor, all Sponsor-designees or any partner of any entity affiliated directly or indirectly with Sponsor or its agents as a result of exercising such rights of access.

Sponsor's Right to Perform Alterations

Sponsor (and its successors, assigns and designees) shall have the right to alter any Unit, Common Element or Limited Common Element consistent with the terms of this Plan, including, but not limited to, the right to combine two or more Units.

Sponsor's Right to Withhold Residential Units from Sale

All the Residential Units being offered are intended to be sold as Condominium Units in accordance with this Plan at the prices noted in Schedule A. These prices have been established solely by the Sponsor and are not subject to review or approval by the Department of Law or any other governmental agency.

The Sponsor is retaining the unconditional right to rent rather than sell up to forty nine percent (49%) of the Residential Units. Sponsor makes no representation that it will execute Agreements to sell more than fifty one percent (51%) of the Residential Units.

Sponsor's Right to Sell Units to Investors and Enter Into Use and Occupancy Agreements

In accordance with the terms of this Plan, Sponsor has the right to sell Units to Purchasers for investment or resale. Accordingly, it is possible that certain Unit Owners

will not be residents of the Building. Sponsor has further reserved the right to enter into Use and Occupancy Agreements for any Unit prior to Closing of the sale with the Purchaser thereof or with any other party, and residents of the Condominium may be comprised of both Unit Owners and tenants leasing from Sponsor or the Unit Owners. Individuals leasing Units from Sponsor will not, except as expressly provided in their respective Use and Occupancy Agreements, have any special rights to purchase such Units. In addition, a Purchaser may be acquiring a Unit that has been previously occupied, but such Unit will be delivered at closing free and clear of all leases and tenancies except as may otherwise be agreed to in writing by the parties. Sponsor's right to rent or lease any Unsold Unit will not be subject to any right of first refusal in favor of the Condominium Board to lease such Unit from Sponsor on the same terms offered to the prospective tenant or occupant. Sponsor anticipates that the Interim Use and Occupancy Agreement will not be subject to governmental regulation.

Any Use and Occupancy Agreement for a Unit entered into with a Purchaser will provide, among other things, that an uncured default by the Purchaser under the Agreement with respect to the Unit which is the subject of the Use and Occupancy Agreement will constitute a default under the lease entitling Sponsor, at its sole discretion, to terminate such Use and Occupancy Agreement in accordance with applicable law. In addition, each Agreement may provide that an uncured default by the Purchaser under any Use and Occupancy Agreement with respect to the Unit which is the subject of the Agreement will constitute a default under the Agreement entitling Sponsor, at its sole discretion, to terminate such Agreement and to exercise any remedies therein provided.

Purchasers or any other persons entering into a Use and Occupancy Agreement for a Unit shall be required to pay the legal fees of Sponsor's counsel in connection therewith upon execution of the Use and Occupancy Agreement. All other charges or other fees due under a Use and Occupancy Agreement shall be adjusted as of the Closing of the Unit. Notwithstanding any of the foregoing, Sponsor shall be under no obligation to enter into any Use and Occupancy Agreement.

CONTROL BY SPONSOR

Title to all Units which have not been sold by the time of the First Unit Closing will remain with the Sponsor or its designee(s) until such Units shall thereafter be sold to bona fide Purchasers. Such sales do not require a right of first refusal to the Board of Managers. Until the first annual meeting of the Condominium, the Board of Managers shall consist of three (3) persons designated by Sponsor. Accordingly, until such first annual meeting, Sponsor will have absolute voting control of the Board of Managers and will thus have control of maintenance, facilities and services to be provided, as well as determining the Common Charges to be paid by Unit Owners. Sponsor shall relinquish voting control of the Board of Managers upon the earlier of (i) the transfer of title to Residential Units, the percentage Common Interest of which, in the aggregate, equals at least seventy-five (75%) percent, or (ii) five (5) years after the First Unit Closing. Sponsor, during the time there are Unsold Units, will have the right to, and intends to, vote the percentage of Common Interests allocated to such Units, but subsequent to its relinquishing voting control of the Board of Managers Sponsor will not use such vote to elect a particular individual to the Board of Managers which would, by the election of such individual, give Sponsor voting control of the Board.

Sponsor may not exercise veto power over the Board regarding expenses described in Schedule B, located in Part I of this Plan, or other expenses required (i) to comply with applicable laws or regulations; (ii) to remedy any notice of violation; or (iii) to remedy any work order by an insurer.

As long as the Sponsor or any Sponsor-designee shall continue to own at least one (1) Residential Unit, but in no event for a period in excess of five (5) years from the First Unit Closing, the Board of Managers may not, without the Sponsor's or Sponsor-designee's prior written consent, (i) make any addition, alteration or improvement to the General Common Elements, the Residential Common Elements or to the Residential Limited Common Elements or to any Residential Unit; (ii) increase or decrease the number, or change the kind of employees initially hired for the Residential Section of the Condominium; (iii) enter into any service or maintenance contract for work not covered in the initial projected budget for the Condominium or Residential Section or otherwise provide services in excess of those contemplated by such projected budget, except as is required to reflect normal annual increases in operating services; (iv) borrow money on behalf of the Condominium or on behalf of the Residential Section; (v) assess any General Common Charges or Residential Common Charges for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund, except that Declarant will consent to replacements to the contingency fund provided in **Schedule B** of the Offering Plan to the extent that the aggregate of such fund does not exceed 5% of the budgeted annual expenses of the Condominium; or (vi) exercise a right of first refusal to lease or purchase a Residential Unit; provided that Declarant's written consent is not necessary to perform any function or take any action described in items (i) through (vi) above if and only if the performance of such function or the carrying out of such an action is necessary and no other alternative is available to enable the Condominium

Board or Residential Board to comply with laws, rules or regulations of any governmental authority having jurisdiction over the Condominium or the Lease.

As long as the Sponsor or any Sponsor-designee shall continue to own a Residential Unit, the Board of Managers may not, without the Sponsor's or Sponsor-designee's prior written consent, (i) amend the Declaration or the Bylaws so as to in any way adversely affect the Sponsor or its designees, or (ii) interfere with: the offer, sale or leasing of Units at the Property; the operations of general or sales or leasing offices at the Property; or actions necessary for renovation, repair or correction at the Property, as required by Sponsor. The Sponsor or Sponsor-designee shall have the right to withhold its consent to any of the foregoing actions. However, notwithstanding these restrictions, the Sponsor or Sponsor-designee shall not withhold its consent to the making of capital repairs to the Common Elements or assessment of any Common Charge for expenses required to comply with applicable law.

Members of the Board of Managers will serve without compensation. All officers of the Condominium shall also serve without compensation. Sponsor represents that for as long as it or any of its designees are members of the Board of Managers neither it nor any of its designees will vote for remuneration for either members of the Board of Managers or officers of the Condominium.

An officer may be removed, with or without cause, by an affirmative vote of a majority of the members of the Board of Managers.

Additionally, the Bylaws of the Condominium do not include a provision that, after the initial Sponsor voting control period, a majority of the Board of Managers must be owner-occupants or members of an owner-occupant's household who are unrelated to the Sponsor and its principals. Therefore, PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN.

BOARD OF MANAGERS

Under the Bylaws of the Condominium, the affairs of the Condominium will be managed by a Board of Managers. The Board of Managers will initially consist of three (3) persons designated by Sponsor. From and after the first annual meeting of Unit Owners, which shall be called within 180 days after the First Unit Closing, the Board of Managers will consist of five (5) persons elected by the Unit Owners. Four (4) managers shall be elected by the Residential Unit Owners. One (1) manager shall always be elected by the Commercial Unit Owner. Thereafter, annual meetings of Unit Owners shall be held within approximately thirty (30) days of each anniversary of the first annual meeting.

The Unit Owners shall hold annual meetings and at each such meeting they shall elect members of the Board of Managers. Each Unit Owner, including the Sponsor or its designee, shall be entitled to cast one vote for each .0001% of interest in the Common Elements attributable to their Unit(s) on all matters put to a vote at all meetings of the Unit Owners except that, when voting for the election of members of the Condominium Board, each Unit Owner: (i) shall be entitled to one vote for each .0001% of Common Interest attributable to its Unit per member to be elected, and (ii) shall not have the right to cumulate its votes in favor of any one or more members to be elected. If Units are owned by more than one person or entity as joint tenants, tenants by the entirety or as tenants in common, the persons or entities owning said Unit shall agree among themselves and cast the votes for their Unit.

A majority of the 5-member Board for the period terminating upon the earlier of (i) the transfer of title to Units whose percentage of Common Interest equals, in the aggregate, at least seventy-five percent (75%), or (ii) five years after the First Unit Closing (the "Sponsor Control Period"), shall be designated by the Sponsor and or its designee. Accordingly, it is possible that the Sponsor and/or its designee may control the Board for as long as five (5) years after the First Unit Closing. A meeting of the Unit Owners shall be held within approximately thirty (30) days of the expiration of the Sponsor Control Period to elect new Board members unrelated to Sponsor.

The Bylaws of the Condominium do not include a provision that, after the initial Sponsor voting control period, a majority of the Board of Managers must be owner-occupants or members of an owner-occupant's household who are unrelated to the Sponsor and its principals. Therefore, PURCHASERS FOR THEIR OWN OCCUPANCY MAY NEVER GAIN CONTROL OF THE BOARD OF MANAGERS UNDER THE TERMS OF THIS PLAN. Further, Unit Owners who are owner-occupants and Unit Owners who are non-residents (including Sponsor) may have inherent conflicts on how the Condominium should be managed because of their differing reasons for purchasing (i.e., purchase of a Residential Unit as a home as opposed to an investment).

The Unit Owners annual meetings shall be held on or about the anniversary of the date of the first annual meeting. A special meeting of the Unit Owners shall be called by

the President of the Condominium as directed by the Board of Managers or upon a petition signed by a majority of the Unit Owners having been presented to the Secretary.

Notice of the annual meeting of Unit Owners or of any special meetings of Unit Owners shall be given by the Secretary, as directed by the Board of Managers, to all Unit Owners not less than ten (10) days or more than thirty (30) days before such meeting. Minutes of all meetings of Unit Owners and of all meetings of the Board of Managers shall be kept by the Board, together with records of all actions taken by the Board and the financial records of the Condominium. The Board shall retain an independent certified public accountant to prepare an annual report of the receipts and expenditures of the Condominium, which report shall be promptly sent to each Unit Owner.

Each of the members of the 5-member Condominium Board will serve until the next regular annual meeting of Unit Owners and until a successor is elected and qualified. Members of the Board of Managers, except for those members elected by the Sponsor, to be eligible for election, must be either a Unit Owner, the principal or officer of a Unit Owner, or the spouse of a Unit Owner. Except for a member of the Board of Managers designated by Sponsor or a Sponsor-designee, members of the Board of Managers may be removed from office, with or without cause, by the affirmative vote of Unit Owners owning, in the aggregate, a percentage of interest in the Common Elements of the Condominium which is at least fifty percent (50%) of all of the Common Interests of the Condominium. A member of the Board of Managers designated by the Sponsor or a Sponsor-designee can be removed only for cause by the affirmative vote of Unit Owners (including Sponsor and/or any other Holder of Unsold Units) owning, in the aggregate, a percentage of interest in the Common Elements of the Condominium which is at least fifty percent (50%) of all of the Common Interests of the Condominium. In the event of such removal, the Sponsor or Sponsor-designee, as the case may be, shall have the exclusive right to designate a replacement for such removed member of the Board of Managers.

Subsequent to the date when the Sponsor relinquishes control of the Board and so long as the Sponsor or a Sponsor-designee shall continue to own at least one (1) Unit, Sponsor or Sponsor-designee shall have the right to elect at least one of the five members of the Board.

All members of the Board of Managers shall serve without compensation, and the Sponsor represents that, for as long as it or any of its designees are members of the Board of Managers, neither it nor any of its designees will vote for remuneration for either members of the Board of Managers or officers of the Condominium.

The Board of Managers shall have the powers and duties necessary for the administration of the affairs of the Condominium, including but not limited to: determination of the Common Charges; adoption of rules and regulations covering the details of the Property; opening of bank accounts; purchasing, leasing or otherwise acquiring Units; selling, leasing or mortgaging of Units owned by the Board of Managers; and generally managing or supervising the Condominium property as provided in the Declaration and the Bylaws. The Common Expenses shall include such

amounts as the Board of Managers deems proper for the operation and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, and to make up any deficit in the Common Expenses for any prior year. The Board, in its discretion, may delegate such managerial powers as it sees fit to the officers of the Condominium. The Board of Managers is authorized to employ a Managing Agent for the Condominium on such terms as the Board of Managers may deem proper. See the Section entitled "Management Agreement, Contracts and Leases" in Part I of this Plan for further discussion.

In order to limit the liability of the Unit Owners, the members of the Board of Managers, the Managing Agent, if any, and any officers of the Condominium, any contract or other commitment shall be made by the Board of Managers or the Managing Agent or an officer of the Condominium, as the case may be, only as agent for the Unit Owners. The members of the Board of Managers, the Managing Agent or the officer, as the case may be, shall have no personal liability on any such contract or commitment (except as Unit Owners), and the liability of any Unit Owner on any such contract or commitment shall be limited to such proportionate share of the total liability thereunder as the Common Interest of such Unit Owner bears to the aggregate Common Interest of all Unit Owners. The Board of Managers and the officers of the Condominium shall have no liability to the Unit Owners for errors of judgment, or otherwise, except for willful misconduct, negligence or bad faith. The Unit Owners shall severally indemnify the members of the Board of Managers and the officers of the Condominium against any liability or claims except those arising out of the bad faith, negligence or willful misconduct of the members of the Board of Managers or the officers of the Condominium, but the liability of any Unit Owner on account of such indemnification shall be limited to such proportionate share thereof as the Common Interest of such Unit Owner bears to the aggregate Common Interest of all Unit Owners.

Officers

The principal officers of the Condominium shall be a President, a Vice President, a Secretary and a Treasurer thereof. The Condominium Board may appoint an Assistant Treasurer, an Assistant Secretary, and such other officers as in its judgment may be desirable. None of the officers of the Condominium Board need be Unit Owners or have any interest therein or be Board members until the first organizational meeting of the Condominium Board after the first annual meeting of Unit Owners. Thereafter, the President and Vice President of the Condominium Board must be members of the Condominium Board. All officers shall serve without compensation from the Condominium.

The President shall be the chief executive officer of the Condominium and shall preside at all meetings of the Board of Managers and of Unit Owners.

The Vice President shall take the place of the President of the Condominium in his or her absence.

The Secretary shall be empowered to take and keep minutes of all meetings and to keep the books and records of the Condominium.

The Treasurer shall be responsible for the funds of the Condominium and for accurately keeping the financial records and books of the Condominium.

The Board of Managers, in its discretion, shall delegate such powers to the officers as it sees fit to execute agreements, contracts, deeds, leases and checks etc. on behalf of the Condominium.

Severance of Ownership Prohibited

Each conveyance of a Unit by a Unit Owner shall include as part of the property to be conveyed, its undivided interest in the Common Elements, together with its interest in any Unit or Units acquired by the Board of Managers from Unit Owners electing to sell or lease such Unit or at a foreclosure or other judicial sale involving such Unit or Units, in accordance with the provisions of the Bylaws, all of which are interests appurtenant to its Unit.

Right of First Refusal; Units Acquired or Leased by Board of Managers

In administering the right of first refusal granted to the Board of Managers with respect to any sale or lease of a Residential Unit, the Board shall be required to exercise such rights, if at all, within thirty (30) days of its receipt of written notice from a Residential Unit Owner of the Residential Unit Owner's intention to sell or lease the Unit to a bona fide grantee or lessee. Notice of the decision to exercise or waive such right must be given to the Residential Unit Owner within five (5) days after the exercise of such decision and in any event within said thirty (30) day period by certified or registered mail. Failure of the Board to either exercise such right or to give notice of the exercise of such right within the time periods provided above shall constitute a waiver of the right of first refusal. The Board of Managers will not have a right of first refusal with respect to the sale or lease of the Commercial Unit.

In the event the Condominium Board does exercise its right of first refusal, the acquisition or lease of the Residential Unit may be made from the working capital and Common Charges, or, if such funds are insufficient, the Condominium Board may assess each Residential Unit Owner, other than the offering Unit Owner, in proportion to each Residential Unit Owner's percentage of Common Interest, or may borrow money to finance such acquisition. The sole security which may be given for any funds so borrowed is the Unit to be acquired. The Condominium Board may also assess each Residential Unit Owner, as provided above, for the cost of paying the Common Charges or rent and the maintenance of such Residential Unit. In the event any Residential Units are acquired or leased by the Condominium Board, the title or lease shall be held by the Condominium Board on behalf of all Residential Unit Owners in proportion to their percentage of Common Interest and any sale or lease of such Residential Unit shall be made by the Condominium Board on behalf of all Residential Unit Owners in proportion to their percentage of Common Interests. Such Residential Unit, while owned or leased

by the Condominium Board, may be used for any purpose for which it could be used by an individual Residential Unit Owner. In no event, however, may the Board of Managers at any meeting of Unit Owners vote the votes appurtenant thereto.

The foregoing restrictions upon the sale and lease of Units will not apply to Sponsor or its designee with respect to any Unsold Units, or to Units acquired by a Permitted Mortgagee in foreclosure or by deed in lieu of foreclosure, or to the Commercial Unit Owner, each of which will be free to sell or lease their respective units without first offering to sell or lease to the Condominium Board.

Each Unit Owner, at the Closing of title to his or her Unit, shall be required to execute an instrument in the form of that contained in Part II in the Section entitled "Power of Attorney" in Part II of this Plan designating the Board of Managers and their successors as its attorneys in fact, coupled with an interest, for the purpose of selling, conveying, mortgaging, leasing, subleasing (but not voting the votes of) or otherwise dealing with Units acquired by the Board of Managers or their designee, on behalf of all Unit Owners.

Review of Real Estate Tax Assessments

Each Unit will have its own real estate tax assessment which is exempt from real estate taxation under PILOT. However, real estate tax assessments on the Property may be challenged while PILOT benefits are in effect, and thereafter. It shall be the responsibility of the individual Unit Owners, at their sole cost and expense, to review the real estate tax assessments of their Units and, if they so desire, to take any steps necessary to review and/or challenge such assessments. However, the Bylaws provide that the Board is entitled to execute and deliver documents necessary in connection with proceedings to obtain reduced real estate tax assessments with respect Unit Owners, for the benefit and on behalf of (i) all Unit Owners, or (ii) for individual Unit Owners, provided that each such Unit Owner indemnifies the Board from and against all claims, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from such proceedings. Notwithstanding the foregoing, if proceedings are pending for the reduction of real estate taxes on the Land and Building for the tax year in which the First Unit Closing occurs, the Condominium will continue such proceedings with the attorney previously employed by the Sponsor. Sponsor shall have the sole right to negotiate and settle all claims in connection with said proceedings. The cost of such proceedings, including legal fees, and (in the event taxes are reduced) any refund shall be apportioned between the Sponsor and the respective Unit Owners according to the ownership of the Property during respective portions of the tax year. Any refund covering a period prior to the First Unit Closing and all expenses incurred in connection with the obtaining such refund, shall belong to and be incurred by the Sponsor alone.

Amendments to Condominium Declaration and Bylaws

The Bylaws of the Condominium may be modified or amended by the affirmative vote of Unit Owners owning, in the aggregate, a percentage of interest in the Common

Elements of the Condominium which is at least eighty percent (80%) of all of the Common Interests of the Condominium. However, for as long as Sponsor or its designee owns title to one or more Units, neither the Rules and Regulations of the Condominium nor the Bylaws may be amended in a manner which would adversely affect the Sponsor or its designee in any way, in Sponsor's sole discretion, unless the Sponsor or its designee gives its written consent to such an amendment. Additionally, (i) no such amendment shall adversely affect the lien of any mortgage without the written consent of the mortgagee; (ii) no such amendment may change the percentage of Common Interests allocated to any Unit or Units without the written consent of such Unit Owner; (iii) no such amendment shall increase the percentage of Common Interests allocated to any Unit or Units without the written consent of the mortgagee(s) of such Unit, or Units, if any.

RIGHTS AND OBLIGATIONS OF UNIT OWNERS AND THE BOARD OF MANAGERS

Sale and Lease of Units

Each Residential Unit Owner, other than Sponsor or its designee with respect to any Unsold Units, may sell or lease his or her Residential Unit, but only after the owner first gives the Condominium Board written notice, otherwise referred to herein as a right of first refusal, of his or her intention to do so, accompanied by the terms of the offer as set forth in Article 8 of the Bylaws. The Condominium Board, on behalf of all Unit Owners, will have the exclusive right to elect, within thirty (30) days after receipt of the notice of sale, to purchase the Residential Unit, or to elect, within thirty (30) days after receipt of the notice of lease, to lease the Residential Unit, on the same terms set forth in the offer, as more specifically set forth in Article 8 of the Bylaws. Notice of the decision to exercise or waive such right must be given to the Unit Owner within five (5) days after the exercise of such decision and in any event within said thirty (30) day period by certified or registered mail. If the Condominium Board does not notify the Residential Unit Owner of its election to purchase or lease the Residential Unit within the aforementioned time periods, the Residential Unit Owner will have sixty (60) days after the expiration of the thirty (30) day period to contract to sell the Residential Unit or lease the Residential Unit in accordance with the terms stated in the offer to the Condominium Board. After the expiration of the sixty (60) day period, the Residential Unit Owner will again be required to first offer the Unit to the Condominium Board as provided above.

In the event the Condominium Board does exercise its right of first refusal, the acquisition or lease of the Residential Unit may be made from the working capital and Common Charges or, if such funds are insufficient, the Condominium Board may assess each Residential Unit Owner, other than the offering Unit Owner, in proportion to each Residential Unit Owner's percentage of Common Interest for any funds so borrowed for the Unit to be acquired. The Condominium Board may also assess each Residential Unit Owner, as provided above, for the cost of paying the Common Charges or rent and the maintenance of such Residential Unit. In the event any Residential Units are acquired or leased by the Condominium Board the title or lease shall be held by the Condominium Board on behalf of all Residential Unit Owners in proportion to their percentage of Common Interest and any sale or lease of such Residential Unit shall be made by the Condominium Board on behalf of all Residential Unit Owners in proportion to their percentage of Common Interests. Such Residential Unit, while owned or leased by the Condominium Board, may be used for any purpose for which it could be used by an individual Residential Unit Owner. However, any lease of a Residential Unit by the Condominium Board will be subject to the reasonable approval by the Residential Unit Owner. In no event may the Condominium Board at any meeting of Unit Owners vote the votes appurtenant thereto.

Each Unit Owner, at the closing of title to his or her Unit, shall be required to execute an instrument in the form of that contained in the Section entitled "Power of Attorney" in Part II of the Plan, designating the Board of Managers and their successors,

as his or her attorneys in fact, coupled with an interest, for the purpose of selling, conveying, mortgaging, leasing, subleasing (but not voting the votes of) or otherwise dealing with Units acquired by the Board of Managers or their designee, on behalf of all Unit Owners. The Power of Attorney also grants Sponsor the right to amend the Declaration with respect to Unsold Units.

The foregoing restrictions upon the sale and lease of Units will not apply to Sponsor or its designee with respect to any Unsold Units, or to Units acquired by a Permitted Mortgagee in foreclosure or by deed in lieu of foreclosure, or to the Commercial Unit Owner, each of which will be free to sell or lease their respective units without first offering to sell or lease to the Condominium Board.

Each conveyance of a Unit by a Unit Owner shall include, as part of the property to be conveyed, the Unit Owner's: (i) Common Interest; (ii) undivided interest in any Unit or Units acquired by the Condominium Board from Unit Owners (or the proceeds received at a foreclosure or other judicial sale of a Unit); and (iii) undivided interest in any other assets of the Condominium. In addition, title to a Unit may not be conveyed unless all unpaid Common Charges and liens against such Unit, other than mortgages placed on such Unit in compliance with the Bylaws, are paid and satisfied at or prior to closing. At the time of acquisition of a Unit, and as a condition thereof, the new Unit Owner will be required to execute, acknowledge and deliver a Unit Owner's Power of Attorney in favor of the Condominium Board, in the form set forth in Part II of this Plan.

The lease for any Residential Unit (other than Unsold Units) will be in substantially the form of lease printed by Julius Blumberg, Inc., or the Real Estate Board of New York, Inc., with such modifications as shall be approved in writing by the Condominium Board.

A Unit Owner may, without restriction, make a gift of his or her Unit to anyone during his or her lifetime, to devise such Unit by will or to pass same by intestacy.

The Condominium Board may not discriminate against any person for a reason proscribed by the laws of the State of New York.

Mortgaging of Units

Each Unit Owner, after notice to the Board, is free to mortgage his or her Unit to a "Permitted Mortgagee," provided that prior to or simultaneously with the closing of any mortgage transaction, the Unit Owner must satisfy all arrearages for any unpaid Common Charges and assessments owed by such Unit Owner and discharge any liens affecting the Unit, other than Permitted Mortgages.

Determination of and Liens for Nonpayment of Common Charges

Each Unit Owner shall have an obligation to pay Common Charges (including PILOT) and assessments with respect to other expenses of the Condominium when due. Common Charges (including PILOT) for each Unit shall be determined by multiplying

that Unit's percentage of Common Interest by the total annual net expenses incurred or anticipated to be incurred for those items listed in **Schedule B** herein, together with the expense of any special repairs, major capital improvements or other expenses deemed by the Board of Managers to be a part of the Common Expenses and to be paid as Common Charges, all in accordance with Article 6 of the Bylaws of the Condominium. Common Charges will be established on an annual basis and be paid in equal monthly installments, due and payable on the first day of each month. The Board of Managers may, in accordance with Article 6 of the Bylaws, impose special Assessments as it deems necessary, to meet unanticipated or extraordinary expenses, including, but not limited to, expenses incurred for major capital improvements. The special assessment to be paid by each Unit Owner shall also be determined in accordance with the Unit Owner's percentage of Common Interest.

Under the provisions of Sections 339-z and 339-aa of the Real Property Law of the State of New York, the Board of Managers on behalf of the Unit Owners will have a lien on each Unit, including Unsold Units owned by Sponsor, for unpaid Common Charges assessed by the Board of Managers. Such lien will be subordinate only to liens for real estate taxes (when they become payable, at the end of the PILOT period) on the Unit and to any sums unpaid on a first mortgage of record thereon. Any lien for unpaid Common Charges against a Unit shall be effective from and after the filing of notice thereof in the Office of the Register of the City of New York, Queens County, and until all sums secured thereby with the interest thereon shall have been fully paid or until six years from the date of filing (unless foreclosure of such lien is started within such six-year period), whichever may be earlier. Such lien may be foreclosed by a suit brought in the name of the Board of Managers acting on behalf of the Unit Owners in like manner as the foreclosure of a mortgage on real property or an action may be brought by the Board of Managers to recover the unpaid Common Charges without foreclosing the lien.

Upon the failure of a Unit Owner to pay Common Charges for the Unit within sixty (60) days of the same becoming due and payable, the Board of Managers shall have the right to place a lien against the Unit Owner's Unit, including Unsold Units owned by Sponsor, for the unpaid Common Charges as set forth above. Failure of the Board of Managers to place such a lien shall not constitute a waiver of the right to do so at a later date or with respect to a subsequent failure to pay within the designated time. In the event that Sponsor is more than thirty (30) days in arrears of Common Charges while it is in control of the Board of Managers, it shall cause the Board of Managers to file a lien, as provided in Section 339-aa of the Real Property Law.

No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against his or her Unit subsequent to a sale, transfer, or other conveyance made by him or her of his or her Unit, with appurtenant Common Elements, in accordance with the Declaration and the Bylaws.

All Unit Owners shall be required to comply with the Declaration, the Bylaws, the Rules and Regulations of the Condominium, and with any other requirements duly imposed by the Board of Managers pursuant to the authority granted to them. The Board of Managers shall have the power to impose appropriate sanctions where a Unit Owner is

in default. Such sanctions include placing a lien against the Unit Owner's Unit, instituting foreclosure proceedings and filing suit against a Unit Owner.

Repairs

All maintenance of and repairs to any Unit, including but not limited to electrical (except Common Elements) and plumbing (except Common Elements) shall be at the Unit Owner's expense, except as otherwise specifically provided in the Bylaws. The cleaning of the exterior of Residential Unit windows shall only be performed by a Board-approved window washing contractor at the Unit Owner's expense. Façade spandrel glass shall be cleaned by the Board and charged to all Unit Owners as a Common Expense. The Board of Managers shall have the option of cleaning the exterior Residential Unit windows concurrently with the cleaning of the façade spandrel glass and charging each Unit Owner for the pro-rata cost thereof.

All maintenance, repairs and replacements to the Common Elements (as defined in the Declaration) shall be made by the Board of Managers and be charged to all the Unit Owners as a Common Expense, excepting to the extent that the same are necessitated by the negligence, misuse or neglect of a Unit Owner, in which case such expense shall be charged to such Unit Owner. Maintenance, repair and replacements in or to the Common Elements or Limited Common Elements (as defined in the Declaration) will be performed by (a) the Condominium Board as a Common Expense, if involving a Common Element, or (b) by the Unit Owner having direct and exclusive access thereto at his or her sole cost and expense, or as a result of the Unit Owner's negligence, misuse or neglect.

The violation of any rule or regulation adopted by the Board of Managers, or the breach of any Bylaw, or the breach of any provision of the Declaration, shall give the Board of Managers the right, in addition to any other right set forth in the Bylaws: (a) upon reasonable notice to the Unit Owner, to enter the Unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition that may exist therein contrary to the intent and meaning of the provisions of the Bylaws (provided, however, that no prior notice shall be required in the event the Board of Managers shall determine that action is immediately necessary for the preservation or safety of the Property of the Condominium or for the safety of residents of the Condominium or other persons or required to avoid the suspension of any necessary service to the Condominium); or (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach; and (c) in any event charge the Unit Owner with the cost of reasonable legal and other fees and costs incurred in enjoining, abating or remedying such violation.

Necessary repairs to, and replacement of, each Residential Unit's windows (including the frames), doors and skylights (including the frames) are to be performed at such Residential Unit Owner's sole cost and expense. In addition, with respect to Residential Units with terraces, it is the Residential Unit Owner's responsibility to maintain, repair and replace the concrete pavers that cover the terrace surface at such Residential Owner's sole cost and expense. The costs and expenses of any structural or

extraordinary repairs (meaning any non-recurring repair which requires more than the usual annual expense for ordinary wear) or replacements to any terrace (unless caused by a Residential Unit Owner's negligence, misuse or neglect) shall be charged to all Residential Unit Owners as a Residential Common Expense.

Residential Units Owners with exclusive use of a balcony appurtenant to their Residential Units are responsible for all maintenance, repairs and replacements thereto, whether structural or nonstructural, ordinary or extraordinary. Structural and nonstructural repairs and replacements to any balcony shall be made by the Board, at the Board's discretion, and charged to each Unit Owner having access to such balcony.

The purchaser of Unit 105 is advised that the Declaration provides the Board of Managers or its contractors, sub-contractor, agents, or employees with an easement to access a manhole which will be located in the garden terrace appurtenant thereto in order to perform repairs, maintenance or replacements therein. Such entries shall be permitted on not less than three days' notice, except that no notice will be necessary in the case of an "emergency" (i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building).

The Board shall be responsible for maintaining and, when necessary, replacing, the hedge appurtenant to Unit 107.

Additions, Alterations and Improvements

Sponsor or its designee may make non-structural alterations in any Unit owned by it or with respect to any Limited Common Element for which it has exclusive use without prior consent of the Board of Managers. With respect to other Unit Owners, all non-structural alterations to a Unit may be made only after submitting a completed alteration agreement (a form of which is located in Part II of this Offering Plan) to the Managing Agent for approval by the Board of Managers, and presenting the Managing Agent with a certificate of liability, property damage, and workers compensation insurance for the contractor that will perform the work. Minor cosmetic work, such as painting, shall also require submitting a completed alteration agreement and certificates of liability, property damage, and workers compensation insurance to the Managing Agent for the consent of the Board of Managers, which consent shall not be unreasonably withheld or delayed.

No Unit Owner, other than the Sponsor, or its designee, as a holder of Unsold Units, and the Commercial Unit Owner may make a structural alteration in its Unit or with respect to any Limited Common Element for which it has exclusive use or which affects the exterior of the Building or the value of other Units without the prior written approval of the Board of Managers. The Sponsor or its designee and the Commercial Unit Owner need no such consent for any of its Units. Any approval, if granted, shall provide that such alteration shall be at the Unit Owner's sole cost and expense, that work shall be done in accordance with the alteration agreement and all governmental or quasi-governmental laws, rules, regulations, codes and ordinances; that all work shall be done

by reputable contractors with adequate liability, property damage and worker's compensation insurance (certificates for which shall be delivered to the Board of Managers prior to the commencement of construction); and that any additions, alterations or improvements shall be maintained in their entirety by said Unit Owner who shall also be responsible for any repairs, including structural repairs, to such addition in any event, and to the Unit and any Common Elements where such repairs become necessary due to additional stresses caused by the structural alteration or due to improper design or construction of the structural alteration. Such approval shall further provide that the Unit Owner shall reimburse the Board of Managers for any out-of-pocket expenses incurred by the Board of Managers in connection with the granting of such approval and in connection with any services provided to such alteration. Such expenses may include, but shall not be limited to, any fees of an attorney and/or fees of an architect consulted in connection with the request by a Unit Owner for approval of a structural alteration.

Finally, any approval, if granted, shall be subject to regulation by the Condominium as to any one or more of the following aspects of construction:

1. time periods during which work is permitted;
2. the manner in which construction debris will be handled;
3. measures which must be taken to prevent compromising security of the Building during construction;
4. the interruption of services during construction; and
5. liability insurance for contractors during construction.

The Board of Managers and/or the Managing Agent shall have a right of access to any Unit for the purpose of inspection, making any repairs or replacements to any of the Common Elements or Limited Common Elements contained in such Unit or elsewhere in the Building, remedying any condition which would result in damage to any other Unit or to the Common Elements or Limited Common Elements, or which would violate the provisions of any mortgage encumbering another Unit, or for the purpose of complying with any laws, orders, rules or regulations of any governmental body having jurisdiction thereof, or to cure any defaults by a Unit Owner or for any other purposes permitted by the Bylaws.

Certain structures cannot be built as of right with respect to the City of New York Building Code and require a variance from the City Board of Standards and Appeals. For example, structures that increase the size of the Building require a variance. These structures include: additional floors, additional penthouses, roof mezzanines, greenhouses and gazebos. If the Board does not consent to the proposed alteration, an application for a variance is moot, since the Board would not permit the proposed alteration in any event.

Subject to the Bylaws and the Rules and Regulations of the Condominium, which, among other requirements, assigns responsibility for negligence, misuse or neglect, a Unit Owner who has an exclusive roof terrace area may, without a Department of Buildings permit, install plantings and furniture on it.

Notwithstanding the above, without the Sponsor's specific prior written consent, which may be withheld for any reason or no reason, a Unit Owner may not commence any alteration, addition, or improvement which would require a construction, alteration or building permit issued by the New York City Department of Buildings, including but not limited to, the combination of two or more Units, or the finishing of any space in a Unit, until Sponsor has obtained the permanent Certificate of Occupancy for the Building. Any Unit Owner who causes a delay in the issuance of a permanent Certificate of Occupancy will be liable to other Unit Owners, the Sponsor and the Condominium Board for any fines promulgated by the New York City Department of Buildings, as well as for direct and consequential damages.

Additional obligations regarding the repair and maintenance of the Building are set forth in the Lease. Please see the "Summary of the Lease," located in Part I of this Offering Plan and a full copy of the Lease, located in Part II of this Offering Plan.

Insurance

The Board of Managers shall be required to obtain and maintain the following insurance: fire insurance with extended coverage, vandalism and malicious mischief endorsements, insuring the Building containing the Units, including all of the Units and all fixtures installed therein by the Sponsor and any property customary to the servicing and general occupancy, (but not including furniture, furnishings, equipment or other personal property supplied or installed by Unit Owners), together with all service machinery contained therein and covering the interests of the Condominium, the Board of Managers and all Unit Owners and their mortgagees, as their interest may appear, in an aggregate amount to be determined by the Board of Managers but in no event to be less than eighty percent (80%) of the full replacement cost of the Building, including the above noted items, but exclusive of footings and foundations, as approved by a fire insurance company or a qualified insurance broker. The proposed policy, set forth in Note 12 of **Schedule B** herein, provides for coverage in the amount of 100% of the replacement cost of the Building.

The Board of Managers shall have the right to select an "Insurance Trustee" (as such term is defined in the Bylaws of the Condominium). All such policies shall provide that adjustment of loss, if over $1,000,000.00, shall be made by the Board of Managers with approval of the Insurance Trustee, if any. Additionally, the net proceeds of such adjustment, if $1,000,000.00 or less, shall be payable to the Board of Managers, and if more than $1,000,000.00 shall be payable to the Insurance Trustee, if any, to be applied for the purpose of repairing, restoring or rebuilding the Building unless otherwise determined by the Unit Owners. At the First Unit Closing, the fire insurance coverage of the Building shall be $87,255,000.00. Said coverage shall be maintained while Sponsor is in control of the Board of Managers. Pursuant to the terms of the Lease, the replacement value of the Building and improvements shall be analyzed at least once every three (3) years.

All policies of physical damage insurance shall contain waivers of subrogation and of any reduction of pro-rata liability of the insurer as a result of any insurance carried

by Unit Owners or of the invalidity arising from any acts of the insured or any Unit Owners, and shall provide that each Unit Owner is an additional insured party and that such policies may not be canceled or substantially modified without at least ten (10) days prior written notice to all of the insured, including all mortgagees of Units. The standard mortgagee loss payable clause shall be attached to all policies.

The cost of all such insurance and the fees and expenses of the Insurance Trustee shall be paid by the Board of Managers and shall constitute a Common Expense.

The Board of Managers shall also obtain and maintain to the extent obtainable: (1) worker's compensation insurance for Condominium employees, if any; (2) public liability insurance covering each member of the Board of Managers and each Unit Owner in such limits as the Board of Managers may deem proper, and covering all claims for bodily injury or property damage arising out of any occurrence in the Common Elements or the Units, except that such policy will not cover liability of a Unit Owner arising from occurrences within his own Unit. The Board of Managers shall review such limits once each year. The public liability insurance will also cover cross-liability claims of one insured against another. Until the first meeting of the Board of Managers elected by the Unit Owners, the public liability insurance will be in a limit of at least $1,000,000.00 covering all claims for bodily injury with respect to any one occurrence.

If, by reason of the occupancy or use of any particular Unit, the rate of fire or liability insurance for the Property shall be increased, such Unit Owner shall (if such occupancy or use continues for more than thirty (30) days after written notice from the Board of Managers specifying the occupancy or use) become liable for the additional insurance premiums incurred by the Condominium as if such additional premium constituted an assessment.

Unit Owners shall not be prohibited from carrying other insurance for their own benefit, provided that all such policies contain waivers of subrogation, and further provided that the liability of the carriers issuing insurance obtained by the Board of Managers shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner.

In the event of a fire or other casualty in which more than eighty percent (80%) of the Building is destroyed or substantially damaged, repairs and/or restoration will be made if Unit Owners whose percentage of Common Interest, in the aggregate, is at least eighty per cent (80%) of the Total Common Interest, affirmatively vote for such a course of action. If no such affirmative vote is given then the Property shall be subject to an action for partition at the suit of any Unit Owner or lienor.

Use of Units

With the express exception of the Commercial Unit, the Units may be used only for private residences. However, a Unit Owner may use his or her Unit for any home

occupation use permitted under applicable zoning law and ordinances, building code or other rules and regulations of governmental authorities having jurisdiction. Such Units may also be used as professional offices by a resident thereof, provided such professional use does not violate any zoning law and ordinances and provided further that the prior written consent of the Board of Managers to such professional use is obtained. No illuminated or other sign may be used in connection with the aforementioned use.

Neither the Commercial Section nor any Unsold Units may be used as an Adult Establishment or as an Adult Physical Culture Establishment, as defined in Article I, Chapter 2 of the New York City Zoning Resolution, or for the sale of bail bonds, or as an Off Track Betting facility, or as a check cashing facility, or as a nightclub or as a cabaret. In addition, no Unit can be used for any unlawful, illegal or extra hazardous business use or purpose, or in such a manner as to constitute a nuisance of any kind which violates the provisions of the Lease or the QWDC Requirements.

Except as set forth above, no industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, or otherwise, shall be conducted, maintained or permitted in any part of the Units or Common Elements, nor shall any "For Sale," "For Rent," or "For Lease" signs or other window displays or advertising be maintained or permitted in any Unit therein or adjoining Common Elements, nor shall any Unit be rented for transient, hotel or motel purposes. The right, however, is reserved by the Sponsor, its designee and the Board of Managers, or its agent, to place "For Sale," "For Rent," or "For Lease" or similar signs on any Unsold or unoccupied Units, and the right is hereby given to any mortgagee, who may become the owner of any Unit, to place such signs on any Unit owned by such mortgagee, but in no event will any such sign be larger than one (1') foot by two (2') feet. Additionally, the right is reserved by Sponsor and its designee to maintain and staff one or more vacant and Unsold Units in the Building as a sales office and/or model Unit. Sponsor and its designee shall have the right to place "For Sale," "For Rent," or "For Lease" signs or similar signs on or in the vicinity of the Building or on the facade of the Building without regard to size. Sponsor or its designee shall be responsible for installing and removing such signs.

There shall be no playing or lounging in the entrances, passages, public halls, vestibules, corridors, stairways, or fire towers of the Building, except in any recreational areas, if any, or other areas designated as such in the Declaration or by the Condominium Board.

Except as elsewhere provided, no exterior of any Unit or the windows or doors thereof or any other portions of the Common Elements shall be painted or decorated by any Owner in any manner without prior written consent of the Condominium Board.

No furniture, equipment, or other personal articles shall be placed in entrances, hallways, stairways, or other Common Elements.

No Unit Owner shall make or permit any noise that will disturb or annoy the occupants of any of the Units in the Building or do or permit anything to be done therein which will interfere with the rights, comfort, or convenience of other Unit Owners.

Each Unit Owner shall keep his or her Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows of a Unit, any dirt or other substances. In addition, where applicable, each Unit Owner shall keep his or her terrace(s) or balcony and terrace or balcony drain(s) free of debris.

Except as otherwise provided above, no exterior shades, awnings, window guards, ventilators, fans or air-conditioning devices shall be used on or about the Building or Common Elements except such as shall have been approved by the Board of Managers or as required by law.

Except as provided above, no sign, notice, lettering, or advertisement shall be inscribed or exposed on or at any window, door, or other part of a Unit or adjoining Common Element except such as shall have been approved in writing by the Condominium Board, nor shall anything be projected out of any window of the Building without similar approval.

All garbage and refuse from the Building shall be deposited with care in plastic bags or other suitable receptacles intended for such purpose only at such times and in such manner as the Board of Managers may direct. Unit Owners shall be responsible for complying with all applicable recycling laws pertaining thereto.

No clothes, sheets, blankets, laundry, or other articles of any kind shall be hung on or out of a Unit or its appurtenant Limited Common Elements.

Water closets and other water apparatus in the Building shall not be used for any purposes other than those for which they were constructed; nor shall any sweepings, rubbish, rags, paper, ashes, or any other article be thrown into the same. Any damage resulting from misuse of any water closet or other apparatus shall be paid for by the Unit Owner causing such damage.

No Unit Owner shall engage any employee of the Condominium for any private business of the Unit Owner without prior written consent of the Condominium Board.

No pets other than dogs, caged birds, cats and fish (which do not cause a nuisance, health hazard or unsanitary condition) shall be permitted, kept or harbored in any Residential Unit unless the same in each instance be expressly permitted in writing by the Residential Board. Any such consent, if given, shall be revocable at any time by the Residential Board. In no event shall any Unit Owner maintain more than two (2) pets (other than fish, and dogs, as further described below) in a Residential Unit without the consent of the Residential Board and in no event shall any animal be permitted in any of the public portions of the Building unless carried or on a leash. In no event shall any Residential Unit Owner maintain more than one (1) dog, with a maximum weight of 60 pounds, in his Residential Unit without the consent of the Residential Board. The

individual Residential Unit Owners who keep an animal in the Building shall each indemnify the Board of Managers and hold it harmless against any loss or liability of any kind or character whatsoever arising from or as a result of having any animal in the Building. No pigeons or other birds or animals shall be fed from the window sills, or other public portions of the Building or on the sidewalk or street adjacent to the Building.

No radio or television aerial or dish shall be attached to or hung from the exterior of the Building without written approval of the Board of Managers.

The agents of the Board of Managers, and any contractor or workman authorized by them, may enter any Unit at any reasonable hour of the day for any purpose permitted under the terms of the Declaration, the Bylaws, or the Rules and Regulations of the Condominium.

The Board of Managers or the Managing Agent may retain a passkey to each Unit. If any lock is altered or a new lock is installed, the Board of Managers or the Managing Agent shall be provided with a key thereto immediately upon such alteration or installation. If the Unit Owner is not personally present to open and permit an entry to his or her Unit at any time when an entry therein is necessary or permissible under these Rules and Regulations or under the Bylaws, and has not furnished a key to the Board of Managers or the Managing Agent, then the Board of Managers or Managing Agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the Condominium or an officer of the Managing Agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if, during such entry, reasonable care is given to such Unit Owner's property).

If any key or keys are entrusted by a Unit Owner, by any family member thereof, or by his agent, servant, employee, licensee, or visitor to an employee of the Condominium or of the Managing Agent, whether for such Unit Owner's Unit or an automobile, trunk, or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner, and neither the Board of Managers nor the Managing Agent shall (except as provided above) be liable for injury, loss, or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

No Unit Owner or any visitor, guest, patient, employee or any client of a Unit Owner shall be allowed in the heating, electrical or mechanical equipment areas without the express permission of the Board of Managers.

All damage to the Building or Common Elements caused by the moving or carrying of any article therein shall be paid by the Unit Owner responsible for the presence of such article.

No Unit Owner shall interfere in any manner with any portion of the heating or lighting apparatus which are part of the Common Elements and not part of the Unit Owner's Unit.

Nothing shall be done or kept in any Unit or in the Common Elements that will increase the rate of insurance of the Building, or the contents thereof, without the prior

written consent of the Condominium Board. No Unit Owner shall permit anything to be done or kept in his Unit or in the Common Elements, that will result in the cancellation of insurance on the Building, or the contents thereof, or that would be in violation of any Law. No Unit Owner or any of his family members, agents, servants, employees, licensees, or visitors shall, at any time, bring into or keep in his Unit or Limited Common Elements any inflammable, combustible, or explosive fluid, material, chemical, or substance, except as shall be necessary and appropriate for the permitted uses of such Unit or Limited Common Elements.

The Unit Owners shall not be allowed to put their names on any entry to the Building or entrance to any Unit, except in the proper places approved by the Board of Managers for such purposes.

Any damage to the Building or equipment caused by Unit Owners, their guests, visitors, clients, patients or employees shall be repaired at the expense of the said Unit Owner.

Complaints regarding the management of the Building and grounds or regarding the actions of other Unit Owners shall be made in writing to the Board of Managers.

Certain parts of the Common Elements are intended for use for the purpose of affording pedestrian movement within the Condominium and for providing access to the Units. No part of the Common Elements shall be obstructed as to interfere with its use for the purposes hereinabove recited; nor shall any part of the Common Elements be used for general storage purposes, except maintenance storage or where specifically designated as such; nor shall anything be done thereon in any manner which shall increase the rate of hazard and liability insurance covering said area and improvements situated thereon.

No immoral, improper, offensive, or unlawful use shall be made of the Property or any part thereof, and all valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. Violations of laws, orders, rules, regulations or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be eliminated, by and at the sole expense of the Unit Owners, or the Board of Managers, whichever shall have the obligation to maintain or repair such portion of the Property.

Unless expressly authorized by the Board of Managers in each case, the floors of each Residential Unit must be covered with rugs or carpeting or equally effective noise reducing material, to the extent of at least 80% of the floor area of each room excepting only kitchens, pantries, bathrooms, maid's rooms, closets and foyer.

Smoke and carbon monoxide detectors must be installed in every Unit as required by New York City Building Code. It is the obligation of the Unit Owner to maintain the alarms and to make certain the units are in good working order at all times.

Each Residential Unit has windows equipped with safety "stops" in lieu of window guards. For the safety of young children, no Residential Unit Owner shall

remove the "stops" from the windows for any reason. Each Residential Unit Owner is responsible for the maintenance, repair and replacement of the windows (including frames) located in his Residential Unit. All replacement windows must have safety "stops" designed specifically to prevent a child from falling out of the window, as approved by the New York City Department of Health and Mental Hygiene.

The cost of maintenance and repair of the sidewalks, and adjacent curbs, including keeping them free from snow, ice, dirt and rubbish, shall be the responsibility of the Condominium.

No group tour or exhibition of any part of a Unit or its contents shall be conducted nor shall any auction sale be held in any part of a Unit, without the consent of the Board of Managers or the Managing Agent in each instance.

Plantings on any terrace or balcony shall be contained in boxes of wood, lined with metal or other materials impervious to dampness and standing on supports at least two inches from the terrace or balcony surface, and, if adjoining a wall, at least three inches from such wall. Suitable weep holes shall be provided in the boxes to draw off water. In special locations, such as a corner abutting a parapet wall, plantings may be contained in masonry or hollow tile walls which shall be at least three inches from the parapet and flashing, with the floor of drainage tiles and suitable weep holes at the sides to draw off water. Such masonry planting beds shall not, however, rest directly upon the surface of such terrace or balcony, but shall stand on supports at least two inches above such surface. It shall be the responsibility of the Unit Owner to maintain the containers in good condition, and the drainage tiles and weep holes in operating condition. Such Unit Owner shall pay the cost of any repairs rendered necessary, or damage caused, by such plantings.

Any consent or approval given under the Rules and Regulations of the Condominium may be amended, modified, added to, or repealed at any time by resolution of the Board of Managers. Further, any such consent or approval may, in the discretion of the Board of Managers or the Managing Agent, be conditional in nature.

The Rules and Regulations of the Condominium are set forth in Part II of this Offering Plan as an addendum to the Bylaws. The Rules and Regulations govern the use of the Units and Common Elements and may be amended from time to time by the Board. However, no amendment of the Rules and Regulations shall be applicable to any Unsold Unit, unless agreed to by Sponsor or the Sponsor-designee.

Real Property Law §339-kk

Ssubsection kk to Section 339 of the Real Property Law ("RPL") was enacted into law July 22, 1998. RPL §339-kk is intended to provide additional financial protection for a condominium association if a sponsor or other non-occupant owner fails to make

monthly payments for common charges, assessments and late fees due in connection with such owner's condominium unit(s).

RPL §339-kk provides, by its terms, among other things, that with respect to unsold units of a condominium owned by a sponsor or by any other non-occupant owner and occupied by a tenant:

(a) If payment of common charges, assessments or late fees by any non-occupant condominium unit owner is more than sixty (60) days late after the expiration of any grace period within which they are due, payments from a tenant of such condominium unit may become directly payable to the condominium upon written notice by the condominium to the tenant and the non-occupant condominium unit owner. Where a majority of the condominium board has been elected by condominium unit owners who are in occupancy of their respective condominium units, the condominium board may elect not to require that the rental payments be paid to the condominium. Once the common charges, assessments and late fees of the non-occupant condominium unit owner have been brought current, the condominium board must notify the non-occupant condominium unit owner and the tenant within three (3) business days and thereafter the rent will be payable to the non-occupant condominium unit owner or a designated agent.

(b) Payment by a tenant of rent or the amount required pursuant to the tenant's lease or statutory tenancy to the Condominium pursuant to the RPL §339-kk, relieves the tenant from the obligation to pay rent to the non-occupying condominium unit owner.

(c) Any rights existing under any other laws are not limited by RPL §339-kk.

(d) A non-occupant condominium unit owner who disputes the condominium's claim to rental payments is entitled to present facts supporting such owner's position at the next scheduled meeting of the condominium board, which must be held within thirty (30) days after receipt of notice that the non-occupant condominium unit owner seeks to dispute the condominium's claim.

Sponsor makes no representation or guarantee that any Unit Owner (other than Sponsor), any tenant, or the Condominium, will in fact comply with RPL §339-kk, and Sponsor shall have no liability for their failure to do so.

RPL §339-kk does not address a number of issues. Accordingly, Sponsor makes no representation as to (i) RPL §339-kk's effect on the lien priority of a loan heretofore or hereafter made to a non-occupant Unit Owner and secured by the Unit, or whether RPL §339-kk's enactment or compliance therewith by a tenant constitutes a default by the Unit Owner under said loan, (ii) RPL §339-kk's effect on assignments of leases and rents given by a non-occupant Unit Owner to a mortgagee in connection with purchase-money financing or otherwise, (iii) the Condominium's remedies if a tenant fails or refuses to make rental payments to the Condominium Board after notice from the

Condominium Board (in accordance with RPL §339-kk) to do so, (iv) the consequence of the Condominium Board's failure to give notice to a tenant, or (v) who is responsible for designating an agent to whom rental payments are to be made after the non-occupant Unit Owner is brought current in payment of common charges, assessments and late fees.

Finally, no representation is made about the tax effects of RPL §339-kk.

All prospective Purchasers should review RPL §339-kk to determine its effect on their own situation.

Purchase of Resident Manager's Unit

On or about the date of the First Unit Closing, Sponsor will sell the resident manager's Unit to the Board of Managers. The Board of Managers shall pay all title insurance premiums, mortgage recording taxes, transfer taxes and other closing costs due in connection with its purchase of the resident manager's Unit. All Common Charges, utilities, the cost of financing the loan on the resident manager's Unit and repairs to the resident manager's Unit shall be borne by the Board of Managers, as well. The Purchase Price of the resident manager's Unit is $1,220,000. As outlined in Schedule B, which is located in Part I of this Offering Plan, the estimated closing costs for the purchase of the resident manager's Unit are $70,526. The Sponsor estimates that the monthly costs for the resident manager's Unit (excluding the closing costs) will be approximately $7,885. On or about the day of the First Unit Closing, the Board of Managers will execute and deliver one or more purchase money mortgages and notes to the Sponsor. The interest rate on the note(s) will be 6.125% per annum for a period of five (5) years, at which time a balloon payment of the entire principal balance will be due and payable. The purchase money note(s) will provide for monthly interest-only payments for the five (5) year period. Closing costs for the resident manager's Unit will be advanced by the Sponsor, as a loan to the Board of Managers, which loan will be evidenced by a promissory note bearing 0% interest, which will be repaid in twelve (12) monthly installments from the date of the First Unit Closing.

Prior to the end of the five (5) year interest-only payment period of the purchase money mortgages for the resident manager's Unit, the Board of Managers may refinance the mortgage loan(s) with another lender. No representation can be made as to the terms of such refinancing or if such refinancing shall, in fact, be available. If the Board of Managers is not able to refinance the loan(s), the Board of Managers may assess each Unit Owner in the Building for his or her allocable share of the loan, based on percentage of common interest, in order to raise sufficient funds to pay off the loan(s).

In addition, in the event that the Sponsor is delinquent in paying its Common Charges with respect to Unsold Units, it is conceivable that the Board of Managers could have a shortfall in funds that could cause it to default under the note(s) and mortgage(s), and the holder of the mortgage(s) may then foreclose on the resident manager's Unit. If the proceeds from the sale of the resident manager's Unit are insufficient to satisfy the

outstanding mortgage and other fees incurred, the Board of Managers would be liable for the deficiency. In the event of such a foreclosure, the Condominium will be without a resident manager's Unit. Accordingly, alternate housing arrangements will be necessary for the resident manager, as is then required by Law. In order to prevent a foreclosure by the holder of such mortgage(s), which occurs in connection with Sponsor's delinquencies regarding Common Charges, the Board of Managers may collect the rent due from tenants of the Sponsor (if any) directly in accordance with Section 339-kk of the NYS Real Property Law.

In the event that as of the First Unit Closing, a condition of the Building does not permit the resident manager's Unit to be occupied, or if for any other reason (in the Sponsor's sole judgment) the resident manager's Unit is not suitable or available for occupancy by the resident manager, the Sponsor and the Board of Managers will enter into an interim lease for another Unit (to be selected by the Sponsor) for use as the resident manager's residence until the resident manager's Unit is ready for occupancy. Such interim lease will require the Board of Managers to pay to the Sponsor, as the rent thereunder, the Common Charges, PILOT and other costs and expenses incurred by the Sponsor in connection with owning such Unit during the term of the interim lease. However, the mortgage payments disclosed above and in Schedule B shall not be included in the interim lease rent to be made by the Board of Managers to Sponsor, and Common Charges will be adjusted during the term of such interim lease to exclude such mortgage payments and the closing costs associated with such mortgage. In such event, the Offering Plan will be amended to disclose such interim lease and the terms thereof.

PAYMENTS IN LIEU OF TAXES

Pursuant to the Lease, real estate taxes will not be assessed against the Property or the Units for a period of twenty-four (24) years, commencing on September 19, 2003. Rather, the Tenant must pay the Landlord an annual sum, payable in equal semi-annual installments, which is referred to as a "Payment in Lieu of Taxes" or "PILOT." Therefore, while each Unit will become a separate tax lot once the Declaration is recorded with the New York City Register's Office, County of Queens, PILOT payments will be made directly to the Landlord by the Board of Managers and not to the New York City Department of Finance.

Since PILOT is part of the Rent, the Board will be responsible for insuring that the semi-annual payments are made to QWDC timely. Under the terms of the Bylaws, each Unit Owner shall make his PILOT payment to the Board as part of the Common Charges, which will be allocated among all Unit Owners in proportion to each Unit's Common Interest. In the event that any Unit Owners do not pay their Common Charges (including PILOT), the Board has the authority to impose a special assessment to raise the funds required to make the PILOT payments. The Board of Managers, on behalf of the Unit Owners, will have the right to place a lien on each Unit, including Unsold Units owned by Sponsor, for unpaid Common Charges (including PILOT) assessed by the Board of Managers.

Under the terms of the Lease, the PILOT schedule, as projected for the first year of Condominium operation, runs as follows:

PILOT Year	PILOT
1 (9/19/03-9/18/04)	$ 29,242
2 (9/19/04-9/18/05)	$ 30,120
3 (9/19/05-9/18/06)	$ 31,024
4 (9/19/06-9/18/07)	$ 31,954
5 (9/19/07-9/18/08)	$ 31,954
6 (9/19/08-9/19/09)	$ 31,954
7 (9/19/09-9/18/10)	$ 31,954
8 (9/19/10-9/18/11)	$ 31,954
9 (9/19/11-9/18/12)	$ 31,954
10 (9/19/12-9/18/13)	$ 31,954
11 (9/19/13-9/18/14)	$ 31,954
12 (9/19/14-9/18/15)	$ 31,954

PILOT Year	PILOT
13 (9/19/15-9/18/16)	$ 31,954
14 (9/19/16-9/18/17)	$ 31,954
15 (9/19/17-9/18/18)	$ 31,954
16 (9/19/18-9/18/19)	$ 31,954
17 (9/19/19-9/18/20)	$ 31,954
18 (9/19/20-9/18/21)	$ 31,954
19 (9/19/21-9/18/22)	$ 31,954
20 (9/19/22-9/18/23)	$ 31,954
21 (9/19/23-9/18/24)	$ 321,016
22 (9/19/24-9/18/25)	$ 661,293
23 (9/19/25-9/18/26)	$1,021,698
24 (9/19/26-9/18/27)	$1,403,132

PILOT paid by Sponsor during the PILOT year in which the First Unit Closing occurs is one of the items to be adjusted between Sponsor and each Purchaser at the Closing of each Unit. See the Section entitled "Unit Closing Costs and Adjustments" in Part I of this Plan for further discussion.

Real estate taxes will be assessed by the New York City Department of Finance to each Unit upon the earlier of the Board of Manager's exercise of the option to purchase the Property or upon the expiration of the PILOT term, on September 19, 2027. Should the Board of Managers exercise its right to purchase the Property prior to the expiration of the PILOT benefit period, as described in the sections of this Offering Plan entitled "Introduction" and "Lease Summary," then all PILOT benefits will be forfeited and each Unit will be separately assessed and billed for real estate tax purposes by the New York City Department of Finance. There is no assurance the New York City Department of Finance will allocate real estate taxes based on its relative Unit size, Unit height, and other Unit-specific features. It is, therefore, possible that Unit Owners having the same percentage of Common Interest will pay different amounts of real estate taxes. The Bylaws provide that the Board is entitled to execute and deliver documents necessary in connection with proceedings to obtain reduced real estate tax assessments with respect Unit Owners, for the benefit and on behalf of (i) all Unit Owners, or (ii) for individual Unit Owners, provided that each such Unit Owner indemnifies the Board from and against all claims, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from such proceedings. Under the terms of the Lease, Tenant shall have the right to enter into proceedings to obtain reduced real estate tax assessments during the PILOT term, so long as such proceedings do not affect Tenant's obligation to pay PILOT. Prospective

Purchasers are advised to consult with tax certiorari counsel to determine the benefits, if any, of entering into such proceedings during the Lease term and thereafter.

Post-construction real estate tax assessment information is not disclosed herein because the Board of Managers is unlikely to exercise the option to purchase the Property within the first year of Condominium operation and forfeit PILOT benefits. However, should the Sponsor continue to own any Residential Units at the time that the Board of Managers desires to purchase the Property, and if Sponsor consents to such decision, then Sponsor will disclose the post-construction real estate tax information for each Unit by duly filing an amendment to the Offering Plan with the Department of Law.

As fully set forth in the tax opinion letter of Seiden & Schein, P.C. (the "Tax Opinion Letter"), counsel to the Sponsor, which is found in Part I of this Plan, Unit Owners would, for Federal income tax purposes, be entitled to a deduction for mortgage interest and PILOT in the year paid or accrued under Sections 163 and 164, subject to a favorable ruling from the Internal Revenue Service. These deductions are subject, however, to certain exceptions and limitations that are more particularly discussed in the Tax Opinion. These deductions may also affect an individual Unit Owner's liability for the alternative minimum Federal income tax. Subject to a favorable ruling from the Internal Revenue Service, each individual Unit Owner would, for New York State and New York City income tax purposes, be entitled to similar deductions for the mortgage interest and PILOT paid or accrued during the taxable year. Such deductions may also affect his or her New York City minimum tax liability. As stated in the Tax Opinion Letter, Sponsor will apply to the Internal Revenue Service for a private ruling on the deductibility of PILOT.

INCOME TAX DEDUCTIONS TO UNIT OWNERS AND TAX STATUS OF THE CONDOMINIUM

A Unit Owner will own a leasehold interest in his or her Unit and its appurtenant Common Elements and each Unit will be a separate tax lot for purposes of PILOT (and, upon the expiration of PILOT, for New York City real estate taxes and assessments). Each Unit Owner may mortgage his or her Unit and shall become individually liable for the payment of the principal and any finance charges or interest on such mortgage indebtedness.

As fully set forth in the tax opinion letter of Seiden & Schein, P.C. (the "Tax Opinion Letter"), counsel to the Sponsor, which is found in Part I of this Plan, Unit Owners would, for Federal income tax purposes, be entitled to a deduction for mortgage interest and PILOT in the year paid or accrued under Sections 163 and 164, subject to a favorable ruling from the Internal Revenue Service. These deductions are subject, however, to certain exceptions and limitations that are more particularly discussed in the Tax Opinion. These deductions may also affect an individual Unit Owner's liability for the alternative minimum Federal income tax. Subject to a favorable ruling from the Internal Revenue Service, each individual Unit Owner would, for New York State and New York City income tax purposes, be entitled to similar deductions for the mortgage interest and PILOT paid or accrued during the taxable year. Such deductions may also affect his or her New York City minimum tax liability. As stated in the Tax Opinion Letter, Sponsor will apply to the Internal Revenue Service for a private ruling on the deductibility of PILOT.

Once the Building is converted to condominium ownership, the affairs of the Condominium will be governed by a Condominium Board. Common Charges will be borne by all Unit Owners and assessed and collected by the Condominium Board. Under present law, the exact tax status of the Condominium Board is uncertain and no opinion has been rendered with respect to it. The Federal income tax consequences to the Condominium Board with respect to the receipt of the Common Charges and of the expenditure of Condominium funds will depend on whether the Condominium Board:

(i) is treated as a conduit,

(ii) qualifies and elects to be taxed under Section 528, or

(iii) is treated as a corporation.

If the Condominium Board is treated as a conduit, it will not be subject to tax. Rather, items of income, expenses, credits and deductions will be attributed to each Unit Owner in proportion to his Common Charges. Thus, for example, interest earned on funds reported by the Condominium Board would be taxed to the Unit Owners. There appear to be no judicial precedents directly supporting such treatment, and the position of the Internal Revenue Service (the "Service"), which is described more fully below, appears to be that a condominium management association is an association taxable as a corporation.

If it satisfies the requirements of Section 528, the Condominium Board may elect to be exempt from Federal income tax on the Common Charges. Generally, those requirements are:

(i) The condominium management association must be organized and operated solely to provide for the acquisition, construction, management, maintenance, and care of association property;

(ii) Sixty percent or more of the gross income of the condominium management association must consist of assessments from residential unit owners ("Exempt Function Income");

(iii) Ninety percent of the expenditures of the condominium management association must be for the acquisition, construction, management, maintenance, and care of the condominium management association's property;

(iv) No part of the net earnings can inure to the benefit of private individuals other than by the acquisition, construction, management, or maintenance of the condominium management association's property or by rebates of excess assessments; and

(v) Substantially all of the units must be used as residences.

Under the Treasury regulations issued pursuant to Section 528, a condominium management association must qualify annually for the election under Section 528, and additionally, it must make a separate election for each taxable year. Accordingly, the ability of the Condominium Board to elect the benefits of Section 528 will depend on the particular facts and circumstances prevailing in the taxable year at issue. It appears that the aforementioned requirements will be met for a Section 528 election for at least the first year of operation.

A condominium management association meeting the requirements of Section 528 and electing to be exempt from Federal income tax on Exempt Function Income would be taxable at a rate of 30% on the amount by which its other income exceeds the amount of allowable deductions that are directly connected with the production of such income. Such an association, however, would not be allowed certain deductions that are available to corporations that are not taxable under Section 528.

If the Condominium Board either cannot qualify or chooses not to elect the benefits of Section 528, certain published rulings of the Service implicitly state that a condominium management association will be treated as an association taxable as a corporation. Consequently, unless a valid election pursuant to Section 528 has been made, it appears that the Condominium Board would be taxable on that portion of the Common Charges which exceeds the deductible expenses paid or incurred by the Condominium Board for the operation of the Condominium property. The Condominium would also be taxable on income derived from the interim investment of the Common Charges, on income from nonresidential leases of Common Elements, and on income from the operation of facilities that are available to outsiders, net of deductible expenses related to the production of such income.

If the Condominium is treated as a corporation for Federal income tax purposes, the Condominium Board might still contend that a portion of the Common Charges that it receives should not be included in its gross income. For example, published rulings of the Service indicate that assessments collected by a condominium management association and expressly designated for use for specified capital improvements that are owned in common, and which are not commingled with funds collected for operating expenses or as contingency reserves, should not be included in the gross income of a condominium management association. No part of such an assessment may, however, be expended by the condominium management association for the benefit of an individual owner.

In addition, in connection with assessments for ordinary operating expenses, such as the Common Charges, a condominium management association may not have any taxable income if the expenses of the condominium management association with respect to managing, operating, and replacing the common elements of the Condominium either equal the assessment or any excess amount is annually returned to unit owners or applied to the next year's assessment. Based on the facts in existence at the present time, it appears that the Condominium Board is unlikely to have a substantial amount of income other than the Common Charges.

If Section 528 is not applicable, moreover, the Service has noted that a condominium management association may be eligible for the tax treatment afforded to certain cooperatives under Subchapter T of the Code. However, there is very little guidance with respect to the applicability of these provisions to an association managing residential condominium units since generally only farming cooperatives avail themselves of these provisions.

If the Condominium Board makes additional assessments to cover the amounts of any Federal, New York State, or New York City tax liability incurred, such additional assessments may also be taxable to the Condominium.

The foregoing summary is for informational purposes only and Sponsor's counsel expresses no opinion with respect to the likelihood of which method of taxation will be applied to the Condominium.

EACH PURCHASER SHOULD CONSULT HIS OR HER OWN TAX COUNSEL AS TO THE TAX CONSEQUENCES OF THE PLAN AND OF THE PURCHASE OF A UNIT.

SEIDEN & SCHEIN, P.C.

ATTORNEYS AT LAW

JAY G. SEIDEN
ALVIN SCHEIN

CHRISTOPHER A. NICOSIA
ADAM A. LEVENSON
DANIEL M. BERNSTEIN
ELENA BAIER
JASON HERSHKOWITZ

SPECIAL COUNSEL:
ELISE J. KESSLER

570 Lexington Avenue
New York, New York 10022

Telephone: (212) 935-1400
Facsimile: (212) 593-4545
web:www.seidenschein.com

OF COUNSEL:
DAVID F. YAHNER

COUNSEL'S TAX OPINION LETTER

October 25, 2007

East Coast 5 L.L.C.
290 Park Avenue South
New York, New York 10010

RE: Offering Plan ("the Plan") for the Conversion to Condominium Ownership of 46-30 Center Boulevard, Long Island City, New York

Gentlemen:

You have requested our opinion concerning (i) the availability of certain deductions for Federal, New York State and New York City income tax purposes (but not for purposes of the New York City earnings tax on nonresidents) to persons who purchase Units for private residential use ("Unit Owners") under the Plan and (ii) the proper treatment by the Condominium Board for such income tax purposes of the Common Charges paid or borne by all Unit Owners. Except where otherwise indicated herein, the terms used in this opinion have the same meanings as in the Plan.

In this connection, we have reviewed the Plan, relevant sections of the Internal Revenue Code of 1986 ("Code"), the New York State Tax Law, the New York City Administrative Code, the Regulations promulgated thereunder and such other materials as we deemed relevant, and we have assumed that the closing under the Plan will occur in 2008. We have also relied upon the opinion of Gary Handel of Handel Architects LLP, dated April 16, 2007, that the useful life of the Building is approximately seventy-five (75) years. Under the terms of the lease between Queens West Development Corporation and East Coast 5 L.L.C. (the "Lease"), no portion of the base rent or additional charges payable under the Lease is attributable to the Building.

I. Deductions for Mortgage Interest and PILOT

A Unit Owner will own a condominium leasehold interest in his Unit and its appurtenant interest in the Common Elements. Accordingly, each Unit will be apportioned into individual tax lots by the New York City Department of Finance. A Unit Owner, per terms of the Offering Plan, may also mortgage such Unit(s) and become individually liable for the payment of any finance charges or interest on such mortgage indebtedness.

In our opinion, a non-corporate Unit Owner who itemizes his deductions will be entitled to a deduction in computing his taxable income for Federal income tax purposes for bona fide mortgage interest incurred with respect to his Unit in the year paid or accrued provided that, up to the aggregate amount of $1,000,000.00 for all qualifying mortgages on all qualifying Units, A) the mortgage does not exceed the lesser of (i) the Owner's original basis in his Unit plus the cost of improvements, if any, or (ii) the fair market value of the Unit and B) his Unit is a "qualified residence." A Unit will be a "qualified residence" if it is either (i) the Owner's "principal residence" as that term is defined by Code Section 121 or (ii) a residence as defined by Section 280A(d)(1) and the Owner selects it as a qualified residence. Thus, a single taxpayer or a married couple filing a joint return may have two, and only two, qualified residences. In the case of a married couple filing separate returns, each taxpayer may take into account a single "qualified residence," unless by written agreement they consent to one of them taking into account a principal residence and one other residence. Under Section 461(g) of the Code, no deduction will be allowed to a cash basis taxpayer in the year of payment for prepaid interest (other than points paid in certain cases).

Internal Revenue Service Revenue Ruling 64-31, 1964-1 (Part I) C.B. 300 held that a condominium unit constituted a residence for the purposes of Code Section 1034 (the Taxpayer Relief Act of 1997 repealed Code Section 1034, but states that the term "qualified residence" is to be determined in accordance with Code Section 121). There, the purchaser obtained fee title to the property and was free to sell or lease his unit, subject only to giving the other unit owners a right of first refusal to buy or lease it on equal terms. The purchaser had the right to place a mortgage on his unit and was responsible to the local tax authority for the tax assessment attributable to his unit.

The facts here are similar to those in Revenue Ruling 64-31, supra. A Condominium regime will be established for the Property by duly executing and recording a Declaration of Condominium and each Purchaser of a Unit thereof will be granted a leasehold Unit deed. A Unit Owner may not be deprived of his leasehold interest during the Lease term, except for an uncured violation of the Condominium Bylaws or the Lease. Each Unit Owner is free to place mortgages on his Unit and is free to lease or to sell his Unit, subject only to the Board of Manager's right of first refusal. But for the fact that the Property is exempt from real estate taxation for a term of years, each Unit Owner would be liable to the New York City Department of Finance for real estate tax assessments with respect to his Unit. In this case, each Unit Owner will be liable for payments in lieu of taxes ("PILOT") with respect to his Unit.

The only difference between the present case and facts in Revenue Ruling 64-31, supra, is that here each Unit Owner will obtain a leasehold interest in his Unit, rather than a fee interest. Past cases have held that a taxpayer is required to own his residence in order to qualify under Code Section 1034. See R.E. Boesel, Jr. v. Commissioner, 65 T.C. 378 (1975) and Revenue Ruling 72-266, 1972-1 C.B. 227. The issue here is whether a Unit Owner will be treated as the "owner" of his Unit under the Code.

Courts have historically examined the economic realities of a transaction rather than the form of ownership employed by the parties in order to determine "ownership" of property for tax purposes. In Offut Housing Company v. County of Sarpy et al., 351 U.S. 253 (1953), the United States Supreme Court decided a case in which the lessee of land under a seventy-five year lease constructed improvements that had an estimated useful life of thirty-five years. The Court held that because the useful life of the improvements was shorter than the lease term, and because the lessee paid only nominal rent on the land, and not the improvements, the lessor had mere "paper title" to the improvements.

Revenue Ruling 62-178, 1962-2 C.B. 91 addressed the issue of whether a tenant was the "owner" a building with a useful life of fifty years, which it erected with its own funds, on land that it leased for ninety-nine years. Under the terms of the lease, the building become the landlord's property upon being built and was to be surrendered to the landlord when the lease expired. The landlord did not receive rent for the building during lease term. The Internal Revenue Service ruled that because the tenant had full beneficial enjoyment of the building during its useful life, it would be treated as the "owner" of the building for tax purposes.

In our opinion, the present case is analogous to the facts in Offut, supra and in Revenue Ruling 62-178, supra. The Sponsor will bear the entire cost of constructing the Building and the Unit Owners shall have the right to mortgage, lease and sell their Units during the Lease term. Based on representations by Gary Handel of Handel Architects LLP, the useful life of the Building is approximately seventy-five (75) years, which is shorter than the Lease term of ninety-nine years. No rent payable under the Lease is attributable to the Building. Therefore, each Unit Owner will have the full beneficial enjoyment of his Unit throughout its useful life and each Unit Owner should be considered an "owner" of his Unit for taxation purposes and should be able to deduct mortgage interest, as outlined above. However, we do not guarantee that the Internal Revenue Service will agree with our conclusion, as the determination of ownership is a question of fact.

II. Deductions for PILOT

In our opinion, a Unit Owner whose Unit is used by him for residential purposes would, for Federal income tax purposes, be entitled to a deduction for PILOT incurred with respect to his Unit in the year paid or accrued under Section 164 of the Code, subject to the receipt of a favorable ruling from the Internal Revenue Service. PILOT should be treated as analogous to real estate taxes under Section 164 of the Code because (a) PILOT are payments in lieu of real property taxes which would have been levied by or on behalf of the City of New York if the project were not exempted from the payment of such taxes; (b) PILOT is imposed by state statute, and (iii) the proceeds of the PILOT are designed for a public purpose. See Revenue Ruling 71-49, 1971-1 C.B. 103. The Sponsor will apply for a private letter ruling regarding the deductibility of PILOT.

It is also our opinion that each Residential Unit Owner whose Unit is used in an active profession and/or trade or business, other than the rental of such Unit, in which the Unit Owner materially participates, would, for Federal income tax purposes, be entitled to a deduction for PILOT incurred with respect to his Unit in the year paid or accrued under Section 164 of the Code, subject to the receipt of a favorable ruling from the Internal Revenue Service.

Other rules are applicable to a Unit Owner if the Unit is to be used in a trade or business or is to be held for rental. In these cases, the Tax Reform Act of 1986 will have broad impact, and no opinion is offered as to the consequences to such a Unit Owner.

It is also our opinion that each Residential Unit Owner will, for New York State and New York City income tax purposes, be entitled to the same deduction which is allowed for Federal income tax purposes for the mortgage interest and PILOT paid or accrued during the taxable year. Section 615 of the New York State Tax Law.

It should be noted, however, that the benefit of a Unit Owner's deductions for interest and PILOT may be reduced if the Unit Owner is subject to the Federal alternative minimum tax, or the State or City minimum taxes (Section 55 of the Code; Sections 615 and 622 of the New York State Tax Law; Sections 11-1715 and 11-1722 of the New York City Code). In addition, it should be noted that state and local taxes, including PILOT, are not deductible for purposes of calculating an individual's federal alternative minimum taxable income, and that interest with respect to a "qualified residence" is generally deductible only to the extent incurred in acquiring, constructing or rehabilitating a "qualified residence" or in refinancing, without an increase in the principal amount thereof, such an indebtedness; the difference in the treatment of these and other items, for federal alternative minimum tax purposes may result in a taxpayer becoming subject to such tax even though he has no items of tax preference.

It should be noted that our opinion as to the availability of deductions to a Unit Owner with respect to mortgage interest and PILOT in connection with his or her Unit used in an active profession and/or trade or business, other than the rental of such unit, is based on the assumption that such owner will have "at risk," within the meaning of Section 465 of the Code, in such profession, trade or business, an amount equal to, or in excess of his losses in connection with said profession, trade or business, including such deduction.

Should the Board of Managers of the Condominium exercise its right to purchase the Property prior to the expiration of the PILOT benefit period, as described in the Offering Plan, then all PILOT benefits will be forfeited and each Unit will be separately assessed for real estate tax purposes by the New York City Department of Finance. All real estate tax payments shall then be paid directly to the Department of Finance. Upon the expiration or termination of PILOT, Residential Unit Owners should be entitled to a

deduction of their real estate taxes for Federal, New York State and New York City income tax purposes, except as discussed above.

III. Common Charges

Common Charges will be borne by the Unit Owners and assessed and collected by the Board of Managers ("Condominium Board").

Under Section 528 some Condominium Boards may be eligible to be exempt from tax on Common Charges collected from the Unit Owners, provided the requirements of Section 528 are met. Generally, these requirements are:

(i) The condominium management association must be organized and operated solely to provide for the acquisition, construction, management, maintenance and care of association property;

(ii) Sixty percent or more of the gross income of the condominium management association must consist of assessments from residential unit owners ("Exempt Function Income");

(iii) Ninety percent of the expenditures of the condominium management association must be for the acquisition, construction, management, maintenance, and care of the condominium management association's property;

(iv) No part of the net earnings can inure to the benefit of private individuals other than by the acquisition, construction, management, or maintenance of the condominium management association's property or by rebates of excess assessments; and

(v) Substantially all of the units must be used as residences.

Under the Treasury regulations issued pursuant to Section 528, a condominium management association must qualify annually for the election under Section 528, and additionally, it must make a separate election for each taxable year. Accordingly, the ability of the Condominium Board to elect the benefits of Section 528 will depend on the particular facts and circumstances prevailing in the taxable year at issue.

It appears, based upon your representations to us, that the requirements will be met as the Offering Plan is currently structured. With respect to requirement (v) above "Substantially all" is interpreted in Treasury Regulation 1.528-4(b) as meaning at least 85% of the total square footage of all units in the project. Since more than 85% of the total square footage of the units in the project will be used as residences, the "Substantially all" requirement is met.

Assuming the Condominium Board is eligible to make a Section 528 election, it would still be subject to tax on any income not received as assessments or other such payment from Unit Owners; thus, if the Condominium Board realized interest income from funds on deposit, such interest may be taxable to it.

If an election under Section 528 is not in effect for the taxable year, the tax status of the Condominium Board will be governed by the rules in effect prior to the enactment of Section 528 ("existing law").

Under existing law, the tax status of the Condominium Board is uncertain. The Bylaws provide that the Condominium Board will act as the agent of the Unit Owners. Thus, the Condominium Board may take the position that it is simply a conduit for receipts and payments of the Unit Owners for whom it acts as agent and not a separate entity. In such case, the Unit Owners would themselves be taxable on any interest or similar income which is earned from investments of the amounts which are assessed and collected from the Unit Owners and/or held as reserve funds.

However, the Internal Revenue Service may contend that for purposes of those matters administered through the Condominium Board, such as the assessment and expenditure of Common Charges, the Unit Owners through the Condominium Board, constitute an association taxable as a corporation. In such event, such association may be deemed subject to the Federal corporate income tax (and also to New York State and New York City corporate income taxes) on the portion of the Common Charges which is deemed to constitute gross income of such association, to the extent that such portion (together with any income earned from other sources, such as interim investments of funds by such association) exceeds the current expenses paid or incurred through the Condominium Board which are deductible for Federal income tax purposes.

In this connection, published rulings indicate that Common Charges which are assessed by the Condominium Board and designated for use solely to make specified capital improvements and which are maintained in a separate bank account should not constitute gross income to such Board, either because it is deemed to receive and hold such Common Charges as agent for the Unit Owners from whom the assessments were collected (Revenue Ruling 75-370, 1975 - 2 Cumulative Bulletin 25), or because the assessed Common Charges are deemed to be nontaxable contributions to the capital of the association (Revenue Ruling 75-371, 1975 - 2 Cumulative Bulletin 52, *cf.* Concord Village, Inc., 65 T.C. 142 (1975)). However, if treated as contributions to the capital of the association, it should be noted that when such amounts (together with any other funds accumulated by the association) are expended for capital improvements, the Internal Revenue Service may contend that the capital expenditures benefit the Unit Owners, and that each Unit Owner should therefore be treated as receiving a distribution equal to the fair market value of that benefit; under the usual rules applicable to distributions of associations, a distribution is first treated as taxable ordinary income to the extent of the

distributee's proportionate share of the association's earnings and profits, then as a tax-free recovery of basis to the extent thereof, and the balance, if any, as capital gain.

In this connection, it should be noted that if the Condominium Board is determined to be a separate taxable entity for federal income tax purposes, it is possible that the limitations of Section 277 may be found to apply. If this were the case, the Condominium Board's income from sources other than Unit Owners, if any, could not be offset by the Condominium Board's expenses incurred in the provision of services to Unit Owners. It is unclear how interest or other income earned on the investment of a required reserve fund would be treated for this purpose; if such income were treated as not derived from the Unit Owners in consideration of services rendered them by the Condominium Board, then such income may not be reduced by the Condominium Board's operating expenses with respect to the property and may result in a liability for taxes.

In the event that the Condominium Board is required to pay any Federal, New York State or New York City income tax and the Condominium Board makes an additional assessment in order to meet this tax liability, it should be noted that the additional amount collected through such assessment may itself be subject to tax (*see* Old Colony Trust Co. v. Commission, 279 U.S. 716 (1929); Revenue Ruling 74-75, 1974 - 1 Cumulative Bulletin 19; Revenue Ruling 86-14 I.R.B. 1986-5, 33).

We express no views as to any Federal, New York State and/or New York City tax consequences or as to any aspects of the Plan other than those consequences and aspects explicitly discussed in this opinion, or as to any tax status of the Plan of a Unit under the laws of any other U.S. or foreign jurisdiction.

Thus, this opinion does not deal with tax consequences which may result from ownership of a Unit in connection with the Unit Owner's trade or business, other than set forth herein, or for purposes of investment or the production of income, or which may result to a foreign Unit Owner by reason of his foreign status. This opinion also does not deal with the tax consequences which may arise if Units or Limited Common Elements are acquired and/or leased by the Condominium Board. It is also to be noted that under certain circumstances an owner of any Unit, by virtue of such ownership, may be deemed to become a resident of New York City and that this opinion does not deal with the circumstances under which this may occur, or with the income, estate or other tax consequences that may arise therefrom. Thus, each person contemplating the purchase of a Unit is strongly advised to consult his own tax advisor as to all such tax matters (as well as with respect to the tax matters discussed in this opinion).

In our opinion, Unit Owners will be entitled to income tax deductions. However, this opinion is not a guarantee; it is based on existing rules of law applied to the facts and documents referred to above. No assurances can be given that the tax laws upon which counsel base this opinion will not change. In no event will the Sponsor, the Sponsor's counsel, the Board of Managers of the Condominium or any other person be liable if

there are changes in the facts on which counsel relied in issuing this opinion or if there are changes in the applicable statutes, regulations, decisional law or rulings of the Internal Revenue Service on which counsel relied which cause Unit Owners not to be entitled to income tax deductions.

We hereby authorize the use of this opinion, or a reproduction thereof, in the Plan.

Very truly yours,

SEIDEN & SCHEIN, P.C.

By: _____
Alvin Schein

RESERVE FUND

Sponsor is not establishing a Reserve Fund for the Condominium under this Plan, as Sponsor does not anticipate that replacement of capital items is likely to be needed within the first five years of condominium operation. The Condominium Board, in its discretion, and subject to certain restrictions contained in the Bylaws, may decide in the future to create a Reserve Fund by special assessment or by increases in Common Charges.

WORKING CAPITAL FUND AND APPORTIONMENTS

Each Purchaser of a Unit shall be required at the Closing of such Unit to make a contribution to the working capital fund of the Condominium (the "Working Capital Fund"). Such contribution shall be in an amount equal to two (2) month's Common Charges in effect for such Unit(s).

At the First Unit Closing, Sponsor will apportion with the Board the following items as of midnight of the date preceding said Closing:

(1) employees' wages, vacation and severance pay, pension and welfare benefits and accruals, uniforms and all other payments or obligations relative to the employees of the Building;

(2) deposits with utility companies, if any, and fees for assignable permits and licenses, if any;

(3) charges for electricity and other utilities for the Common Elements and the Limited Common Elements;

(4) cost of fuel on hand (plus sales tax), if any;

(5) charges and receipts in connection with service, maintenance and concession contracts;

(6) water charges and sewer rents on the basis of the fiscal or calendar year for which assessed (unless separately assessed to individual Units);

(7) cost of Building supplies on hand at Sponsor's cost (including sales tax);

(8) premiums for transferable insurance policies; if any;

(9) management fees; and

(10) other customary adjustments.

If any of the foregoing items to be apportioned cannot be adjusted at the First Unit Closing because they are not fully ascertainable, they shall be apportioned and adjusted to the extent reasonably possible at the First Unit Closing, and final adjustment will be made as soon thereafter as the undetermined amounts are ascertained. Except as herein

otherwise expressly provided, the customs in respect to title closings adopted by the Real Estate Board of New York, Inc., as amended, shall apply to apportionments and other matters herein mentioned.

The Working Capital Fund will be held and used for working capital, or such other appropriate purposes as will be determined by the Board and may be augmented by allocations from the monthly Common Charges collected from each Unit. While Sponsor controls the Board (see the Section entitled "Control By Sponsor" in Part I of this Plan), the Working Capital Fund will not be used to reduce estimated Common Charges.

The Board will be able to utilize the money in the Working Capital Fund at any time and, accordingly, no representation or warranty can be made and no assurance can be given as to the exact amount of funds available at any specific time. However, in no event shall any portion of the Working Capital Fund be used to pay any Common Charges or Common Charges attributable to Unsold Units.

In the event that capital expenditures for renewal or replacement of Building components or systems or to remedy major building defects are needed, it may be necessary to increase Common Charges or make special assessments payable by Unit Owners who are responsible for the repair and replacement of the Common Element in need of such renewal, replacement or remedy. Alternatively, the Board may determine to seek financing from a bank or other lending institution for such expenditures in accordance with the terms of the Bylaws and subject, in certain instances, to Unit Owner approval. In addition, pursuant to the Bylaws each Board is entitled to determine amounts for a reserve for replacements in establishing the annual budgets.

NO REPRESENTATION OR WARRANTY IS MADE THAT THE WORKING CAPITAL FUND WILL BE, OR IS INTENDED TO BE, ADEQUATE TO COVER CURRENT OR FUTURE EXPENSES, FOR THE FIRST OR ANY SUBSEQUENT YEAR OF CONDOMINIUM OPERATION. NEITHER THE DEPARTMENT OF LAW NOR ANY OTHER GOVERNMENT AGENCY HAS PASSED UPON THE ADEQUACY OF THE WORKING CAPITAL FUND.

MANAGEMENT AGREEMENT

On or before the First Unit Closing, the Board will enter into an agreement (the "Management Agreement") with Rockrose Development Corp., of 290 Park Avenue South, New York, New York 10010 (the "Managing Agent"), to manage the Property, and all Units therein, for the first five (5) years after the First Unit Closing (the "Initial Term"). The Management Agreement will continue thereafter unless terminated by either party upon not less than sixty (60) days prior notice. The principals of Rockrose Development Corp. are also the principals of Sponsor.

During the Initial Term of the Management Agreement, either Managing Agent or the Board will have the right to cancel same only for cause after thirty days' written notice (unless the defaulting party cures the default within such thirty (30) day period). If the Board cancels the Management Agreement without cause during its initial term, the monthly fee thereunder for the balance of the unexpired term will continue to be payable, notwithstanding such cancellation. Also during the Initial Term, the Managing Agent shall have the right to cancel the Management Agreement without cause, provided that it provides the Board with sixty (60) day's written notice. The Management Agreement may not be assigned by either the Managing Agent or the Sponsor.

The fee payable to the Managing Agent for the first year shall be $73,600.00 per annum, payable in equal monthly installments of $6,133.33; for the second year shall be $75,808.00 per annum, payable in monthly installments of $6,317.33; for the third year shall be $78,082.00 per annum, payable in monthly installments of $6,506.83; for the fourth year shall be $80,424.00 per annum, payable in monthly installments of $6,702.00; and for the fifth year shall be $82,837.00 per annum, payable in monthly installments of $6,903.08. The Managing Agent has represented to the Sponsor that, based on information available to the Managing Agent, the annual fees conforms with fee guidelines generally accepted in the industry and are reasonable.

If requested by the Board, and upon the payment of additional compensation, the Managing Agent may provide additional services including, but not limited to, consultation in connection with major alterations.

The Management Agreement shall further provide that all repairs to the Property, (except for emergency repairs), which involve an expenditure of over $7,500.00 for any one item shall be made only with the prior approval of the Board. In addition, the Managing Agent shall not enter into any service agreements having a term of longer than five years or requiring annual payments in excess of $15,000.00, without the approval of the Board.

The management services will not include the preparation of the Board's annual certified financial statement. Such statement will be prepared by an independent certified public accountant employed by the Board at its own expense, the cost of which has been provided for in the estimate of the Board's expenses for the first year of Condominium operation. (See Schedule B). The Managing Agent will cooperate with the Condominium's accountants in connection with the preparation of the annual certified financial statement..

The Board will be obligated to reimburse the Managing Agent for any expenses incurred by it in

connection with its duties and to indemnify the Managing Agent against liability for acts properly performed by it pursuant to the Management Agreement.

The Managing Agent, at the Managing Agent's expense, shall, at the Board's request, obtain a fidelity bond or fidelity insurance for the Managing Agent in the amount of $500,000, which will insure the Board against any loss suffered as a result of the dishonest or fraudulent acts committed by the Managing Agent or any of its employees who handle the funds of the Board.

The Management Agreement will essentially provide for the following services:

1. Billing and receipt of monthly Common Charges from Unit Owners.

2. Payments of the obligations of the Board, to the extent that funds are available in the Board's account, as authorized by the Board.

3. Maintenance of books and records with respect to the Property.

4. Hiring and supervising Building employees.

5. Procuring service contracts and insurance policies.

6. Purchasing supplies.

7. Attending meetings of the Board of Managers.

All expenses incurred by the Managing Agent in performance of its duties for the Condominium will be reimbursed by the Condominium Board and charged to the Unit Owners as a Common Expense.

IDENTITY OF PARTIES

Sponsor

The Sponsor and current owner of the Property is East Coast 5 L.LC., a limited liability company formed on May 3, 2001 under the laws of the State of New York, having an address at 290 Park Avenue South, New York, New York 10010. The Secretary of State of the State of New York has been designated as the agent upon whom process against Sponsor may be served.

The principals of Sponsor are Frederick Elghanayan, Kamran T. Elghanayan, and H. Henry Elghanayan. The Elghanayans have been involved in the development, ownership, management and sale of residential, commercial and mixed-use properties for approximately thirty (30) years. They have developed numerous buildings in Manhattan, including, but not limited to, Carnegie Hall Tower (152 West 57th Street), 2 Gold Street, 45 Wall Street, and 300 Park Avenue South.

Frederick Elghanayan has not been the principal of the sponsor of cooperative interests in realty, including condominiums, in or from New York, during the past five (5) years.

Kamran T. Elghanayan and H. Henry Elghanayan are the principals of the sponsor of 99 John Deco Lofts Condominium, located at 99 John Street, New York, New York 10038. The offering plan for 99 John Deco Lofts Condominium was filed with the Department of Law in 2007. The sponsor of 99 John Deco Lofts Condominium is current in all of its financial obligations. As of the Filing Date, there have been no unit closings in 99 John Deco Lofts Condominium.

The principals of sponsor are also the principals of the offering for Turtle Bay Towers cooperatives, which is located at 310 East 46th Street, New York, New York 10017. The offering plan for Turtle Bay Towers cooperatives was filed with the Deaprtment of Law in 1987. The sponsor of Turtle Bay Towers cooperatives owns more than 10% of the unsold shares in the apartment corporation and is current in its financial obligations.

Managing Agent

Sponsor intends to retain Rockrose Development Corp., 290 Park Avenue South, New York, New York, to manage the Building. Rockrose Development Corp. has been in the real estate management business for over 30 years, and currently manages over 20

properties in New York City, including, but not limited to, 666/668 Greenwich Street, 201 East 69th Street, 200-220 West 26th Street, 95-97 Horatio Street, and 2 Gold Street. Rockrose Development Corp. is an entity which is related to Sponsor.

Architect

Sponsor has retained Handel Architects LLP ("Handel") to prepare the Description of Property and Proposed Building, located in Part II of the Plan. Handel Architects LLP has experience designing numerous residential, commercial and mixed-use buildings, which involved new construction, as well as rehabilitations to existing structures. Handel's projects include, but are not limited to, the Ritz-Carlton, Downtown, 598 Madison Avenue, and 505 Greenwich Street, all in New York City. Sponsor's architect has no financial relationship, past or present, to the Property or to the Sponsor, except in its capacity as architect and is being paid a fee for its services.

Counsel to Sponsor

The Sponsor has retained the law firm of Seiden & Schein, P.C., 570 Lexington Avenue, New York, New York, 10022 (Tel. # (212) 935-1400) to represent it in the preparation and consummation of the Offering Plan. The principal attorney who is responsible for this matter is Alvin Schein, Esq. This firm drafted the Declaration, the Bylaws, this Plan, the form of Agreement, the form of leasehold Unit Deed, and all other documents necessary in connection with the formation of the Condominium, and is advising the Sponsor in connection with all legal matters incidental thereto. No separate counsel has been retained to represent the Condominium. It is suggested and expected that each Purchaser will consult and be represented by his own counsel in connection with this Plan.

Seiden & Schein, P.C. has no financial relationship, past or present, in the Property or to the Sponsor, except that it is being paid a fee for its services.

Selling Agent

The Sponsor has retained Metropolitan Living Ltd., (Tel. # 877-LIC-8777) as Selling Agent for this Offering Plan. Metropolitan Living Ltd is an entity which is affiliated with Sponsor.

REPORTS TO UNIT OWNERS

It is the obligation of the Board of Managers of the Condominium to give the following documents annually to all Unit Owners:

(a) the financial statement of the Condominium prepared by a certified public accountant or public accountant by March 15th of each calendar year for the prior fiscal year; such statement shall be certified while the Sponsor is in control of the Board of Managers;

(b) a prior notice of the annual Unit Owner's meeting; and

(c) a copy of the proposed annual budget, if any, of the Condominium within ten (10) days, prior to the date set for adoption thereof by the Board of Managers.

DOCUMENTS ON FILE

Copies of this Plan and all exhibits or documents referred to herein shall be available for inspection by prospective Purchasers and by any person who shall have purchased a Unit offered under this Plan, or shall have participated in the offering of such Unit, at the office of Sponsor during convenient weekday hours, and shall remain available for such inspection for a period of six years from the date of the First Unit Closing. Sponsor shall, within 180 days after the First Unit Closing, deliver to the Condominium Board a copy of all documents filed with the appropriate recording office.

GENERAL

This Plan does not knowingly omit any material fact or knowingly contain any untrue statement of a material fact. This Plan does not contain a full summary of all the provisions of the various documents referred to herein. Statements made as to the provisions of such documents are qualified in all respects by the contents of such documents and, in the case of any such documents executed by or with the written consent of a Purchaser pursuant to this Plan, any rider or separate agreement changing or adding provisions to such document.

There are no lawsuits or other legal proceedings now pending or any judgments outstanding, that could materially affect this Offering, the Purchasers of Units, the Property, the Condominium or the operation thereof, or the Sponsor's capacity to perform all its obligations under the Plan.

To the best of Sponsor's knowledge, the Property has not been the subject of any prior public offering. As of the acceptance date of this Offering, Sponsor has not entered into any preliminary binding agreements and has not collected any money from prospective Purchasers for the sale of Units in the Building. The Sponsor has previously tested the market pursuant to Cooperative Policy Statement No. 1.

In accordance with the provisions of the laws of the State and City of New York, neither Sponsor nor any Selling Agent engaged by Sponsor will discriminate against any person because of gender, sexual orientation, race, creed, color, national origin, ancestry, disability, marital status, age, religion or other ground proscribed by law in the sale of Units offered by Sponsor pursuant to this Plan, or in the leasing of any such Units or any other portion of the Building.

Sponsor reserves the right to revise, from time to time, the terms and conditions upon which Units are to be sold and to otherwise revise this Plan, including revisions affecting the rights, obligations and liabilities of Sponsor, Purchasers or prospective Purchasers, without obtaining the consent of Purchasers or others. However, Sponsor may neither unilaterally cancel an outstanding Purchase Agreement, except as therein provided (such as in case of an uncured default), nor unilaterally change the purchase price or the payment terms contained in such Purchase Agreement. All substantive or material revisions will be contained in a duly filed amendment to this Plan. In the case of a material revision adversely affecting the rights, obligations or liabilities of then existing Purchasers or reducing the undertakings or obligations of Sponsor, such Purchasers will be given, for fifteen (15) days after the presentation of the amendment, a right to rescind their Purchase Agreements by written notice to Sponsor and be refunded all monies paid thereunder, with any interest earned thereon. However, as to a Purchaser who first became an interim tenant of the Building after the acceptance date of this Plan and pursuant to a Purchase Agreement, such rescission will be conditioned on the cancellation of any interim use and occupancy agreement and surrender of possession of his Unit within thirty (30) days thereafter.

All statements and representations made in this Plan with respect to items prepared by others such as the Section entitled "Sponsor's Statement of Building Condition" in Part I of this Plan and the Floor Plans of the Building, have been made in reliance upon the respective firms and their authority as experts.

Unless the context otherwise requires, words used in the singular in Part I of this Plan include the plural and vice versa, and a reference to any one gender, masculine, feminine, or neuter, includes the other two.

No person has been authorized to make any statement or representation or furnish any information not expressly contained herein. Any information, data, or representations not contained herein or in the documents and exhibits referred to herein must not be relied upon. The Plan may not be changed or modified orally.

SPONSOR'S STATEMENT OF BUILDING CONDITION

Sponsor adopts the Sponsor's Statement of Present Building Condition set forth in Part II of this Plan. Sponsor represents that, to the best of its knowledge, the Sponsor's Statement of Present Building Condition set forth in Part II of this Plan, prepared by Handel Architects LLP registered architects in the State of New York, accurately states the description of the Property and its specifications, as it will be built upon the plans that they have examined.

Part II

FORM OF AGREEMENT

46-30 CENTER BOULEVARD CONDOMINIUM

AGREEMENT

UNIT NUMBER ____

46-30 CENTER BOULEVARD, LONG ISLAND CITY, NEW YORK

CONTRACT DATE: _____

UNIT NUMBER: _____ **PERCENTAGE OF GENERAL COMMON INTEREST:** _____%

PURCHASER(S) NAME(S):

(1) _____ (2) _____

PURCHASER(S) MAILING ADDRESS(ES):

(1) _____ (2) _____

_____ _____

PURCHASER'S SOCIAL SECURITY NUMBER(S):

(1) _____ (2) _____

BROKER (IF ANY): _____

PURCHASER'S ATTORNEY: _____

ADDRESS OF PURCHASER'S ATTORNEY: _____

_____

TELEPHONE: (___) ___-_____ **FAX:** (___) ___-_____

PURCHASE PRICE: $_____

DOWN PAYMENT (10%): $_____

BALANCE DUE AT CLOSING: $_____

Statement of Seller

East Coast 5 L.L.C., with an office at 290 Park Avenue South, New York, New York 10010 ("Seller"), has promulgated a Plan of Condominium Ownership for 46-30 Center Boulevard Condominium, located at 46-30 Center Boulevard, Long Island City, New York (the "Plan") pursuant to which the land, the appurtenances and the Units (the "Units") located in the County of Queens, City and State of New York, will be declared to be a condominium under the provisions of Article 9-B of the Real Property Law of the State of New York on the terms and conditions more particularly set forth in the Plan.

Statement of Purchaser

Purchaser acknowledges as follows:

A. Purchaser acknowledges having received and read the Plan and all amendments thereto, if any, filed with the Department of Law of the State of New York (the Plan, together with all such filed amendments, if any, are hereinafter collectively referred to as the "Offering Plan") at least three (3) business days prior to Purchaser's signing this Agreement. Purchaser understands that if Purchaser has not been afforded at least three (3) business days prior to Purchaser's signing this Agreement to receive and read the Offering Plan and all file amendments, then in such event, Purchaser shall have seven (7) days after delivering this Agreement together with the Down Payment to rescind this Agreement and have the Down Payment refunded promptly by either personally delivering a written notice of rescission to Seller or Selling Agent within the seven (7) day period or mailing the notice of rescission to Seller or the Selling Agent and having the mailing postmarked within the seven (7) day period. The Offering Plan is incorporated herein by reference and made a part hereof with the same force and effect as if set forth at length. In the event of any inconsistency between the provisions of this Agreement and the Offering Plan, the provisions of the Offering Plan will govern and be binding.

B. Purchaser has been given an opportunity to examine the architectural plans for the above numbered Unit and for the building in which it is located (the "Building").

C. The Offering Plan, which includes the Declaration to be made by the Seller which is to be recorded in the Office of the Register of the City of New York, County of Queens, and the schedules, the Bylaws and Rules and Regulations attached thereto, are incorporated herein by reference and made part of this Agreement with the same force and effect as if fully set forth herein.

D. Purchaser is desirous of purchasing the above-numbered leasehold condominium Unit, as designated in the Declaration and on the floor plans filed or to be filed in the aforesaid Register's Office, together with an undivided interest in the Common Elements appurtenant thereto as set forth in the Offering Plan (the above-numbered Unit and the undivided interest being hereinafter collectively called the "Unit").

Agreement Between Seller and Purchaser

For good and valuable consideration, receipt of which is hereby acknowledged, Seller and Purchaser mutually agree as follows:

1. **Payment for Unit**. Seller hereby grants to Purchaser, and Purchaser hereby acquires from Seller, an option to purchase the Unit for the Purchase Price stated above. The Down Payment stated above has been made on the signing of this Agreement, receipt of which by check subject to collection is hereby acknowledged by Seller. The Balance Due at Closing shall be payable at the Closing, as hereinafter provided in Paragraph 2, by unendorsed certified or official bank check of Purchaser drawn on a bank or trust company which is a member of the New York Clearing House Association (or any successor organization) to the order of Seller or as otherwise directed by Seller.

2. **Closing of Title.**

2.1 The closing of leasehold title to the Unit (the "Closing") shall take place on no less than thirty (30) days prior written notice to Purchaser at such place as Seller may designate, at an hour and on a date (hereinafter called the "Closing Date") to be specified by Seller. If Seller consents to close at any other location as an accommodation to Purchaser, Purchaser shall pay an extra fee to Seller's attorney as set forth in Paragraph 6 hereof. Seller shall have the right, from time to time, to adjourn the Closing Date on written notice to Purchaser. If adjourned, Seller shall fix a new date and time for the Closing and shall give Purchaser not less than five (5) days written notice of the newly scheduled Closing Date. Purchaser shall be entitled to one (1) reasonable adjournment of the Closing Date for a period of up to fifteen (15) days, on five (5) business days prior written notice by Purchaser to Seller. In addition to any other rights Seller may have by reason of Purchaser's failure to timely close title when requested, Seller shall be reimbursed by Purchaser for the cost of any PILOT and Common Charges which Seller would not otherwise have had to pay if there had been no unauthorized delay in closing of title by Purchaser.

2.2 The Closing shall occur only after or concurrently with the prerequisites as set forth under the Section entitled "Terms of Sale" in Part I of the Offering Plan.

2.3 At the Closing, Seller shall deliver to Purchaser, or direct the delivery to Purchaser of, a bargain and sale deed, with covenant against grantor's acts, conveying the Unit to Purchaser, such deed to be substantially in the form contained in Part II of the Offering Plan, executed and acknowledged by Seller or as directed by Seller in form for recording.

2.4 Simultaneously with the delivery of the deed, Purchaser (i) shall cause the net proceeds of any mortgage loan to be paid to Seller on account of the Purchase Price, and (ii) shall execute and deliver to the mortgagee the note and mortgage, and any other documents required by the mortgagee, as well as any documents required

by Seller. Seller and Purchaser shall execute and deliver such forms as shall be required by law with respect to the reporting real estate transfers.

3. **Power of Attorney to Board of Managers**. At the Closing and simultaneously with the delivery to Purchaser of the deed conveying the Unit, Purchaser shall execute and acknowledge the power of attorney to the Board of Managers substantially in the form contained in Part II of the Offering Plan. Purchaser agrees to deliver such power of attorney to Seller or as directed by Seller at the closing of title for recording and to pay the recording fee.

4. **Binding Effect of Declaration, Bylaws, Offering Plan, Rules and Regulations**. Purchaser hereby agrees to be bound by the Declaration, the Bylaws, the Rules and Regulations, and the Offering Plan.

5. **Condition of Leasehold Title**. Seller agrees to convey to Purchaser leasehold title to the Unit free and clear of all liens and encumbrances other than those set forth in the Offering Plan, specifically in Part I thereof in the section entitled "Terms of Sale", and Exhibits submitted in connection therewith and the mortgage referred to in Paragraph 8 hereof, if any (as well as other mortgages, if any, obtained by Purchaser).

Notwithstanding the above, the existence of unpaid taxes or liens and encumbrances of any kind at the time of Closing shall not constitute an objection to title, provided that GNY Liberty Abstract, L.L.C., 885 Second Avenue, 17th Floor, New York, New York 10017 (phone: 212-616-4803), as agent, or another reputable title insurer licensed to do business in the State of New York shall be willing to insure against collection of same from the Unit herein described. The parties agree that Seller may pay and discharge any liens and encumbrances upon the Property, not provided for in the Offering Plan or this Agreement, out of the monies to be paid by Purchaser at the time of closing title.

6. **Expenses of Closing and Closing Adjustments.**

6.1 At Closing, Purchaser will pay the Closing costs and expenses referred to in the section of the Offering Plan (as same may be amended to date) titled "Unit Closing Costs and Adjustments," including, but not limited to, the amount of any credit for mortgage recording tax as set forth in such section, payment for title insurance, if Purchaser elects or is required by its lender to obtain same, recording fees for recording the Deed and Power of Attorney, New York City Real Property Transfer Tax, New York State Transfer Tax, transfer tax on Units which are $1,000,000.00 or more in price (if applicable), Seller's attorney's fees for closing the Unit, and costs associated with obtaining a mortgage loan. The legal fees of Seller's attorneys in the amount of $1,750.00 will be payable by Purchaser to Seiden & Schein, P.C., provided that an additional fee of $500.00 per Closing shall be due and payable for any Unit closing which occurs other than in the office of Seller's attorneys. An additional fee of $350.00 shall be payable by Purchaser to Seller's attorneys for services rendered in connection with the review and clearing of title. An additional fee of $500.00 shall be due and payable to Sponsor's attorneys for any previously scheduled Unit Closing which is adjourned by Purchaser less than five (5) business days before such Unit Closing is scheduled to occur.

A further fee of $500.00 shall be payable by Purchaser to Seller's attorneys for the work involved for each assignment of an Agreement that is permitted by Seller. Assignments are permitted only pursuant to the terms of the Offering Plan. Any fees payable to Seller's attorney by Purchaser will be paid by certified check or official bank check drawn on a bank or trust company which is which is a member of the New York Clearing House Association or any successor organization. Purchaser will also pay to the Board of Managers a sum equal to two (2) months of Common Charges for the Unit being purchased as Purchaser's contribution to the Working Capital Fund of the Condominium.

6.2 Except as otherwise provided in this Agreement or in the Offering Plan, PILOT and Common Charges and expenses shall be adjusted between Seller and Purchaser as of midnight preceding the Closing Date in accordance with the provisions of the Offering Plan. Any such expenses or adjustments payable to Seller in excess of $500.00 will be paid by unendorsed certified check or official bank check drawn on a bank or trust company which is a member of the New York Clearing House Association (or any successor organization).

6.3 If Seller obtains a refund for PILOT paid (or a credit for such PILOT to be paid) on the Unit, Purchaser and Seller will apportion the refund (as well as the costs and/or fees for obtaining the refund or credit) based on the percentage of time for which the refund or credit is obtained during which each party hereto owned the Unit in question. The provisions of this subsection shall survive the Closing.

6.4 Any errors or omissions in computing apportionments at Closing shall be corrected and payment made to the proper party promptly after discovery. The provisions of this subsection shall survive the Closing.

7. **Agreement Subject to Mortgages**. Purchaser agrees that all terms and provisions of this Agreement are and shall be subject and subordinate to the lien of any building loan mortgage or development loan mortgage heretofore or hereafter made and any advances heretofore or hereafter made thereon and any payments or expenses already made or incurred or which may hereafter be made or incurred, pursuant to the terms thereof, or incidental thereto, or to protect the security thereof, to the full extent thereof without the execution of any further legal documents by Purchaser. This subordination shall apply whether such advances are voluntary or involuntary and whether made in accordance with the building loan schedule of payments or accelerated thereunder by virtue of lender's right to make advances before they become due in accordance with the schedule of payments. Notwithstanding anything to the contrary contained in this Paragraph 7, however, as of the Closing Date the only mortgage to which the Unit will be subject will be the mortgage referred to in Paragraph 8 hereof, if any, as well as any other mortgage(s) obtained by Purchaser.

8. **Financing Contingency**. The provisions of this paragraph shall be effective if and only if Purchaser applies for mortgage financing through First Republic Bank, 320 Park Avenue, New York, New York 10022, 646-282-3421 (the "Lender") or Thomas Funding Group, One Penn Plaza, 34th Floor, New York, New York 10119, 212-563-1234 (the "Mortgage Broker"). This Agreement is conditioned upon Purchaser obtaining a written mortgage loan commitment from an "Institutional Lender" (as such

term is hereinafter defined) in the amount stated on Page 1 which amount shall not exceed eighty (80%) percent of the Purchase Price for a term of not more than thirty (30) years at the prevailing fixed or variable rate of interest (the "Commitment"). Purchaser shall in good faith submit an application for a loan commitment to the Lender or the Mortgage Broker within five (5) days after the date (the "Contract Date") on which a fully-executed copy of this Agreement is delivered to Purchaser's attorney and promptly submit to the Lender or the Mortgage Broker, or as the Lender or the Mortgage Broker may direct, all required fees, information and supporting documents necessary for processing such loan application. Purchaser agrees to furnish to Seller and to any prospective mortgagee such information and data pertaining to his or her financial condition as may be required by such prospective mortgagee. Purchaser shall be obligated, upon request from Seller, to forward a copy of his or her filed mortgage application to Seller. Purchaser shall have forty-five (45) days after the Contract Date to obtain the written loan Commitment for financing. In the event Purchaser fails to obtain the written loan Commitment within such time period, or in the event the Commitment is subsequently withdrawn, Purchaser must notify Seller of same within five (5) days subsequent to such forty-five (45) day period or the date the Commitment is withdrawn, whichever is applicable, and if Purchaser fails to so deliver notice to Seller, this financing contingency shall be deemed waived.

In the event Purchaser (i) fails to obtain the Commitment within such forty-five (45) day time period, and (ii) so notifies Seller of same within five (5) days subsequent to such forty-five (45) day period, Seller shall have the right either:

(a) to declare this Agreement may be declared null and void pursuant to written notice to Purchaser postmarked or delivered within ten (10) days subsequent to such forty-five (45) day period; or

(b) to obtain, at Seller's option, at no cost or expense to Seller, within sixty (60) days after receipt of such notice, a Commitment for Purchaser from the same, or another, Institutional Lender in the same amount at the same or the then-prevailing interest rate. In the event that Seller does elect to obtain the Commitment, but no Commitment is obtained, this Agreement may be declared null and void by Seller pursuant to written notice to Purchaser postmarked or delivered within ten (10) days subsequent to such sixty (60) day period.

In the event no Commitment is furnished by Seller pursuant to the provisions of clause (b) above, Purchaser, provided it has not already waived the financing contingency as set forth above, may also declare the Agreement null and void by written notice to Seller postmarked or delivered within ten (10) days subsequent to such sixty (60) day period, or within ten (10) days subsequent to such notification by Seller to Purchaser that Seller has waived the option to obtain the Commitment as set forth in clause (b) above, whichever is sooner. In such event, the Down Payment shall be returned to Purchaser with interest, if any. If such notice is not sent within such ten (10) day period, this financing contingency clause shall be deemed waived by Purchaser. No other financing contingency is permitted by this Agreement. Notwithstanding anything to the contrary

contained herein, Seller shall have no obligation to secure a Commitment for Purchaser. Additionally, failure of Purchaser to comply with the terms and conditions of the Commitment which are unrelated to Seller's responsibility to perform under the terms of the Plan does not relieve Purchaser of its obligation to close title to the Unit.

8.2 Notwithstanding the preceding provisions of this Paragraph 8, if Purchaser obtains a Commitment within the time period set forth above, this Agreement shall nonetheless be subject to the Commitment being in full force and effect at the First Unit Closing; provided, however, that any expiration of the Commitment as a result of Purchaser's refusal, inability or unwillingness to close title or delay in closing title, or the revocation of a Commitment by a lending institution resulting from Purchaser's acts or omissions, including but not limited to, Purchaser's failure to satisfy any of the conditions of the Commitment, shall be excepted from this requirement, and Purchaser shall be deemed to have waived any financing contingency within this Agreement. Purchaser shall take all possible steps to maintain his Commitment, including, but not limited to, good faith application for an extension of such Commitment to the same lending institution, the payment of any required extension fees, and, if said extension is not obtainable, written application for a new Commitment to at least one (1) other Institutional Lender at the prevailing rate of interest. In the event Purchaser notifies Seller within thirty (30) days after the expiration date of his previous Commitment by registered mail of his inability to obtain an extension of such previous Commitment or a new Commitment, this Agreement shall be null and void and Purchaser's Down Payment shall be returned by Seller. Failure to provide such notification shall be deemed a waiver of this Paragraph by Purchaser and that this Agreement is deemed binding.

8.3 For the purposes hereof, the term "Institutional Lender" means any of the following that is authorized under Federal or New York State law to issue a mortgage loan secured by the Unit and is currently extending similarly secured loan commitments in the county where the Unit is located: a bank, savings bank, savings and loan association, trust company, credit union of which Purchaser is a member, mortgage banker, mortgage broker, insurance company or governmental entity.

9. Default by Purchaser.

9.1 If Purchaser shall fail to pay any portion of the Purchase Price when due, or shall fail to close title on the date, hour and place specified by Seller pursuant to Paragraph 2 hereof, or shall fail to perform any of Purchaser's other obligations hereunder (including, without limitation, the obligation to furnish any lender promptly with such information as such lender may require, and the obligation to accept a Commitment on the terms set forth in this Agreement), such failure shall constitute a default by Purchaser and Seller may send a demand for payment and a notice to Purchaser of Seller's intention to cancel this Agreement if such default shall not be cured within thirty (30) days from the mailing date of such notice. TIME IS OF THE ESSENCE FOR PURCHASER TO CURE ANY DEFAULT UNDER THE AGREEMENT WITHIN SUCH THIRTY (30) DAY PERIOD. "Time is of the essence" means that if such default is not cured within thirty (30) days from the mailing date of such written notice, Seller may (but shall not be obligated to) elect to cancel this Agreement by notice of cancellation to Purchaser sent after the cure period has expired.

In the event that Seller shall elect so to cancel this Agreement, Seller shall certify to its attorneys, Seiden & Schein, P.C., that title has not closed because of Purchaser's default and that Seller has elected to cancel this Agreement by reason thereof, and Seiden & Schein, P.C., pursuant to Paragraph 16 hereunder, shall cause to have paid over to Seller, as liquidated damages, the Down Payment and the interest earned thereon (if any), and upon such payment being made, each of the parties hereto shall be relieved of any further liabilities or obligations hereunder, except as to provisions in this Agreement which specifically survive the cancellation of this Agreement. If this Agreement shall be canceled by Seller pursuant to the provisions of this Paragraph 9, Seller may sell the Unit to any third party and shall be under no obligation to account to Purchaser for any part of the proceeds of such sale. Seiden & Schein, P.C. may rely upon the truth and accuracy of the facts contained in Seller's certification and the authority of the person or persons executing the same and shall have no liability as a result of such reliance.

9.2 Notwithstanding the above, Seiden & Schein, P.C. ("Escrow Agent") will hold funds in escrow until otherwise directed in:

(i) a writing signed by both Seller and Purchaser; or;

(ii) a determination of the Attorney General pursuant to the dispute resolution procedures contained in the Attorney General's regulations; or

(iii) a judgment or order of a court of competent jurisdiction.

If there is no written agreement between the parties to release the escrowed funds, Escrow Agent will not pay the funds to Seller until Escrow Agent has given Purchaser not less than ten (10) business days prior written notice. Thereafter, the escrowed funds may be paid to Seller unless Purchaser has already made application to the Department of Law pursuant to the dispute resolution provisions of the Attorney General's regulations and has so notified Escrow Agent in accordance with such provisions.

Seller will not object to the release of the escrowed funds to:

(i) a Purchaser who timely rescinds in accordance with an offer of rescission contained in the Offering Plan or an amendment to the Offering Plan (except for escrowed funds pertaining to Special Work); or

(ii) all Purchasers after an amendment abandoning the Offering Plan is accepted for filing by the Department of Law.

Purchasers and the Escrow Agent may apply to the Attorney General in the event of a dispute for a determination on the disposition of the Down Payment and any interest thereon. Seller must avail itself of this procedure if there is a dispute which needs to be resolved. A form for this purpose is set forth in Part II of the Offering Plan. The Party applying for a determination must send all other parties a copy of the application.

9.3 If Purchaser becomes an occupant of the Building pursuant to an Interim Use and Occupancy Agreement, his or her failure to pay rent or otherwise comply with his or her use and occupancy obligations shall constitute default under this Agreement. Upon the occurrence of such default, Seller shall have the right to cancel this Agreement upon sending Purchaser ten (10) days prior written notice of its intention to do so. If Seller elects to cancel, Purchaser shall have ten (10) days from the giving of the cancellation notice within which Purchaser must cure the specified default. If the default is not timely cured the Use and Occupancy Agreement will be deemed canceled by Seller upon the occurrence of either of the following: (i) Seller having obtained an order of eviction or other judgment or order from a court or agency of competent jurisdiction against Purchaser, or (ii) Purchaser having vacated the Unit. Upon such cancellation, Seller shall have the right to retain, as and for liquidated damages, all payments made hereunder, but in no event to exceed ten percent (10%) of the Purchase Price, plus any interest earned thereon. Any additional deposits in excess of ten percent (10%) of the Purchase Price, plus any interest earned thereon, shall be refunded to Purchaser promptly thereafter. Upon cancellation of this Agreement and making such refund (if any) to Purchaser, Purchaser and Seller will be released and discharged of all further liability and obligation hereunder and under the Offering Plan, and the Unit may thereafter be sold to another as though this Agreement had never been made and without accounting to Purchaser for the proceeds of such sale.

Failure to comply with all obligations under this Agreement shall also constitute default under any use and occupancy obligations. Upon occurrence of any such default, Seller, in addition to any other rights available to it, shall have the right to terminate the occupancy upon sending Purchaser ten (10) days prior written notice of its intention to do so. If Seller elects to terminate, Purchaser shall have ten (10) days from giving of cancellation notice within which to cure the specified "failure to comply". If there is no timely cure, the occupancy obligation is terminated as of the expiration of said ten (10) day period. This provision does not limit in any way other rights of Seller in the event of a failure to comply with the terms of this Agreement.

10. **No Assignment**. Purchaser shall have no right to assign this Agreement without Seller's prior written consent, which consent may be withheld or denied by Seller for any reason or no reason. Any purported assignment of this Agreement in violation thereof shall be voidable at the option of Seller.

11. **Notices**. Any notice to be given hereunder shall be in writing and sent by registered or certified mail or personal delivery to Purchaser at the address given above with a copy to Purchaser's attorney (named on Page 1 of this Agreement) and to Seller at 290 Park Avenue South, New York, New York 10010 (with copy to Seiden & Schein, P.C., 570 Lexington Avenue, New York, New York 10022, Attention: Alvin Schein, Esq.) or at such other address as either party may hereafter designate to the other in writing. The date of mailing shall be deemed to be the date of the giving of notice, except that the date of actual receipt shall be deemed to be the date of the giving of any notice of change of address.

12. **No Representation**. Except as herein or in the Offering Plan specifically set forth, Purchaser acknowledges that he has not relied upon any architect's plans, sales

plans, selling brochures, advertisements, representations, warranties or statements of any nature, whether made by Seller, Seller's attorney or Selling Agent or otherwise, including, but not limited to, any relating to the description or physical condition of the Building or the Unit, the size or the dimensions of the Unit or the rooms therein contained or any other physical characteristics thereof, the Building services, the estimated Common Charges and expenses allocable to the Unit or the right to any income tax deduction on account of any PILOT and/or mortgage interest paid by Purchaser. Purchaser agrees that Seller shall have no liability or responsibility to Purchaser if the layout or dimensions of the Unit or any part thereof or of the Common Elements as shown on the floor plans or on the architectural plans and specifications for the Building is not accurate or correct, provided such layout or dimensions conform substantially to the floor plans and the architectural plans and specifications for the Building in accordance with the Offering Plan and that Purchaser will not be relieved from its obligations hereunder by reason of any minor inaccuracy or error.

13. **Recording of Deed and Power of Attorney**. At the Closing, Purchaser will deliver the executed deed received from Seller and executed and acknowledged power of attorney to the representative of the title company, if any, or to Seller for recording in the Office of the Register of the City of New York, County of Queens. Such deed and power of attorney will be substantially in the forms for such documents which are set forth in the Offering Plan.

14. **Binding Effect**. This Agreement shall not be effective or binding on Seller until a counterpart hereof is executed by Seller and delivered to Purchaser. Subject to the provisions hereof, this Agreement shall bind and inure to the benefit of the parties hereto, their heirs, personal representatives, successors and assigns.

15. **Agreement Subject to Offering Plan Becoming Effective; Seller's Right to Cancel**. This Agreement is contingent upon the Offering Plan being declared effective. The Offering Plan may be abandoned by Seller at any time prior to its being declared effective, provided Agreements for Units totaling not more than 80% of the Common Interests of the Condominium have been executed and accepted. If the Offering Plan is abandoned or does not become effective this Agreement shall be deemed canceled, and the Offering Plan terminated and Purchaser is to receive back, not later than twenty (20) days thereafter, in full, all monies paid by him hereunder, and upon such repayment no party shall have any claim against any other party, person or entity, and all parties shall be released from all obligations hereunder and under the Offering Plan. If, after the Offering Plan is declared effective, title to the Unit shall not close within the time set forth in the Offering Plan for any reason other than Purchaser's default, then, at Purchaser's option, upon prior written notice sent by Purchaser to Seller within fifteen (15) days subsequent to the end of the scheduled closing date, after permitted adjournments, this Agreement shall be deemed canceled. If this Agreement is canceled pursuant to the provisions of this Paragraph, then not later than twenty (20) days thereafter, Purchaser shall receive a refund in full, of all monies paid by Purchaser hereunder, with the interest earned thereon, if any. Upon such repayment, neither party shall have any claim against the other arising out of this Agreement and both shall be released from all obligations hereunder.

16. Monies to be Held in Trust; Payment of Purchase Price; Notice of Closing.

16.1 The required Down Payment pursuant to this Agreement, as described in Paragraph 1, will be ten percent (10%) of the Purchase Price for the Unit. All monies, including all deposits, down payments or advances, received by Seller through its agents or employees pursuant to this Agreement either prior to or subsequent to the consummation of the Offering Plan will be deposited by Escrow Agent in a segregated, special escrow account or accounts titled "Seiden & Schein, P.C., Attorney Escrow Account", or similar name, with the name of Purchaser and Unit number added to the title of a sub-account. with Citibank, N.A. at its branch located at 399 Park Avenue, New York, New York. Such account or accounts shall be interest bearing if so requested by Purchaser in accordance with Section 71-a(3) of the Lien Law. Such funds shall be deposited by Escrow Agent within five (5) business days after this Agreement is executed by all necessary parties. Such funds will be held in trust in accordance with the escrow and trust provisions of Sections 352(h) and 352-e(2-b) of the New York General Business Law, the terms and conditions of the Offering Plan, and the Regulations promulgated pursuant to said Section 352-e(2-b) by the Attorney General's Office. Such funds will be disbursed only upon written instructions of a member of Seiden & Schein, P.C. (Seller's attorneys) as follows: (i) to Seller, or as directed by Seller, if the Offering Plan is declared effective and title closes hereunder, or if Purchaser defaults hereunder; or (ii) to Purchaser, if the Offering Plan is abandoned or withdrawn or title does not close because of Seller's default, or if this Agreement is canceled (without default by either party) in accordance with its terms. Down Payments, with any accumulated interest, shall remain the property of Purchaser except as provided by law. Seller is required by law to submit a Form 1099 to the Internal Revenue Service reporting interest earned on Purchaser's Down Payment, if any. Purchaser will be taxed accordingly on such interest.

16.2 Down Payments will be retained in the special escrow account as set forth above until: (i) Seller performs under the terms of this Agreement, or (ii) Purchaser rescinds or defaults in performance of this Agreement, thereby excusing performance by Seller, or (iii) Purchaser elects not to exercise its right to purchase under the terms of this Agreement, or (iv) release or discharge of Seller's liability to refund the Down Payment, or (v) transfer of title to the Unit to the Purchaser, or (vi) by mutual consent of Seller and Purchaser, including provisions in the previous paragraph, or (vii) as provided for in the Section of the Offering Plan entitled "Procedure to Purchase," which is incorporated herein by reference. By signing this Agreement, Purchaser will not object and will be deemed to have agreed, without the need for a further written agreement, to the release of the Down Payment to Seller in the event Seller and Purchaser close title under this Agreement.

16.3 In the event of an uncured default by Purchaser in its obligations under this Agreement, no more than ten percent (10%) of the Purchase Price plus any interest earned thereon, may be retained as liquidated damages. Notwithstanding the above, the actual cost incurred by Seller for any Special Work in the Unit ordered by Purchaser may also be retained as liquidated damages. Seller agrees not to seek the remedy of specific performance in connection with this Agreement as to which there has

been a default by Purchaser. No Down Payment or other monies shall be released pursuant to an uncured default by Purchaser prior to the First Unit Closing.

16.4 The balance of the Purchase Price will not be payable until Closing of title to the Unit.

16.5 Following the declaration of effectiveness of the Offering Plan, Purchaser will be given at least thirty (30) days prior written notice of the Closing Date for his Unit, which notice will also remind Purchaser of its obligation to pay the balance of the Purchase Price at that time and will state when Common Charges will be due and payable.

17. Equipment and Furnishings. Seller will provide Purchaser with only the fixtures, equipment, hardware, appliances and furnishings referred to in the Offering Plan, which are included in the Purchase Price of the Unit. Furnishings, equipment, appliances and decorations in any model unit or sales office not referred to in the Offering Plan are excluded from this sale unless specifically included by a rider to this Agreement. The cost of any such items will be added to the Purchase Price of the Unit.

18. Acceptance of Condition of Unit; Risk of Loss.

18.1 The signing of this Agreement by Purchaser signifies Purchaser's acceptance of the condition of the Property as represented by Sponsor in the Offering Plan, including the Building, the Common Elements, and the Unit and all fixtures, machinery, equipment, furnishings, appliances, installations and other personal property contained therein (hereinafter collectively called "Installations") in their respective existing conditions, ordinary wear and tear excepted between the date Purchaser signs this Agreement and delivery of the deed to Purchaser. Purchaser acknowledges having read the Section entitled "Description of Property and Proposed Building" set forth in Part II of the Offering Plan, which sets forth a description of the physical condition of the Building. Purchaser understands that Sponsor has no obligation to make any repairs, improvements or decorations in or to the Property, the Building, the Unit or the Installations, except as may otherwise be set forth in the Offering Plan. Sponsor has agreed in the Offering Plan to maintain the Building and the Common Elements in substantially the same condition they were in on the Filing Date, until the First Unit Closing (subject to ordinary wear and tear between the Filing Date and the First Unit Closing), unless prevented from so doing by reason of acts or events beyond Sponsor's control, as more particularly set forth in the Offering Plan.

18.2 Prior to the Closing of title to a Unit, no Purchaser shall be permitted to enter the Unit without the prior consent of Seller. Purchaser shall have the right to enter and inspect such Unit prior to the Closing of title, but shall be obligated to make an inspection appointment with Seller. Under no circumstances shall Purchaser perform or cause to be performed any work in such Unit prior to the Closing of title thereto.

18.3 Except as set forth below, the risk of loss from fire or other casualty with respect to the Unit shall remain with Seller until the Closing of title for the

Unit. Seller, at its sole discretion, reserves the right to either repair or restore such Unit, whereupon Purchaser shall be obligated to close without an abatement in the Purchase Price, or not repair or restore and grant Purchaser the right to rescind the Agreement. Subsequent to the filing of an amendment substantiating effectiveness of the Offering Plan, Seller may be required to repair or restore as set forth below. Notwithstanding the above, in the event that Purchaser, or one claiming by or through Purchaser, enters into possession of the Unit prior to the Closing of title, then Purchaser shall bear the risk of loss or other casualty with respect to the Unit, except as provided in the Offering Plan. Additionally, Purchaser shall be solely responsible for any damage to, or loss or other condition in, the Unit and Seller shall not be obligated to repair any damages to the Unit or his appliances, fixtures and equipment, except as provided in the Offering Plan. However, Purchaser does not assume the risk of loss to the Unit if the cause of such loss originated outside his Unit and did not result from the acts of Purchaser or the other occupants of the Unit or Purchaser's guests, invitees or workmen. If Purchaser is obligated to repair the damage in accordance with the foregoing, then his failure to repair the damage shall not excuse him from paying the balance due under this Agreement and accepting title to the Unit.

18.4 With respect to all risk of loss after an amendment substantiating effectiveness of the Offering Plan has been filed but prior to Closing, Seller is not obliged or liable to repair the damage or restore the Unit other than to repair damage or destruction from fire or other casualty to the Property to the extent of an aggregate of an amount equaling one half of one percent of the Total Purchase Price set forth on the front cover of the Offering Plan (minus certain amounts which Seller is required to spend to cure or comply with any work order from an insurer or to cure or comply with a defect in title or hazardous or dangerous condition against the Property which did not exist on the date of acceptance of the Offering Plan). If Seller or (in the event the Declaration is filed) the Unit Owners elect to repair or replace the loss or damage which Seller is not required to repair or replace, (i) this Agreement shall continue in full force and effect, (ii) Purchaser will not have the right to reject title to the Unit or to receive a credit against, or abatement of, the Purchase Price, and (iii) Seller will be entitled to a reasonable period of time to complete (or to permit the Condominium Board to complete) such repairs or replacements. Purchaser will not be required to pay the balance of the Purchase Price unless and until (i) the Unit has been substantially repaired to as near as reasonably possible to its condition immediately prior to the casualty, and (ii) its essential services (such as gas, electricity and heat) and a reasonable means of ingress and egress to the street have been restored. Any proceeds received from insurance or in satisfaction of any claim or action in connection with such loss will belong entirely to Seller (subject to the rights, if any, of the Condominium Board or other Unit Owners) and if such proceeds are paid to Purchaser, Purchaser will promptly, upon receipt, turn them over to Seller. The provisions of the preceding sentence will survive the Closing.

18.5 In the event Seller is not obligated to restore or repair as set forth above and notifies Purchaser that it does not elect to repair or restore the Unit ,or if the Unit Owners do not resolve to make such repairs or restoration pursuant to the Condominium's Bylaws, this Agreement will be deemed canceled and of no further force or effect and Seller will instruct its attorneys to return to Purchaser all sums deposited

hereunder (with interest, if any), whereupon the parties will be released and discharged from all obligations and liability hereunder and under the Offering Plan, except that if Purchaser is then in default hereunder (beyond the applicable grace period, if any), Seller will retain the sums deposited hereunder as liquidated damages.

19. Possession of Unit Prior to Closing. Seller may, in its discretion, grant Purchaser possession of the Unit prior to Closing under an Interim Use and Occupancy Agreement. If Purchaser is or hereafter becomes a tenant of the Unit, Purchaser's unapplied rent security deposit, if any, will be refunded to Purchaser, together with any interest thereon, within forty-five (45) days following the Closing, provided Purchaser is not in default under the Interim Use and Occupancy Agreement. If the Unit is occupied by a person other than Purchaser, then the unapplied security deposit (if any) of the tenant or occupant will be transferred at Closing to Purchaser, who will upon receipt, sign and deliver to Seller an agreement acknowledging the amount received, indemnifying Seller from all liability in connection therewith and agreeing to hold such security deposit in trust and to deposit same in an interest bearing bank account pursuant to the provisions of Section 7-103 of the New York General Obligations Law (such agreement to be in form and substance satisfactory to Sponsor). In either event, Seller will have the right to deduct from any tenant's security deposit the amount of any rent arrearage owing to Seller and to sue the tenant to the extent such security is insufficient.

20. Limitation of Seller's Liability. Seller's liability under this agreement for failure to complete and/or deliver or have delivered title for any reasons whatsoever shall be limited to the return of the money deposited hereunder (with interest, if any), and upon the return of said money, this Agreement shall be null and void and the parties hereto released from any and all liability hereunder. In any event, Seller shall not be required to bring any action or proceeding to render the title to the Unit marketable or to cure any objection to title.

21. Definitions.

21.1 The term "Purchaser" shall be read as "Purchasers" if more than one person are purchasers hereunder, in which case their obligations shall be deemed joint and several.

21.2 Except where otherwise herein defined, capitalized terms used herein shall have the same meanings as are ascribed thereto in the Offering Plan.

21.3 The "Contract Date" on Page 1 of this Agreement shall be filled in by Seller only upon signing this Agreement, and shall be no less than three (3) days from the date that Seller actually signs this Agreement.

22. Gender. The use of the masculine gender in this Agreement shall be deemed to refer to the feminine gender or to an entity whenever the context so requires.

23. Other Agreements. This Agreement supersedes any and all understandings and agreements between the parties and constitutes the entire agreement between them, and no oral representations or statements shall be considered a part hereof.

24. **Amendment of Agreement**. This Agreement may not be amended, altered or discharged except by agreement in writing signed by the party sought to be charged therewith or by his, her or its duly authorized agent.

25. **Brokerage**. Purchaser represents and warrants to Seller that Purchaser did not negotiate with any broker for the purchase of the Unit other than the Selling Agent and the Broker named on Page 1 of this Agreement. Purchaser and Seller each agree to indemnify and hold each other harmless from any and all liabilities arising from claims made against them for commissions by any broker other than the above-named on account of each other's act or the acts of each other's representatives. Seller shall pay the commission of the above named broker(s) pursuant to a separate agreement. The provisions of this Paragraph shall survive the Closing or the cancellation of this Agreement.

26. **Governing Law**. This Agreement shall be governed by and construed in accordance with the law of the State of New York.

27. **Jury Waiver**. Purchaser hereby waives trial by jury in any action, proceeding, or counterclaim involving any matter whatsoever arising out of, or in any way connected with this Agreement or the relationship of the parties as Purchaser and Seller, or the right of Purchaser to any statutory relief or remedy. Purchaser, on behalf of Purchaser and all permanent residents of the Unit, including minor children, hereby agrees that any and all disputes with Seller, Seller's parent company or its subsidiaries or affiliates arising out of the Unit, this Agreement, any other agreements, communications or dealings involving Purchaser, or the construction or condition of the Unit including, but not limited to, disputes concerning breach of contract, express and implied warranties, personal injuries and/or illness, mold-related claims, representations and/or omissions by Seller, on-site and off-site conditions and all other torts and statutory causes of action ("Claims") shall be resolved by binding arbitration. All arbitration shall be conducted before one arbitrator in New York City, who shall be Oliver A. Rosengart, currently residing at [redacted]. Should Oliver A. Rosengart be unwilling or unable to arbitrate a dispute pursuant this Agreement, then it shall be resolved by the Arbitration of the American Arbitration Association or its successor or an equivalent organization pursuant to its rules then in effect. In the event that arbitration is decided in favor of Seller, Purchaser agrees to pay all of Seller's attorneys fees arising therefrom. Purchaser agrees that Purchaser may not initiate any arbitration proceeding for any Claim(s) unless and until Purchaser has first given Seller specific written notice of each Claim (at 290 Park Avenue South, New York, New York 10010) and given Seller a reasonable opportunity after such notice to cure any default, including the repair of the Unit, in accordance with the Offering Plan. The provisions of this paragraph shall survive settlement and shall survive the closing of title.

28. **Acceptance by Seller**. Within twenty (20) days after delivery by Purchaser to Seller or Seller's agent of this Agreement as executed by Purchaser, Seller will either:

(a) accept this Agreement and cause to be returned to Purchaser a fully executed counterpart thereof, or;

(b) reject this Agreement and refund the Down Payment tendered by Purchaser.

THE SUBMISSION OF THIS AGREEMENT SHALL NOT BE DEEMED TO CONSTITUTE AN OFFER TO SELL, OR AN OPTION TO PURCHASE, AND THIS AGREEMENT SHALL NOT BE BINDING UPON SELLER UNLESS AND UNTIL IT IS EXECUTED AND DELIVERED BY BOTH PURCHASER AND SELLER AND, IN SUCH EVENT, SUBJECT TO ALL THE TERMS AND CONDITIONS HEREOF.

29. **Transfer Tax Return**. At Closing, Purchaser will duly complete and sign before a Notary Public the Real Property Transfer Tax Return required to be filed with the City of New York and the appropriate New York State Real Estate Transfer Tax Return and Credit Line Mortgage Certificate (NYS form TP-584 or its successor) required to be filed with the Queens County Register's office. These transfer tax returns shall be delivered at Closing to the representative of Purchaser's title insurance company (or, if none, to Seller's attorney) for filing with the proper governmental offices. Purchaser shall also execute and deliver to Seller a W-8 or W-9 Internal Revenue Service form.

30. **Survival**. The Closing of title to the Unit and the delivery of the deed thereto shall be deemed full compliance by Seller with each and every term of this Agreement, except as to any item specifically listed and excepted therefrom.

31. **Conflict with Offering Plan**. Any conflict between the Offering Plan and this Agreement will be resolved in favor of the Offering Plan.

32. **Foreign Investment in Real Property Tax Act**. Pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA), upon disposition of a United States real property interest by a foreign person on or after January 1, 1985, the purchaser of such real property interest must deduct and withhold a tax equal to ten percent (10%) of the purchase price unless the seller furnishes a certificate that it is not a foreign entity or individual. Seller will furnish to Purchaser a non-foreign certification at closing, thereby complying with FIRPTA and relieving Purchaser from any withholding obligations.

33. **Prohibition Against Advertising.** Prior to Closing, Purchaser shall not list the Unit for resale or rental with any broker or to advertise or otherwise offer, promote or publicize the availability of the Unit for sale or lease without Seller's prior written consent.

34. **Rules of Construction.** There shall be no presumption against the draftsman of this Agreement or the Offering Plan.

35. **Costs of Enforcing and Defending This Agreement.** Purchaser shall be obligated to reimburse Seller for any legal fees and disbursements incurred by Seller in defending Seller's rights under this Agreement or, in the event Purchaser defaults under this Agreement beyond any applicable grace period, in canceling this Agreement or otherwise enforcing Purchaser's obligations hereunder. This provision shall survive the Closing or the cancellation of this Agreement.

36. **Strict Compliance**. Any failure by Seller to insist upon the strict performance by Purchaser of any of the provisions of this Agreement shall not be deemed

a waiver of any of the provisions hereof, and Seller notwithstanding any such failure, shall have the right thereafter to insist upon the strict performance by Purchaser of any and all of the provisions of this Agreement to be performed by Purchaser.

37. Performance by and Liability of Seller. Purchaser's acceptance of the deed for the Unit shall be deemed to be a full performance and discharge of each and every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Agreement, the Offering Plan, General Business Law §352-e, and applicable regulations thereunder, except those (if any) herein or therein expressly stated to survive delivery of such deed.

38. Partial Assignment of Mortgage. In the event that Purchaser applies for mortgage financing, and in the event that Seller has an outstanding mortgage loan ("Mortgage") at the time of Closing, Purchaser shall make a good faith effort to cooperate with Seller and Seller's lender to facilitate a partial assignment of Seller's Mortgage to Purchaser, as more fully described in the "Unit Closing Costs and Adjustments" section of the Offering Plan.

39. Completion within Two (2) Years. Seller shall substantially complete construction of the Unit, as evidenced by the issuance of at least a temporary Certificate of Occupancy covering the Unit, within a period of two (2) years from the date that this Agreement is signed by the Purchaser of such Unit and by Seller (the "Contract Date"). Notwithstanding the foregoing, if an "Event of Delay" occurs, this 2-year period shall be extended for a period of time equal to the length of the Event of Delay. An Event of Delay is defined as strikes or other labor disputes, shortages of labor or materials, weather conditions, acts of God, acts of the federal, state or municipal governments or any governmental agency, including, but not limited to, building or other code inspections and approvals, governmental regulations, fire or other casualties and any other delays allowed by Law. It is the express intent of the parties hereto that the parties' rights and obligations under the Agreement be construed in the manner necessary to exempt the Agreement and the sale of the Unit from registration under the Interstate Land Sales Full Disclosure Act, and both Purchaser and Seller hereby expressly waive any right or provision of the Agreement that would otherwise preclude any exemption, and such right or provision shall be severed from the Agreement and given no effect.

Notwithstanding anything contained in the Agreement to the contrary, in the event of Seller's default of this provision, Purchaser shall have all remedies available at law and in equity without limitation or restriction, including the right of rescission.

40. Captions. The captions in this Agreement are for convenience and reference only and in no way define, limit or describe the scope of this Agreement, or the intent of any provision hereof.

IN WITNESS WHEREOF, Seller and Purchaser have executed this Agreement as of the Contract Date.

_____

PURCHASER:
DATE: _____

_____

PURCHASER
DATE: _____

ACCEPTED:

EAST COAST 5 L.L.C.

BY:_____

DATE: _____

APPLICATION TO THE ATTORNEY GENERAL FOR A DETERMINATION ON THE DISPOSITION OF DOWN PAYMENTS

APPLICATION TO THE ATTORNEY GENERAL FOR A DETERMINATION ON THE DISPOSITION OF DOWN PAYMENTS

(Send this application to the reviewing attorney assigned to the subject plan.)

Re: 46-30 Center Boulevard
Long Island City, New York

Name of Project: 46-30 Center Boulevard
Condominium

File Number: _____

Application is made to the Attorney General to consider and determine the disposition of down payments held pursuant to GBL Sections 352-e(2-b) and 352-h. The following information is submitted in support of this application:

1. Name of Applicant:_____

2. Address of Applicant:_____

3. Name, Address, and Telephone Number of Applicant's Attorney (if any):_____

4. This is an application for:

[ ] return of down payment.
[ ]forfeiture of down payment.
[ ] other: _____

5. The project is
[ ] a conversion of occupied premises.
[x] newly constructed or rehabilitated.
[ ] vacant (as is).

6. The project is structured as
[ ] a cooperative.
[x] a condominium.
[ ] a homeowners association.
[ ] a timeshare.
[ ] other:_____

7. Name and Address
of Sponsor: East Coast 5 L.L.C., 290 Park Avenue South, New York, New York 10010.

8. Name and Address
of Escrow Agent: Seiden & Schein, P.C., 570 Lexington Avenue, 14th Floor, New York, New York 10022.

9. If down payments are maintained in an escrow account:

(a) Name of account: Seiden & Schein, P.C. Attorney Escrow Account

(b) Name and address
of bank: Citibank, N.A., 399 Park Avenue, New York, New York 10043.

(c) Account number (if known): Control Account Number [redacted]

(d) Initial interest rate (if known): Approximately 1%

10. If down payments have been secured by bonds:

(a) Name and address
of bond issuer or surety:_____
_____

(b) Copy of bond included in this application.
(DO NOT SEND ORIGINAL BOND.) If not included, explain:

_____
_____
_____
_____
_____

11. If down payments have been secured by a letter of credit:

(a) Name and address of bank
which issued the letter of credit:_____
_____

(b) Date of expiration of the letter of credit,
if known:_____

12. Plan information:

(a) Date of filing of Plan:_____

(b) The Plan:

[ ] has been declared effective.
Approximate date:_____

[ ] has not been declared effective.

(c) If effective, the Plan:

[ ] has closed or the first unit has closed.
Approximate date:_____

[ ] has not closed.

[ ] don't know.

(d) Down payments are secured by:

[ ] escrow account.

[ ] bonds.

[ ] letter of credit.

13. Contract information:

(a) Copy of contract and of all riders or modification letters are attached. (DO NOT SEND ORIGINALS.)

(b) Date on which subscription or purchase agreement was signed:_____

(c) Date(s) of down payment(s):_____

(d) Total amount of down payment(s):_____

(e) Names and addresses of subscribers or purchasers affected by this application:

_____
_____
_____
_____

14. State the basis for your claim. Please be as specific as possible. You may add additional sheets. Attach copies of any relevant documents.

_____
_____
_____
_____
_____
_____
_____
_____

_____

_____

15. I am contemporaneously sending a copy of this application to the following persons:

_____

_____

_____

_____

_____

_____

Note: You are required to mail a copy of this Application to all other affected parties.

In filing this application, I understand that the Attorney General is not my private attorney, but represents the public in enforcing laws designed to protect the public from unlawfiil business practices. I also understand that if I have any questions concerning my legal rights or responsibilities I may contact a private attorney. The above application is true and accurate to the best of my knowledge. False statements made herein are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.

Signature:_____ Date:_____

Name (Printed):_____

Telephone: (Home):_____ (Business):_____

Mailing Address: _____

_____

_____

FORM OF

POWER OF ATTORNEY

POWER OF ATTORNEY

The undersigned, _____, residing at _____, being the Unit Owner of Unit No. ___ in the Condominium known as 43-60 Center Boulevard Condominium (the "Condominium"), consisting of the property submitted to the provisions of Article 9-B of the Real Property Law of the State of New York pursuant to Declaration dated _____, 200_ , and recorded in the Queens County office of the Register of the City of New York on _____, 200__ in CRFN _____ and on the Floor Plans on file in said office as Map No. _____, do(es) hereby nominate, constitute and appoint the persons who may from time to time constitute the Board of Managers of 46-30 Center Boulevard Condominium, acting jointly, true and lawful attorneys-in-fact for the undersigned, coupled with an interest, with power of substitution, to acquire in their own name, as members of the Board of Managers, or in the name of their designee, corporate or otherwise, on behalf of all Owners of Units in said Property, in accordance with their Common Interests, any Unit whose Unit Owner desires to abandon or sell the same, the undivided interest in the Common Elements appurtenant thereto, the interest of such Unit Owner in any other Units theretofore acquired by the Board of Managers, or its designee, on behalf of all Unit Owners, or in the proceeds of sale or lease thereof, if any, and the rights and privileges appurtenant thereto, the interest of such Unit Owner in all other assets of the Condominium as defined in the aforementioned Declaration or any Unit, which shall be the subject of a foreclosure or other judicial sale, or to lease any Unit whose Unit Owner desires to rent the same, at such price or on such rental, as the case may be, pursuant to the offer as required by the right of first refusal, and on such terms as said attorneys-in-fact shall deem proper, and thereafter to convey, sell, lease or mortgage (but not to vote the votes appurtenant thereto) to otherwise deal with any such Units so acquired by them, or to sublease any Unit so leased by them on such terms as said attorneys-in-fact may determine, granting to such attorneys-in-fact the power to do all things in the said premises which the undersigned could do if the undersigned were personally present.

The undersigned do(es) hereby nominate, constitute and appoint the Board of Managers as attorney-in-fact for the undersigned, coupled with an interest, with power of substitution, to take any action which the Sponsor deems necessary or appropriate in order to comply with the terms of the Lease.

The acts of majority of such persons shall constitute the acts of said attorneys-in-fact.

This Power of Attorney affects Condominium Unit No. _____ in 46-30 Center Boulevard Condominium, located at 46-30 Center Boulevard, Long Island City, New York, and identified on the Tax Map of the City of New York for Queens County as Tax Lot _____ on Block 21.

The undersigned do(es) hereby nominate, constitute and appoint East Coast 5 L.L.C. ("Sponsor") as attorney-in-fact for the undersigned, coupled with an interest, with

power of substitution, to amend from time to time the Declaration, the By-Laws and the Rules and Regulations of the Condominium, or any of said documents, when such amendment (1) shall be required to reflect any changes in Unsold Units and/or the reapportionment of the Common Interests of the affected Unsold Units resulting therefrom made by Sponsor or its Designee in accordance with Article 16 of the Declaration or (2) shall be required by (a) an institutional lender procured by Sponsor to make a mortgage loan secured by a mortgage on any Unit, (b) any governmental agency having regulatory jurisdiction over the Condominium, or (c) any title insurance company selected by Sponsor to insure title to any Unit, provided, however, that any amendment made pursuant to the terms of this paragraph shall not (i) change the Common Interest of the undersigned's Unit, (ii) require a material, physical modification to the undersigned's Unit, or (iii) adversely affect the priority or validity of the lien of any purchase money mortgage or any mortgage held by an institutional lender covering the undersigned's Unit unless the undersigned (in the event described in subdivision (i) or (ii) of this paragraph) and the holder of such mortgage (in the event described in subdivision (iii) of this paragraph) shall consent thereto by joining in the execution of such amendment.

The terms, covenants and conditions contained in, and the powers granted pursuant to this paragraph shall remain in full force and effect until such time as the Sponsor or Sponsor-designee(s) shall cease to own any Units in the Condominium.

This Power of Attorney shall be irrevocable.

IN WITNESS WHEREOF, the undersigned have (has) executed this Power of Attorney this __ day of _____, 200_.

_____

_____

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

On the ____ day of _____in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

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

On the ____ day of _____in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

POWER OF ATTORNEY

_____,
as Unit Owner

Unit No. _____ in 46-30 Center Boulevard Condominium

Tax Map Identification:

Tax Block 21
Lot _____
Queens County

Record and Return to:

SEIDEN & SCHEIN, P.C.
570 Lexington Avenue
New York, New York 10022

FORM OF

RESIDENTIAL LEASEHOLD UNIT DEED

UNIT DEED

THIS INDENTURE made the _____ day of _____, 200__, between **EAST COAST 5 L.L.C.**, a New York limited liability company having an office at 290 Park Avenue South, New York, New York 10010 (the "Grantor"), and _____, residing at _____ (the "Grantee").

WITNESSETH:

That the Grantor, in consideration of Ten ($10.00) Dollars and other valuable consideration paid by the Grantee, does hereby grant and release unto the Grantee, and the heirs or successors and assigns of the Grantee, forever:

The unit known as Unit No. _____ in the Building known as 46-30 Center Boulevard, Long Island City, New York, and also designated and described as Unit No. _____ in the Declaration comprising 46-30 Center Boulevard Condominium (hereinafter called the "Property") made by the Grantor under the Condominium Act of the State of New York, as amended (Article 9-B of the Real Property Law of the State of New York), dated _____, 200__ , and recorded in the Queens County Office of the Register of the City of New York, on the _____ day of _____, 200__, in CRFN_____ (hereinafter called the "Declaration"), which Unit is also designated on the Floor Plan of the Building, certified by _____, and filed in the said Office of the Register of the City of New York, County of Queens as Map No. _____ (hereinafter called the "Unit").

The Unit is identified in the Declaration as Condominium Unit No. _____ in 46-30 Center Boulevard Condominium, located at 46-30 Center Boulevard, Long Island City, New York, and is identified on the Tax Map of the City of New York for Queens County as Tax Lot _____ in Block 21.

The Property is described as follows:

SEE SCHEDULE A

TOGETHER with any strips or gores adjoining the above described premises on any of the sides thereof.

TOGETHER with an undivided _____ percent interest in the common elements of the Property described in said Declaration (hereinafter called the "Common Elements").

TOGETHER with an easement for the continuance of all encroachments by the Unit on any adjoining Units or Common Elements now existing as a result of construction of the Building, or which may come into existence hereafter as a result of settling of the Building, or as a result of repair or restoration of the Building, or the Unit, after damage by fire or other casualty, or after taking in condemnation or eminent domain proceedings, or by reason of an alteration or repair to the Common Elements made by or with the consent of the Board of Managers, so that any such encroachments may remain so long as the Building shall stand.

TOGETHER with an easement in common with the Owners of other Units to use any pipes, wires, ducts, cables, conduits, public utility lines, and other Common Elements located in any of the other Units or elsewhere on the Property, and serving the Unit.

TOGETHER with the appurtenances and all the estate and rights of the Grantor in and to the Unit.

TOGETHER with and SUBJECT to all easements of necessity in favor of the Unit or in favor of other Units or the Common Elements.

SUBJECT to easements in favor of adjoining Units and in favor of the Common Elements for the continuance of all encroachments of such adjoining Units or Common Elements on the Unit, now existing as a result of construction of the Building, or which may come into existence hereafter as a result of settling of the Building, or as a result of repair or restoration of the Building or any adjoining Unit or of the Common Elements, after damage, condemnation or eminent domain proceedings, or by reason of an alteration or repair to the Common Elements made by or with the consent of the Board of Managers, so that any such encroachments may remain so long as the Building shall stand. Each Unit shall be subject to the aforesaid easements in favor of all other Units. In addition, each Unit shall have, and shall be subject to, easements of subjacent support and necessity in favor of such Unit or in favor of other Units and the Common Elements.

SUBJECT also to an easement in favor of the other Units to use the pipes, wires, ducts, conduits, cables, public utility lines and other Common Elements located in the Unit or elsewhere on the Property and serving such other Units.

SUBJECT to the provisions of the Lease, Declaration, Bylaws, and Floor Plans of the Condominium recorded simultaneously with and as part of the Declaration, as the same may be amended from time to time by instruments recorded in the Queens County Office of the Register of the City of New York, which provisions, together with any amendments thereto, shall constitute covenants running with the land and shall bind any person having at any time any interest or estate in the Unit, as though such provisions were recited and stipulated at length herein.

EXCEPT as otherwise specifically permitted by the Board of Managers of the Condominium or provided in the Declaration or in the Bylaws, the Unit is intended for residential use only.

AND the Grantor covenants that the Grantor has not done or suffered anything whereby the said premises have been encumbered in any way whatsoever, except as aforesaid;

TO HAVE AND TO HOLD the same unto the Grantee, and the heirs or successors and assigns of the Grantee, forever.

If any provision of the Declaration or the Bylaws is invalid under, or would cause the Declaration or the Bylaws to be insufficient to submit the Property to, the provisions of the Condominium Act, or if any provision that is necessary to cause the Declaration and the Bylaws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from the Declaration or the Bylaws, or if the Declaration and the Bylaws are insufficient to submit the Property to the provisions of the Condominium Act, the applicable provisions of the Declaration shall control.

The Grantor, in compliance with Section 13 of the Lien Law, covenants that the Grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvements before using any part of the same for any other purpose.

The use for which the Unit is intended is as a residential dwelling, subject to applicable governmental regulations and such other restrictions as are set forth in the Declaration and Condominium Bylaws and Condominium Rules and Regulations.

The Grantee accepts and ratifies the provisions of the Declaration, the Condominium Bylaws, and the Condominium Rules and Regulations recorded simultaneously with and as part of the Declaration and agrees to comply with all the terms and provisions thereof as the same may be amended from time to time by instruments recorded in the Queens County Office of the City Register of New York.

The terms "Grantor" and "Grantee" shall be read as "Grantors" and "Grantees" whenever the sense of this deed so requires.

IN WITNESS WHEREOF, the Grantor and the Grantee have duly executed this deed as of the day and year first above written.

Grantor: East Coast 5 L.L.C.

By: _____

Grantee:

_____

_____

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

On the _____ day of _____in the year 200__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

_____
Notary Public

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

On the _____ day of _____in the year 200__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

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

On the _____ day of _____in the year 200__ before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

ALL that certain plot, piece or parcel of land situate, lying and being in the County of Queens, City and State of New York bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of 47th Avenue (60 feet wide) with the westerly side of Center Boulevard (100 feet wide) said point being on the prolongation westerly of the northerly side of 47th Avenue as said street is mapped east of 5th Street (60 feet wide) and distant 345.82 feet westerly from the westerly side of 5th Street, said prolongation being at right angles to the westerly side of 5th Street;

RUNNING THENCE westerly along the northerly side of 47th Avenue, along the aforementioned prolongation and at right angles to the westerly side of 5th Street, 151.86 feet to the easterly boundary of a Park;

RUNNING THENCE northerly along the easterly boundary of the aforementioned Park at right angles to the northerly side of 47th Avenue and parallel with the westerly side of 5th Street, 199.99 feet to the southerly side of 46th Road (60 feet wide), said point being on a line drawn parallel with the northerly side of 47th Avenue and 199.99 feet northerly therefrom;

RUNNING THENCE easterly along the southerly side of 49th Road, at right angles to the last mentioned course and along a line drawn parallel with the northerly side of 47th Avenue and 199.99 feet northerly therefrom, 152.68 feet to the westerly side of Center Boulevard, said point being on a line drawn parallel with the westerly side of 5th Street and 345.00 feet westerly therefrom;

RUNNING THENCE southerly along the westerly side of Center Boulevard at right angles to the last mentioned course and along a line drawn parallel with the westerly side of 5th Street and 345.00 feet westerly therefrom, 179.74 feet to a point of curvature;

RUNNING THENCE southwesterly along the northwesterly side of Center Boulevard and along a curve bearing to the right having a radius of 250.00 feet, an arc length of 20.28 feet to the northerly side of 47th Avenue at the point or place of BEGINNING.

The above-mentioned streets and park being as shown on New York City Alteration Map No.4876.

Handel Architects LLP

Architects Report
Description of Property and Proposed Building
June 15, 2007

46-30 Center Blvd.
Long Island City, New York 11109

A. Location of Property

1.	Address:	46-30 Center Blvd. Long Island City, New York 11109
2.	Block No.: Lot No.:	21 100
3.	Zoning District:	Special Zoning Granted by Queens West Development Corporation (QWDC) & the Empire State Development Corporation (ESDC), R10 Equivalent.
4.	Permissible Use:	Residential & Commercial Ownership to be retained by Sponsor.
5.	Other:	No excess development rights were obtained for this project. The Sponsor is not retaining any excess development rights for future expansion of the Building. This project does not have any landmark status.

B. Status of Construction

1. The Sponsor anticipates starting construction in the 2nd Quarter of 2007 and anticipates being substantially complete with the work in the 4th Quarter of 2008 unless delayed by weather, strikes, lockouts, acts of God, shortages of, or inability to obtain materials, equipment or labor, governmental restrictions or preemption, damage by fire or the elements or any other cause over which the Sponsor has no control.

2. Certificate of Occupancy: After completion of construction, the Sponsor will apply for a Temporary and Final Certificate of Occupancy for the Building from the New York City Department of Buildings (DOB). Sponsor will obtain at least a temporary Certificate of Occupancy prior to closing title to Residential Units.

3. Class of Construction: The Building will be classified as Class 1C (Non-Combustible) and will conform to applicable regulations of the Building Code of the City of New York (NYCBC). The Building will comply with New York City (NYC) Law 58/87 (Handicapped Access Law). All kitchens and bathrooms are adaptable in accordance with NYC Law 58/87.

4. The plans were filed under NB#402391318 with the DOB.

5. To the best of my knowledge, belief and professional judgment, these plans and specifications are in compliance with the Energy Conservation Construction Code of New York State (ECCCNYS), Chapter 7.

C. Site

1. The total site area is 30,529 square feet.

2. The site is on a 99-year ground lease, between Sponsor and QWDC, which commenced on September 19, 2003.

3. There will be one 18-story tower with elevator bulkheads and stair bulkheads.

4. The site contains a 200.02' frontage along proposed Center Boulevard, 151.86' along 47th Avenue (mapped as extension of existing 47th Avenue, to be constructed as public parkland), 199.99' along fronting public park land, and 152.68' along 46th Road (mapped as extension of existing 46th Road, to be constructed as public parkland).

5. Sponsor will provide design and construction elements within the property line. Design and construction elements beyond the property line, with the exception of the sidewalk and trees on Center Boulevard, will be provided by QWDC, according to Queens West landscape design. These include drives, sidewalks, ramps, walls & lighting.

   Elements by Sponsor:

   i) The new sidewalk at proposed Center Boulevard will be poured concrete and will pitch for drainage to the curb. It will meet New York City and Department of Transportation (DOT) requirements.

   ii) Lighting will consist of standard, wall mounted fixtures. Their intent is decorative building lighting, not primary site lighting.

   Elements by QWDC

   iii) The streets on proposed Center Boulevard will be paved with an asphalt topping.

   iv) The streets will be pitched to drain through cast iron inlet grating and a concrete catch basin into the NYC storm water drainage system.

   v) The site has 3 paths part of the public parkland. One forms 46th Road (north) and another forms 47th Avenue (south). The other one goes along the west lot line along East River Road & Park.

   vi) There is a retaining wall bordering the site along 46th Road (north), parkland (west) and 47th Avenue (south). This wall is located in the park along East River Road, not inside the building property line.

   vii) Primary Site Lighting as Queens West landscape design including all landscape, paths, side walks, streets, and any other area surrounding the building beyond the property line.

6. The site contains 566 sq. ft. of Publicly Accessible Private Pedestrian Space (PAPPS) according to Queens West General Project Plan (GPP) and its landscape design. 243 sq. ft. along 46th Road, and 323 sq. ft. along 47th Avenue and the proposed Center Boulevard. Its final design is susceptible to Queens West landscape design. PAPPS as defined in the GPP is "...a continuous area, located on privately owned land, designated for public pedestrian circulation."

D. Sub-soil Conditions

1. The Building footings are poured concrete pile caps supported on steel piles.

2. Perimeter foundation consists of reinforced concrete grade beams supported by reinforced steel piles, which structurally support the poured concrete slabs on grade. There is no basement or cellar area. Installed directly beneath the slab, is a water proofing system in order to reduce the potential for ground water infiltration.

3. There is low danger of damage to the Building from flooding as the ground floor elevation is 12.833 feet, which is 5.558 feet above the 7.275 feet 100-year flood plane elevation in Queens Datum. However, because the building is located in the NYC Hurricane Evacuation Zone A, it could experience storm surge from any hurricane making landfall close to New York City.

4. Contaminated soil and groundwater have been identified on the subject property. In order to address the potential for direct contact and volatilization of site contaminants, the following remedial actions will be completed in connection with construction of the building:

   i) Soil Excavation – Excavation and off site disposal of contaminated soil generated during foundation installation / site grading to an approved facility as non-hazardous soil. All slab on grade areas of the proposed building will contain a minimum of two feet of clean fill over the filter fabric to reduce direct contact with the underlying ground

   ii) Active Sub-Slab Depressurization System (SSDS) – An SSDS is installed in the Building. An SSDS minimizes the potential for soil vapor intrusion from below the floor slab to the interior air of the building by actively adjusting the pressure differential between the building's interior and exterior.

   An SSDS fan will operate continuously until the New York State Department of Environmental Conservation (NYSDEC) and the New York State Department of Health (NYSDOH), determine that the system is no longer necessary. Monthly and annual inspection of the SSDS will be required for the foreseeable future (see attached proposed Site Management Plan for Operative Unit One, page 4-11). Sponsor, and ultimately the Board of Managers, will be responsible for the required maintenance of the SSDS.

   This SSDS fan designed by TRC Engineers Inc. to comply with the NYSDOH, Guidance for Evaluation Soil Vapor Intrusion in the State of New York; and the United States Environmental Protection Agency (USEPA) Radon Prevention in the Design and Construction of Schools and other Large Buildings (1993). Refer to the provisional Site Remedial Action Reports (RAR) and the Site Management Plans (SMP) for additional information. The final RAR and SMP, both for Unit One and Two, plans are expected to be finalized in the 4th quarter of 2007.

E. Utilities

1. Electricity

Electricity to the building will be provided by Consolidated Edison Company (ConEdison). Individual Residential Units will be provided with a computerized sub-metering system, by a private meter reading company, approved by the Public Service Commission.

Residential Unit consumption includes, but is not limited to, the electricity required for power lighting, heat pump (heating and air-conditioning) units, any supplemental electric heaters, and any other electric equipment or device located inside the Unit or Unit private open space (garden, terrace, or balcony).

The electricity consumed in the public areas of the Building (including but not limited to the exterior ornamental lighting, air conditioning, heating, heat pumps in public areas, cooling tower and any other general equipment) will be master metered by ConEdison and borne by the Residential Unit Owners as a Common Expense.

The Commercial Unit will be metered separately by ConEdison and is the sole responsibility of the Commercial Unit Owner.

2. Gas

Gas will be provided by ConEdison. Gas for the Common Elements and Residential Units will be collectively metered. The cost of the gas consumed in the residential section (including all gas used for cooking purposes in the Residential Units) will be borne by the Residential Unit Owners as a Common Expense.

Cooking Gas for the Commercial Unit will be metered separately by ConEdison and is the sole responsibility of the Commercial Unit Owner. Gas consumed in the commercial section for heating and hot water will be collectively metered and borne by the Commercial Unit Owner as a Common Expense.

3. Water and Sewer

Water and Sewer service will be provided by the City of New York. The charges for water and sewer service provided to the building will be levied on the basis of metered usage and the cost of the same will be borne by the Residential Unit Owner as a Common Expense.

Water and Sewer service for the Commercial Unit will be separately metered and provided by the Condominium and will be borne by the Commercial Unit Owner as part of his share in the Condominium Expense.

4. Telephone

"Local" telephone service will be provided by Verizon and/or another service provider. Every Unit Owner will be required to pay telephone charges and initial charges for activating individual outlets in the Unit. The telephone charges with respect to the public areas of the Building (such as the concierge's desk, maintenance offices, etc.) will be borne by all Unit Owners as a Common Expense.

Telephone connection as well as any telephone usage charges for the Commercial Unit will be separately paid for by the Commercial Unit Owner.

5. Cable Television

Wiring will be installed in each Residential Unit to enable the Unit Owner to obtain cable television service at the Unit Owner's expense, from Time Warner Cable (or alternate cable TV company). All charges for cable television service (including installation and subscription charges) will be paid by each Unit Owner, who subscribes directly to the cable TV company.

The cost of the Cable TV consumed in the Common Elements will be allotted to each Residential Unit as a Residential Common Expense.

Commercial Unit Cable Television wiring, connection, and any Cable Television usage charges for the Commercial Unit is the sole responsibility of the Commercial Unit Owner.

F. Landscape & Enclosure

1. Ground cover:	Grass and pre-cast concrete pavers in private gardens and terraces
2. Fencing:	Metal and brick at first level terraces and private gardens.
3. Gates:	None
4. Retaining Wall:	Concrete by QWDC at 47th Avenue, the park at East River Road, and 46th Road by QWDC according to the Queens West landscape design.
5. Display Pools and Fountains:	None
6. Benches:	None
7. Seating Walls:	None
8. Planters:	Public: None Private: Inside Property Line: at Unit 107 along 47th Avenue, to be maintained by the Condominium in accordance to the Condominium By-Laws.
9. Trees:	Specified or Approved by QWDC with 3 ½"-4" caliper at proposed Center Boulevard
10. Terraces:	There are no public terraces. All terraces are private and are part of the identified Residential Unit.
11. Gardens:	There are no public gardens. All gardens are private and are part of the identified Residential Unit.

G. Building Height

1. The total height of the Building, from the average curb elevation- at proposed Center Boulevard of 13.32 feet- to top of the main roof slab, elevation 213.32 feet, is 200 feet.

2. There are 18 floors. No Levels below Grade. Floors are numbered as follows:

Floors

Actual		*Numbered*
Ground Level/Level 1	=	Ground Level/Floor 1
Level 2	=	Floor 2
Level 3	=	Floor 3
Level 4	=	Floor 4
Level 5	=	Floor 5
Level 6	=	Floor 6
Level 7	=	Floor 7
Level 8	=	Floor 8
Level 9	=	Floor 9
Level 10	=	Floor 10
Level 11	=	Floor 11
Level 12	=	Floor 12
Level 13	=	Floor 14
Level 14	=	Floor 15
Level 15	=	Floor 16
Level 16	=	Floor 17
Level 17	=	Floor 18
Level 18	=	Floor 19

3. City and river views as well as light of Residential Units facing directly or indirectly 47th Avenue and 46th Road, will be compromised by future developments according to the GPP and future addendums. See attached diagrams.

4. The floor-to-ceiling heights are approximate heights measured in the living room or center of the public corridor from the top of the structural concrete to the bottom of the structural slab, or gypsum board (when this constitutes more than 60% of the living room ceiling area). Heights are subject to typical construction tolerance standards.

5. The typical ceiling heights of the Residential Units and public corridors, except in certain areas with dropped ceilings, are as follows:

   Floor 1: Unit 101 14'-9", Units 102 & 103 14'-3", Units 104 through 107: 15'-6"; Public corridor: 11'-0"

   Floor 2: Units 201 through 211: 9'-5"; Units 212 & 213: 9'-4"; Public corridor: 8'-6"

   Floor 3: Units 301 through 311: 9'-5"; Units 312 & 313: 9'-4"; Public corridor: 9'-5"

   Floor 4: Units 401 through 411: 9'-5"; Units 412 & 413: 9'-4"; Public corridor: 9'-5"

Floor 5: Units 501 through 510: 9'-5"; Units 511 & 512: 9'-4"; Public corridor: 9'-5"

Floor 6: Units 601 through 611: 9'-5"; Units 612 & 613: 9'-4"; Public corridor: 9'-5"

Floor 7: Units 701 through 709: 9'-5"; Units 710 & 711: 9'-4"; Public corridor: 9'-5"

Floors 8-14: Units 801 through 1411: 9'-5"; Public corridor: 9'-5"

Floor 15: Units 1501 through 1509 & 1511: 10'-5"; Unit 1510: 9'-6"; Public corridor: 10'-5"

Floor 16: Units 1601 through 1608 & PHA: 12'-2"; Public corridor: 11'-0"

Floor 17: Units 1701 through 1708: 12'-2"; Public corridor: 11'-0"

Floor 18: Units PH1 through PH9: 11'-0"; Public corridor: 11'-0"

Floor 19: Units PH1 through PH9: 10'-0"

6. Equipment Rooms: Height from the top of the roof slab to the top of the elevator machine room roof slab is 8'-3".

7. Parapet: Height from top of roof finish to the top of parapet coping or railing will be a minimum of 3'-6", per NYCBC.

H. Occupancy

The building will have 184 Residential Units and one Commercial Unit.

Residential Unit distribution is as follows:

Floor / Unit	1 Bedroom Units	2 Bedroom Units	3 Bedroom Units	Total Units
1	2	3	2	7
2	5	3	5	13
3	5	5	3	13
4	7	3	3	13
5	5	4	3	12
6	5	5	2	12
7	4	4	3	11
8	4	5	2	11
9	4	5	2	11
10	4	5	2	11
11	4	5	2	11
12	4	5	2	11
14	4	5	2	11
15	4	5	2	11
16	4	2	3	9
17	4	2	2	8
18	0 *PH Lower Level*	7 *PH Lower Level*	2	9
19	0 *PH Upper Level*	0 *PH Upper Level*	0	0
	69	73	42	184

The building Superintendent will occupy Residential Unit 308.

I. Structural System

1. The structure of the 18-story tower is reinforced concrete slabs, supported by interior and perimeter reinforced concrete columns and concrete shear walls. The structure will be designed to resist wind and seismic force according to the provisions of the NYCBC, as applicable as of the permit date.

   i) Walls: The exterior walls will be a cavity wall consisting of nominal 4" brick, 2" air space and 6"concrete block with an interior finish of 5/8" gypsum wall board applied to metal studs with foil faced batt insulation.

   A steel reliving angle will be attached to the concrete slab to support the exterior brick and window above. Portions of the exterior wall will be aluminum & glass window wall.

   ii) Windows

      a) The window units will be aluminum framed sliding or casement, operable, and fixed type tinted windows. They will have one year guarantee.

      b) The window will have a 4" limit stop in the sash for safety. In accordance with the Condominium By-Laws, the limit stop must not be removed.

      c) The washing of the windows is responsibility of the Unit Owners. Some sections of the window sash will need to be removed for cleaning (by professional and insured cleaners only with board approval). All non vision glass (spandrels) to be cleaned by building maintenance.

      d) Windows will comply with ECCCNYS.

      e) There are no lot line windows.

   iii) The Building will be designed in accordance with ECCCNYS.

   iv) Inspection of exterior wall and appurtenances of the building under the rules and guidelines of NYC Department of Buildings Local Law 11/98 will go in effect five years after the erection or installation of the exterior façade.

2. Parapets and Copings: The parapets will be reinforced concrete and or masonry curbs and/or walls with metal panel and/or brick cladding. The parapet coping shall be metal.

3. Chimneys and Caps: The Building will have a refractory lined boiler flue with stainless steel jackets in accordance with the NYCBC.

4. Chutes: A 16GA aluminized steel trash chute. It is accessed via a Hopper Door in the trash room/service elevator vestibule located on all residential floors, with the exception of the first floor, on which a trash deposit room is provided. The chute will be enclosed in concrete block.

5. Exhaust: The laundry exhaust vent will terminate above the main roof and will be enclosed in a gypsum board enclosure or similar (fired proof according to NYCBC).

6. Terraces/Balconies:

   i) The terraces will be finished with pre-cast concrete pavers over roofing system.

   ii) Balconies will be exposed concrete.

   iii) Balustrades: None.

   iv) Railings: The terrace and balcony railings will consist of aluminum framing and glass panels.

   v) Terrace/balcony/garden door: Doors will be extruded aluminum and glass sliding or swing doors.

   vi) Divisions between Residential Units terraces' will consist of a wood lattice or similar at a approximate height of 6 feet, not higher than 6'-6", and will be provided by Sponsor.

7. Exterior Entrance

   i) Exterior Doors and Frames: The main entrance to the residential lobby will be a three leaf revolving glass door and an aluminum framed glass swing door.

   ii) Egress Stairs Doors and Frames: Ground floor entrances will be painted hollow metal doors and frames.

   iii) Railings: None.

   iv) Lighting Indoor: Direct recessed lighting, wall accent lighting, and/or indirect lighting will be utilized in the residential lobby.

   v) Lighting Outdoor: At lobby canopy by fluorescent and/or incandescent fixtures.

   vi) Commercial Unit: Commercial Unit entrance will be from Central Boulevard by an aluminum framed glass swing door.

8. Service Entrances

   i) Doors and Frames: Entrance will have painted hollow metal door and frame.

   ii) Gates: None.

   iii) Exterior Stairs: None.

   iv) Railings: None.

9. Roof and Roof Structure: The roofing system will be an inverted roof membrane assembly (IRMA) comprised of a waterproofing membrane below extruded polystyrene board insulation installed below protection board and gravel stone ballast or pre-cast concrete pavers with a manufacturer's 10 year warranty.

   i) Type of Roof

      a) Material: Laurenco roof membrane or an equivalent manufacturer.

      b) Insulation: Insulation will be extruded polystyrene board insulation Styrofoam brand as manufactured by Dow Chemical or similar. The roof will be designed in accordance with the ECCCNYS. Its R value is 19.

      c) Surface Finish: The surface finish will be stone ballast or pre-cast concrete pavers.

      d) Expected Life: The roofing systems will have an expected life of 10 years from initial installation.

      e) Bond or Guarantee: The roofing systems shall have a 10 year manufacturer's warranty from installation.

      f) Flashing material: There will be metal cap and fabric base flashing, per roof manufacturing specifications.

   ii) Drains

   Roof drains will be provided to drain the roof through internal no hub cast iron leaders into Building storm drain.

      a) Material and type: no hub cast iron drains

      b) Gutters and Leaders: Scupper and leader will be provided to drain the elevator and stair bulkheads.

   iii) Bulkheads

      a) Elevator: The elevator run by & machine room will be a roof bulkhead, which will consist of nominal 8" concrete block or concrete wall, with brick or metal panel wall cladding at the building exterior.

      b) Stairs: The stair enclosure will be a roof bulkhead that will consist of a nominal 8" concrete block or concrete wall with brick cladding at the building exterior.

      c) Other: There will be a mechanical equipment space within the roof bulkhead.

iv) Metal Work at Roof Levels

a) Exterior, Metal Stairs: There will be two stairs required for future maintenance and inspection of roof, equipment, and any other equipment or architectural element located on it. The first stair will be located in PH A, and it will give service to its roof area. The second will be located adjacent to the elevator mechanical room. It will give access to the roof area comprising the egress stairs 1 & 2, elevator mechanical room, and roof electrical room. These stairs are to be used by licensed technicians or professionals only, with prior approval of the Building Management. In addition the use of the stair located at the terrace on PHA will be governed by the Condominium By-Laws.

b) Vertical Ladders: Painted steel ladder leading to the roof, over stair and machine room, from the main roof.

c) Railings: Painted steel where required.

d) Hatches to Roof: None.

e) Other: metal panels.

v) Roof Top Facilities

a) Roof at Floor 1 to 19: None

b) Main Roof: None.

10. Gardens

i) All gardens are comprised of an area of concrete pavers on grade, and another area for future grass. The paved area drains to the future grass area. Future grass areas have drain(s) that will help alleviate the excess of water.

ii) The rights of the purchaser of Unit 103, 104,105, 106, & 107 to have exclusive use of the gardens does not include the right to increase the envelope of the building by any construction in the garden without the approval of the Board of Managers (excluding the Sponsor) and subject to the approval of the DOB.

iii) All gardens will have at minimum one source of light and one electric outlet.

iv) The fencing between the Residential Units will be provided by the Sponsor. Any physical division between the gardens, the river park and the side streets will be provided by QWDC. The Sponsor reserves the right to add extra fencing in this area.

v) The retaining wall around all gardens will be provided by QWDC.

vi) Garden at Residential Unit 105 will have a 12" diameter underground storm sewer pipe and an approximate 4'-0" x 4'-0" manhole cover required for future maintenance and inspection.

vii) Hedge at Residential Unit 107 will to be maintained by the Condominium as required in the Condominium By-Laws.

11. Interior Stairs

i) Number of Stairs: There will be a pair of scissor stairs (No.'s 1 and 2), which extend from the ground floor up to the roof bulkhead. And a single stair No. 3 which extends from the ground floor up to a terrace on the 6th floor.

ii) Enclosure: Each stair will be enclosed with 2 hour rated reinforced concrete, concrete block and or gypsum board partition. Each stair will be painted.

iii) Stair Construction: All enclosed stairs will be concrete construction.

a) Stringers: Concrete.

b) Treads: Concrete.

c) Risers: Concrete.

d) Handrails and Balustrade: There shall be a steel pipe handrail in each stair. Steel bars or pipe rail balustrade as required by code.

iv) Penthouses 1 through 9 will have interior stairs connecting the two penthouse levels. Stairs are composed of steel stringers and wood treads.

12. Interior Doors and Frames

i) Residential Unit Entrances: The Unit entrances will have hollow metal doors, 8'-0" high, with hollow metal frames, and will meet the requirements of the NYCBC. The interior bath, bedroom and utility closet doors of the Residential Units will be solid core wood doors 7'-0 to 8'-0" high, with hollow metal frames. The interior closet doors of the Residential Units shall be solid core wood doors with hollow metal frames or particle board bi-fold type doors, 7'-0" to 8'-0" high.

ii) Corridor Doors and Frames: All doors and frames shall be hollow metal and will meet the NYCBC requirements. Corridors at levels 2 to 14 will have a smoke door, which will automatically close in case of fire and/or smoke and will comply with to the NYCBC requirements.

iii) Residential Unit Stair Doors and Frames: All doors and frames will be hollow metal and will comply with the NYCBC requirements.

Interior Stair construction at PH levels will not be fire rated.

a) Stringers: Steel
b) Treads: Wood
c) Risers: Wood

iv) Fire Balconies: Fire Balconies at PH level 19 will be constructed with concrete, will have glass and aluminum railing, and will comply with the NYCBC requirements. Glass will normally require a hammer to be broken.

v) Roof Doors & Frames: These doors and frames shall be hollow metal and will meet the NYCBC requirements.

13. Elevators

i) There will be three passenger elevators servicing the Residential Units PE1, PE2, & SP3. SP3 will also be used as a service elevator. The elevators shall have a capacity and speed as follows:

a) Residential Passenger Elevators PE1 and PE2 will have a capacity of 2,000 lbs, approximately equal to 12 people, and a maximum speed of 350 FPM.

b) Residential Passenger Elevator SP3 will have a capacity of 2,500 lbs, approximately equal to 14 people, and a maximum speed of 350 FPM.

ii) The type of operation will be Non-Commercial/Residential with Automatic Push Button.

iii) The elevator type of controls will be AC variable voltage and variable frequency.

iv) Elevator Stops:
Residential PE1, PE2, & SP3: Ground floor through 18th floor (Level 17th from the Ground Level).

v) The elevators will be Residential PE1, PE2, & SP3: Overhead geared traction type.

vi) The elevator doors will be as follows:

a) Residential PE1 & PE2: single speed side opening front door

b) Residential SP3: single speed side opening front door and 2 speed side opening side door.

vii) The residential elevator machine room will be located above the roof level.

14. Elevator Cabs

i) Residential elevator cabs will be manufactured by EDI/ECI Elevators or similar manufacturer.

ii) The floor material will be stone tile.

iii) The walls will be covered with metal paneling.

iv) The ceiling will be stainless steel.

v) The lighting of the cab will be fluorescent strip lighting or down lighting.

vi) Standard elevator alarm will be installed. Intercom/telephone to front Desk will be provided.

15. Awnings: None

16. Canopies: At main entrance.

J. Auxiliary Facilities

1. Mail Boxes

Mail Boxes are located in the mailroom on the first floor Lobby and will be front-loading aluminum finished and U.S. Government approved according to the United States Postal Service (USPS) code.

2. Package Room

There will be a package room adjacent to the front desk (lobby area) to receive and hold packages for the Residential Unit Residents.

3. Bike Storage

The building will have bike storage for approximate 65 bicycles located on the first floor. The operating cost will be included in the Residential Common Expense.

4. Washer/Dryer

i) The building will have one laundry room to be shared by all the Residential Condominium Residents. The laundry will contain four commercial type electric, fee operated (card, coins, or similar) washers and four gas fired coin operated dryers mechanically exhausted to the roof. All laundry equipment and furnishings to be provided and managed by an outside vendor.

ii) Sponsor will provide all Residential Units with a vented stackable washer and electric dryer. All washer dryer closets will have a floor drain.

5. Refuse Disposal

i) Incinerators: None.

ii) Compactors: There will be one waste compactor servicing the Residential Units. The compactor will be model # IDC 2001 manufactured by International Dynetics Corporation, or similar model and capacity. It will be located on ground floor in the trash room. The trash will be stored in this room as needed and will be collected at designated location off Center Boulevard per the New York City Department of Sanitation (DOS) schedule.

iii) Residential disposal will be collected as follows:

a) First floor residential disposal will be collected in bins inside a separate trash room off the first floor residential public corridor.

b) Residential non recyclable disposal for floors 2 through 18 will be collected through a refuse chute located in a trash room off each floor public corridor. Recyclable disposal will be collected in bins inside the same trash room.

K. Recreational Facilities

1. Exercise Room: The building will have one exercise room to be shared by all the Residential Unit Owners. Fitness equipment will be approximately: 2 Treadmills, 2 elliptical machines and 2 stationary bicycles, or equivalents. The operating cost will be included as a Residential Common Expense.

2. Public Terrace: There is no Public Terrace

3. Public Garden: There is no Public Garden

L. Plumbing and Drainage

1. Plumbing

i) System

A 6-inch domestic water service with a backflow preventer and water meter will be provided from the public water main to a pressure booster system rated at 250 GPM. Pumps will supply the building domestic water system. The Building will be fed by two zones of cold water, hot water and hot water circulation. Hot water will be provided via gas fired hot water heaters, located at the boiler room on the ground floor.

ii) Piping

The domestic water piping system shall consist of type L copper tubing with 95-5 tin-antimony soldered joints. All mains and risers are insulated.

iii) Water Pressure

Domestic water pressure will be maintained by the Triplex Constant Pressure Booster System to provide a minimum of 30 psi at all fixtures.

2. Drainage

i) Sanitary Sewage

a) System

Sanitary sewage will be conveyed by gravity via vented soil and waste branches, stacks and house drains, to 10" Sanitary house sewer. Drainage and vent piping will be no-hub cast iron piping with stainless steel couplings and rubber gaskets.

b) Sewage Disposal

One (1) 10-inch sanitary house sewer connected to street municipal sewers.

ii) Storm Drainage

a) System: Gravity roof drainage from roof drains, and terrace drains to 12-inch house sewer connected to street municipal sewer at 47th Avenue to be approved by the Department of Environmental Protection (DEP). "House Connection" will be maintained by the condominium

b) Catch Basins: None

c) Roof and Terrace Drains: Roof and terrace drains will be located on the roof and terraces.

d) Piping:Cast iron piping with no hub fittings.

e) Sump Pumps: Condensate Drainage from A/C Units.

f) Manhole: Located in the garden area of Residential Unit 105.

M. Gas Supply

1. Service

The Building will be provided with gas for boilers, hot water heaters, cooking ranges and HVAC units.

Piping material will be Black steel Schedule 40 pipe with malleable fittings for low pressure piping 4 inch and smaller and welded joints for low pressure piping over 4 inches. High-pressure piping upstream of pressure regulators to be welded and radiologically examined (per NYCBC requirements).

N. Electrical Systems

1. Service

Service from main switchgear: Electrical service will be provided into 1st Floor electric switchboard room. Service from ConEdison shall be sized per Building Electrical Load. Service will be rated 120/208-Volt, 3-Phase, 4-Wire and distributed to distribution panels and Residential Unit distribution centers.

From Residential Unit distribution centers individual feeders are to run to each Residential Unit. Residential Unit feeders vary in size as required by load and voltage drop.

2. Residential Unit

Capacity provided for each Residential Unit will be in accordance with National Electrical Code (NEC) 2002 requirements in various sizes from 70 to 100 Ampere @ 120/208V, 1 phase, and 3 wires. Average number of circuits per Residential Unit panel boards will be provided for an average total of 16-20 circuits. Service will be adequate to meet normal apartment appliance load and lighting.

Residential Unit Ampere will be as follows:

Unit	CB Ampere	Unit	CB Ampere	Unit	CB Ampere	Unit	CB Ampere	Unit	CB Ampere	Unit	CB Ampere
101	100	312	100	605	100	902	100	1111	100	101	100
102	100	313	100	606	100	903	100	1201	100	1409	100
103	100	401	100	607	100	904	100	1202	100	1410	100
104	100	402	100	608	100	905	100	1203	100	1411	100
105	100	403	100	609	100	906	100	1204	100	1501	100
106	100	404	100	610	100	907	100	1205	100	1502	100
107	100	405	100	611	100	908	100	1206	100	1503	100
201	100	406	100	612	100	909	100	1207	100	1504	100
202	100	407	100	701	100	910	100	1208	100	1505	100
203	100	408	100	702	100	911	100	1209	100	1506	100
204	100	409	100	703	100	1001	100	1210	100	1507	100
205	100	410	100	704	100	1002	100	1211	100	1508	100
206	100	411	100	705	100	1003	100	1301	100	PHA	100
207	100	412	100	706	100	1004	100	1302	100	1601	100
208	100	413	100	707	100	1005	100	1303	100	1602	100
209	100	501	100	708	100	1006	100	1304	100	1603	100
210	100	502	100	709	100	1007	100	1305	100	1604	100
211	100	503	100	710	100	1008	100	1306	100	1605	100
212	100	504	100	711	100	1009	100	1307	100	1606	100
213	100	505	100	801	100	1010	100	1308	100	1607	100
301	100	506	100	802	100	1011	100	1309	100	1608	100
302	100	507	100	803	100	1101	100	1310	100	PH1	100
303	100	508	100	804	100	1102	100	1311	100	PH2	100
304	100	509	100	805	100	1103	100	1401	100	PH3	100
305	100	510	100	806	100	1104	100	1402	100	PH4	100
306	100	511	100	807	100	1105	100	1403	100	PH5	100
307	100	512	100	808	100	1106	100	1404	100	PH6	100
308	100	601	100	809	100	1107	100	1405	100	PH7	100
309	100	602	100	810	100	1108	100	1406	100	PH8	100
310	100	603	100	811	100	1109	100	1407	100	PH9	100
311	100	604	100	901	100	1110	100	1408	100		

Trip size varies from 70 Amp to 100 AMP

The equipment will be rated to comply with NEC 2002 as adopted by NYC. This takes into account all equipment provided in Residential Units such as washing machines, clothes dryers, dishwashers, microwaves, etc.

Switched receptacles will be provided in all rooms to meet NEC 2002 as adopted by NYC. In accordance with the National Electric Code (NEC) and the National Fire Protection Association (NFPA), Ground Fault Interrupters (GFCI) will be provided for receptacles at bathrooms, kitchens, and outdoor spaces. In addition receptacles at outdoor spaces will be weatherproof. Appliance receptacles will be provided in kitchens and dining rooms. Convenience receptacles will be provided to meet the requirements of the NEC 2002.

Arc fault breakers shall be provided for all bedrooms per NEC 2002.

3. Commercial Unit

A separate ConEdison metered service will be provided for the Commercial Unit.

O. Heating and Air Conditioning

1. Heating

i) Hot Water Heating

Hot water will be provided by gas fired hot water heaters located on the boiler room, on the first floor, adjacent to the residential corridor.

ii) Space Heating

Space heating will be provided by five (5) gas fired, 150 psi, hot water boilers, located at the boiler room, of the building on the first floor. The boilers will provide hot water to heat exchangers for residential use. Hot water is distributed to the various areas by two pipe distribution systems. Heat will be provided to Residential Units through the injection of heated hot water to the heat pump circulating loop. Heating capacities of heat pumps for Residential Units are based on 70 deg water and 70 deg ENT air temperatures. The system is designed to meet the ECCCNYS.

Lobby and entrances to the Building from the street are heated by perimeter radiation. Public corridors will be heated and air conditioned by heat pumps. Other common Elements above the first floor such as the tops of stairwells and exits to the roof are heated with electric resistance type heaters.

iii) Boiler Manufacturer: Boilers will be Gas Fired Hot Water Condensing Boilers as manufactured by AERCO, model BMK-2.0.

iv) Burners: Burners shall be Benchmark AERCO, gas only.

v) Type of Control: Boilers will be controlled by monitoring hot water loop temperature.

vi) Piping, Insulation, Pumps: Schedule 40 steel with standard weight fittings. Hot water piping is insulated. There will be two (2) hot water pumps for heating water to be used on water source heat pump system (one is standby).

vii) Fuel: Boilers will be supplied with: Natural Gas only.

viii) Residential Units

Heating (and air conditioning), all year round, will be provided to the Residential Units via heat pump at bedrooms and residential living areas. These units will create similar year round air flow, air fan, and compressor noise when heating (fall, winter & spring) or cooling (spring & summer). Since heat pump units utilize a compressor, they tend to require similar electric consumption when either cooling or heating.

In hot weather, the heat pump units operate in cooling mode where heat is taken out from the spaces and rejected into the water loop via normal compressor cycle. The heat from the loop is rejected via the building cooling tower.

In cold weather, the Heat Pump Units operate in heating mode where heat is provided to the spaces from water loop via reverse compressor cycle. The heat is added to the loop via the gas fired boilers.

In certain locations a single heat pump unit serves more than one room: living room and bedroom; bedroom and bedroom. The thermostat for these units will be located in only one room which will control the temperature in both rooms. Temperatures within these rooms may vary depending on several factors including but not limited to: room volume, room façade glass area, room orientation, and number of occupants.

Heat pump units comply with the ECCCNYS. Their capacities are as follows:

WATER SOURCE HEAT PUMP UNITS SCHEDULE

UNIT TYPE	LOCATION	COOLING MBH		HEATING CAP.	GPM	WAT. P.D. FT.HD.	ENT AIR TEMP COOLING		ENT AIR TEMP HEATING	CFM	EXT S.P. IN. IN WG.	ELECTRICAL DATA					MIN. CIRC. AMPS	UNIT WEIGHT LBS	UNIT CONFIGURATION	MEA No.	MANUFACTURER AND MODEL No.
		TOTAL	SENSIBLE	MBH			DB	WB	DB			COMPRESSOR RLA	BLOWER FL. AMP.	V	PH	HZ					
A	APARTMENTS	8.9	6.8	12.4	1.7	3.1	80	67	70	405	0.2	4.5	0.31	208	1	60	5.9	184	VERTICAL STACK	167-05-E	CLIMATE MASTER TRM-09
B	APARTMENTS	11.5	7.9	15.8	2.3	5.3	80	67	70	445	0.2	5.3	0.7	208	1	60	7.4	271	VERTICAL STACK	167-05-E	CLIMATE MASTER TRM-12
C	APARTMENTS	13.6	9.8	19.2	2.8	1.0	80	67	70	595	0.2	5.8	1.0	208	1	60	8.3	304	VERTICAL STACK	167-05-E	CLIMATE MASTER TRM-15
D	APARTMENTS	16.6	12.4	22.4	3.4	2.7	80	67	70	685	0.2	6.8	1.0	208	1	60	9.5	304	VERTICAL STACK	167-05-E	CLIMATE MASTER TRM-18
E	APARTMENTS	22.5	17.3	29.7	4.5	3.8	80	67	70	850	0.2	14.3	1.1	208	1	60	19.0	419	VERTICAL STACK	167-05-E	CLIMATE MASTER TRM-24
F	APARTMENTS	29.3	20.1	33.0	5.6	5.6	80	67	70	1140	0.2	14.3	1.8	208	1	60	19.7	425	VERTICAL STACK	167-05-E	CLIMATE MASTER TRM-30

UNITS SELECTED BASED ON WATER DT=15'F USING REFRIGERANT R410A. APPROVED EQUAL MANUFACTURERS: TRANE & HTS.

ALL WATER SOURCE A.C. UNITS SHALL BE PROVIDED WITH 2-WAY AUTOMATIC VALVES TO PROVIDE WATER SHUT-OFF WHEN COMPRESSORS ARE OFF.

ALL UNITS SHALL HAVE HAYES MESUREFLOW SELF BALANCING VALVES AND THERMOSTATS. APPROVED EQUAL MANUFACUTERS: HAYES OR GRISWOLD.

ALL UNITS SHALL BE PROVIDED WITH BUILT IN DISCONNECT SWITCH AND THERMOSTAT.

Heat Pump Type per Residential Unit as follows (Location According to Plan):

Unit No.	Type-A	Type-B	Type-C	Type-D	Type-E	Type-F
101				1	1	
102		1	1		2	
103			1	1	3	
104			2	1		
105			1	1		
106			1	1	1	
107			1	1	2	
201	1		1	1	1	
202	1	1		1		
203			1	1		
204		1		1	1	
205		1	2	1		
206			1	1		
207		1			1	
208		1				1
209						1
210	1			1		
211			2		2	
212		1		2	1	
213			1		3	
301	1		1	1	1	
302	1	1		1		
303			1	1		
304		1		1	1	
305		1	2	1		
306			1	1		
307		1			1	
308		1				1
309						1
310	1			1		
311			2		2	
312	2			1	2	
313		1	1		2	
401	1		1	1	1	
402	1	1		1		
403			1	1		
404		1		1	1	
405		1	2	1	1	
406			1	1		
407		1			1	
408		1				1
409						1
410	1			1		

Unit No.	Type-A	Type-B	Type-C	Type-D	Type-E	Type-F
411			2		2	
412	1			1	1	
413			1		2	
501	1		1	1	1	
502	1	1		1		
503			1	1		
504		1		1	1	
505		1	2	1	1	
506			1	1		
507		1			1	
508		1				1
509						1
510	1			1		
511			2		2	
512	1	1		1	2	
601	1		1	1	1	
602	1	1		1		
603			1	1		
604		1		1	1	
605		1	2	1	1	
606			1	1		
607		1			1	
608		1				1
609						1
610			2	1		
611			1		2	
612		1	1		1	
701	1		1	1	1	
702	1	1		1		
703			1	1		
704		1		1	1	
705		1	2	1	1	
706			1	1		
707		1			1	
708		1				1
709						1
710			1	2		
711			2	1	2	
801	1		1	1	1	
802	1	1		1		
803			1	1		
804		1		1	1	
805		1	2	1	1	
806			1	1		
807		1			1	

Unit No.	Type-A	Type-B	Type-C	Type-D	Type-E	Type-F
808		1				1
809						1
810			1			1
811				1	3	
901	1		1	1	1	
902	1	1		1		
903			1	1		
904		1		1	1	
905		1	2	1	1	
906			1	1		
907		1			1	
908		1				1
909						1
910			1			1
911				1	3	
1001	1		1	1	1	
1002	1	1		1		
1003			1	1		
1004		1		1	1	
1005		1	2	1	1	
1006			1	1		
1007		1			1	
1008		1				1
1009						1
1010			1			1
1011				1	3	
1101	1		1	1	1	
1102	1	1		1		
1103			1	1		
1104		1		1	1	
1105		1	2	1	1	
1106			1	1		
1107		1			1	
1108		1				1
1109						1
1110			1			1
1111				1	3	
1201	1		1	1	1	
1202	1	1		1		
1203			1	1		
1204		1		1	1	
1205		1	2	1	1	
1206			1	1		
1207		1			1	
1208		1				1

Unit No.	Type-A	Type-B	Type-C	Type-D	Type-E	Type-F
1209						1
1210			1			1
1211				1	3	
1401	1		1	1	1	
1402	1	1		1		
1403			1	1		
1404		1		1	1	
1405		1	2	1	1	
1406			1	1		
1407		1			1	
1408		1				1
1409						1
1410			1			1
1411				1	3	
1501	1			2	1	
1502	1	1		1		
1503			1	1		
1504		1		1	1	
1505		1	1	1	1	
1506			1	1		
1507		1			1	
1508		1				1
1509						1
1510			1			1
1511				1	3	
1601	1			1	2	
1602	1		1	1		
1603				2		
1604		1			2	
1605		1	1		3	
1606				2		
1607		1			1	
1608		1			2	
1701		1			3	
1702		1		2		
1703				2		
1704				1	2	
1705		1		1	3	
1706				2		
1707		2			1	
1708		1			2	

Unit No.	Type-A	Type-B	Type-C	Type-D	Type-E	Type-F
PHA				4	3	
PH1	1		1	2	3	
PH2	2	2				
PH3	2	2				
PH4		1		3	1	
PH5	1	2		1	3	
PH6			1	3	1	
PH7		1	1	2		
PH8		1	1	1	1	
PH9	1				4	

ix) Commercial Unit

Commercial Unit will be provided heat by a space heater until perimeter radiation heater is installed. Heat for the radiation heater will be provided, and will be borne by the Commercial Unit Owner as a Common Expense.

2. Air Conditioning

i) Type of system

The Air Conditioning system consists of Water-cooled packaged units and water source heat pumps.

ii) Cooling Tower and Pumps

There will be one (1) open cooling tower at the roof and plate frame exchanger in Boiler Room. Two (2), centrifugal, pumps provided for heat pump water circulation (one will be standby). The cooling tower plant and water circulating pumps sizing was based in accordance with the ECCCNYS.

iii) Public Areas

Separate package water-cooled HVAC units or water source heat pumps will be provided for main entrance lobby and miscellaneous areas such as the elevator machine rooms, telephone rooms, etc.

General Cooling and heating of corridor ventilation air will be provided by packaged, gas-fired, air-cooled, rooftop air conditioning units, and heat pumps.

iv) Residential Units

Individual units are designed to meet the ECCCNYS. Heat pump units were sized for the estimated individual peak cooling-heating requirements of each Residential Unit. Thermostat located in the individual heat pump units or remote on wall. Each thermostat will control its corresponding heating-cooling unit. Heat Pump units will operate via compressor cycle in both Cooling and Heating mode.

v) Commercial Unit

Commercial Unit will be provided with electric outlets for future connection to unit equipment.

It will also be provided with supply and return of condensed water. Sponsor reserves the right to meter the supply condensed water, or to charge it to the Commercial Unit Owner as a Common Expense.

P. Ventilation

1. Public Spaces

For interior spaces such as Lobby, Mail Room, Exercise Room, and Public Corridors will be provided mechanical ventilation in accordance with NYC Code.

2. Residential Units

Fresh air for all Residential Units will be available by opening the windows or doors to the balconies or terraces, as well as window trickle vents.

i) Living Rooms and Bedrooms

Each Living Room and each Bedroom will be provided with one trickle vent which will provide extra ventilation (minimal capacity) and will help minimize any negative pressure created by other ventilation systems.

ii) Kitchens

Most Residential Unit kitchens and kitchenettes will not be mechanically ventilated. They will be ventilated exclusively through the Residential Unit windows or doors to the balconies or terraces, in accordance with NYCBC.

However, the kitchens and kitchenettes at Residential Units 101, 203, 303, 403, 503, 603, 703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, & 1703 will be ventilated with an exhaust ventilation system exhausting 2 cubic feet of air per minute per square foot of kitchen area as defined and in accordance with NYCBC.

iii) Bathrooms

a) Bathrooms adjacent to an operable window will use it as the only means of ventilation.

b) Interior residential bathrooms, which have no operable window, will be ventilated with an exhaust ventilation system in accordance with NYC Code.

iv) Washer/Dryers

Individual electric washer/dryers at Residential Units will be ventilated with an exhaust ventilation system in accordance with NYC Code.

3. Service Area

i) Laundry Room

The dryers will be ventilated with an exhaust ventilation system to the roof and it will be in accordance with NYC Code.

ii) Locker Rooms

Locker room will be ventilated with exhaust ventilation capable of exhausting air at a rate of four air changes per hour in accordance with NYC Code.

iii) Gas Meter Room

Gas meter room will be vented to the outside and in accordance with NYC Code.

4. Non-Residential Bathrooms

Interior non-residential bathrooms will be ventilated in accordance with NYC Code.

5. Commercial Unit

Space for mechanical ventilation has been provided by Sponsor. Proper ventilation in accordance with NYC Code is sole responsibility of the Commercial Unit Owner.

Q. <u>Fire Protection System</u>

1. Fire water Services

One 6-inch water service from 47th Avenue with 6-inch double detector check valve to supply 500 GPM Automatic Fire Pump located at 1st Floor Fire Pump Room.

2. Standpipes:

The fire standpipe system will consist of one 6-inch fire standpipe riser. The fire standpipe serves the residential floors and is located in the stairway, a three way roof manifold is provided. The fire standpipe will be supplied by the Automatic Fire Pump. A 2½ inch hose valve with cap and chain will be located at fire standpipe at each floor above the Lobby Level. Fire hose racks will be provided at the Lobby Level. Piping is schedule 10 or 40 steel piping with rolled or cut grooved or threaded joints.

3. Hose Rack, Hoses and Nozzles

A central hose station and locked key box will be located at the first floor. A 2½ inch hose valve with 1½ inch hose and nozzle will be provided at fire standpipe at the Lobby Level.

4. Sprinkler System

Sprinkler water is supplied from the 500 GPM Automatic Fire Pump via the 6" standpipe. Automatic wet sprinklers will be supplied from combined fire stand pipe/sprinkler riser for entire Building. Piping is schedule 10 or 40 steel piping with rolled or cut grooved or threaded joints.

5. Siamese Connections

Two (2) 3"x 3" x 6" siamese combined fire sprinkler and standpipe connection will be provided. One will be located at street 46 Road and the other will be located at 47th Avenue.

6. Smoke Detection

i) Building

The building will be provided with Central Smoke Detection/Sprinkler Alarm System with Central Station Tie-in. Area smoke Detectors are provided in Electric, Telephone, and elevator machine rooms. Duct smoke detectors are provided for air conditioning systems over 2000 cfms. Smoke Detection System also includes compactor chute and vestibule as required by NYC Code.

ii) Residential Units

Each Residential Unit will contain a combination Carbon Monoxide/Smoke Detector located in the vicinity of the bedrooms. The detector will be wired to a 120-volt local power supply and will be self-contained with its own sounding device. The Detector is not wired to a central monitoring station.

iii) Commercial Unit

Stand alone unit by Commercial Unit Owner.

R. <u>Cable Television, Telephone, Intercom, and Closed Circuit Television</u>

6. Cable Television

i) Service

The Building will not be equipped with a master television antenna system. In each Residential Unit an outlet will be provided in the living room and each bedroom. Unit owners will be responsible for servicing and maintaining their lines, equipment and jacks.

ii) Residential Units

Wiring will be installed in each Residential Unit to enable the unit owner to obtain cable television service from an outside vendor. Cable television outlets will be pre-wired for service.

7. Telephone

i) Service

Telephone services will enter the Building from 47th Avenue and be fed to a telephone room located in the 1st Floor level. It will then be distributed throughout the Building through risers and sleeves. Each Residential Unit will be provided telephone wiring to a communication closet.

1. Intercom

i) Each Residential Unit will be provided with an intercom linked to the concierge desk.

ii) The Building is to be provided with an intercom system linking the service entry areas with the concierge desk.

2. Closed Circuit Television

i) Building

Closed circuit television cameras will monitor selected locations, with viewing monitors at the concierge desk. The cameras will be designed to cover the building entrances and its immediate areas within the cameras view. Cameras will not necessarily cover all exterior areas.

ii) Commercial Unit

The installation of any Intercom and Closed Circuit Television Security System will be responsibility of the Commercial Unit Owner.

S. Lighting

1. Public & Service Areas

Lighting will be furnished to the public areas of the Building through fluorescent and/or incandescent fixtures.

2. Residential Units

Switched lighting fixtures will be provided in bathrooms, foyers and kitchens. Fixtures will be incandescent or fluorescent type in foyers, baths and kitchens.

3. Commercial Unit

No lighting will be provided

T. Garage

There will be no garage in the Building.

U. Finishes at Public and Service Areas

Finishes for all the building will be as follows.

Space	Floor	Wall	Base	Ceiling
Typical Floors				
-Stairs	DE	CONC/ GWB/P	-	CONC/VCC
-Public Corridor	CPT	GWB/	WD/P	AT/P/VCC
-Service Vestibules and Corridors	CONC	GWB/P	V	CONC/P/VCC
1st Floor Lobby				
-Lobby	ST	GL/GWB/P/ PL/ST/WD	ST	GWB/P

ABBREVIATIONS FOR FINISHES

AT	ACOUSTICAL TILE
CT	CERAMIC TILE
CPT	CARPET
CONC	CONCRETE
DE	DECK ENAMEL
EWD	ENGINEERED WOOD FLOOR
GL	GLASS
GWB	GYPSUM WALLBOARD
HC	HUNG CEILING
MT	MARBLE TILE
P	PAINT
PL	PLASTER
ST	STONE
V	VINYL
VCC	VINYL COMPOSITION COATING
VCT	VINYL COMPOSITION TILE
VWC	VINYL WALL COVERING
WB	GYPSUM WALL BOARD
WD	WOOD

V. Commercial Unit Description

1. Location: Commercial Unit at the ground level Southeast corner with entrance from proposed Center Boulevard, and the option to have a second entrance from 47th Avenue.

2. Area: The approximate 800 Sq. Ft. indoor area has been measured from the exterior side of the building wall or glass windows at the building line, or a public hallway, or public space; or from the midpoint of interior party walls separating the unit from another unit, or public stair, or from the mechanical space side of interior party walls and partitions separating the unit from mechanical equipment space or any other common elements. The floor area occupied by common elements bordering or within a unit (such

as the building walls, columns, vents, chase walls or areas, conduits, ducts, shafts, or pipes) have been included in the computation of the floor area of the unit, but such elements are not part of the unit. There is no outdoor floor area assigned to the unit.

3. Height: 15'-5" consists of the approximate height measured vertically from the top of the structural floor to the underside of the structural ceiling. The upper 2 feet of this unit height (elevation 13'-5"-15'-5") may be affected by other building Mechanical, Electrical, fire protection, security, communication, and Plumbing (MEP) systems. Examples of these systems are the plumbing, mechanical ventilation, electric conduits used by this Commercial Unit, or the rest of the Condominium.

4. Exterior Entrance: entrance from proposed Center Boulevard, and the option to have a second entrance from 47th Avenue.

5. Service Entrance: Service entrance from main access. There is no direct access to the Condominium back of house.

6. Use: Commercial Use subject to NYC Laws and QWDC guidelines only.

7. Operation hours: Operation hours subject to NYC Laws and QWDC guidelines only.

8. Subdivision: Subject to Owner

9. Ownership: Ownership to be retained by Sponsor or Affiliate.

W. Residential Units Description

1. Indoor Area

The approximate indoor floor area of each unit has been measured from the exterior side of the building wall or glass windows at the building line and/or property line enclosing the unit, or a public hallway, or public space; or from the midpoint of interior party walls separating the unit from another unit, or public stair, or boiler flue, or trash chute, or cooling tower risers, or the two (2) main electrical risers, or the two (2) main communication risers, or building laundry room exhaust, or any other common elements. The floor area occupied by common elements bordering or within a unit (such as the building walls, columns, vents, chase walls or areas, conduits, ducts, shafts, or pipes) have been included in the computation of the floor area of the unit, but such elements are not part of the Unit. The boiler flue, trash chute, cooling tower risers, the (2) main electrical risers, the (2) main communication risers, and building laundry room exhaust are not included in the Unit's indoor floor area.

The outdoor floor area of a balcony, terrace, or garden appurtenant to a Unit is not included in the Unit's indoor floor area.

Main electrical and communication riser are adjacent to the electrical and telecommunications closets.

2. Outdoor Area

The outdoor area is defined as the Unit private open space in the form of a garden, a terrace(s), and/ or a balcony(s).

i) For the ground floor (floor 1), the approximate outdoor area has been measured from the exterior side of the building wall or glass windows at the building line and/or the property line enclosing the space; or from the midpoint of the wall, fence, lattice or any other element separating the Unit outdoor area from another outdoor area.

ii) For the floors 2 through 19, the approximate outdoor floor area has been measured from the exterior side of the building wall or glass windows at the building line and/or the exterior side of the terrace or balcony; or from the midpoint of the wall, fence, lattice or any other element separating the Unit outdoor area from another outdoor area. It never extends over the property line

3. Each unit will consist of the approximate height measured vertically from the top of the structural floor to the underside of the structural ceiling or gypsum board drop ceiling.

4. Access to the Residential Unit Exterior space may require one step up or down from the interior of such unit. Two steps down in the case of Residential Unit 103.

X. Unit Finishes, Fixtures & Appliances

1. Finish Schedule for Residential Units from the 1st through 18th (PH) floors.

Space	Floor	Wall	Base	Ceiling
Foyer	EWD	GWB/P	WD/P	GWB/P, CONC/VCC/P
Living Room	EWD	GWB/P	WD/P	GWB/P, CONC/VCC/P
Bedrooms	EWD	GWB/P	WD/P	GWB/P, CONC/VCC/P
Kitchens	ST/EWD	GWB/P	-	GWB/P, CONC/VCC/P
Powder Rooms	ST	GWB/P	ST	GWB/P, CONC/VCC/P
2nd Bathrooms	CT	GWB/P/CT*	CT	GWB/P, CONC/VCC/P
3-Piece Master Bath	ST	GWB/P/ST**	ST	GWB/P, CONC/VCC/P
4-Piece Master Bath	ST	GWB/P/ST**	ST	GWB/P, CONC/VCC/P
5-Piece Master Bath	ST	GWB/P/ST**	ST	GWB/P, CONC/VCC/P
Closets	EWD	GWB/P	WD/P	GWB/P, CONC/VCC/P

*CT on tub surround walls in 2nd Bathrooms
**ST only on tub surround walls in 3-Piece Master Bathrooms and on 4 and 5-Piece Master Bathroom shower walls.

2. Bathroom Fixtures for Residential Units from the 1st through 19th (PH) floors.

Powder Room

Toilet:	Kohler "San Raphael", white; or similar
Lavatory:	Kohler "Caxton", white; or similar
Faucet:	Grohe "Atrio" Lavatory Wideset, chrome; or similar
Accessories	Grohe "Atrio" or similar

2nd Bathrooms

Toilet:	Kohler "San Raphael", white; or similar
Lavatory:	Kohler "Caxton", white; or similar
Faucet:	Grohe "Atrio" Lavatory Wideset, chrome; or similar
Accessories	Grohe "Atrio" or similar
Bathtub:	Kohler "Dynametric"; or similar
Shower Head:	Grohe Shower Head, chrome; or similar
Tub Spout	Grohe "Atrio" Wall Mount Tub Spout, chrome; or similar
Diverter Valve:	Grohe "Atrio" Pressure Balanced, chrome; or similar
Counter:	Calacatta Marble or similar
Cabinet:	Zebrawood or similar

3-Piece Master Bathroom

Toilet:	Kohler "San Raphael", white; or similar
Lavatory:	Kohler "Caxton", white; or similar
Faucet:	Grohe "Atrio" Lavatory Wideset, chrome; or similar
Accessories	Grohe "Atrio" or similar
Bathtub:	Kohler "Tea for Two", white; or similar
Shower Head:	Grohe Shower Head, chrome; or similar
Tub Spout:	Grohe "Atrio" Wall Mount Tub Spout, chrome; or similar
Diverter Valve:	Grohe "Atrio" Pressure Balanced, chrome; or similar

Counter:	Calacatta Marble or similar
Cabinet:	Zebrawood or similar

5-Piece Master Bathroom

Toilet:	Kohler "San Raphael", white; or similar
Lavatory:	Kohler "Caxton", white; or similar
Faucet:	Grohe "Atrio" High Spout Lavatory Wideset, chrome; or similar
Accessories	Grohe "Atrio" or similar
Bathtub:	Kohler "Tea for Two", white; or similar
Shower Head:	Grohe Shower Head, chrome; or similar
Tub Spout	Grohe "Atrio" Wall Mount Tub Spout, chrome; or similar
Valves:	Grohe "Atrio" Pressure Balanced; or similar
Counter:	Calacatta Marble or similar
Cabinet:	Zebrawood or similar

Kitchen Appliances

Faucet:	Grohe "Minta", chrome; or similar
Refrigerator:	Subzero 650; or similar
Range:	Viking 30"SVG range w/ closed burners, self cleaning oven, stainless steel finish; or similar. The range will have reduced burner output so as not to require an exhaust hood
Dishwasher:	Bosh "Integra 300", 24"; or similar
Microwave:	GE Profile Microwave, JEM31SF, in stainless steel finish; or similar
Range Hood:	Viking VWH3010 professional 10" hood w/ VRK30 recirculating conversion kit; or similar
Washer/Dryer:	GE 27" Unitized Electric Washer/Dryer, white; or similar
Sink:	Elkay stainless steel under-mount sink; or similar
Counter:	Stone "Concordia"; or similar
Cabinet:	White thermofoil cabinets; or similar

Y. Special Risks

1. The Sponsor, and ultimately the Condominium Managing Board, will be responsible for the active SSDS for the foreseeable future. See Section (D) (4)

2. There will be only one year guarantee for aluminum sliding or casement operable and fixed type window. See Section (I) (1) (ii) (a).

3. Windows will have a 4" limit stop in the sash for safety. The limit stop must not be removed. See Section (I) (1) (ii) (b).

4. Windows within units must be washed by the Unit Owner, and only by Board-Approved window washing contractor. See Section (I) (1) (ii) (c).

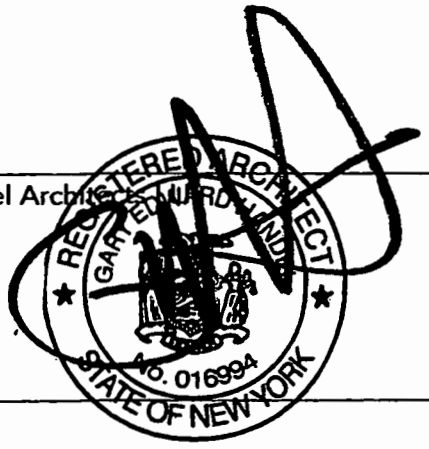
5. Residential Unit PHA has a service stair required for future maintenance and inspection. See Section (I) (9) (iv) (a).

6. Residential Unit 105 will have a 12" diameter underground storm sewer pipe and an approximate 4'-0" x 4'-0" manhole cover required for future maintenance and inspection. See Section (I) (10) (vi).

7. Commercial Unit ventilation in accordance to NYC Code is sole responsibility of the Commercial Unit Owner. See Section (P) (5).

8. Commercial Unit smoke detection unit is stand alone and is to be provided by the Commercial Unit Owner. See Section (Q) (6) (iii).

Handel Architects LLP



Stamp

OPERABLE UNIT ONE
FINAL REMEDIAL ACTION REPORT
(RAR)

VOLUME 1 OF 2
TEXT, TABLES AND FIGURES

Queens West Development – Stage 2 Site
46-00 5th Street
Long Island City, New York

NYSDEC Voluntary Cleanup Program
Site Number V00505A
Index Number A2-0494-0903

Prepared by:

TRC Engineers, Inc.
New York, New York

TRC Project Number 35204-2010

May 2006

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ABBREVIATIONS AND ACRONYMS

ASP	Analytical Services Protocol
AOC	Area of Concern
BaP	Benzo(a)pyrene
BGS	Below Ground Surface
BTEX	Benzene, Toluene, Ethylbenzene and Xylene
CAMP	Community Air Monitoring Plan
cPAH	Carcinogenic Polyaromatic Hydrocarbon
DER-10	Department of Environmental Remediation Technical Guidance for Site Investigation and Remediation
DQO	Data Quality Objective
DUSR	Data Usability Summary Report
HASP	Health and Safety Plan
IRMWP	Interim Remediation Measures Work Plan
NAPL	Non-Aqueous Phase Liquid
NYCDEP	New York City Department of Environmental Protection
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
OU	Operable Unit
ORCA	Oxygen Release Compound Advanced™
PCB	Polychlorinated Biphenyl
PID	Photoionization Detector
PM10	Particulate Matter 10 Microns in Diameter
PPM	Parts per Million
PVC	Polyvinyl Chloride
QAPP	Quality Assurance Project Plan
QA/QC	Quality Assurance/Quality Control
QWDC	Queens West Development Corporation

ABBREVIATIONS AND ACRONYMS (CONTINUED)

RAR	Remedial Action Report
RAWP	Remedial Action Work Plan
RPSMP	Remediation Phase Site Management Plan
RIR	Remedial Investigation Report
RSCO	Recommended Soil Cleanup Objective
SIDR	Supplemental Investigation and Design Report
SIR	Supplemental Investigation Report
SMP	Site Management Plan
SSSAL	Site-Specific Soil Action Level
STARS	Spill Technology and Remediation Series
SWPPP	Stormwater Pollution Prevention Plan
SVOC	Semivolatile Organic Compound
TAGM	Technical and Administrative Guidance Memorandum
TCL	Target Compound List
TOGS	Technical and Operational Guidance Series
UST	Underground Storage Tank
VCA	Voluntary Cleanup Agreement
VCP	Voluntary Cleanup Program
VOC	Volatile Organic Compound

Professional Engineer's Certification

OPERABLE UNIT ONE
FINAL REMEDIAL ACTION REPORT

Queens West Development - Stage 2 Site
46-00 5th Street
Long Island City, New York
NYSDEC Voluntary Cleanup Agreement
Site Number V00505A, Index Number A2-0494-0903

I certify that the remediation was completed in accordance with the approved Remedial Action Work Plan, dated August 2005 and its Stipulation List dated January 2006 (collectively the "RAWP"). Exceptions are presented within the Final Remedial Action Report. This certification does not apply to the final cover that will exist in Operable Unit One due to the ongoing construction across the Operable Unit. A minimum of one foot of clean fill cover exists in Operable Unit One. Upon the completion of the final covers in accordance with section 2.6.3 of this Remedial Action Report for Operable Unit One an additional certification will be appended to this report.

The export, including transport and disposal, of soil, fill, water, or other material from the property was performed in accordance with the RAWP, and was taken to facilities licensed to accept this material in full compliance with all federal, state, and local laws. The import of soil from offsite, including source approval and sampling, was performed in accordance with the RAWP. Invasive work for remediation and site development that occurred during remediation was performed in accordance with applicable dust and odor suppression measures at the time, as described in the earlier Interim Remediation Measures (IRM) Work Plan dated June 2004, and subsequent Expanded Odor Control and the Invasive Work Plan for Odorous Soil dated November 2004.

It is a violation of New York State Law for any person, unless acting under the direction of a licensed professional engineer or land surveyor, to alter any item in any way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his seal and notation "altered by" followed by his signature and the date of such alteration, and a specific description of the alteration. [As previously discussed and agreed, TRC requires Rockrose and QWDC Professional Engineers to certify to TRC that all soil disturbing activities, off-site disposal, on-site reuse, import of soil, etc. related to your activities was conducted in accordance with the Remediation Phase Site Management Plan and the Remedial Action Work Plan (amended 1-18-06).]

_____ Date

_____
Steven D. Meersma, P.E.
NYS Professional Engineer
License Number 076572

1.0 INTRODUCTION

1.1 Introduction and Project Objectives

To facilitate the remediation of the Queen West Development – Stage 2 Site in Long Island City, Queens, New York (the "Site"), Queens West Development Corporation (QWDC), East Coast 5 L.L.C. and East Coast 6 L.L.C. (Rockrose), TRC Engineers, Inc., and TRC Companies (TRC), collectively the "Volunteers," have entered into Voluntary Cleanup Program (VCP) Agreements (Site Number V00505A) as volunteers with the New York State Department of Environmental Conservation (NYSDEC). Figure OU1RAR-1 shows the general Site location.

Under the terms of the Voluntary Cleanup Agreement (VCA) (Index Number A2-0494-0903), remediation of the area designated as Operable Unit One (OU1) of the Site was completed. The scope of the remedial actions documented in this report was presented in the Interim Remediation Measures Work Plan (IRMWP) dated June 2004 and the Remedial Action Work Plan dated August 2005 and modified by an addendum dated January 18, 2006 (collectively, the "RAWP"). Figure OU1RAR-2 shows the boundaries of OU1.

The overall objective of the Remedial Action (RA) was to remediate environmental conditions at OU1 to the satisfaction of NYSDEC and the New York State Department of Health (NYSDOH) for future restricted residential use. Appendix A contains an electronic version of this Remedial Action Report (RAR) on compact disk.

1.2 Site Setting

The entire Site consists of approximately 21 acres and mainly contiguous parcels corresponding to Tax Blocks 20 and 21 in Long Island City, New York. Tax Block 20 is located to the south of 47th Avenue and Tax Block 21 is located to the north of 47th Avenue. The Site is divided into four OUs: OU1, OU2, OU3 and OU4. OU1, the subject of this RAR, covers approximately 5 acres primarily in Tax Block 20. OU1 is bordered by OUs 2 and 3 to the north, OU2 to the east, 47th Road to the south and the East River to the west.

1.3 Identified Areas of Concern

Based upon the findings presented in the OUs 1 and 2 Remedial Investigation Report (RIR), the RAWP addresses six Areas of Concern (AOCs) in OU1. These AOCs are summarized in the table below.

Area of Concern	Nature of Concern
AOC1	Non-hazardous elevated levels of lead and/or arsenic in soil and/or historic fill
AOC4	Elevated levels of volatile organic compounds (VOCs) and naphthalene in groundwater and grossly contaminated soil at and below the water table
AOC5	Hot spot areas exhibiting elevated levels of lead, arsenic, mercury, VOCs and semivolatile organic compounds (SVOCs)
AOC6	Grossly contaminated soil in the form of residual product at and below the water table
AOC9	Other subsurface structures of concern (drains, pits, etc.)
AOC10	Site-wide historic fill

Figure OU1RAR-3 provides an overview of the locations of the AOCs in OU1 and adjacent areas of OU2 identified during the OUs 1 and 2 Remedial Investigation (RI).

1.4 Applicable Remediation Standards

The soil cleanup objectives for OU1, as identified in the RAWP, are the Site-Specific Soil Action Levels (SSSALs) listed in the following table.

Contaminant Class	Approved Site-Specific Soil Action Level
VOCs	TAGM RSCOs[1]
SVOCs	TAGM Guidance Values [500 ppm (total) and 50 ppm (individual)]
PCBs	TAGM RSCOs
Pesticides/Herbicides	TAGM RSCOs
Arsenic	23.0 ppm
Lead	1,000 ppm
Cadmium	5.0 ppm
Mercury	2.0 ppm
Carcinogenic Polycyclic Aromatic Hydrocarbons (cPAHs)	10 ppm in terms of Benzo(a)Pyrene (BaP) equivalents
All	No characteristics of hazardous waste, as defined by applicable state and federal regulations
[1] TAGM RSCOs: NYSDEC's Recommended Soil Cleanup Objectives (RSCOs), as presented in Technical and Administrative Guidance Memorandum (TAGM) HWR-94-4046.	

In addition, the RAWP states that any grossly contaminated soil, as defined by NYSDEC's Draft Technical Guidance for Site Investigation and Remediation ("DER-10"), dated December 2002, will be remediated to the satisfaction of the NYSDEC. DER-10 defines grossly contaminated soil as "soil which contains visibly identifiable free or otherwise readily detectable free or residual product." Free product is further defined in DER-10 as "an immiscible or non-aqueous phase liquid (NAPL) existing at the surface or in the subsurface in a potentially mobile state" and residual product is defined as "an immiscible liquid (NAPL) existing in the subsurface at concentrations below the residual saturation point, which is held in place by capillary forces and will therefore not drain from the formation."

The groundwater cleanup objectives identified in the RAWP are to remove floating, free-phase petroleum product from the groundwater and to achieve NYSDEC Class GA Standards and Guidance Values ("GA Standards"). Long term groundwater monitoring, as described in the Site Management Plan (SMP) located in Appendix B, will continue until the GA Standards are achieved or until achieving GA Standards is determined by the NYSDEC to be technically infeasible.

Table 1 provides a list of applicable local, state, and federal permits, certificates, or other approvals for remediation and development work completed in OU1.

1.5 Summary of the Remedy

The following table summarizes the remedies implemented for each AOC in OU1.

Area of Concern/Nature of Concern		Remedy	RAR Section Number
AOC1	Non-hazardous elevated levels of lead and/or arsenic in soil and/or historic fill	Soil was excavated and disposed of offsite	Section 2.1
AOC4	Elevated levels of VOCs and naphthalene in groundwater and grossly contaminated soil at and below the water table	Source soil was excavated and disposed of offsite, groundwater was remediated through injection of Oxygen Release Compound Advanced™ (ORCA) and a barrier wall was installed along the southern boundary of OU1 to prevent recontamination from off-site sources	Section 2.2
AOC5	Hot spot areas exhibiting elevated levels of lead, arsenic, mercury, VOCs and/or SVOCs	Soil was excavated and disposed of offsite	Section 2.3
AOC6	Grossly contaminated soil in the form of residual product at and below the water table	Soil with residual product was excavated and disposed of offsite	Section 2.4
AOC9	Other subsurface structures of concern (drains, pits, etc.)	Subsurface structures of concern and associated impacted soil was excavated and disposed of offsite	Section 2.5
AOC10	Site-wide historic fill	Historic fill was reused and/or covered in accordance with the RAWP and the Site Management Plan (see Appendix B)	Section 2.6

2.0 SUMMARY OF REMEDIATION BY AREA OF CONCERN

This section of the report discusses the scope and nature of the RA conducted in OU1. The subsections below provide a detailed account of the remediation for each AOC in OU1. The remediation activities in OU1 primarily occurred from June 1, 2004 to March 2005. Photographs detailing representative remedial activities are presented in Appendix C.

Prior to initiating OU1 remediation work, a Quality Assurance Project Plan (QAPP) (Appendix A of the RAWP) and the Remediation Phase Site Management Plan (RPSMP) (Appendix B of the RAWP) were prepared to govern Site remediation activities. Exceptions to the application of the RAWP are discussed herein. A Health and Safety Plan (HASP) dated June 2004 and a Storm Water Pollution Prevention Plan (SWPPP) dated March 2004, were prepared and submitted to the NYSDEC separately. A full-time Site Manager provided oversight of all remedial activities and a Health and Safety Officer monitored compliance with health and safety procedures. NYSDEC performed regulatory oversight throughout the remediation.

Air monitoring for ambient respirable particulates (PM10) and volatile organic compounds (VOCs) was performed during intrusive activities. Initially NYSDOH generic Community Air Monitoring Program (CAMP) requirements were followed. In response to odor complaints generated by the remediation activities in September 2004, expanded odor and vapor controls, and expanded community air monitoring and modified work methods were developed and implemented for work in areas with potentially odorous soils in order to minimize vapors or odors that may be present at the Site during excavation, soil handling, and backfill activities. The modified procedures included in-situ delineation, in-situ reuse and disposal characterization sampling, odor reducing excavation techniques (including the use of foam encapsulants, use of odor neutralizing sprays, and other odor and vapor controlling procedures), direct load out for off-site disposal, and prompt post-excavation sampling and backfill. In addition, the expanded odor controls and monitoring included expanded onsite CAMP monitoring, the addition of offsite neighborhood monitoring, expanded analytical air sampling protocols and additional NYSDEC/NYSDOH reporting procedures. The results of air monitoring performed under both the CAMP and the expanded CAMP are presented in Appendix D.

Lancaster Laboratories of Lancaster, Pennsylvania and Accutest Laboratories of Dayton, New Jersey performed the laboratory analyses and provided NYSDEC Analytical Services Protocol (ASP) Category B deliverables. Laboratory analytical results are presented in Appendix E. Table 2 includes a summary of the samples collected and the analyses performed as part of the remediation. A summary of the volumes of soil removed for off-site disposal from each AOC and the off-site disposal facilities used to dispose of those soils is presented in Table 7.

2.1 Lead and Arsenic Contaminated Fill (AOC1) Remediation

Remediation in AOC1 consisted of the excavation and off-site disposal of historic fill and soil containing concentrations of lead and arsenic above the SSSALs established in the RAWP. According to the RAWP, other contaminants in this area were found to exceed the SSSALs at a few locations, but those locations coincided with locations where lead and/or arsenic were significantly above the SSSALs. Therefore, the remedial objective for this AOC, as defined in the RAWP, was to achieve the SSSALs for lead and arsenic. Remedial activities were conducted from August 12, 2004 to August 20, 2004 and on March 28, 2005 and March 29, 2005. The AOC1 remedial excavation area was located near the eastern boundary of OU1 and extended into OU2 (the majority of AOC1 was found to be located in OU2). The initial excavation of AOC1 was thought to have extended approximately 10 feet beyond the eastern boundary of OU1 into adjoining OU2. However, after completion of the excavation, a new survey of the Site showed the boundary between OUs 1 and 2 to actually be located farther to the east. Consequently, an approximately 300 square foot area of AOC1 remained unexcavated after the initial remediation of this AOC in August 2004. In March 2005, the excavation of the remaining 300 square foot area of AOC1 in OU1 was completed.

2.1.1 Excavation of Lead and Arsenic Contaminated Fill and Backfilling

For the initial and subsequent rounds of remediation for AOC1, historic fill from the delineated lead and arsenic area was excavated to a depth of 4 feet below ground surface (bgs). If initial post-excavation soil samples contained concentrations of contaminants greater than the SSSALs, additional soil excavation was conducted to remove the contaminated soil and additional post-excavation soil samples were collected until an acceptable excavation end point had been achieved.

The final AOC1 remedial excavation in OU1 covered an area of 1,900 square feet and bordered a portion of the AOC9 remediation to the south and OU2 to the east, as shown in Figure OU1RAR-4. Following the completion of soil excavations in this area, the AOC1 excavation was backfilled with imported clean sand (see Section 2.6 and Table 3).

2.1.2 Post-Excavation Soil Sample Results

Post-excavation soil samples were collected along the base of the sidewalls of the final excavated area and at the bottom of the excavation. Four final post-excavation soil samples, including two duplicate bottom and two sidewall samples, were collected for laboratory analysis from the portion of AOC1 excavated during August 2004. One additional sample (UST2-South 4') was collected on the northern sidewall as part of the AOC9 tank fragment excavation that was conducted at the same time in August 2004. Two additional samples were subsequently collected at the bottom of the excavation in OU1 when the remediation of the remaining area of AOC1 within OU1 was completed in March 2005. Although lead and arsenic were the primary contaminants used to define the extent of excavations in AOC1 and the remedial objective stated in the RAWP for this area was to meet the SSSALs for lead and arsenic, the post-excavation soil samples from AOC1 were analyzed for Target Compound List (TCL) SVOCs, arsenic, lead and mercury. These were the contaminants that were detected in AOC1 soil at concentrations above SSSALs in one or more soil samples during the investigation of OU1. Table 4 provides a summary of the results of the analyses of the initial post-excavation soil samples that exceeded the SSSALs. Additional excavation was conducted in such areas until post-excavation soil samples exhibited acceptable results, below applicable SSSALs.

Figure OU1RAR-4 presents the final post-excavation soil sample locations and results. Table 5 summarizes the results of the analyses of the final post-excavation soil samples. Final post-excavation soil samples were not collected from the southern or eastern sidewalls of AOC1 because this soil was removed during remediation of adjacent AOCs. The area along the southern sidewall of AOC1 was remediated as part of AOC9, while the eastern sidewall of AOC1 was remediated as part of the remediation of the portion of AOC1 located in the adjacent OU2, as shown on Figure OU1RAR-4.

Arsenic, lead, mercury and SVOC concentrations in post-excavation soil samples collected from the north and west sidewalls and the bottom of the excavated area were all less than the SSSALs. The results of the analyses of the post-excavation soil samples confirmed that no further excavation was required. As indicated by Figure OU1RAR-4, the soil along the north sidewall was subsequently excavated as part of the removal of a tank fragment along the OU 1 and 2 boundary.

2.1.3 Transportation and Disposal of Wastes

Excavated soil was characterized for waste disposal by collecting five-point composite samples and grab samples from stockpiled soil. The frequency of sample collection and the specific laboratory analyses performed on the waste disposal samples were determined based on disposal facility requirements. Based on the results of the analyses, which are presented in Table 6, soil excavated from AOC1 was characterized as non-hazardous petroleum-contaminated soil and was disposed of at Soil Safe in Bridgeport, Logan Township, New Jersey. Approximately 165 tons of AOC1 soil was transported to Soil Safe on December 20, 2004 and December 21, 2004. Disposal of additional AOC1 soil, excavated in March 2005 as part of OU2 remediation, will be documented in the OU2 Final Remedial Action Report. Records documenting the disposal of soil from the stockpile identified as SD L, containing soil excavated from AOC1, are presented in Appendix F.

2.2 Elevated Levels of VOCs and Naphthalene in Groundwater and Source Soil at and Below the Water Table (AOC4) Remediation

AOC4 remediation was conducted between November 2004 and March 1, 2005 and consisted of the tasks described below. As previously discussed, following the detection of significant odors at the Site in September 2004, enhanced odor and vapor controls and modified work methods were established for the Site in the *Invasive Work Implementation Plan for Odorous Soil,* dated December 2004, in order to minimize vapor and odor releases during subsequent remedial actions in potentially odorous soils. Consistent with the RAWP and the modified work methods, the remedial actions conducted in AOC4 consisted of the following tasks:

- Collecting pre-excavation delineation samples to establish the lateral and vertical extent of two areas of contaminated source soil (identified as GP9C and B9A2) at and below the water table that represent likely on-site sources for the groundwater contamination in OU1,
- Excavating VOC and naphthalene contaminated source soil at and below the water table,
- Installing a barrier wall along the southern boundary of OU1 to mitigate future migration of off-site contamination from 47th Road onto OU1, and
- Applying Oxygen Release Compound Advanced™ (ORCA) to treat dissolved VOCs in the groundwater.

Past industrial operations located off-site and to the south of OU1 are considered to represent the most likely source of the dissolved VOCs and naphthalene in the groundwater and the associated contaminated soil at and below the water table in OU1 (see Conceptual Site Model of the OUs 1 and 2 RIR). The VOC and naphthalene contaminated soil located at and below the water table in OU1 is referred to as contaminated source soil since the concentrations of contaminants which were present were believed to have the potential to adversely impact groundwater quality in OU1. The following subsections present further details regarding pre-excavation delineation of the extent of contaminated source soil, excavation and off-site disposal of those soils, installation of a barrier wall, and ORCA application.

2.2.1 Pre-Excavation Delineation Soil Sampling

In total, sixteen pre-excavation delineation soil borings were installed to define the lateral and vertical limits of excavation for two limited areas (identified by previous soil sampling conducted at locations GP9C and B9A2) exhibiting contaminated source soil at and below the water table that had the potential to impact groundwater quality in OU1 (see Figure OU1RAR-5). The two areas correspond to direct push probe sample location GP9C located at the intersection of Center Boulevard and 47th Road at the Site boundary and soil boring location B9A2 located near the south central boundary of OU1. Results of this pre-excavation delineation soil sampling are presented in Table 8 and Figure OU1RAR-5. Soil boring logs are presented in Appendix G.

2.2.2 Scope and Rationale for Contaminated Source Soil Removal

The investigation of the area around sample locations GP9C and B9A2 has included research into past on-site and off-site land uses and subsurface investigations that were described in depth in Supplemental Investigation and Design Reports 10 and 11, the OUs 1 and 2 RIR, and the OU1 RAWP. In addition, as discussed below, pre-excavation delineation soil sampling was also conducted. The research into historical land uses in the area showed that coal tar and petroleum processing activities were historically conducted in the off-site area immediately to the south of OU1. Releases from these operations represent the most likely source of the dissolved VOCs and naphthalene in groundwater and associated grossly contaminated soil at and below the water table on the south end of the Site (AOC4). Although dense non aqueous phase liquid (DNAPL) was discovered during off-site investigations to the south of OU1, no DNAPL was identified on-site within OU1. The results of the RI indicated only the limited presence of grossly contaminated soil, in the form of soil with residual product, at the south end of the Site. The presence of residual product in soil could be attributed to limited non-aqueous phase liquid migration from the south into the area around GP9C and the historic use of petroleum-contaminated materials as deep fill in the area around B9A2.

As previously discussed, the VOC- and naphthalene-contaminated soil located at and below the water table in the area around locations GP9C and B9A2 in OU1, and offsite to the south of OU1, is referred to as contaminated source soil because the concentrations of contaminants which were present were believed to have the potential to adversely impact groundwater quality in OU1.

The following subsections describe the rationale utilized to evaluate the initial sample results from GP9C (12-14') and B9A2 (15-17') and the corresponding pre-excavation delineation sample results for the purpose of defining appropriate remediation excavation limits. The two discrete areas, which are located approximately 230 feet apart in the southern portion of OU1, are described separately below.

Contaminated Source Soil at Boring Location GP9C

As part of the OUs 1 and 2 RI, soil and groundwater samples were collected from 12 to 14 feet bgs at boring GP9C, located in Center Boulevard in OU1 (see Figure OU1RAR-5). Groundwater was encountered at approximately 10 feet bgs in this area. An initial groundwater sample collected from GP9C contained benzene at a concentration of 23,000 ppb, above the GA Standard of 1 ppb, and naphthalene at a concentration of 8.5 ppb, below the GA Standard of 10 ppb. A soil sample collected from boring GP9C at a depth of 12 to 14 feet bgs was found to have benzene at a concentration of 19.6 ppm, compared to the SSSAL of 0.06 ppm, and naphthalene at a concentration of and 8,260 ppm, compared to the SSSAL of 50 ppm. During field screening, gross contamination in the form of residual product and strong odor was detected in soil between 12 and 14 feet bgs. The soil containing concentrations of significantly elevated VOCs, specifically benzene, at GP9C (12-14') were targeted for pre-delineation soil sampling and subsequently remediation because of the demonstrated impact of VOCs to the groundwater in this area. Elevated concentrations of SVOCs, particularly naphthalene, were detected in soil in this area but, based on the groundwater sample results collected as part of the investigation, the groundwater in this area was not impacted by naphthalene or other SVOCs at concentrations above the GA Standards. Therefore, soils in this area with elevated naphthalene concentrations that coincided with locations where soils also exhibited elevated VOC concentrations were included in the soils to be remediated. However, the extent of soil remediation in this area was defined primarily by the concentrations of VOCs in soils, as well as evidence of gross contamination.

Pre-excavation sampling was conducted to delineate the extent of the contaminated source soil, in accordance with the enhanced odor and vapor controls and modified work methods, which required pre-excavation delineation, direct loading of material and prompt backfilling. Because GP9C is located immediately adjacent to the southern property boundary, pre-delineation samples were collected radiating outward to the north, east and west. Field screening was conducted for staining, odors and PID readings indicative of gross contamination and/or contaminated source soils and documented in boring logs (refer to Appendix G). Ten soil samples collected from six boring locations were submitted for laboratory analyses for SVOCs and VOCs (refer to Table 8). The results of the delineation effort, summarized in the table below, showed that none of the delineation soil samples contained VOCs or naphthalene above the SSSALs, except for a marginal exceedance for xylenes in one soil sample. Based on these delineation results, a 15-foot by 15-foot area, approximately 15 feet deep in the vicinity of GP9C

was targeted for excavation and removal. As described above, the extent of the soil remediation in this area was determined primarily by the concentrations of VOCs in soils and evidence of gross contamination. The remaining soils in this area were not observed to be grossly contaminated and do not represent probable contaminated source soils.

Sample Name	Area (Fig. 2-3)	Depth to Groundwater Surface (ft)	Parameter	Concentration (ppb)
TRC-GP9C (12-14') (Note 1)	B	12-14 ft	Benzene Ethylbenzene Isopropylbenzene Toluene Xylene 10 Indv. SVOCs BaP Equivalent Total SVOCs	19 (0.6) 41 (5.5) 4.5 (2.3) 26 (1.5) 99 (1.2) 55 -346 (50) 67 (10) 1,609 (5000)
TRC-GP9C (12-14') DUP (Note 1)	B	12-14 ft	Benzene Ethylbenzene Isopropylbenzene Toluene Xylene 18 Indv. SVOCs BaP Equivalent Total SVOCs	133 (0.6) 218 (5.5) 22 (2.3) 423 (1.5) 538 (1.2) 75-1,650 (50) 359 (10) 8,280 (500)
TRC-GP9C (16-18') (Note 1)	B	16-18 ft	VOCs SVOCs	<SSSAL <SSSAL
TRC-GP9C (24-26') (Note 1)	B	24-26 ft	VOCs SVOCs	<SSSAL <SSSAL
9C-E1 (10-12)	B	10-12 ft	All (Note 2)	<SSSAL
9C-E2 (10-12)	B	10-12 ft	All (Note 2)	<SSSAL
9C-N1 (8-10)	B	8-10 ft	All (Note 2)	<SSSAL
9C-N2 (10.5-11)	B	10.5-11 ft	BaP Equivalent Total SVOCs	115 (10) 1,401 (500)
9C-N2 (13.5-14.5)	B	13.5-14.5 ft	All (Note 2)	<SSSAL
9C-N3 (11-13)	B	11-13 ft	BaP Equivalent	24(10)
9C-N3 (13-15)	B	13-15 ft	All (Note 2)	<SSSAL
9C-W1 (11.5-13.5)	B	11.5-13.5 ft	All (Note 2)	<SSSAL
9C-W1 (8-10)	B	8-10 ft	Xylene	1.7(1.2)
9C-W1 (8-10) DUP	B	8-10 ft	All (Note 2)	<SSSAL

Notes:
1. This is the original GP9C boring location that was the subject of this delineation and is included for the purpose of comparison with the delineation soil sample analytical results.
2. Parameters analyzed included benzene, toluene, ethylbenzene, xylene, naphthalene, BaP Equivalent and total SVOCs. For all of these samples, none of the analyzed constituents was found to exceed the SSSALs.
3. The soil sample locations that are shown in bold and underlined were considered source soil based on the results of the analyses and were targeted for remediation.

Contaminated Source Soil at Boring Location B9A2

As part of the OUs 1 and 2 RI, soil and groundwater samples were collected from 15 to 17 feet bgs at boring location B9A2, located near the southern boundary of OU1. Groundwater was encountered at approximately 10 to 12 feet bgs in this area. A groundwater sample collected from B9A2 contained benzene at a concentration of 3.0 ppb, above the GA Standard of 1.0 ppb and naphthalene at a concentration of 20 ppb, above the GA Standard of 10 ppb. Concentrations of benzene and naphthalene in a soil sample collected from boring B9A2 at a depth of 15 to 17 feet bgs were 37 ppm and 4,030 ppm, respectively, above their respective SSSALs of 0.06 ppm and 50 ppm. Although naphthalene and benzene were detected at concentrations that were only slightly above GA Standard for groundwater, the soil sample collected from 15 to 17 feet bgs in B9A2 contained significantly elevated concentrations of benzene and naphthalene. Therefore, this soil was targeted for pre-delineation sampling and subsequently remediation, considering the potential for impact to groundwater by VOCs and naphthalene.

Pre-excavation sampling was conducted as part of the RA to delineate the extent of the contaminated source soil, in accordance with the enhanced odor and vapor controls and work methods, which required pre-excavation delineation, direct loading of material and prompt backfill. Delineation samples were collected radiating outward in four directions to the north, east, south and west. Field screening was conducted for staining, odors and PID readings indicative of gross contamination and/or contaminated source soils and documented in boring logs (refer to Appendix G).

Forty-five soil samples collected from ten borings were selected for laboratory analyses for SVOCs and VOCs. The analytical results indicated that concentrations of SVOCs and VOCs in soil below the water table at several locations were above the SSSALs as shown in the table below.

Sample Name	Soil Zone (Note 2)	Depth Interval of Sample (ft)	Parameter	Concentration (SSSAL) (ppm or mg/kg)
TRC-B9A2 (15-17') (Note 3)	B	15-17 ft	Benzene Ethylbenzene Isopropylbenzene Toluene Xylene 17 Indv. SVOCs BaP Equivalent Total SVOCs	37 (0.6) 47 (5.5) 4.6 (2.9) 52 (1.5) 188 (1.2) 58-4,030 (50) 222 (10) 8,794 (500)
TRC-B9A2 (35-37') (Note 3)	B	35-37 ft	VOCs SVOCs	<SSSAL <SSSAL
47TH RD-GP-11-NI(13-15)	B	13-15 ft	ALL (Note 1)	<SSSAL
47TH RD-GP-11-NI(15-17)	B	15-17 ft	All (Note 1)	<SSSAL
47TH RD-GP-11-NI(18-20)	B	18-20 ft	All (Note 1)	<SSSAL
B9A2-E1(13-15)	B	13-15 ft	BaP Equivalent	13(10)
B9A2-E1(17.5-18.5)	B	17.5-18.5 ft	All (Note 1)	<SSSAL
B9A2-E1(18.5-20)	B	18.5-20 ft	All (Note 1)	<SSSAL
B9A2-E1(20-22)	B	20-22 ft	All (Note 1)	<SSSAL
B9A2-E1(23.5-25)	B	23.5-25 ft	All (Note 1)	<SSSAL
B9A2-E2(10-13)	B	10-13 ft	BaP Equivalent	32(10)
B9A2-E2(22.5-24)	B	22.5-24 ft	All (Note 1)	<SSSAL
B9A2-E2(24-25)	B	24-25 ft	All (Note 1)	<SSSAL
B9A2-E2(27.5-29.5)	B	27.5-29.5 ft	All (Note 1)	<SSSAL
B9A2-E4(10-15)	B	10-15 ft	All (Note 1)	<SSSAL
B9A2-E4(16-20)	B	16-20 ft	All (Note 1)	<SSSAL
B9A2-N1(11-13)	B	11-13 ft	BaP Equivalent Total SVOCs	64 (10) 791 (500)
B9A2-N1(13-15)	B	13-15 ft	All (Note 1)	<SSSAL
B9A2-N1(15-17)	B	15-17 ft	BaP Equivalent	11 (10)
B9A2-N1(17-20)	B	17-20 ft	Benzene Ethylbenzene Toluene Xylene Naphthalene BaP Equivalent Total SVOCs	3.85 (0.060) 8.3 (5.5) 4.3 (1.5) 24 (1.2) 736 (50) 140 (10) 2,989 (500)
B9A2-N1(23-25)	B	23-25 ft	Benzene Xylene Naphthalene	1.3 (0.06) 3.5 (1.2) 65 (50)
B9A2-N1(28-30)	B	28-30 ft	All (Note 1)	<SSSAL
B9A2-N2(13-15)	B	13-15 ft	Naphthalene BaP Equivalent Total SVOCs	218 (50) 566 (10) 8,906 (500)
B9A2-N2(18-20)	B	18-20 ft	BaP Equivalent	32 (10)
B9A2-N2(18-20)DUP	B	18-20 ft	All (Note 1)	<SSSAL

Sample Name	Area of Site	Depth Below Ground Surface (feet)	Parameter	Concentration (SSSAL) (ppm)
B9A2-N2(23-25)	B	23-25 ft	BaP Equivalent	20 (10)
B9A2-N2(26-28)	B	26-28 ft	Benzene	0.11(0.06)
			Xylene	1.5 (1.2)
			Naphthalene	69 (50)
B9A2-N2(28-30)	B	28-30 ft	All (Note 1)	<SSSAL
B9A2-N3(13-15)	B	13-15 ft	BaP Equivalent	49 (10)
B9A2-N3(18-20)	B	18-20 ft	All (Note 1)	<SSSAL
B9A2-N3(21-23)	B	21-23 ft	Benzene	0.11 (0.06)
			Xylene	3.8 (1.2)
			Naphthalene	99 (50)
B9A2-N3(23-25)	B	23-25 ft	All (Note 1)	<SSSAL
B9A2-N3(26-28)	B	26-28 ft	All (Note 1)	<SSSAL
B9A2-N4(13-15)	B	13-15 ft	BaP Equivalent	53 (10)
			Total SVOCs	1,010 (500)
B9A2-N4(18-20)	B	18-20 ft	BaP Equivalent	50 (10)
			Total SVOCs	1,311 (500)
B9A2-N4(20-22)	B	20-22 ft	Xylene	2.7 (1.2)
			Naphthalene	73 (50)
			BaP Equivalent	21 (10)
			Total SVOCs	542 (500)
B9A2-N4(22-24)	B	22-24 ft	Benzene	0.064 (0.060)
			Xylene	4.4(1.2)
			Naphthalene	54(50)
B9A2-N4(28-30)	B	28-30 ft	All (Note 1)	<SSSAL
B9A2-S1(16-18)	B	16-18 ft	All (Note 1)	<SSSAL
B9A2-S1(18-20)	B	18-20 ft	All (Note 1)	<SSSAL
B9A2-S1(18-20)DUP	B	18-20 ft	All (Note 1)	<SSSAL
B9A2-W1(11-13)	B	11-13 ft	BaP Equivalent	47 (10)
			Total SVOCs	527 (500)
B9A2-W1(13-15)	B	13-15 ft	Benzene	5 (0.06)
			Toluene	2.9 (1.5)
			Xylene	3.1 (1.2)
B9A2-W1(18-20)	B	18-20 ft	Benzene	6 (0.06)
			Xylene	4.5 (1.2)
			Naphthalene	2,660 (50)
			BaP Equivalent	236 (10)
			Total SVOCs	6,557 (500)
B9A2-W1(24-25)	B	24-25 ft	Benzene	0.082 (0.06)
			xylene	1.9 (1.2)
			naphthalene	111 (50)
			BaP Equivalent	23 (10)
B9A2-W1(28-30)	B	28-30 ft	All (Note 1)	<SSSAL
B9A2-W2(13-15)	B	13-15 ft	BaP Equivalent	10.4 (10)

			Benzene	0.13 (0.06)
B9A2-W2(18-20)	B	18-20 ft	All (Note 1)	<SSSAL
B9A2-W2(23-25)	B	23-25 ft	All (Note 1)	<SSSAL
B9A2-W2(27-29)	B	27-29 ft	All (Note 1)	<SSSAL

Notes:
1. Parameters analyzed included benzene, toluene, ethylbenzene, xylene, naphthalene, BaP Equivalent and total SVOCs. For all of these samples, none of the analyzed constituents was found to exceed the SSSALs
2. The soil sample locations that are shown in bold and underlined were considered source soil based on the results of the analyses and were targeted for remediation.
3. This is the original B9A2 sample location that was the subject of this delineation.

Based on the results shown above, the remediation area around location B9A2 was expanded to include two of the pre-excavation sample locations (B9A2-N1 and B9A2-W1) where contaminant levels in soils showed evidence of being potential contaminant source soil. Most notably, benzene was detected at 3.85 ppm in B9A2-N1 (17-20) and 6.24 ppm in B9A2-W1 (18-20) above the SSSAL of 0.06 ppm. As shown in the above table, at several locations and at depths generally well below the water table (i.e., greater than 10 feet bgs), soil with concentrations of SVOCs above the SSSALs were left in place. Those soils did not appear to be significantly impacting groundwater quality nor did they appear to represent either grossly contaminated soils or contaminated source soils.

Considering the results of all the delineation activities, including the elevated concentrations of benzene, a 675 square foot area, approximately 22 feet deep in the area of B9A2 was excavated and removed.

2.2.3 Barrier Wall Installation

To minimize the potential for future on-site migration of soil and groundwater contamination from the south, documented in SIDR 10, SIDR 11 and the OUs 1 and 2 RIR, a barrier wall was installed. The primary function of the barrier wall is to minimize the potential for migration of

dissolved contaminants in groundwater and/or floating free phase product (if present) from migrating from off-site onto OU1. The depth of the barrier was determined based on the depth of the on-site source areas (particularly GP9C as discussed below), Site geology and available data for the portion of 47th Road adjacent to the Site.

The barrier wall is approximately 300 feet long and was installed at the OU1 boundary along 47th Road. The location of the barrier wall along the southern boundary of OU1 is shown in Figure OU1RAR-6. The barrier wall fronts the entire length of the new Parcel 6 Building in OU1 and separates OU1 from the likely off-site source of contamination to the south. The barrier wall consists of 17.5-foot tall, steel sheets that were driven to the desired depths (i.e., with the top of the barrier wall approximately 4 feet above the water table and the bottom of the barrier wall at least 5 feet into a sandy silt layer) utilizing a pile-vibrating rig. The interlocks between each sheet were prepared prior to installation with an appropriate thickness of Adeka Ultra Seal A-30, a chemically resistant, hydrophilic waterstop that expands when it encounters moisture, thus creating a watertight seal.

2.2.4 Contaminated Source Soil Excavation and Backfilling

As stated above, the contaminated source soil delineated around boring locations GP9C and B9A2 were excavated to depths of 15 feet bgs and 22 feet bgs, respectively. Soil above the water table in these areas had been excavated previously as part of AOC9 (the area of pipe removal) and backfilled with imported clean fill as discussed later in this report in Section 2.6. Dewatering during the removal of the source soil was not necessary due to the short duration the excavation remained open and the limited infiltration of groundwater into the excavation. After the pre-delineated area was excavated, one bottom post-excavation soil sample was collected from each excavation and the excavations were promptly backfilled. The excavation area around location B9A2 was backfilled with a combination of reusable material and imported clean sand and the excavation area around location GP9C was backfilled with imported clean sand (see Table 3).

2.2.5 Post-Excavation Soil Sample Results

As described above, pre-excavation delineation sampling was performed to delineate the suspected contaminated source soils and establish the limits of excavation. Final post-excavation soil samples were collected to document contaminant levels in soil after completion of

remediation. In order to minimize the potential for releasing odors or vapors and to minimize worker exposure, bottom post-excavation sampling and backfilling were completed promptly after the excavations were completed. After backfilling, a direct push probe was used to collect final post-excavation soil samples from near the sidewalls of each excavation area. The sidewall post-excavation soil samples were collected at the approximate base of each excavation from a depth below the water table. Bottom and sidewall post-excavation soil samples were analyzed for VOCs and SVOCs. Sample locations and results are presented on Figure OU1RAR-6. Laboratory results are presented in Table 9.

For both excavation areas in AOC4, the post-excavation samples collected included four sidewalls samples and two duplicate bottom samples. In the GP9C excavation area, two of the post-excavation samples had VOC and SVOC concentrations that were below the SSSALs. Four of the post-excavation samples for the GP9C excavation, including the two duplicate samples from the excavation bottom, had concentrations of one or more constituents that exceeded SSSALs. The following is a summary of the post-excavation endpoint sample results that exceeded SSSALs.

Sample Name	Post-Excavation Sample Relative to Water Table	Depth Below Ground Surface (ft)	Parameter Exceeding SSSAL	Concentration (SSSAL) (ppm)	Note
GP9C-B(14') (Bottom)	Below	17	Benzene	6.8 (0.06)	1, 3
			Ethylbenzene	8.9 (5.5)	
			Xylene	22.9 (1.2)	
			Naphthalene	80.2 (50)	
GP9C-(14')S1 Dup (South sidewall)	Below	17	Benzene	0.16 (0.06)	1, 2, 3
GP9C-(14')S1 (South sidewall)	Below	17	Benzene	0.076 (0.06)	1, 2, 3
GP9C-(14')W (West sidewall)	Below	17	Benzene	0.35 (0.06)	1, 2, 3

Notes:

1. Sample location corresponds to the maximum depth at which excavation was possible without dewatering, additional excavation support or excessive sidewall sloping
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Extent of remedial excavation was determined by pre-delineation soil sampling as required by NYSDEC, as per the *Invasive Work Implementation Plan for Odorous Soil*, dated December 2004.

For the B9A2 excavation, the post-excavation results showed that all of the post-excavation soil samples had VOC concentrations below the SSSALs. In addition, three of the post-excavation soil samples had SVOC concentrations below the SSSALs. The other three samples had only marginally exceeded the SSSAL of 10 ppm for BaP equivalents. None of the post-excavation soil samples in the area of the B9A2 excavation exceeded SSSALs for either VOCs or naphthalene, which were the contaminants targeted for remediation in that area. The following is a summary of the post-excavation endpoint soil sample results that exceeded SSSALs.

Sample Name	Above/Below Water Table	Depth Below Ground Surface (feet)	Parameter Exceeding SSSAL	Concentration / SSSAL (ppm)	Notes
BA2 (17') B	Below	21	BaP Equivalent	13.2 (10)	1, 2, 3
B9A2 (17')B Dup	Below	21	BaP Equivalent	17.2 (10)	1, 2, 3
B9A2(17')E1	Below	21	BaP Equivalent	13.9 (10)	1, 2, 3

Notes:
1. Sample location corresponds to the maximum depth within the saturated zone at to which excavation was possible without dewatering, additional excavation support or excessive sidewall sloping.
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Extent of remedial excavation was determined by pre-delineation soil sampling as required by NYSDEC in the Invasive Work Implementation Plan for Odorous Soil, dated December 2004.

In accordance with the Invasive Work Implementation Plan for Odorous Soils, the area of the excavations in AOC4 were predetermined based on the results of pre-delineation sampling. The results of post-excavation soil samples show that the probable contaminated source soils were successfully removed. As described in the following section, residual levels of contaminants in soils and groundwater in this area were further remediated through the application of Oxygen Release Compound Advanced™ (ORCA). Any remaining soil and groundwater with contaminant concentrations above SSSALs or GA Standards will be addressed by use restrictions, potential future application of ORCA or other in-situ technologies, if necessary, and long-term groundwater monitoring. Performance groundwater monitoring is being performed to monitor the effectiveness of the remedial actions in AOC4, as discussed in the following section.

2.2.6 Application of Oxygen Release Compound Advanced™

In the vicinity of borings B9A2 and GP9C, where elevated levels of VOCs and naphthalene were found in soil at and below the water table, the area of dissolved VOC groundwater contamination was estimated to be approximately 70,000 square feet. The dissolved groundwater contamination was treated with ORCA through 49 direct push injection points. Aquifer Drilling and Testing, Inc., of New Hyde Park, New York performed the direct push injections between

November 24, 2004 and December 10, 2004. At each direct push injection location, a slurry of 30% ORCA solid and water was injected into the saturated zone approximately 10 to 22 feet bgs. Injection point locations are presented in Figure OU1RAR-7. A total of 2,025 pounds of ORCA was applied to the affected area through the 49 injection points.

After completing removal of contaminated source soil at and below the water table at B9A2 and GP9C, ORCA was also applied to the open excavations to enhance the biodegradation of any residual VOCs in soils as well as dissolved VOCs in groundwater. Manufacturer's calculations, based on contaminant concentrations in groundwater prior to excavation activities and the extent of the required treatment area, indicated that an ORCA dose of 650 pounds (475 pounds for the B9A2 area and 175 pounds for the GP9C area), applied directly to the open excavations, would be sufficient to promote degradation of the known VOC mass. A total ORCA dose of 650 pounds was applied to the two excavations on February 23, 2005 and March 1, 2005. The ORCA solid was mixed on site with clean imported sand and reusable on-site material prior to backfilling the excavation. The dry mixture was applied below the water table to hydrate the ORCA.

Additionally, since a portion of the VOC-impacted groundwater is present beneath the footprint of the Parcel 6 Building, six permanent reinjection points, identified as RP-1 through RP-6, were installed beneath the concrete slab of the Parcel 6 Building to facilitate potential future ORCA injections. The permanent injection points were constructed with 10 feet of steel well screen installed below the water table. The locations of the permanent injection points are shown on Figure OU1RAR-7.

Post-remediation performance groundwater sampling was conducted to evaluate the effectiveness of the remediation and to determine whether injection of additional ORCA in the AOC4 area was required. Details regarding the post-remediation groundwater sampling are discussed in Section 3.0. Subsequent rounds of performance groundwater monitoring will be performed as part of the SMP (refer to Appendix B). If determined that an additional ORCA application is required, ORCA liquid slurry will be injected into the groundwater via direct push temporary injection points at locations outside of building footprints and at the six permanent injection points installed beneath the Parcel 6 Building. Additional details regarding ORCA applications are provided in the SMP (refer to Appendix B).

2.2.7 Transportation and Disposal of Wastes

Soil was characterized for off-site disposal by in-situ characterization sampling. Consequently, excavated soil was directly loaded onto trucks for off-site disposal. The results of the in-situ soil sampling are presented in Table 6. Based on the results, an appropriate off-site disposal facility was identified. Approximately 800 tons of soil excavated from the contaminated source areas were characterized as non-hazardous petroleum-contaminated soil and transported to Chemical Waste Management, Tulleytown, Pennsylvania and Tilcon Mt. Hope, Rockaway, New Jersey on March 15 and 16, 2005. Records documenting the disposal of this soil are presented in Appendix F.

2.3 Hot Spot (AOC5) Remediation

Remedial activities in AOC5 consisted of the excavation and off-site disposal of soil containing chemicals of concern at concentrations exceeding the SSSALs in 20 discrete "hot spot" areas. The area identified as AOC5-39 is not addressed in this section because it was excavated and disposed offsite as part of the remediation of AOC6, which is discussed in Section 2.4. As defined in the RAWP, the primary remedial objective in AOC5 was to remediate the hot spot contamination areas to achieve the cleanup objectives by excavating soil and historic fill exceeding SSSALs to the shallower of the following: (1) the depth to which post-excavation soil sampling results indicated soil cleanup objectives have been achieved, or (2) the depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping is required. Remedial activities in AOC5 were conducted between June 4, 2004 and January 14, 2005.

2.3.1 Excavation of Hot Spot Soil and Backfilling

Figure OU1RAR-8 shows the locations and depths of each AOC5 hot spot excavation. Each AOC5 remediation area began as a 15-foot by 15-foot excavation, centered on the initial sampling location that identified the hot spot, and extended to the initial depths proposed in the RAWP. If initial post-excavation soil samples contained concentrations of contaminants above the SSSALs, the excavation was expanded horizontally and/or vertically until either post-excavation soil samples had contaminant concentrations that were below the SSSALs or the excavation reached a depth at which no further excavation could be performed without dewatering, additional excavation support or excessive sidewall sloping. Final AOC5 excavation

depths varied from 2 to 11 feet bgs. Excavated soil was stockpiled temporarily on site on a double layer of plastic sheeting and covered by plastic tarps pending characterization and off-site disposal. The AOC5 excavations were backfilled with reusable material (see Section 2.6).

The remedial excavation work in AOC5 was conducted prior to September 2004 and prior to the implementation of the enhanced odor and vapor controls and modified work methods. No particulate or VOC concentrations exceeding community air monitoring thresholds were detected during AOC5 excavation work. After final post-excavation soil samples indicated that SSSALs had been achieved in each hot spot area, the AOC5 excavations were backfilled with reusable material (see Section 2.7.1 and Table 3).

2.3.2 Post-Excavation Soil Sample Results

Post-excavation soil samples were collected from the sidewalls and bottom of each excavation to verify that concentrations of contaminants were less than the SSSALs. Post-excavation soil samples were analyzed for the specific target parameters of each AOC5 area. If the final dimension of an AOC5 excavation area increased because SSSAL concentrations were not achieved in the initial post-excavation soil samples, then additional post-excavation soil samples were collected. If additional post-excavation samples were required, they were collected in accordance with DER-10 guidance (i.e., one post-excavation soil sample per 30 linear feet of sidewall and one post-excavation soil sample per 900 square feet of bottom). Exceptions to this approach occurred where the AOC5 excavations overlapped other remedial areas such as AOC5-58, thus eliminating sidewalls, and at AOC5-31 and AOC5-32, where the extent of the excavation on one or two sidewalls was adjacent to the concrete bulkhead (see Figure OU1RAR-8). If the bottom post-excavation sample of an excavation exceeded the SSSALs but it was determined that the excavation had reached the maximum depth to which excavation could be performed without dewatering, additional excavation support or excessive sidewall sloping, then the excavation was stopped, in accordance with the RAWP.

Of the 20 hot-spot remedial excavation areas in AOC5, eleven were triggered by exceedances of SSSALs by SVOCs, five were triggered by metals (lead, mercury or arsenic) and four were triggered by a combination of both metals and SVOCs. As shown on Figure OU1RAR-8, final post-excavation soil samples were collected from a total of 100 locations associated with soil removal and analyzed for the specific target parameter of each AOC5 excavation. Figure OU1RAR-8 and Table 11 provide the results of the final post-excavation soil sample analyses

and the associated SSSALs. Table 4 provides the results of the interim soil samples for initial remedial excavations that were excavated further because the initial post-excavation samples contained concentrations of contaminants greater than the SSSALs.

The analytical results for the final post-excavation soil samples showed that 94 of the 100 samples had concentrations of SVOCs, including carcinogenic PAHs in terms of BaP equivalents, and metals below the SSSALs. Of the six post-excavation soil samples that exceeded the SSSALs, three of these exceedances were for samples collected at the maximum depth at which excavation could be performed without dewatering, additional excavation support or excessive sidewall sloping, while the remaining three samples had marginal exceedances of the SSSALs. Table 10 lists the post-remediation SSSAL exceedances in OU1, which are also summarized in the following table.

Sample No.	Above/Below Water Table	Depth Below Ground Surface (ft)	Parameter	Concentration (SSSAL) (ppm)	Note
5-1 (8-10)South D	Above	10	BaP Equivalent	17.3 (10)	2
5-24-GP13(4-6')Center	Above	6	Lead	1,040 (1,000)	2
			Mercury	2.5 (2)	
5-38 (10) Bottom (TP-7)	Above	10	BaP Equivalent	10.8 (10)	2
5-37(10') Bottom	Below	10	BaP Equivalent	21 (10)	1
5-37(10') Bottom Dup	Below	10	Mercury	2.3 (2)	1
			BaP Equivalent	191 (10)	
			10 SVOC	50.8-342 (50)	
			Total SVOC	1,674 (500)	
5-54(8') Bottom	Below	8	BaP Equivalent	34.7 (10)	1
			3 Indv. SVOCs	56-80 (50)	

Notes:
1. Sample location corresponds to the maximum depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required.
2. SSSAL exceedance(s) at this sample location are considered marginal.

As shown in the above table, three of the final post-excavation soil sample locations that contained concentrations of contaminants above the SSSALs were located at the maximum depth possible without dewatering, additional excavation support or excessive sidewall sloping or were considered to be marginal. In accordance with the RAWP, no further remediation was required at those locations. The other three soil samples where SSSAL exceedances occurred had marginal exceedances for BaP equivalents in two samples collected at depths of 10 feet below ground surface (BaP equivalents concentrations were 10.8 ppm and 17.3 ppm compared to the

SSSAL of 10 ppm) and for lead and mercury in one sample (e.g., lead at 1,040 ppm compared with the SSSAL of 1,000 ppm, mercury at 2.5 ppm compared to SSSAL of 2.0 ppm). The overall post-excavation soil sampling results indicate that the remedial objective in the RAWP has been met and no further soil remediation is warranted in AOC5.

Concentrations of SVOCs and carcinogenic PAHs in the closest groundwater monitoring wells to AOC5 (TRC-MW1 and TRC-MW16S) were below GA Standards. The concentrations of lead in an unfiltered groundwater sample collected from TRC-MW1 in May 2005 was 37.4 ug/L, as compared to the GA Standard of 25 ug/L. Although this concentration of lead in unfiltered groundwater samples is above GA Standards, it is likely biased high due to high turbidity in the unfiltered groundwater samples and likely does not reflect dissolved concentrations of lead in groundwater. Although earlier groundwater samples from TRC-MW16S had contained lead concentrations above the GA Standard of 25 ug/L, the most recent groundwater sample from that well, collected in May 2005, was non-detect for lead. Groundwater quality across OU1 will be addressed by groundwater use restrictions and long-term groundwater monitoring conducted in accordance with the SMP.

2.3.3 Transportation and Disposal of Wastes

Excavated soil was characterized by collecting five-point composite samples and grab samples from stockpiled soil. The sample frequency and laboratory analyses of the waste disposal samples were determined based on disposal facility requirements. Based on the results of these samples, which are presented in Table 6, soil generated during the remediation of AOC5 was classified as non-hazardous petroleum-contaminated soil. A total of 2,537 tons of soil and historic fill from AOC5 was excavated and stockpiled temporarily on-site and disposed of at Clean Earth of Philadelphia, Pennsylvania. Records documenting the disposal of stockpiles SD A, SD B and SD C that contained, in part, soil excavated from AOC5 are presented in Appendix F.

2.4 Grossly Contaminated Soil in the Form of Residual Product at and below the Water Table (AOC6) Remediation

Remediation in AOC6 consisted of the excavation of grossly contaminated soil in the form of residual product at and below the water table. As described in the RAWP, the remedial objectives in this area were:

- If present, mitigate odors associated with grossly contaminated soils in the form of residual product at depths that will be disturbed by future Site development activities,
- If present, remediate grossly contaminated soils in the form of free product to eliminate the ongoing or potential future source of environmental contamination above Groundwater Cleanup Objectives,
- If present, remove recoverable free product on the groundwater, and
- Perform any other required soil and groundwater remediation to achieve the Groundwater Cleanup Objectives.

The RAWP also stipulated the collection of post-excavation soil samples at the base and sidewalls of the excavation for analysis of Spill Technology and Remediation Series Memo (STARS) VOCs and SVOCs. If additional excavation of soil above the water table was required on the basis of a comparison of the post-excavation soil analytic results to the soil cleanup objectives, appropriate field screening procedures were to be used for identifying any VOC impacted soil and directing its removal.

In conjunction with the soil excavations in AOC6, groundwater dewatering and treatment was conducted in order to facilitate this excavation. Remedial activities were conducted between July and September 2004, on April 18 and 19, 2005, and on August 24 and 26, 2005. The initial excavation of AOC6 was thought to have extended approximately 10 feet beyond the boundary of OU1 and into the adjoining OU2 to the north. However, after the completion of the initial excavation, a new survey of the Site was performed that showed the boundary between OUs 1 and 2 to actually be located farther to the north than previously thought. Consequently, an approximately 300 square foot area of AOC6 remained unexcavated in OU1 after the initial excavation of this AOC in September 2004. In April and August 2005, the excavation of this approximately 300 square foot area of AOC6 in OU1 was completed as part of remedial activities in OU2.

2.4.1 Grossly Contaminated Soil Excavation and Backfilling

Soil above the water table in AOC6 that was not grossly contaminated was excavated and stockpiled on site for later reuse or off-site disposal, depending on reuse and waste characterization analytical results. Grossly contaminated soil within the saturated zone was excavated until visual evidence of gross contamination was no longer observed and no strong odors or PID readings indicative of gross contamination were detected. In addition to field screening techniques described above, post-excavation soil samples were collected and analyzed for VOCs and SVOCs. The final limits of the AOC6 remediation are shown in Figure OU1RAR-9 and comprised approximately 11,000 square feet in OU1 and immediately adjacent areas of OU2.

Excavation of grossly contaminated soil below the water table required dewatering. This was done by installing several well points around the perimeter of the excavation and pumping groundwater through an on-site pre-treatment system, which consisted of four 20,000-gallon equalization tanks, an oil/water separator, four bag filters and two 5,000-gallon granular activated carbon adsorption units. Treated groundwater was discharged through an 8-inch diameter connection to a combined sewer within 47th Avenue under New York City Department of Environmental Protection (NYCDEP) dewatering/ discharge approval number C-3648. Copies of the NYCDEP letters granting approval to discharge to the combined sewer are provided in Appendix H. A flow meter was installed on the discharge line in order to quantify the volume of treated water discharged to the combined sewer. In total, approximately 750,000 gallons of water were discharged between August 16 and August 26, 2004. In addition to this volume, another 35,000 gallons of water was discharged while decommissioning the groundwater pre-treatment system. No free product accumulated in the oil/water separator as a result of dewatering.

Ambient particulate and VOC air monitoring was performed during excavation of grossly contaminated soil in AOC6 and followed CAMP requirements. These procedures required the establishment of upwind background concentrations and continuous air monitoring downwind of excavation work using 15-minute time weighted averages for comparison. Air monitoring results are presented in Appendix D.

On two separate occasions during the excavation of grossly contaminated soil, exceedances of CAMP particulate thresholds were detected during implementation of the CAMP. A particulate

concentration of 157.7 micrograms per cubic meter ($\mu g/m^3$) (15-minute time weighted average) was measured with a particulate meter (DUSTTRAK Model 8250) on July 21, 2004, exceeding the action level of 150 ug/m^3. During backfilling of the AOC6 excavation area on August 31, 2004, a particulate concentration of 183.5 $\mu g/m^3$ (15-minute time weighted average) was measured with the same instrument. The first exceedance was determined to be the result of passing construction vehicles near the CAMP station and additional misting of the area near the CAMP station was performed in order to reduce particulate concentrations. The second exceedance was determined to be readings by the DUSTTRAK meter that were biased high due to high humidity and rain. According to the DUSTTRAK manufacturer's manual, relative humidity higher than 80 percent can cause particle concentration readings to be biased high compared with the actual concentration of dry particles. The humidity effect can bias the DUSTTRAK's readings up to 60 percent high in the extreme conditions of high temperature and high relative humidity. According to data compiled by the New York Central Park Observatory, on August 31, 2004 the relative humidity reached 100% with rain.

2.4.2 Post-Excavation Soil Sample Results

Post-excavation soil samples were collected from the AOC6 excavation sidewalls and bottom of the excavation to verify that SSSALs had been achieved. Samples were collected at the bottom of each sidewall at a frequency of one per every 30 linear feet of sidewall and one per 900 square feet at the base of the excavation, in accordance with DER-10. In total, final bottom and sidewall post-excavation soil samples were collected from 27 locations. Post-excavation soil samples were analyzed for STARS SVOCs and VOCs in all locations. At the request of NYSDEC, post-excavation soil samples were also analyzed for polychlorinated biphenyls (PCBs). PCB analysis was performed on all but three samples; for those three samples, PCB analyses were omitted due to sampler error[1]. Sample locations and results with the associated SSSALs are summarized in Figure OU1RAR-9, while the full analytical results are provided in Table 12. Table 4 provides the results of analyses of interim post-excavation samples of soils that were subsequently excavated.

VOCs and PCBs were not detected at concentrations exceeding SSSALs in any of the bottom or sidewall samples. Based on field screening techniques, no evidence of grossly contaminated soil was observed at the final limits of the excavation. Of the 27 post-excavation soil sample

[1] As discussed below, none of the 24 soil samples analyzed for PCBs was found to contain levels of PCBs above the SSSALs. Therefore, the fact that three samples that were not analyzed for PCBs is not considered to be significant.

locations, three samples at two locations exceeded SSSALs. Table 10 lists the post-remediation SSSAL exceedances, which are also summarized in the following table. In all cases in which the samples contained constituent concentrations above the SSSALs, those concentrations were detected in samples collected below the water table. The RAWP indicates that in AOC6, the remedial objectives focuses principally on the removal of residual and free product and grossly contaminated soils. The RAWP discusses potential remediation of exceedances of SSSALs for soils above the water table only. All three of the post-excavation soil samples that were found to exceed an SSSAL were collected from below the water table, and two of them were collected from outside the boundary of OU1, and were actually collected from within OU2.

Post-Excavation Soil Sample Results for AOC6 that Exceeded SSSALs					
Sample Name	Above/Below Water Table	Depth Below Ground Surface (feet)	Compound	Concentration (SSSAL) (ppm)	Note
FPA(6-8')North Wall	Below	8	5 Indiv. SVOCs	51-120 (50)	1
			BaP Equivalent	63 (10)	
FPA(8')North Bottom	Below	8	1 Indiv. SVOC	52 (50)	1, 2
			BaP Equivalent	32 (10)	
FPA(8')North Bottom DUP	Below	8	1 Indiv. SVOCs	59 (50)	1, 2
			BaP Equivalent	38 (10)	

Notes:
1. Sample location corresponds to depth within the saturated zone at the maximum depth possible without dewatering, additional excavation support or excessive sidewall sloping.
2. Sample location falls outside of the metes and bounds of OU1.

A post-remediation groundwater monitoring well (TRC-MW1) was installed within the limits of the AOC6 excavation after the excavation and backfilling of the area was completed. A post-remediation groundwater sample was collected from TRC-MW1 and no VOCs or SVOCs were detected at concentrations above the applicable GA Standards. Based on field screening and post-remediation soil and groundwater sampling results described above, the remedial objectives for AOC6 described in the RAWP were achieved. The AOC6 excavation area was backfilled with a combination of reusable material and imported clean fill (see Section 2.6 and Table 3).

2.4.3 Transportation and Disposal of Wastes

Excavated soil was characterized for waste disposal by collecting representative samples from stockpiled soil. Results of these samples are presented in Table 6. Based on these results, an appropriate off-site disposal facility was identified. Soil from AOC6 was characterized as non-hazardous petroleum-contaminated soil and was transported to Clean Earth's thermal treatment facility in Philadelphia, Pennsylvania, Soil Safe in Logan Township, New Jersey, and Casie Pro Tank in Vineland, New Jersey. A total of approximately 16,000 tons of soil and historic fill from AOC6 in OU1 were transported to these facilities between July 2004 and August 2005. Records documenting the disposal of soil from stockpiles SD D, SD F, SD J, SD K, and SD L containing excavated soil specifically from AOC6 are presented in Appendix F.

During the stockpiling and load out of this material in September 2004, strong nuisance odors were generated. This, in part, led to the development and implementation of enhanced odor and vapor controls and modified work methods for remaining remediation activities conducted under the IRMWP and subsequently the RAWP.

2.5 Subsurface Structures of Concern (AOC9) Remediation

As outlined in the RAWP, the objectives of the remediation in AOC9 were to:

- Decommission or remove the drainage pipes and any other subsurface structures of concern (AOC 9) such that they do not represent an ongoing or potential future source of environmental contamination above the Soil and Groundwater Cleanup Objectives,
- Define the nature and extent of any soil and groundwater contamination associated with discharges from the subsurface structures of concern, and
- Perform any required soil and groundwater remediation to achieve the SSSALs and Groundwater Cleanup Objectives.

Remediation in AOC9 included the excavation and removal of a pair of suspected drainage pipes near the southern boundary of OU1 and a fragment of a tank located in Center Boulevard partially in OU1 and partially in OU2. Although no free product or liquids were found in the pipes, they were removed because they contained sediment with concentrations of SVOCs exceeding the SSSAL of 10 ppm for BaP equivalent. The pipes were situated one on top of the other and ran the southern boundary of OU1. The uppermost pipe was located between 5.5 and

6.5 feet bgs and consisted of a 2 to 6-inch diameter steel pipe encased discontinuously by a 2-inch thick ceramic shell. While excavating soil within AOC1, the historic lead and arsenic remediation area, a tank fragment and adjacent petroleum-stained soil were encountered in the southeast corner of OU1, at the boundary between OUs 1 and 2. These areas are shown on Figure OU1RAR-10. Remediation activities in AOC9 associated with the pipe trench area were conducted from March 23 to July 26, 2004 and the fragment of a former tank was removed on August 17, 2004. The areas of the AOC9 excavations are shown on Figure OU1RAR-10.

2.5.1 Subsurface Structure and Soil Removal Activities and Backfilling

The pipes and the tank fragment were removed and the surrounding soil was excavated and disposed of off-site. For the pipe trench excavation, overlying soil was removed, exposing both drainage pipes and the 2-inch diameter pipe segment, using an excavator. Both drainage pipes terminated approximately 160 feet west of the eastern boundary of OU1. The drainage pipes and the 2-inch pipe fragment were entirely removed from the ground, leaving behind no piping to be decommissioned or sealed. Following removal of the pipes, confirmatory soil samples were collected every 100 feet along the bottom of the pipe excavation. Soil sampling locations with SSSAL exceedances were treated as hot spots AOC5-54, AOC5-58 and AOC5-59, and removed as hot spots as part of the remediation of AOC5 (see Section 2.3 of this report).

After removing the pair of drainage pipes, pieces of a black, viscous tar-like material were observed along the south sidewall of the pipe excavation. The north sidewall of the excavation was free of this substance. As reported in the RIR, two samples were collected from the tar-like material and analyzed for TCL SVOCs, revealing concentrations of BaP equivalents exceeding SSSALs. The tar-like material was excavated for off-site disposal on July 22, 23 and 28, 2004. The remedial excavation for the pipe trench therefore extended to the south boundary of OU1 at 47th Road and to the depth of the water table. During the excavation of the pipe trench, no sheen or product was observed on the groundwater.

The tank fragment was removed in accordance with the procedures outlined in the RAWP. After removing overlying soil during the AOC1 remediation, the tank fragment was exposed using an excavator. Following its removal from the ground, the tank fragment was cleaned and staged on plastic sheeting before being transported for disposal off-site.

The final extent of excavation for these subsurface structures of concern is shown in Figure OU1RAR-10. After the post-excavation soil samples were analyzed by the laboratory and it was determined that the SSSALs had been achieved, the AOC9 excavation area was backfilled. The AOC9 area identified as the pipe trench was backfilled with a combination of reusable material and imported clean sand and the AOC9 excavation area identified as the tank fragment was backfilled with imported clean sand (see Section 2.6 and Table 3).

2.5.2 Post-Excavation Soil Sample Results

After removal of the black, viscous tar-like material and the contaminated soil hot spot areas from the pipe excavation, there were no visual or olfactory signs of grossly contaminated soil observed in the remaining soil. Post-excavation soil samples were collected in accordance with the RAWP for the contaminants of concern for the pipe trench and analyzed for carcinogenic PAHs. If initial post-excavation soil samples failed to meet the SSSAL for BaP equivalents of 10 ppm then additional soil excavation was conducted. Table 4 provides the results of those interim post-excavation soil samples. Laboratory analysis of the final post-excavation soil samples indicated that the concentrations of BaP equivalents met the SSSAL of 10 mg/kg in all of the post-excavation soil samples. Post-excavation soil samples were not collected from the south wall of the excavation because it extended to the property boundary. Final post-excavation soil sampling results for the pipe trench area are presented in Table 13 and presented in Figure OU1RAR-10. Final post-excavation soil samples collected from the hot spots areas located within the pipe trench which were remediated as part of AOC5 are shown on Figure OU1RAR-8. These results document that the remedial objectives were achieved in this area and no further soil remediation was necessary.

After removal of the tank fragment and associated petroleum-stained soil, the area where the tank fragment had been excavated was evaluated to determine whether there were any additional impacts to soil and/or groundwater conditions. A photoionization detector (PID) and field observations were used to determine whether the petroleum contamination had impacted subsurface conditions beyond the area that had already been excavated. Based on field measurements and observations, there was no evidence of petroleum contamination remaining in the soil at the extents of the excavation or evidence of grossly contaminated soil. As shown on Figure OU1-RAR10, soil samples were collected from each sidewall and the bottom of the tank fragment excavation. Soil samples were analyzed for STARS VOCs, TCL SVOCs, arsenic, lead, mercury and PCBs. Laboratory analytical results indicated that the soil constituents were below

the respective SSSALs for all of the post-excavation soil samples. Post-excavation soil sampling results are presented in Table 13 and shown on Figure OU1RAR-10. These results document that the remedial objectives were achieved in this area and no further soil remediation was necessary.

2.5.3 Transportation and Disposal of Wastes

The cleaned tank fragment and drainage pipes were transported to a permitted off-site scrap metal recycling facility. An appropriate off-site disposal facility was determined based on the results of 52 waste characterization samples collected from stockpiled soil excavated from the pipe trench and the tank area. Based on these results, soil from the tank fragment and drainage pipe remedial excavations was characterized as non-hazardous petroleum-contaminated soil and was transported to Clean Earth's thermal treatment facility in Philadelphia, Pennsylvania, for recycling. Approximately 5,630 tons of soil from the pipe excavation and 195 tons of soil from the tank fragment excavation were transported to Clean Earth between August 2 and September 7, 2004. Records documenting the disposal of soil from stockpiles SD A, SD B, and SD C containing soil specifically from the pipe trench and tank fragment area are presented in Appendix F.

2.6 Site-wide Historic Fill (AOC10) Remediation

The overall remedial objectives of AOC10, as described in the RAWP are:

- To establish protocols that ensure that disturbances of Site-wide historic fill and residual contaminated soil (AOC 10) associated with Site remediation occur in a manner protective of human health (workers and general public) and the environment, and
- to minimize future disturbances of AOC 10 by placement of a cover layer.

As a result of remediation and Site development activities, Site-wide historic fill (AOC10) in OU1 has been graded and covered in accordance with the RAWP. Section 2.6.1 describes grading activities and Section 2.6.2 contains a description of the interim and final covers. Information about the interim and final covers is included in the following figures:

- Figure OU1RAR-11: the elevations of the base of the remedial excavations,
- Figure OU1RAR-12: the residual soil management zone,
- Figure OU1RAR-13: the location of the demarcation layer, and
- Figure OU1RAR-14: the interim and final covers.

2.6.1 Reusable Soil

Excavated soil from other than remedial excavations (i.e., overburden and post-remediation Site grading) was stockpiled, and this soil was subsequently evaluated to determine its suitability for on-site reuse. As required by the RPSMP (Appendix B of the RAWP), soil qualifying for on-site reuse must meet the following requirements: comply with SSSALs; exhibit no gross contamination, as defined by DER-10; and contain no organic matter or other solid waste. In addition, excavated soil was excluded for reuse if it did not meet specific geotechnical properties defined in the RPSMP. Lastly, reusable soil was used as fill material only below the clean fill layer. Table 6 presents the results of soil reuse characterization sampling for on site reuse or off-site disposal. Table 14 presents a summary of the final disposition of soil stockpiles generated by excavation work in OU1.

2.6.2 Grading

OU1 was excavated and graded in preparation for installation of the final and interim cover layers, at the Final Grade, defined below. Where needed, imported clean sand provided by Amboy Aggregates, South Amboy, New Jersey, was also used in combination with on-site, reusable soil to obtain the final grade for OU1. A demarcation layer consisting of long-lasting orange plastic grid was placed at the locations and elevations shown on Figure OU1RAR-13, immediately below the clean fill cover described below in Section 2.6.3.

The activities related to the relocation of the PepsiCo sign to its temporary location in OU1, the remedial activities described in this report, Site work to achieve Final Grades, and existing soil and imported fill were conducted in accordance with the RPSMP of the RAWP. "Final Grade" is defined as the surface elevation achieved in OU1 after completion of remediation and placement of one foot of clean cover material.

2.6.3 Installation of Interim and Final Covers

After completion of the remediation and grading activities described previously, one-foot of clean fill cover material was placed over the demarcation layer and in the road and utility areas, where there is no demarcation layer. The clean fill cover material consisted of imported clean fill provided by Amboy Aggregates, South Amboy, New Jersey. This imported clean fill cover material appears as light brown sand and is visually distinct from the underlying native soil and historic fill. To complete the interim and final cover, the following elements will be completed as described below:

- The temporary Pepsi sign area is located in OU1 near the waterfront. It consists of a concrete foundation for the sign and at least 2 feet of clean cover material around the foundation. The Pepsi sign will be moved to its permanent location in OU3 following remediation of OU3 and the temporary Pepsi sign area will be incorporated into the park and, if necessary, additional imported clean fill will be placed as the final cover as described for the park areas below.
- Two feet of clean fill cover were placed in the area of Building 5 Parcel to serve as an interim cover. The final cover will consist of the building concrete slab on grade and a landscaped courtyard anticipated to be constructed on the Building 5 Parcel within approximately 2 years. The landscaped area will contain at least two feet of imported fill or top soil.
- Building 6 Parcel was covered by a minimum of one foot of imported clean fill following remediation. In addition to the one-foot fill layer, the Building 6 Parcel was covered by the building or landscaping. In areas of the landscaping, at least one additional foot of imported fill or top soil was placed for a total of at least two feet of cover material.

- Park areas were covered by a minimum of one foot of imported clean fill following remediation. In addition to the one-foot fill layer, the park areas were covered with at least one additional foot of imported fill or top soil for a total of at least two feet of cover material.
- Steel bulkheads, concrete platforms and concrete foundation walls were constructed and cover the waterfront areas immediately adjacent the East River and the 47th Road inlet.
- The Center Boulevard road base consists of at least two feet of subbase course material covered by pavement.

No pre-existing soils or historic fill are exposed in OU1 as a result of the covers described above. The interim and final covers for OU1 are shown on Figure OU1RAR-14. Elevations of the demarcation layer and the native underlying soil and historic fill (i.e., "Residual Soil Management Zone") are presented in Figure OU1RAR-12. A copy of Amboy Aggregates' certification of clean fill and laboratory analytical reports of samples collected from the fill material are included in Appendix I.

2.6.4 Engineering and Institutional Controls

The institutional controls will consist of a deed restriction applying to post-remediation disturbances of soil below Site covers and usage of groundwater. An annual report will be submitted to the NYSDEC in accordance with the SMP located in Appendix B. The annual report will be signed by a New York State licensed Professional Engineer and will contain a certification that nothing has occurred to the institutional and engineering controls that would impair the ability of these controls to protect public health and the environment.

2.7 Building Sub-Slab Depressurization System (SSDS)

As proposed in the RAWP, the components of the building sub-slab depressurization system (SSDS) have been installed in the Parcel 6 Building in OU1. Figure OU1RAR-15 shows the layout of the pits, underground piping and monitoring points for the SSDS of the Parcel 6 Building. Figure OU1RAR-16 depicts the details for the SSDS. As previously discussed in Section 2.6.2, an interim cover exists in the area of OU1 where the Parcel 5 Building will be present. Figure OU1RAR-17 presents a conceptual layout of the Parcel 5 Building SSDS. The SMP located in Appendix B provides details for the operation, monitoring and maintenance of the SSDSs for the buildings within OU1.

3.0 POST-REMEDIATION SAMPLING

After completion of excavation and backfilling in OU1, groundwater sampling, including OU1-wide monitoring as well as area-specific performance groundwater monitoring, and soil gas sampling was performed. The results of this post-remediation sampling are discussed in the following subsections.

3.1.1 Post-Remediation Groundwater Sampling Results

Following completion of soil remediation and backfilling activities, seven new groundwater monitoring wells in OU1 were installed and sampled (TRC-MW1, TRC-MW16S, TRC-MW16D, TRC-MW17, TRC-MW18, TRC-MW19 and TRC-MW30). In addition, at the request of NYSDEC, groundwater samples were collected from two of the ORCA reinjection points (RP-3 and RP-4) located beneath the Parcel 6 Building floor slab. The locations of these wells and reinjection points are shown on Figure OU1RAR-18. Well logs detailing the construction of the wells are included in Appendix G.

One round of post-remediation groundwater sampling was performed at eight locations (6 wells and 2 reinjection points). A second round of groundwater samples were collected from the two ORCA reinjection points and monitoring well TRC-MW16S. The groundwater monitoring wells were gauged with an oil/water interface probe prior to sampling to determine whether any NAPL was present. No NAPL was detected in any of the eight locations that were gauged. Groundwater samples from monitoring wells TRC-MW1, TRC-MW16S and TRC-MW16D were analyzed for STARS VOCs, STARS SVOCs and Priority Pollutant Metals. Groundwater samples from TRC-MW17, TRC-MW18 and TRC-MW19 and the ORCA reinjection points RP-3 and RP-4, which are intended to monitor the performance of the remedial actions in AOC4, were analyzed for benzene, toluene, ethylbenzene, xylene, and naphthalene. Table 15 presents the results of the post-remediation groundwater sampling. Results of the post-remediation groundwater sampling are also shown on Figure OU1RAR-18. A summary of exceedances of GA Standards is provided in the table below.

Sample Name	Parameter	Concentration/GA Standard (ug/L)	Qual
TRC-MW1	Lead	37.3 (25)	1,2
TRC-MW16S (2nd round))	All parameters less than TOGS	NA	NA
TRC-MW16S	Lead	41.3 (25)	1,2
TRC-MW16S DUP	Lead	60.6 (25)	1,2
TRC-MW16D	Chromium	154 (50)	1,2
	Nickel	231 (100)	1,2
TRC-MW17	Benzene	29.6 (1)	2
	Ethylbenzene	59.3 (5)	2
	Toluene	14 (5)	2
	Xylenes (total)	181 (5)	2
	Naphthalene	10,500 (10)	2
TRC-MW18	Benzene	6,980 (1)	2
	Ethylbenzene	585 (5)	2
	Toluene	194 (5)	2
	Xylenes (total)	902 (5)	2
	naphthalene	9,790 (10)	2
TRC-MW19	Benzene	2.8 (1)	1, 2
	naphthalene	28.6 (10)	1, 2
TRC-MW30	Benzene	1.4 (1)	1, 2
TRC-MW30 DUP	Benzene	1.2 (1)	1, 2
TRC-RP-3	Naphthalene	60.1 (10)	1, 2
TRC-RP-4	Benzene	23.3 (1)	1, 2
	Ethylbenzene	9.1 (5)	1, 2
	Xylenes (total)	16.5 (5)	1, 2
	naphthalene	195 (10)	1, 2

1. GA Standards exceedances are not considered significant. Source soil has been removed and groundwater will continue to be monitored as discussed in the SMP.
2. Groundwater will continue to be monitored as discussed in the SMP.

Although metals, particularly lead, were detected above the GA Standards, these relatively low concentrations of metals in groundwater are likely a result high turbidity and do not likely reflect the dissolved concentrations of metals in groundwater. Concentrations of metals and other contaminants in groundwater will be addressed by groundwater use restrictions and long-term groundwater monitoring.

VOCs and naphthalene were detected at concentrations that were significantly above GA Standards. These samples were collected from the vicinity of the two AOC4 remediation areas. Contaminated source soil has been removed in these areas, and ORCA has been applied to both groundwater and soils in both areas. The remaining levels of VOCs and naphthalene in

groundwater will be addressed through groundwater use restrictions, long-term groundwater monitoring, and potential reinjection of ORCA or other in-situ technologies, if necessary. Additionally, the installation and operation of the active SSDS located beneath the Parcel 6 Building will prevent potential off-gassing of VOCs from the groundwater from entering into the building.

3.1.2 Post-Remediation Soil Vapor Sampling Results

Following the initial injection of ORCA into the larger dissolved VOC groundwater plume, but prior to the implementation of the other elements of remediation of AOC4 (see Section 2.2), seven soil gas samples were collected, including one duplicate sample, from six locations, in accordance with the RAWP. Sample locations were distributed across OU1, but concentrated near proposed building footprints. Figure OU1RAR-19 shows the soil gas sample locations and summarizes the laboratory analytical results. Sample results are summarized in Table 16 and included in their entirety in Appendix E.

At each location, a direct push probe was used to drive rods with an expendable steel tip through a 3 square foot piece of 6-mil (one mil is equal to one thousandth of an inch) plastic sheeting to the final sample depth. The sample depth was a minimum of 6 feet bgs. Plastic sheeting was used at the ground surface in an attempt to limit infiltration of ambient air into the shallow soil vapor samples. All samples were collected within the vadose zone, above the capillary fringe in order to avoid excess moisture. Teflon-lined polyethylene tubing was inserted into the rods and screwed into the tip of the direct push probe rods to create an airtight seal. The rods were then pulled up approximately 6 inches to allow the expendable point to fall out, and air to enter the rod. A bentonite seal was packed around the rod at each ground surface insertion point to prevent atmospheric air from infiltrating the sample. A Gillian Personal Air Sampler pump with a low flow module was used to purge air within the tubing at a rate of 0.2 liters per minute (L/min) for at least two minutes prior to sampling. The tubing was then connected to a SUMMA passivated canister (i.e., the interior is polished for inertness) to collect the vapor sample. Flow regulators were used to control flow into each canister at a rate of 0.2 L/min.

Soil gas samples were analyzed for the targeted list of parameters approved by NYSDOH. Air Toxics Ltd of Folsom, California performed sample analysis. One duplicate sample was collected at the SG-7 location and one background sample (ABZ) was collected of ambient air at the intersection of 47th Road and Center Boulevard.

Soil gas sampling results are presented in Table 16, and were evaluated utilizing the Johnson and Ettinger Model in accordance with the protocol in the *Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soil.* A target soil vapor concentration was obtained for each contaminant based upon a cancer risk of one in a million (1E-6) and an attenuation factor of 0.0007 (7E-04), which accounted for average, site-specific soil type and the soil gas sampling depth relative to the proposed elevation of the bottom of the building floor slab. As indicated in Table 16, none of the soil gas samples had contaminant levels that exceeded the target soil vapor screening concentration for any chemical parameter. Nonetheless, as a conservative measure, active SSDSs are being installed beneath the Parcel 6 and Parcel 5 Buildings, the only buildings to be constructed within OU1.

4.0 QUALITY ASSURANCE/QUALITY CONTROL DATA EVALUATION

A Quality Assurance/Quality Control (QA/QC) program for the OU1 remedial activities was instituted to ensure that the analytical and project objectives were met. The QA/QC program consisted of the development and implementation of the Quality Assurance Project Plan (QAPP), which detailed the data quality objectives (DQOs) for each analytical parameter for the entire remediation. During the program, the collection of QC samples was monitored by the TRC Project QA Officer to ensure that the field QC samples were collected at the proper frequency. Finally, the QA/QC program included data validation for a percentage of the analytical data, as outlined in the QAPP. Only those samples collected for the purpose of investigation, delineation, post-excavation soil sampling and/or post-remediation groundwater sampling were validated (e.g., waste disposal samples were not validated). For the remedial activities in OU1, 10% of the data generated for the final post-excavation soil samples, groundwater samples and soil vapor samples were validated.

The results of the data validations were summarized in Data Usability Summary Reports (DUSRs). A more detailed overview of the data evaluation completed for the project and the DUSRs appear in Appendix J, including a discussion of each qualified result, for the potential bias and the effect on the data usability. The data for OU1 was found to be valid and usable for decision-making purposes.

5.0 SUMMARY AND CONCLUSIONS

Remediation of OU1 was conducted in accordance with the IRMWP dated June 2004, the Expanded CAMP and the Invasive Work Plan for Odorous Soil dated November 2004, the Enhanced Odor and Vapor Control Plan dated December 2004 and the RAWP dated August 2005. The results of the remedial activities conducted in OU1 indicate that the remedial objectives have been met. The soil remediation completed in OU1 addressed all identified AOCs. Soil remediation consisted of the excavation and off-site disposal of lead and arsenic contaminated fill and soil (AOC1), identified contaminant hot spots (AOC5), subsurface pipelines, tank fragment and associated petroleum-contaminated soil (AOC9) and grossly contaminated soil above and below the water table (AOC6). Finally, contaminated source soil at and below the water table was delineated and removed as a component of the groundwater remediation for dissolved contaminants (AOC4). In summary, approximately 25,000 tons of soil was excavated and disposed off site, 18,000 tons of soil was reused as backfill, and 19,500 tons clean sand fill was imported and placed as cover material. Figure OU1RAR-11 provides an overview of the remediation completed in OU1, with the base of removal elevations indicated.

5.1 Soil Remediation

Post-excavation soil sampling results indicate that the numerical SSSALs were met in OU1 except in a small number of sample locations, as summarized in the table below. The SSSALs were met in all of the post-excavation soil samples for AOC1 and AOC9. Table 10 summarizes the remaining SSSAL exceedances in OU1 based upon investigation and remediation phase (pre-excavation and post-excavation) soil sampling results for AOC4, AOC5 and AOC6. As indicated by Table 10, the majority of the remaining SSSAL exceedances relate to soil samples collected below the water table, and generally at the maximum depth in the saturated zone at which excavation could be performed without dewatering, additional excavation support or excessive sidewall sloping. The RAWP did not require soil remediation to be conducted below this depth for most AOCs. Other samples listed in Table 10 are samples that were collected as part of the pre-delineation sampling conducted in AOC4, in accordance with the enhanced vapor and odor controls and modified work methods.

A summary of the post-excavation soil samples meeting SSSALs is located below.

Area of Concern (AOC)	Description of AOC	Total Number of Post-Excavation Soil Samples	Number of Post-Excavation Soil Samples Meeting SSSALs	Percent
1	Non-hazardous elevated levels of lead and/or arsenic in soil and/or historic fill	4	4	100%
4	Elevated levels of volatile organic compounds (VOCs) and naphthalene in groundwater and grossly contaminated soil at and below the water table	10	6	60%
5	Hot spot areas exhibiting elevated levels of lead, arsenic, mercury, VOCs and semivolatile organic compounds (SVOCs)	100	97	97%
6	Grossly contaminated soil in the form of residual product at and below the water table	28	26	93%
9	Other subsurface structures of concern (drains, pits, etc.)	12	12	100%
Total		154	145	94%

Additionally, the soil remediation resulted in the removal of all identified structures and soil that could serve as a potential source of groundwater contamination. All grossly contaminated soil has been removed from AOC6 and the tank fragment excavation (AOC9). A significant quantity of black, viscous tar-like material was also excavated and disposed off site in conjunction with the pipe trench excavation (AOC9). Based on the very limited presence of free phase petroleum product in small, isolated pockets, and the historical groundwater sampling data, it is believed that soil contamination that was remediated in AOC6 and AOC9 had little or no impact on groundwater quality. Finally, VOC and SVOC-contaminated source soil was excavated and disposed off site as a part of the remedy for dissolved contaminants in groundwater (AOC4). Overall, the soil remediation objectives outlined in the RAWP have been met in each of the areas of concern in OU1. The results of remediation relative to the areas of concern related to groundwater are detailed in the next section.

5.2 Groundwater Remediation

Based on the findings of groundwater investigations, as reported in the OUs 1 and 2 RIR, the only groundwater areas of concern identified for remediation within OU1 were as follows:

1) The presence of soil grossly contaminated with petroleum consisting almost entirely of soil containing residual product at and below the groundwater table (AOC6).
2) The presence of concentrations of VOCs and naphthalene in groundwater above GA Standards and VOC impacted soil at and below the groundwater table (AOC4).

The results of remediation relative to the groundwater areas of concern are detailed in the subsections below.

5.2.1 Elevated Levels of VOCs and Naphthalene in Groundwater and Grossly Contaminated Soil at and Below the Water Table (AOC4)

Pre-excavation delineation soil sampling was performed to determine the approximate lateral and vertical extent of contaminated source soil at and below the water table (i.e., boring B9A2 and boring GP9C), which, if untreated, would represent a potential on-site source of groundwater contamination. After the delineation of these source areas, contaminated source soil at and below the water table was excavated for off-site disposal. ORCA was applied to enhance the biodegradation of dissolved VOCs in groundwater and a barrier wall was installed along the southern boundary of OU1 to prevent future on-site migration of groundwater contamination from a likely off-site source to the south.

Post-remediation groundwater sampling results indicated concentrations of dissolved VOCs and naphthalene in the groundwater beneath the Parcel 6 Building are only slightly above the GA Standards. However, post-remediation groundwater sampling results for TRC-MW17 and TRC-MW18 revealed elevated levels of naphthalene and VOCs. These wells are located in Center Boulevard in OU1. VOCs and naphthalene were detected in both wells at concentrations that were significantly above GA Standards. Remedial actions have already been undertaken in the area of these wells, including excavation of contaminated source soils and application of ORCA. Over time, it is expected that VOC and naphthalene concentrations in ground water will decrease in response to the remedial actions taken. In addition, these concentrations of contaminants in groundwater will be addressed by groundwater use restrictions, long-term groundwater monitoring, and, if necessary, potential reinjection of ORCA or other in-situ technologies.

Additionally, the installation and operation of the active SSDS located in the Parcel 6 Building will mitigate potential vapor intrusion.

5.2.2 Grossly Contaminated Soil in the Form of Residual Product at and below the Water Table (AOC 6)

Grossly contaminated soil from at and below the water table was excavated for off-site disposal, with the aid of dewatering, to address AOC6. The dewatering fluids were treated on-site prior to discharge to the New York City sewer system. Following completion of the removal of the grossly contaminated soil at and below the groundwater table, a replacement permanent monitoring well (TRC-MW1) was constructed within the limits of this remedial excavation area. Other monitoring wells, TRC-MW16S and TRC-MW16D, were also installed farther down gradient to the south and west and sampled. No petroleum constituents (VOCs or SVOCs) were present in concentrations above the applicable GA Standards in TRC-MW1, TRC-MW16S, and TRC-MW16D. Based on the scope and results of the investigations and remediation, additional groundwater remediation in OU1 related to AOC6 is not warranted and the remedial objects of AOC6 were met.

5.3 Soil Gas

Seven soil gas samples were collected in accordance with the RAWP. Sample locations were distributed across OU1, but concentrated near proposed building footprints. Soil gas sampling results were evaluated utilizing the Johnson and Ettinger Model in accordance with the protocol in the *Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soil.* A target soil vapor concentration was obtained for each contaminant based upon a cancer risk of one in a million (1E-6) and an attenuation factor of 0.0007 (7E-04), which accounted for average, site-specific soil type and the soil gas sampling depth relative to the proposed elevation of the bottom of the building floor slab. None of the soil gas samples had contaminant levels that exceeded the target soil vapor screening concentration for any chemical parameter. Although the soil gas concentrations detected in the soil do not pose a significant risk to future Site occupants, an active SSDS was installed beneath the Parcel 6 Building and a similar system will be installed beneath the Parcel 5 Building to protect building occupants from possible exposure to sub-slab vapors.

5.4 Achievement of Project Remedial Objectives

The completion of the active excavation, removal and treatment phase of remediation under the RAWP within OU1 as summarized above has resulted in the remediation of known environmental conditions within the OU1 to prepare it for future uses including restricted residential use, roads and parks. The SMP will ensure the proper management of OU1 after completion of remediation. The elements of the SMP are summarized in the following table.

ELEMENT	PROPOSED FUTURE ACTION
The site-wide presence of remaining historic fill and soil below the clean fill cover layer containing levels of certain PAHs, other SVOCs, and metals generally meeting the SSSALs and groundwater containing low levels of certain SVOCs and metals exceeding GA Standards (AOC10)	Operation, maintenance, and monitoring requirements for post-remediation subsurface disturbances of the clean fill cover layer and residual soil and groundwater
The presence of the remaining dissolved VOCs and naphthalene in groundwater (AOC4)	Groundwater monitoring and potential reapplication of ORCA or alternative groundwater remedy (i.e., chemical oxidation)
The presence of soil gas with contaminant concentrations not anticipated to pose a significant risk to future occupants of the proposed buildings	Installation of active SSDSs for the Parcel 6 and Parcel 5 Buildings
Need for institutional controls	Establishment a deed restriction

6.0 REFERENCES

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OPERABLE UNIT TWO
FINAL REMEDIAL ACTION REPORT
(RAR)

VOLUME 1 OF 3
TEXT, TABLES AND FIGURES

Queens West Development - Stage 2 Site
46-00 5th Street
Long Island City, New York

NYSDEC Voluntary Cleanup Program
Site Number V00505B
Index Number A2-0495-0903

Prepared By

TRC Engineers, Inc.
New York, New York

TRC Project Number 35204-2010

March 2007

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ABBREVIATIONS AND ACRONYMS

ASP	Analytical Services Protocol
AOC	Area of Concern
BaP	Benzo(a)pyrene
BGS	Below Ground Surface
CAMP	Community Air Monitoring Plan
cPAH	Carcinogenic Polyaromatic Hydrocarbon
DER-10	Department of Environmental Remediation Technical Guidance for Site Investigation and Remediation
DQO	Data Quality Objective
DUSR	Data Usability Summary Report
HASP	Health and Safety Plan
IRMWP	Interim Remediation Measures Work Plan
ISOTEC™	In-Situ Oxidative Technologies, Inc.
MTBE	Methyl Tert Butyl Ether
NAPL	Non-Aqueous Phase Liquid
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
OU	Operable Unit
ORCA	Oxygen Release Compound Advanced™
PCB	Polychlorinated Biphenyl
PID	Photoionization Detector
PM10	Particulate Matter 10 microns in diameter
PPM	Parts per Million
PRP	Potentially Responsible Party
QAPP	Quality Assurance Project Plan
QA/QC	Quality Assurance/Quality Control
QWDC	Queens West Development Corporation
RAR	Remedial Action Report
RAWP	Remedial Action Work Plan

ABBREVIATIONS AND ACRONYMS (CONTINUED)

RCA	Recycled Concrete Aggregate
RPSMP	Remediation Phase Site Management Plan
RIR	Remedial Investigation Report
RSCO	Recommended Soil Cleanup Objective
SIDR	Supplemental Investigation and Design Report
SIR	Supplemental Investigation Report
SMP	Site Management Plan
SSSAL	Site-Specific Soil Action Level
STARS	Spill Technology and Remediation Series
SWPPP	Stormwater Pollution Prevention Plan
SVOC	Semivolatile Organic Compound
TAGM	Technical and Administrative Guidance Memorandum
TCL	Target Compound List
TOGS	Technical and Operational Guidance Series
UST	Underground Storage Tank
VCA	Voluntary Cleanup Agreement
VCP	Voluntary Cleanup Program
VOC	Volatile Organic Compound

Professional Engineer's Certification

OPERABLE UNIT TWO
FINAL REMEDIAL ACTION REPORT

Queens West Development – Stage 2 Site
46-00 5th Street, Long Island City, New York

NYSDEC Voluntary Cleanup Agreement
Site Number V00505B, Index Number A2-0495-0903

I, Steven D. Meersma, am currently a registered professional engineer licensed by the State of New York. I had primary direct responsibility for implementation of the remedial program for the Queens West Development – Stage 2 Site: Operable Unit Two (NYSDEC VCA Index No. A2-0495-0903, Site No. V00505B).

I certify that the site description presented in this Final Remedial Action Report (RAR) is identical to the site descriptions presented in the Deed Restriction, the Site Management Plan, and the Voluntary Cleanup Agreement (VCA) for Queens West Development – Stage 2 Site: Operable Unit Two and related amendments.

I certify that the Remedial Action Work Plan dated September 2005 and Stipulations in a letter dated January 18, 2006 and approved by the NYSDEC were implemented and that all requests have been substantively complied with.

I certify that the remedial activities were observed by qualified environmental professionals under my supervision and that the remediation requirements set forth in the Remedial Action Work Plan have been achieved.

I certify that all use restrictions, institutional controls, engineering controls, and all operation and maintenance requirements applicable to the site are contained in a deed restriction created and recorded with the Queens County Clerk pursuant to the VCA. A Site Management Plan has been submitted by the Volunteers for the continual and proper operation, maintenance, and monitoring of all engineering controls employed at the site, including the proper maintenance of all remaining monitoring wells, and that such plan has been approved by the Department.

I certify that all export of soil, fill, water or other material from the property was performed in accordance with the Remedial Action Work Plan, and were taken to facilities licensed to accept this material in full compliance with all federal, State and local laws, as documented in this Final Remedial Action Report.

I certify that all import of soils from offsite, including source approval and sampling, has been performed in a manner that is consistent with the methodology defined in the Remedial Action Work Plan.

I certify that all invasive work during the remediation was conducted in accordance with the dust and odor suppression methodology defined in the Remedial Action Work Plan.

I certify that all information and statements in this certification are true. I understand that a false statement made herein is punishable as a Class "A" misdemeanor, pursuant to Section 210.45 of the Penal Law.

Steven D. Meersma, P.E. Date Signature
New York State Professional Engineer
License Number 076572

It is a violation of Article 130 of New York State Education Law for any person to alter this document in any way without the express written verification of adoption by any New York State licensed engineer in accordance with Section 7209(2), Article 130, New York State Education Law.

1.0 INTRODUCTION

1.1 Introduction and Project Objectives

To facilitate the remediation of the Queens West Development-Stage 2 Site in Long Island City, Queens, New York (the "Site"), Queens West Development Corporation (QWDC), East Coast 5 L.L.C. and East Coast 7 L.L.C. (Rockrose), TRC Engineers, Inc., and TRC Companies (TRC), collectively the "Volunteers," have entered into the Voluntary Cleanup Program (VCP) (Site Number V00505B) as non-PRP volunteers with the New York State Department of Environmental Conservation (NYSDEC). Figure OU2RAR-1 shows the general Site location.

Under the terms of the Voluntary Cleanup Agreement (VCA) (Index Number A2-0495-0903), remediation of the area designated as Operable Unit Two (OU2) of the Site was completed. The scope of remediation documented in this report was presented in the NYSDEC-approved Operable Unit Two Remedial Action Work Plan dated September 2005 and modified by a stipulations list dated January 18, 2006 (collectively, the "RAWP"). Figure OU2RAR-2 shows the boundaries of OU2.

The overall objective of the Remedial Action (RA) was to remediate environmental conditions at OU2 to the satisfaction of NYSDEC and the New York State Department of Health (NYSDOH) for the future, restricted residential use. Appendix A contains an electronic version of this Remedial Action Report (RAR) on compact disk.

1.2 Site Setting

The entire Site encompasses approximately 21 acres and mainly consists of contiguous parcels corresponding to tax blocks 20 and 21 in Long Island City, New York. Tax block 20 is located to the south of 47th Avenue and tax block 21 is located to the north of 47th Avenue. The Site is divided into four OUs: OU1, OU2, OU3 and OU4. OU2, the subject of this RAR, covers approximately 6 acres in tax blocks 20 and 21. OU2 is bordered by OU3 to the north, 5th Street to the East, 47th Road to the south, and OU1 to the west. The metes and bounds description of OU2 is located in the Site Management Plan located in Appendix B located in Volume 3.

1.3 Identified Areas of Concern

Based upon the findings of the OUs 1 and 2 Remedial Investigation Report (RIR), the RAWP identified nine Areas of Concern (AOCs) in OU2. These AOCs are summarized in the table below.

Area of Concern	Nature of Concern
AOC1	Non-hazardous elevated levels of total lead and/or total arsenic in soil and/or historic fill
AOC2	Hazardous levels of leachable lead in soil and/or historic fill
AOC3	Elevated levels of tetrachloroethylene in soil
AOC5	Hot spot areas exhibiting elevated levels of lead, arsenic, cadmium, mercury, VOCs and/or carcinogenic polyaromatic hydrocarbons (cPAHs)
AOC6	Grossly contaminated soil in the form of residual product at and below the water table
AOC7	Underground storage tanks
AOC8	Historic subterranean oil refinery systems
AOC9	Other subsurface structures of concern (drains, pits, etc.)
AOC10	Site-wide historic fill

Figure OU2RAR-3 provides an overview of the locations of these AOCs in OU2 and adjacent areas of OU1 identified during the OU 1 and 2 Remedial Investigation (RI).

1.4 Applicable Remediation Standards

The soil cleanup objectives for OU2, as identified in the RAWP, are Site-Specific Soil Action Levels (SSSALs) listed in the following table.

Contaminant Class	Approved Site-Specific Soil Action Levels
VOCs	TAGM RSCOs[1]
SVOCs	TAGM Guidance Values [500 ppm (total) and 50 ppm (individual)]
PCBs	TAGM RSCOs
Pesticides/Herbicides	TAGM RSCOs
Arsenic	23.0 ppm
Total Lead	1,000 ppm
Total Cadmium	5.0 ppm
Total Mercury	2.0 ppm

Contaminant Class	Approved Site-Specific Soil Action Levels
Carcinogenic Polycyclic Aromatic Hydrocarbons (cPAHs)	10 ppm in terms of Benzo(a)Pyrene (BaP) equivalents
All	No characteristics of hazardous waste, as defined by applicable state and federal hazardous waste regulations

[1] TAGM RSCOs: NYSDEC's Recommended Soil Cleanup Objectives (RSCOs), as presented in Technical and Administrative Guidance Memorandum (TAGM) HWR-94-4046.

In addition, any grossly contaminated soil, as defined by NYSDEC's Draft DER-10 Technical Guidance for Site Investigation and Remediation ("DER-10"), dated December 2002 would be remediated to the satisfaction of the NYSDEC. Specifically, DER-10 defines grossly contaminated soil as "soil which contains visibly identifiable free or otherwise readily detectable free or residual product." Free product is further defined by DER-10 as "an immiscible or non-aqueous phase liquid (NAPL) existing at the surface or in the subsurface in a potentially mobile state," and residual product is defined as "an immiscible liquid (NAPL) existing in the subsurface at concentrations below the residual saturation point, which is held in place by capillary forces and will therefore not drain from the formation."

The remedial groundwater cleanup objectives for OU2 were to remove floating, free-phase petroleum product from the groundwater and to meet NYSDEC Class GA Technical and Operating Guidance Series (TOGS) Ambient Water Quality Standard (GA Standard). Long term groundwater monitoring, as detailed the Site Management Plan located in Appendix B (located in Volume 3), will continue until the GA Standards are achieved or until achieving such standards and guidance values is determined by the NYSDEC to be technically infeasible.

Table 1 provides a list of applicable local, state, and federal permits, certificates, and other approvals for remediation and development work that occurred in OU2.

1.5 Summary of the Remedy

The following table summarizes the remedies for each AOC in OU2.

Area of Concern/Nature of Concern		Remedy	RAR Section Number
AOC1	Non-hazardous elevated levels of lead and arsenic in soil	Soil was excavated and disposed of offsite	Section 2.1
AOC2	Presumed hot spot area exhibiting hazardous leachable lead	Soil was excavated and disposed of offsite	Section 2.2
AOC3	Elevated levels of tetrachloroethylene in soil	Soil was excavated and disposed of offsite	Section 2.3
AOC5	Hot spot areas exhibiting elevated lead, arsenic, cadmium, mercury, VOCs and/or cPAHs	Soil was excavated and disposed of offsite	Section 2.4
AOC6	Grossly contaminated soil in the form of residual product at and below the water table	Soil with residual and/or free product was treated to reduce odors. Soil with residual and/or free product was subsequently excavated and disposed of offsite.	Section 2.5
AOC7	Petroleum underground storage tanks (USTs)	USTs, piping systems, and associated soil were excavated and disposed of offsite	Section 2.6
AOC8	Historic subterranean oil refinery systems	Historic subterranean oil refinery systems and associated soil were excavated and disposed of offsite	Section 2.7
AOC9	Other subsurface structures of concern (drains, pits, etc.)	Subsurface structures of concern and associated soil were excavated and disposed of offsite	Section 2.8
AOC10	Site-wide historic fill	Historic fill was reused and/or covered in accordance with the RAWP and the Site Management Plan (see Appendix B located Volume 3)	Section 2.9

2.0 SUMMARY OF REMEDIATION BY AREA OF CONCERN

This section of the report discusses the scope and nature of the RA conducted in OU2. The subsections below provide a detailed account of the remediation for each AOC in OU2. The remediation activities in OU2 occurred primarily between September 2004 and August 2005. Photographs detailing representative remedial activities are presented in Appendix C.

Prior to initiating OU2 remediation work, a Quality Assurance Project Plan (QAPP) (Appendix A of the RAWP) and a Remediation Phase Site Management Plan (RPSMP) (Appendix B of the RAWP) were prepared to govern site remediation activities. A Health and Safety Plan (HASP) dated June 2004 and a Storm Water Pollution Prevention Plan (SWPPP) dated March 2004, were prepared and submitted to the NYSDEC, separately. A full-time Site Manager provided oversight of all remedial activities and a Health and Safety Officer ensured compliance with health and safety procedures. NYSDEC performed regulatory oversight throughout the remediation.

Ambient respirable particulate (PM10), odor, and volatile organic compounds (VOC) air monitoring was performed during all intrusive activities, in accordance with the Enhanced Odor and Vapor Control Plan and Expanded Community Air Monitoring Plan (CAMP), dated November 2004, which was developed in response to odor complaints generated during the remediation activities in September 2004. This plan included expanded odor and vapor controls, expanded community air monitoring, and modified work methods, which were developed and implemented for work in areas with potentially odorous soils in order to minimize vapors or odors that were present at the Site during excavation, soil handling, and backfill activities. The modified procedures included in-situ delineation, in-situ reuse and disposal characterization sampling, odor reducing excavation techniques (including the use of foam or mulch encapsulants, use of odor neutralizing sprays, and other odor and vapor controlling procedures), direct load out for offsite disposal, and prompt post-excavation sampling and backfill. The modified procedures are described in the Invasive Work Implementation Plan for Odorous Soil, dated December 2004. In addition, the expanded odor controls and monitoring included expanded onsite CAMP monitoring, the addition of offsite neighborhood monitoring, expanded analytical air sampling protocols, and additional NYSDEC/NYSDOH reporting procedures. A summary of the CAMP monitoring results is provided in Appendix D.

Lancaster Laboratories of Lancaster, Pennsylvania, and Accutest Laboratories of Dayton, New Jersey performed the laboratory analysis and provided NYSDEC Analytical Services Protocol (ASP) Category B deliverables. Laboratory analytical results are presented in Appendix E. Post-excavation end point soil samples were collected and analyzed in accordance with NYSDEC's DER-10 sampling protocol and the QAPP located in Appendix A of the RAWP. Table 2 includes a summary of the samples and analyses performed as part of the remediation.

2.1 Lead and Arsenic Contaminated Fill (AOC1) Remediation

Remediation in AOC1 consisted of the excavation and offsite disposal of historic fill and soil containing concentrations of lead and arsenic above the SSSALs established in the RAWP. According to the RAWP, other contaminants in this area were found to exceed the SSSALs at a few locations, but those locations coincided with locations where lead and/or arsenic were significantly above the SSSALs. Therefore, the primary remedial objective for this AOC, as defined in the RAWP, was to achieve the SSSALs for lead and arsenic. Remedial activities were conducted between September 1, 2004 and August 1, 2005. The AOC1 remediation area was identified as two distinct sections in OU2 separated by 47th Avenue: AOC1S, located south of 47th Avenue, and AOC1N, located north of 47th Avenue. There is an area of overlap between AOC1N and AOC6W that is described in this section as areas AOC1-3, AOC1-5, and AOC1-6. Hazardous levels of leachable lead were detected in some soil during in-situ disposal characterization sampling and this soil was addressed by the AOC1 excavations.

2.1.1 Pre-Excavation Delineation Soil Sampling

Pre-excavation delineation sampling was conducted prior to the excavation of AOC1S, AOC1-3, AOC1-5 and AOC1-6 in accordance with the Invasive Work Implementation Plan for Odorous Soil and DER-10. Implementation of this plan limited the amount of time that excavations in areas with odorous soils remained open and minimized stockpiling and double handling of soil.

Pre-excavation delineation sampling in AOC1S was achieved by advancing soil probes at the intersection points of a 30-foot by 30-foot grid and was completed in March 2005. Soil sampling began at the depth proposed in Supplemental Investigation and Design Report (SIDR) 5 which ranged from 2 to 10 feet bgs and continued in two-foot intervals until SSSALs were achieved or the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required depth. In total, 84 samples were collected to

determine the horizontal and vertical extent of the AOC1S excavation area. Table 3 lists the pre-excavation delineation soil sampling data and Figure OU2RAR-4 shows the locations of those samples and Figure OU2RAR-5 shows the final extents of remedial excavation.

The first round of pre-excavation delineation samples in AOC1S was analyzed for NYSDEC Spill Technology and Remediation Series (STARS) semivolatile organic compounds (SVOCs), arsenic, cadmium, lead and mercury. These were the contaminants that were detected in AOC1 soils at concentrations above SSSALS in one or more samples during the initial investigation of AOC1. Each of the 12 first round samples collected at two feet below ground surface (bgs), 15 of 19 second round samples collected at four feet bgs, and 31 out of 53 third round samples collected at six feet bgs contained concentrations of contaminants greater than the SSSALs for at least one parameter. Figure OU2RAR-4 presents the pre-excavation delineation soil sample locations and Table 3 contains a summary of the pre-excavation soil sample results.

Pre-excavation delineation sampling was also conducted in an area of overlap between AOC1N and AOC6W. These areas are described as AOC1-3, AOC1-5 and AOC1-6. Pre-excavation delineation sampling was completed in AOC1-3, AOC1-5 and AOC1-6 in June 2005 by advancing soil probes in areas where soil was anticipated to exceed SSSALs based on composite waste characterization sampling completed in February 2005. Pre-excavation delineation soil samples were collected continuously to a depth of 15 feet bgs. Sample collection points were spaced at ten-foot intervals radiating outward from the original waste characterization sample locations, as shown in Figure OU2RAR-12. Samples were sent to the laboratory and preserved for future analysis, if required. The first round of samples, consisting of the samples collected closest to the original sampling locations, was analyzed for the parameters of concern. If the samples contained concentrations of contaminants greater than SSSALs, the next round of step-out samples were analyzed for the contaminant(s) whose concentrations exceeded the SSSALs in the first sample. Based on the results of the pre-excavation delineation sampling, the soils exceeding SSSALs in AOC1-3 covered an approximate area of 400 square feet, while AOC1-5 covered approximately 1,000 square feet and AOC1-6 covered approximately 900 square feet.

2.1.2 Chemical Oxidation Injection

AOC1-3, AOC1-5 and AOC1-6 were located in an area that overlapped an area of AOC6 that was known to contain odorous soils. Therefore, prior to excavating soils in AOC1-3, AOC1-5 and AOC1-6, In-situ Oxidative Technologies, Inc. (ISOTEC^{SM}) injected a modified Fenton's reagent solution to oxidize low molecular weight hydrocarbons and reduce petroleum-related odors. ISOTEC's modified Fenton's reagent is a soluble iron catalyzed dilute hydrogen peroxide solution that promotes contaminant destruction via oxidizing and reducing free radicals including hydroxyl radicals, superoxide radicals and hydroperoxide anions. Modified Fenton's reagent was applied via a series of direct-push injection points by Aquifer Drilling and Testing, Inc. of New Hyde Park, New York between July 11, 2005 and July 24, 2005.

An area of 3,600 square feet was targeted in AOC1 for chemical oxidation treatment, as illustrated in Figure OU2RAR-12. The area was treated via 69 direct-push injection points. At each injection location, an eight percent hydrogen peroxide solution was injected through a four-foot screen to create a five-foot zone of radial influence through both vadose and saturated soil. In total, 15,340 gallons of modified Fenton's reagent plus catalyst (ISOTEC series CAT-4260 chelated iron complex) solution were injected into the targeted area. Appendix F contains a summary of the chemical oxidation injection volumes. Confirmatory test pits were excavated approximately one week following injections to confirm that odors would be manageable using established odor controls (e.g., odor neutralizing mist). The results of the test pits indicated significant reduction in odor.

2.1.3 Excavation of Arsenic and Lead Contaminated Fill and Backfilling

AOC1S Area

Based on the results of the pre-excavation delineation soil samples described in Section 2.1.1, the AOC1S area was excavated to a depth of approximately eight feet bgs (at least one-foot below the groundwater interface), post-excavation end point soil samples were collected, and the excavation was promptly backfilled. The maximum depth reached in the AOC1S excavation was the shallower of the depth at which SSSALs were met in post-excavation samples or the deepest depth within the saturated zone at which dewatering or additional excavation support was not required, as per the RAWP requirement. The final AOC1S excavation covered an area

of approximately 58,000 square feet and bordered 47th Road to the south, OU1 to the west, 47th Avenue to the north and 5th Street to the east. As shown on Figure OU2RAR-5, AOC1S was divided into several areas, which are summarized below:

- AOC1S-1/3 – Excavated to six feet bgs.
- AOC1S-C – Excavated from four to eight feet bgs.
- AOC1S-CN – Excavated to eight feet bgs.
- AOC1S-D – Excavated to eight feet bgs.
- AOC1S-E – Excavated to eight feet bgs.
- AOC1S-F – Excavated to eight feet bgs.

AOC1N Area

A majority of the AOC1N area was excavated either to bedrock or to the deepest depth within the saturated zone at which no dewatering or additional excavation support was required. As shown on Figure OU2RAR-10, AOC1N was divided into several areas, which are summarized below:

- AOC1N-B – Excavated to six feet bgs for AOC1N remediation, then excavated to ten feet bgs for AOC6E remediation.
- AOC1N-D (also referred to as AOC1-D) – Excavated to four feet bgs for AOC1N-D remediation, then excavated to the top of bedrock (six to seven feet bgs) for AOC1N-C2 remediation.
- AOC1N-1C – Excavated to two feet bgs for AOC1N remediation, then portion excavated to eight feet bgs for AOC1N-E remediation.
- AOC1N-C1 – Excavated to two feet bgs, just south of AOC1N-E.
- AOC1N-C2 – Excavated from two to ten feet bgs.
- AOC1N-E – Excavated through saturated zone to eight feet bgs and north to OU3.
- AOC1N-West – Excavated to seven feet bgs in the northwest corner of OU2.
- AOC1-3 – Excavated to ten feet bgs.
- AOC1-5 and AOC1-6 – Excavated to eight feet bgs along the boundary of OU3.

Remedial activities were considered complete when lead, arsenic, VOC or SVOC concentrations in post-excavation end point soil samples were less than SSSALs, the excavation reached bedrock, or the excavation extended to the deepest depth within the saturated zone at which no dewatering or additional excavation support was required. The final AOC1N excavation covered an area of approximately 52,000 square feet and bordered OU3 to the north and west, AOC6E to the east and AOC8 and AOC6W to the south.

AOC1-3 Area

The impacted soils in the AOC1-3 excavation area, which was located in an area of odorous soils, were excavated to a depth of ten feet bgs, approximately five feet below the groundwater interface. In accordance with the Invasive Work Implementation Plan for Odorous Soils and the RAWP, remedial activities were considered complete when the pre-delineated extent of the excavation was reached and the excavation was backfilled immediately following the collection of end point samples, or the excavation extended to the deepest depth within the saturated zone at which no dewatering or additional excavation support was required. The final AOC1-3 excavation covered an approximate area of 400 square feet between AOC5-51 to the north, AOC1N-C1 to the east, AOC6-4 to the south and AOC1-5 and AOC1-6 to the west.

After remedial activities were complete, AOC1S, AOC1N, AOC1-3, AOC1-5 and AOC1-6 were backfilled using either imported clean sand, reusable recycled concrete aggregate (RCA) or onsite, reusable fill (see Section 3.0).

AOC1-5 and AOC1-6 Areas

Historic fill from the delineated arsenic areas, AOC1-5 and AOC1-6, which were located in areas of odorous soils, was excavated to eight feet bgs, which is approximately three feet below the groundwater interface. As described in Section 2.1.1, pre-delineation soil samples were collected and analyzed till SSSALs were met. In accordance with the Invasive Work Implementation Plan for Odorous Soils and the RAWP, remedial activities were considered complete when the pre-delineated extent of the excavation was reached and the excavation was backfilled immediately following the collection of end point samples, or the excavation extended to the deepest depth within the saturated zone at which no dewatering or additional excavation support was required. The final AOC1-5 and AOC1-6 excavations covered an area of approximately 2,100 square feet and bordered OU3 to the west, AOC6W to the south and AOC1N to the north and east.

2.1.4 Post-Excavation End Point Soil Sample Results

Post-excavation end point soil samples were collected to document conditions following remediation of AOC1. Post-excavation end point soil samples for AOC1 were analyzed for parameters that exceeded the SSSALs for the AOC1 area during the OU2 investigation, including Target Compound List (TCL) and STARS VOCs, STARS SVOCs, toxic characteristic leaching procedure (TCLP) lead, arsenic, cadmium, lead and mercury.

Post-excavation end point soil samples were collected along the base of the sidewalls of the final excavated area and at the bottom of the excavation. In total, 187 end point samples were collected in AOC1. Sample locations are summarized in the table below.

Sample Locations for AOC1 by Subsection

Subsection	# of Sidewall Samples	# for Bottom Samples	Total # of Samples
AOC1S	43	49	92
AOC1N	50	26	76
AOC1-3	4	2	6
AOC1-5	5	2	7
AOC1-6	5	1	6
Total	107	80	187

Note:
Some of these samples were subsequently addressed by other AOCs or were located outside the metes and bounds of OU2 as indicated in the table below.

Figure OU2RAR-5 presents the final post-excavation end point soil sample locations and results for AOC1S and Figure OU2RAR-10 presents the final post-excavation end point soil samples for AOCs 1N, 1-3, 1-5 and 1-6. Bottom post-excavation end point soil samples were not collected over most of AOC1N subsection C2 because the excavation extended vertically to the bedrock surface. Post-excavation end point soil sampling results for AOC1 are presented in Table 6. The following sections describe the final post-excavation end point soil sample results for each section of AOC1 in OU2.

2.1.4.1 Post-Excavation End Point Soil Sample Results for AOC1S

Seventy-four of the 92 post-excavation end point soil samples (including two duplicate samples) collected in AOC1S met all the SSSALs for VOCs, SVOCs and metals. Exceptions to this are

detailed below. The notes at the right-hand side of the table provide details regarding the circumstances of each sample that contains an exceedance.

Final Post-Excavation End Point Soil Sample Results for AOC1S that Exceeded SSSALs					
Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration (ppm) / SSSAL (ppm)	Notes
QW-AOC1S-C(4)B17	A	4.9	BAP Equivalent	11.49 (10)	2, 3
QW-AOC1S-C(8)B13	B	9.2	BAP Equivalent	10.12 (10)	1,2,3
QW-AOC1S-C(4)S10	A	5.6	BAP Equivalent	17.71 (10)	1,4
QW-AOC1S-CN (8) B12	B	11	Arsenic Lead	27.40 (23) 1,610 (1000)	1,2
QW-AOC1S-CN (8) B8	B	9.4	BAP Equivalent	14.93 (10)	1
QW-AOC1S-CN (8) E1	B	8.9	BAP Equivalent Arsenic Lead	23.44 (10) 30.60 (23) 1,170 (1000)	5
QW-AOC1S-CN(8)E2	B	8.9	Arsenic	27.20 (23)	2,3
QW-AOC1S-CN (8) S1	B	7.4	Chrysene Fluoranthene Phenanthrene Pyrene Total SVOCS BAP Equivalent Arsenic Lead	50.30 (50) 89.60 (50) 93.20 (50) 89.30 (50) 557.00 (500) 54.82 (10) 24.50 (23) 1,670 (1000)	1,4
QW-AOC1S-CN (8) W1	B	11.2	Lead	1,360 (1000)	2,3
QW-AOC1S-CN (8) N2	B	8.9	BAP Equivalent	11.19 (10)	2,3
QW-AOC1S-CN(8)N4	B	11	BAP Equivalent	11.21 (10)	2,3
QW-AOC1S-D(8)B3	B	7.4	BAP Equivalent Lead	15.91 (10) 4,210 (1000)	1
QW-AOC1S-D(8)B4	B	8.3	Lead	2,390 (1000)	1
QW-AOC1S-D(8)B8	B	8.9	BAP Equivalent	13.72 (10)	1
QW-AOC1S-D(8)S3	B	8.9	BAP Equivalent	15.01 (10)	1,4
QW-AOC1S-E(8) E3	B	8.3	BAP Equivalent	22.25 (10)	4
QW-AOC1S-F(8)W1	B	8.1	Arsenic	24.50 (23)	23
QW-AOC1S-F(8)W2	B	8.1	Arsenic	96.60 (23)	3

Notes:

1. Sample location corresponds to the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required.
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Extent of remedial excavation in areas with odorous soils was determined through the use of pre-delineation soil sampling, as specified in the NYSDEC-approved Invasive Work Implementation Plan for Odorous Soil, dated December 2004.
4. Sample location falls outside of the metes and bounds of OU2.
5. Sample location subsequently addressed as part of another AOC remedial excavation.

6. Finished grade will be the surface elevation in OU2 after completion of development.

2.1.4.2 Post-Excavation End Point Soil Sample Results for AOC1N

Twenty-eight of the 76 post-excavation end point soil samples (including six duplicate samples) collected in AOC1N met the SSSALs for arsenic, mercury, cadmium, lead, SVOCs and/or VOCs. Exceedances are detailed below. The notes at the right-hand side of the table provide details regarding the circumstances of each sample that contains an exceedance.

Final Post-Excavation End Point Soil Sample Results for AOC1N that Exceeded SSSALs

Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration/SSSAL (ppm)	Notes
AOC1N-C2(6)B12	A	6.4	BAP Equivalent	12.16 (10)	1
AOC1N-C2(6)S1	A	6.4	Benzene	0.08 (0.06)	1,5
OU2-1C2(BOTTOM3)	A	6.3	Arsenic	23.60 (23)	2
OU2-1C(BOTTOM)	A	6.9	Arsenic	23.70 (23)	2
AOC1N(7)N2-DUP	B	9.5	Arsenic Lead	25.00 (23) 1,940 (1000)	2,4
AOC1N(7)N3	B	9.5	Arsenic	45.10 (23)	2,4
AOC1N(7)N4	B	9	Benzo(a)anthracene Chrysene BAP Equivalent Arsenic	63.10 (50) 76.80 (50) 73.22 (10) 66.6 (23)	4
AOC1N(7)W3	B	9.7	Arsenic	30.60 (23)	1,3
AOC1N-C2(10)B10	B	11.5	Isopropylbenzene	3.00 (2.3)	1
AOC1N-C2(6)B6-A	B	7.5	Arsenic	25.6 (23)	1,2
AOC1N-C2(6)B7-A	B	7.5	Arsenic	75.20 (23)	1
AOC1N-C2(6)E2	B	7.3	Arsenic	42.80 (23)	1,2
OU2-1C(NORTH)	A	15.5	Benzene Isopropylbenzene P-Isopropyltoluene Toluene	0.30 (0.06) 7.74 (2.3) 13.50 (10) 1.53 (1.5)	5
OU2-1E(EAST)	A	17.5	Arsenic	31.70 (23)	4
OU2-1E(NORTH2)	A	17.5	Arsenic	48.40 (23)	4
OU2-1E(NORTH4)DUP	A	17.5	Arsenic	49.70 (23)	4
OU2-1E(NORTH5)	A	17.5	Arsenic	42.30 (23)	4

Final Post-Excavation End Point Soil Sample Results for AOC1N that Exceeded SSSALs

Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration /SSSAL (ppm)	Notes
OU2-1E(SOUTH)	A	17.5	Isopropylbenzene N-Propylbenzene	3.32 (2.3) 4.17 (3.7)	2
OU2-1E(SOUTH3)	A	17.5	Isopropylbenzene N-Propylbenzene 1,2,4-Trimethylbenzene	3.88 (2.3) 4.30 (3.7) 10.40 (10)	2
OU2-1E(SOUTH4)	A	17.5	BAP Equivalent Arsenic	32.80 (10) 37.60 (23)	1
OU2-1E(BOTTOM)	B	17	Arsenic	40.20 (23)	1
OU2-1E(BOTTOM2)	B	17	Isopropylbenzene	2.43 (2.3)	1,2
OU2-1E(BOTTOM3)	B	17.7	Benzene Isopropylbenzene 1,2,4-Trimethylbenzene 1,3,5-Trimethylbenzene Total Xylenes	0.42 (0.06) 2.90 (2.3) 41.60 (10) 20.70 (3.3) 36.00 (1.2)	1
OU2-1E(BOTTOM4)	B	17	Benzene Isopropylbenzene N-Propylbenzene 1,2,4-Trimethylbenzene 1,3,5-Trimethylbenzene Total Xylenes	0.20 (0.06) 4.24 (2.3) 5.45 (3.7) 51.60 (10) 21.00 (3.3) 26.40 (1.2)	1
OU2-1E(BOTTOM5)	B	17	Benzene Ethylbenzene Isopropylbenzene N-Propylbenzene Toluene 1,2,4-Trimethylbenzene 1,3,5-Trimethylbenzene Total Xylenes Chrysene Phenanthrene Pyrene BAP Equivalent Arsenic	3.45 (0.06) 20.50 (5.5) 11.60 (2.3) 11.50 (3.7) 3.88 (1.5) 158.00 (10) 85.10 (3.3) 199.00 (1.2) 53.90 (50) 63.50 (50) 56.70 (50) 48.06 (10) 90.20 (23)	1
OU2-1E(WEST)	B	17	BAP Equivalent	19.47 (10)	5
OU2-AOC1-B(6)EAST WALL	A	7.5	Arsenic	26.30 (23)	5
OU2-AOC1-B(6)SOUTH WALL	A	7.5	Arsenic	27.20 (23)	5
OU2-AOC1-B(6)BOTTOM	B	7.5	N-Butylbenzene Total Xylenes Phenanthrene	12.50 (10) 2.51 J (1.2) 56.90 (50)	5
OU2-AOC1-D(4)BOTTOM	A	7.5	BAP Equivalent Arsenic	21.75 (10) 49.50 (23)	8
OU2-AOC1-D(4)BOTTOM DUP	A	7.5	BAP Equivalent Arsenic	25.43 (10) 47.40 (23)	8
OU2-AOC1-D(4)EAST WALL	A	7.5	BAP Equivalent	20.76 (10)	8

Final Post-Excavation End Point Soil Sample Results for AOC1N that Exceeded SSSAL's					
Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration /SSSAL (ppm)	Notes
OU2-AOC1-D(4)NORTH WALL	A	7.5	BAP Equivalent Arsenic	36.47 (10) 66.00(23)	8
OU2-AOC1-D(4)SOUTH WALL	A	7.5	Arsenic	23.30 (23)	8
OU2-AOC1-D(4)WEST WALL	A	7.5	BAP Equivalent Arsenic	20.27 (10) 84.60 (23)	8
OU2-C1(BOTTOM)	A	11	BAP Equivalent	12.95 (10)	2
OU2-C1(BOTTOM2)	A	11	Lead	2,070 (1000)	2
OU2-C1(NORTH)	A	11	BAP Equivalent	28.56 (10)	5
OU2-C1(NORTH2)	A	11	BAP Equivalent	11.86 (10)	5
OU2-C1(SOUTH)	A	10	BAP Equivalent Lead	10.45 (10) 1,500 (1000)	2,5
OU2-C1(SOUTH2)	A	10	BAP Equivalent Lead	24.74 (10) 1,640 (1000)	5
OU2-C1(SOUTH3)	A	10	BAP Equivalent	18.64 (10)	5
AOC1N West-(6)B1	B	13	BAP Equivalent Arsenic	12.09 (10) 87.30 (23)	1
AOC1N West-(6)B2	B	13	BAP Equivalent Arsenic	12.57 (10) 47.50 (23)	1
AOC1N West-(6)B2 DUP	B	13	Arsenic	37.40 (23)	1
AOC1N West-(6)B3	B	13	Arsenic	69.50 (23)	1
AOC1N West-(6)N1	B	13	Arsenic	33.90 (23)	4
AOC1N West-(6)W2	B	13	Arsenic	55.00 (23)	4

Notes:

1. Sample location corresponds to the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required.
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Extent of remedial excavation was determined through the use of pre-delineation soil sampling as specified in the NYSDEC-approved Invasive Work Implementation Plan for Odorous Soil, dated December 2004.
4. Sample location falls outside of the metes and bounds of OU2.
5. Sample location subsequently addressed as part of another AOC remedial excavation.
6. Finished grade will be the surface elevation in OU2 after completion of development.
7. The letter "J" indicates an estimated value.
8. AOC1-D was excavated to a depth of 6 feet bgs where bedrock was encountered; therefore, no additional post-excavation samples could be collected.

2.1.4.3 Post-Excavation End Point Soil Sample Results for AOCs 1-3, 1-5 and 1-6

Eleven of the 19 post-excavation end point soil samples (including two duplicate samples) collected in AOCs 1-3, 1-5 and 1-6 met the SSSALs for arsenic, mercury, cadmium, lead, leachable lead, SVOCs and/or VOCs. Exceedances are detailed below. The notes at the right-hand side of the table provide details regarding the circumstances of each sample that contains an exceedance.

Final Post-Excavation End Point Soil Sample Results for AOCs 1-3, 1-5, and 1-6 that Exceeded SSSALs

Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration SSSAL (ppm)	Notes
OU2-AOC6W-SD3(10')E	B	15	Arsenic	35.10 (23)	2,3
OU2-AOC6W-SD5(8')B2	B	15	Arsenic	127.00 (23)	1,3
OU2-AOC6W-SD6(8')B	B	15	Arsenic	129.00 (23)	1
OU2-AOC6W-SD6(8')E	B	15	Arsenic	69.10 (23)	5
OU2-AOC6W-SD6(8')E-DUP	B	15	Arsenic	105.00 (23)	5
OU2-AOC6W-SD6(8')N	B	15	Arsenic	26.50 (23)	4
OU2-AOC6W-SD6(8')S	B	15	Arsenic	99.50 (23)	5
OU2-AOC6W-SD6(8')W	B	13	Arsenic	41.30 (23)	4

Notes:

1. Sample location corresponds to the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required.
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Extent of remedial excavation was determined through the use of pre-delineation soil sampling as specified in the NYSDEC-approved Invasive Work Implementation Plan for Odorous Soil, dated December 2004.
4. Sample location falls outside of the metes and bounds of OU2.
5. Sample location subsequently addressed as part of another AOC remedial excavation.
6. Finished grade will be the surface elevation in OU2 after completion of development.

2.1.4.4 Conclusions Regarding Post-Excavation End Point Soil Sample Results for AOC1

The previous sections summarize the results of the post-excavation soil samples collected in AOC1. In accordance with the objectives of the RAWP and the Invasive Work Implementation Plan for Odorous Soils, further remediation was not necessary in locations where post-excavation soil samples showed SSSAL exceedances because of one or more of the following reasons:

- they were considered marginal exceedances of the SSSALs,
- the sample locations did not fall within the metes and bounds of OU2,
- the samples were collected at the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required,
- the soils were addressed subsequently as part of another AOC remediation, and/or
- in areas with odorous soils, the excavation area was pre-delineated, excavated to the extent defined by the pre-delineation sampling, and backfilled immediately following the collection of end point samples, in accordance with the Invasive Work Implementation Plan for Odorous Soil.

Any remaining SSSAL exceedances will be addressed by the site covers and institutional controls detailed in Section 2.9 and in the Site Management Plan located in Appendix B.

2.1.5 Transportation and Disposal of Wastes

Prior to the development and implementation of the Invasive Work Implementation Plan for Odorous Soil in December 2004, excavated soil from AOC1N was stockpiled and characterized prior to waste disposal. Five such stockpiles, including SD-P, SD-Q, SD-R, SD-S, and HZPb, were generated from AOC1 excavations and are summarized in Table 5. Stockpiled soil was characterized for waste disposal by compositing five grab samples per 1,000 cubic yards (one grab sample per 200 cubic yards). Stockpiled soil generated from AOC1 was characterized as non-hazardous petroleum-contaminated soil and was disposed of at Soil Safe located in Logan Township, New Jersey. In total, 5,591 tons of stockpiled soil from AOC1N was transported to Soil Safe between December 2004 and April 2005. Soil that was characterized in-situ, direct-loaded without stockpiling and disposed of is described below.

In response to community concerns regarding odors generated during soil handling, the practice of soil stockpiling was largely eliminated by characterizing soil in-situ, as detailed in the Invasive Work Implementation Plan for Odorous Soil. Soil was characterized for waste disposal in-situ by compositing five grab samples per 3,600 square feet of surface area (one composite sample per 800 cubic yards). Grab samples were collected using direct-push macrocore samplers. In-situ waste characterization sampling identified an 800 cubic yard area in AOC1S and a 75 cubic yard area in AOC1-3 that contained concentrations of leachable lead that

classified the soils as a characteristic hazardous waste. Soil from both areas was characterized as a D-listed (D008) Hazardous Solid Waste and was disposed at the Michigan Disposal Waste Treatment Plant in Belleville, Michigan. Due to high SVOC concentrations, a land disposal restriction applied and the waste was subject to soil treatment standards specified in 40 CFR 268.49. The soil from AOC1-3 that was classified as a characteristic hazardous waste was too wet to be direct loaded and was stabilized with cement kiln dust prior to transportation to the disposal facility. Approximately 1,250 tons of AOC1S soil was excavated and transported to the disposal facility between March 18, 2005 and April 8, 2005 and 78 tons of AOC1-3 soil was excavated and transported to the disposal facility on August 1, 2005, as presented in Appendix G. The remaining soil excavated from AOC1 was characterized as non-hazardous petroleum-contaminated soil and was disposed at either Soil Safe located in Logan Township, New Jersey; Waste Management Disposal – Waste Treatment Plant located in Tulleytown, Pennsylvania; or Tilcon – Mount Hope Recycling Facility located in Wharton, New Jersey. Approximately 14,240 tons of soil from AOC1S were transported to Soil Safe, 301 tons were transported to Waste Management, and 3,273 tons of soil were transported to Tilcon.

2.2 Leachable Lead Contaminated Fill (AOC2) Remediation

Remediation in AOC2 consisted of the excavation and offsite disposal of historic fill and soil containing concentrations of leachable lead that exceeded the TCLP threshold of 5 mg/l. The remedial objective for this AOC, as defined in the RAWP, was to remove the impacted soil to the shallower of the following: (1) the depth to which end point sampling results indicated that soil cleanup objectives have been achieved, or (2) the depth within the saturated zone to which no dewatering or additional support or excessive sidewall sloping is required. The remediation activities for AOC2 were performed on August 23, 2004. Remediation of AOC2 consisted of the excavation and off-site disposal of the area shown on Figure OU2RAR-6 (the area is labeled as AOC2 and corresponding text box is labeled as AOC2S).

2.2.1 Excavation of Leachable Lead Contaminated Fill and Backfilling

Soil and historic fill were excavated from the leachable lead contaminated fill area. The location of the excavation is shown in Figure OU2RAR-6. A portion of AOC2 had been previously excavated as part of the soil excavation associated with a portion of AOC9, the removal of an underground storage tank fragment. Remedial activities were considered complete when VOCs, SVOCs, arsenic, mercury and total and leachable lead concentrations were less than SSSALs, or

if the excavation was extended to the maximum depth within the saturated zone at which no dewatering or additional support or excessive sidewall sloping was required. The excavation was located on Center Boulevard, south of 47th Avenue, and centered on LMS boring ADT-GP8, covering an area of 225 square feet.

Post-excavation end point soil samples indicated that SSSALs had been achieved, as discussed in the following section, and the AOC2 excavation was backfilled to as defined in Section 2.9.2 of this report using imported clean sand (see Section 3.0).

2.2.2 Post-Excavation End Point Soil Sample Results

Post-excavation end point soil samples in AOC2 were analyzed for toxic characteristic leaching procedure (TCLP) lead, as well as all parameters that exceeded the SSSALs for the AOC2 area during the OU2 investigation, including SVOCs, VOCs, arsenic, mercury and lead, as shown on Figure OU2RAR-6.

Six final post-excavation end point soil samples were collected, including one bottom sample, four sidewall samples, and a duplicate sample. Figure OU2RAR-6 presents the final post-excavation end point soil sample locations and results. Post-excavation end point soil sampling results are provided in Table 7.

Total and TCLP lead, arsenic, mercury, SVOC and VOC concentrations in samples collected from the sidewalls and bottom of the AOC2 excavation [samples AOC2S North (10'), AOC2S-South (10'), AOC2S-East (10'), AOC2S-West (10') and AOC2S-Bottom (10')] were less than SSSALs. Based on these results, the remedial objectives for AOC2 were met and no further excavation was required.

2.2.3 Transportation and Disposal of Wastes

Soil was characterized by collecting representative samples from stockpiled soil. Although the LMS 2002 grab sample results indicated that the soil contained leachable levels of lead above the TCLP threshold of 5 mg/l, representative composite disposal samples indicated that the soil was not characteristic of hazardous waste. Therefore, the excavated soil was characterized as non-hazardous petroleum-contaminated soil and was disposed of at Soil Safe, located in Logan

Township, New Jersey. Approximately 315 tons of soil was loaded and transported to Soil Safe on December 20 and 21, 2004, as documented in Appendix G.

2.3 Tetrachloroethylene Contaminated Soil (AOC3) Remediation

The remedial objective in AOC3 was to excavate and dispose off-site soils with levels of tetrachloroethylene or other solvents above the SSSALs established in the RAWP. AOC3 remediation activities were conducted between February 28, 2005 and March 4, 2005. The limits for the soil excavation in AOC3 were determined based on pre-excavation delineation sampling and the excavation in AOC3 covered an area of approximately 3,100 square feet, located south of 47th Avenue. Based on the results of the RI, groundwater sampling results did not indicate the presence of tetrachloroethylene in groundwater above the GA Standard. Therefore, no groundwater remediation was conducted.

2.3.1 Pre-Excavation Delineation Soil Sampling

Pre-excavation delineation sampling was conducted prior to the excavation of AOC3 in accordance with the Invasive Work Implementation Plan for Odorous Soil and DER-10. This plan limited the amount of time odorous excavations remained open and minimized stockpiling and double handling of soil. Pre-excavation confirmatory sampling was completed on December 27, 2004 and was performed in order to better define the proposed 2,400 square foot remediation area defined in SIDR 6. In total, 12 samples were collected to determine the extent of the AOC3 excavation area. The locations of the pre-excavation soil samples are shown on Figure OU2RAR-4 and the sample results are summarized in Table 3. Based on the results of the pre-excavation delineation soil sampling, the AOC3 excavation area was expanded to an area of approximately 3,100 square feet and to a depth of five feet bgs.

2.3.2 Excavation of Tetrachloroethylene Contaminated Soil and Backfilling

Soil and historic fill impacted by tetrachloroethylene were excavated from the delineated area to a depth of five feet bgs. Remedial activities were considered complete when tetrachloroethylene concentrations in post-excavation end point soil samples were less than the SSSAL established in the RAWP of 1.4 mg/kg. The final AOC3 excavation covered an area of approximately 3,100 square feet.

The AOC3 area was not immediately backfilled after remedial activities were complete and post-excavation end point soil samples indicated that SSSALs had been achieved. The excavation was left open in order to excavate historic fill containing lead and arsenic concentrations above SSSALs as part of the AOC1S remediation. Following completion of the AOC1S remediation, the entire area, including AOC3, was backfilled using imported clean sand (see Section 3.0).

2.3.3 Post-Excavation End Point Soil Sample Results

Post-excavation end point soil sample results were collected to confirm that soil and historic fill containing tetrachloroethylene at concentrations greater than SSSALs had been removed and remedial activities had been completed. Post-excavation end point soil samples for AOC3 were analyzed for TCL VOCs.

Post-excavation end point soil samples were collected along the base of the sidewalls of the final excavated area and at the bottom of the excavation. Twelve post-excavation end point soil samples (including one duplicate) were collected and analyzed within AOC3, including four bottom and eight sidewall samples. SSSALs were met at each post-excavation end point soil sample location. Figure OU2RAR-7 presents the final post-excavation end point soil sample locations and results for AOC3. Post-excavation end point soil sampling results are presented in Table 8.

2.3.4 Transportation and Disposal of Wastes

Soil was characterized for waste disposal in-situ by compositing five grab samples per 3,100 square feet of surface area. Grab samples were collected using direct-push macrocore samplers. Soil excavated from AOC3 was characterized as non-hazardous petroleum-contaminated soil and

was disposed of at the Waste Management Disposal Waste Treatment Plant in Tulleytown, Pennsylvania. In total, 598 tons of AOC3 soil were excavated and transported to Waste Management between March 2, 2005 and March 4, 2005, as documented in Appendix G.

2.4 Hot Spot (AOC5) Remediation

Hot spot soil remediation in AOC5 consisted of the excavation and off-site disposal of soil or historic fill containing contaminants of concern at concentrations exceeding the SSSALs established for the RAWP. In total, 15 hot spot areas were remediated in OU2, which were established in SIDR 9 or were identified because of additional sampling performed after SIDR 9 was issued. Of these 15 areas, hot spot area AOC5-6 is not addressed in this section because it was excavated and disposed off-site as part of the AOC1N-E remediation (see Section 3.1). As defined in the RAWP, the primary remedial objective in AOC5 was to remediate the hot-spot contamination areas to achieve the cleanup objectives by excavating soil and historic fill exceeding SSSALs to the shallower of the following: (1) the depth to which post-excavation soil sampling results indicated soil cleanup objectives have been achieved, or (2) the depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping is required.

2.4.1 Pre-Excavation Delineation Soil Sampling

Pre-excavation delineation sampling was performed before commencement of the excavations of hot spots AOCs 5-11 and 5-42, in accordance with the Invasive Work Implementation Plan for Odorous Soil, dated December 2004, and DER-10, in order to limit the time that the AOC5 excavations remained open and to minimize stockpiling and double handling of soil. Pre-excavation delineation sampling was completed between February 9, 2005 and March 18, 2005. In total, 22 samples were collected to determine the extent of the AOC5 excavation areas. Pre-excavation delineation sampling was not done prior to excavation of the other thirteen hot spots in OU2 because the excavation of those areas was completed in August and September 2004, prior to the implementation of the Invasive Work Implementation Plan for Odorous Soil. AOCs 5-42 and 5-11 overlapped each other and the east portion of AOC6-E. The area of the hot spots in AOC5 was determined, based on the result of the pre-excavation delineation sampling, to cover an area of approximately 3,600 square feet. Table 3 and Figure OU2RAR-4 present the pre-excavation delineation soil sampling data and locations, respectively.

2.4.2 Excavation of Hot Spot Soil and Backfilling

The location of each hot spot excavation is shown in Figure OU2RAR-11. The extent of the excavation around sampling points AOC 5-11 and 5-42 was based on the results of pre-excavation delineation soil sampling, in accordance with the Invasive Work Implementation Plan for Odorous Soil. The excavations for AOCs 5-11 and 5-42 were adjacent and resulted in one large excavation that included both points. The extent of the other thirteen hot spots in OU2 was determined based on the results of post-excavation soil samples. These hot spot areas were first excavated to the initial dimensions proposed in the RAWP. After these hot spots were excavated, end point samples were collected in accordance with DER-10. In accordance with the RAWP, if SSSALs were not met, remediation activities expanded vertically and horizontally until either SSSALs were achieved or until the excavation reached the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required. Final hot spot excavation depths varied from 2 to 11 feet bgs (see Figure OU2RAR-11 for the lateral and vertical limits of each hot spot excavation).

Final post-excavation end point soil samples indicated that SSSALs had been achieved at 78 of the 90 end point sample locations, as discussed in more detail in the following section. The hot spot excavations were backfilled with onsite, reusable fill or imported clean sand (see Section 3.0).

2.4.3 Post-Excavation End Point Soil Sample Results

Post-excavation end point soil samples were collected from the sidewalls and bottom of each excavation to verify that SSSALs had been met and to document the post remediation conditions for the two pre-delineated hotspots (AOC5-11 and 5-42). Post-excavation end point soil samples were analyzed for the specific target parameters of each hot spot. Sample frequency was determined based on DER-10 and the QAPP contained within the RAWP. Post-excavation end point soil samples were collected at a rate of one sample per thirty linear feet of excavation sidewall and one sample per 900 square feet of excavation bottom. One exception to this approach occurred at the excavation that included AOCs 5-11 and 5-42, where the hot spot excavation bordered the soil excavation conducted at AOC6E to the west and north, thus eliminating the north and west sidewalls.

Of the fifteen AOC5 remediation areas, five were triggered by concentrations of SVOCs, two were triggered by VOCs, five were triggered by a combination of VOCs and arsenic, one was triggered by VOCs and SVOCs, and two were triggered by a combination of VOCs, SVOCs and arsenic. As shown on Figure OU2RAR-11, 90 final post-excavation end point soil samples were obtained from locations associated with soil removal and were analyzed for the specific target parameter of each hot spot. Figure OU2RAR-11 and Table 9 provide the results of the post-excavation end point soil sample analyses and the associated SSSALs.

Seventy-eight of the 90 post-excavation end point soil samples collected in AOC5 did not exceed the trigger SSSALs for each hot spot. As noted in the table below, the remediation of the hot spots identified as AOC5-42/11 was conducted after the restrictions of the Invasive Work Implementation Plan for Odorous Soil were in place. As previously discussed, following this plan, the AOC5-42/11 area was pre-delineated, excavated and direct loaded, end point soil samples were collected and the excavation was promptly backfilled. Although this area was pre-delineated, final post-excavation end point soil samples indicate that some exceedances remain. In accordance with the Invasive Work Implementation Plan for Odorous Soil, however, further remediation was not required in this area.

Post-excavation end point soil sample results that exceeded SSSALs for AOC5 are summarized below. The notes at the right-hand side of the table provide details regarding the circumstances of each sample that contains an exceedance. In accordance with the objectives of the RAWP and the Invasive Work Implementation Plan for Odorous Soils, further remediation was not necessary in locations where post-excavation soil samples showed SSSAL exceedances because of one or more of the following reasons:

- they were considered marginal exceedances of the SSSALs,
- the sample locations did not fall within the metes and bounds of OU2,
- the samples were collected at the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required,

- the soils were addressed subsequently as part of another AOC remediation, and/or
- in areas with odorous soils, the excavation area was pre-delineated, excavated to the extent defined by the pre-delineation sampling, and backfilled immediately following the collection of end point samples, in accordance with the Invasive Work Implementation Plan for Odorous Soil.

Any remaining SSSAL exceedances will be addressed by the site covers and institutional controls detailed in Section 2.9 and in the Site Management Plan located in Appendix B located in Volume 3.

Final Post-Excavation End Point Soil Sample Results for AOC5 that Exceeded SSSALs

Sample Name	Above/ Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration/ SSSAL (ppm)	Notes
QW-OU2-5-51(6-8) EAST	B	14	Benzene 1,3-Dichlorobenzene Isopropylbenzene Total Xylenes	0.28 J (0.06) 2.38 (1.6) 4.09 (2.3) 13.80 (1.2)	5
QW-OU2-5-51(8) BOTTOM DUP	B	15	Isopropylbenzene Total Xylenes	2.48 (2.3) 1.22 (1.2)	1, 2
QW-5-51(8) N3	B	15	Benzene Total Xylenes	0.16 J (0.06) 1.79 (1.2)	5
QW-5-48(8)B2	A	8.5	Arsenic	52.60 (23)	1,5
QW-5-48(8)E3	A	8.5	Arsenic	113.00 (23)	5
QW-5-48(8)N3	A	8.5	Arsenic	25.30 (23)	5
QW-AOC5-42/11(8)B4	B	9.5	N-butylbenzene Sec-butylbenzene Isopropylbenzene N-propylbenzene Total Xylenes	11.60 (10) 12.30 (10) 25.90 (23) 31.50 (3.7) 1.83 (1.2)	1, 2, 3
QW-AOC5-42/11(8)S2	B	9	Isopropylbenzene	2.89 (2.3)	2, 3
QW-OU2-5-44(10)BOTTOM	B	11.5	Isopropylbenzene	4.22 (2.3)	I,2
QW-OU2-5-44(8-10)NORTH	B	8.5	Isopropylbenzene	2.37 (2.3)	2
QW-AOC5-45(10)E4	B	11	Isopropylbenzene N-propylbenzene	5.70 (2.3) 7.80 (3.7)	2
QW-OU2-5-45(10) BOTTOM	B	11.5	Isopropylbenzene	2.84 J (2.3)	1, 2

Notes:

1. Sample location corresponds to deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required.
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Extent of remedial excavation was determined through the use of pre-delineation soil sampling as specified in the NYSDEC-approved Invasive Work Implementation Plan for Odorous Soil, dated December 2004.

4. Sample location falls outside of the metes and bounds of OU2.
5. Sample location subsequently addressed as part of another AOC remedial excavation.
6. Finished grade will be the surface elevation in OU2 after completion of development.
7. The letter "J" indicates that the value is estimated.

2.4.4 Transportation and Disposal of Wastes

Soil was characterized for waste disposal either in place by compositing five grab samples per 3,600 square feet of surface area (one composite sample per 800 cubic yards) or by collecting representative samples from stockpiled soil. In-situ grab samples were collected using direct-push macrocore samplers. Soil excavated from AOC5 was characterized as non-hazardous petroleum-contaminated soil and was disposed at Soil Safe located in Logan Township, New Jersey and Waste Management Disposal - Waste Treatment Plant located in Tulleytown, Pennsylvania. Approximately 711 tons of AOC5 soil was excavated and transported to Waste Management and 2,468 tons of AOC5 soil was transported to Soil Safe between March 8, 2005 and March 29, 2005, as documented in Appendix G.

2.5 Grossly Contaminated Soil in the Form of Residual Product at and below the Water Table (AOC6) Remediation

Remediation in AOC6 consisted of the excavation of grossly contaminated soil and residual product at and below the water table. As described in the RAWP, the remedial objectives in this area were:

- If present, mitigate odors associated with grossly contaminated soils in the form of residual product at depths that will be disturbed by future site development activities,
- If present, remediate grossly contaminated soils in the form of free product to eliminate the ongoing or potential future source of environmental contamination above Groundwater Cleanup Objectives,
- If present, remove recoverable free product on the groundwater, and
- Perform any other required soil and groundwater remediation to achieve the Groundwater Cleanup Objectives.

The RAWP also stipulated the collection of post-excavation endpoint samples at the base and sidewalls of the excavation for analysis of STARS VOCs and SVOCs. If additional excavation of soil above the water table was required on the basis of a comparison of the post-excavation soil analytic results to the soil cleanup objectives, appropriate field screening procedures were to be used for identifying any VOC impacted soil and directing its removal.

Remedial excavation activities were conducted between March 23, 2005 and August 26, 2005. The remediation of AOC6 was divided into several sub areas, identified as AOC6W (west), AOC6E (east), AOC6N1 (also known as the "9/15 PID" area), and AOC6-MW15 (monitoring well MW-15). The extent of each AOC6 remediation area is shown in Figure OU2RAR-14. The AOC6W area included three distinct excavation areas, AOC6-1, AOC6-2, and AOC6-4. Remediation of the areas within AOC6 consisted of the excavation and off-site disposal of residual product in soil. The excavation of AOC6W and AOC6N1 was preceded by an in-situ chemical oxidation treatment of residual petroleum impacted fill material to control odor. Elevated concentrations of VOCs and SVOCs within AOC6 generally coincided with the presence of residual product in soil.

2.5.1 Pre-Excavation Delineation Soil Sampling

Pre-excavation delineation sampling was done before commencement of AOC6W and AOC6N1 excavations, in accordance with the Invasive Work Implementation Plan for Odorous Soil, dated December 2004, and DER-10, in order to limit the time that the AOC6 excavations remained open and to minimize stockpiling and double handling of soil. Pre-excavation delineation sampling was completed between April 6, 2005 and June 13, 2005. In total, 120 (including two duplicates) samples were collected to determine the extent of the AOC6W and AOCN1 excavation areas. The extent of both excavations was determined based on the presence of grossly contaminated soil, as defined in DER-10, identified during the pre-excavation delineation sampling. Table 3 presents the pre-excavation soil sampling data, while Figures OU2RAR-12 and OU2RAR-13 show sampling locations and summarize the sampling results. The extent of the AOC6E excavation was based on the supplemental investigation results of four borings and 24 test pits, as presented in SIDR4, because this work was completed prior to the implementation of the Invasive Work Plan for Odorous Soils.

Post-remediation groundwater monitoring well, MW-15, installed in May 2005 near AOC6N1, contained approximately 2.5 feet of floating petroleum product when measured on June 17, 2005. Floating petroleum was bailed from the well on June 24, 2005 and recharge was monitored through August 25, 2005. In total, 2.5 inches of floating product recharged in MW-15 in the two months following the initial bail-down. Four-inch recovery wells MW-15A, 15B and 15C were installed within ten to twenty feet to the east, south and west, respectively, of MW-15. Approximately five inches of measurable floating product was observed in MW-15B. No product was encountered in MW-15A or MW-15C. A series of test pits were installed on August 5, 2005 to determine the extent of grossly contaminated soil surrounding monitoring wells MW-15 and MW-15B. These test pits immediately adjacent to MW-15 revealed no sign of grossly contaminated soil. Based on the results of the test pits, a 15 foot by 15 foot area was excavated on August 25, 2005 to a depth of 10 feet below existing grade. MW-15, and soil containing associated free and residual product were removed during the excavation.

2.5.2 Chemical Oxidation Injection

After excavating soil at disposal grids SD2 and SD4 in AOC6W (identified as AOC6-2 and AOC6-4 in Figure OU2RAR-12), it became apparent that odor controls (e.g., odor neutralizing mist, limited soil handling and foam) were not significantly reducing odors generated while excavating grossly contaminated soil. Prior to excavating remaining grossly contaminated fill in soil disposal grid SD1 in AOC6W (designated AOC6-1 in Figure OU2RAR-12) and AOC6N1 that exceeded SSSALs for VOCs, SVOCs or contained residual petroleum contamination, In-Situ Oxidative Technologies (ISOTEC^{SM}) injected a modified Fenton's reagent solution to reduce petroleum-related odors (see Section 2.1.2 for description of ISOTEC's product). Appendix F contains a summary of the chemical oxidation injection volumes. Modified Fenton's reagent was applied via a series of direct-push injection points by Aquifer Drilling and Testing, Inc. of New Hyde Park, New York between July 11, 2005 and July 24, 2005.

An approximate area of 1,600 square feet in AOC6W corresponding to disposal grid SD1 as illustrated in Figure OU2RAR-12 was targeted for chemical oxidation. This area was treated in order to reduce odors before excavating soil that contained residual petroleum contamination identified during pre-excavation delineation sampling. The SD1 area was treated via 23 direct-push injection points. A 400 square foot area in AOC6N1 was treated via eight direct-push injection points. A 225 square foot area was treated via seven direct-push injection points at AOC6-MW15. Injection locations at AOC6N1 and AOC6-MW15 are depicted in Figure

OU2RAR-13. At each direct-push injection location, an 8% hydrogen peroxide plus catalyst solution (ISOTEC series CAT-4260 chelated iron complex) was injected through a four-foot screen to create a five-foot zone of radial influence through both vadose and saturated soil. A total of 8,070 gallons of modified Fenton's reagent solution was injected to the affected areas through 31 injection points. Confirmatory test pits were excavated approximately one week following injections to confirm that odors were manageable using the standard odor controls (e.g., odor neutralizing mist, limited soil handling and foam). The results of the test pits indicated significant reduction in odor.

2.5.3 Grossly Contaminated Soil Excavation and Backfilling

Grossly contaminated soil, as defined by DER-10, was excavated in AOC6N1, AOC6W, AOC6E, and AOC6-MW15 to the depth at which visual evidence of grossly contaminated soil was removed, and where post-excavation end point soil samples from above the water table indicated that SSSALs had been achieved. AOC6 excavations were directed by a qualified geologist and continued both vertically and laterally until evidence of grossly contaminated soil was removed. The excavations in the area of AOC6-4 and AOC6-1, which were adjacent to the boundary between OU1 and OU2, extended to the south until clean imported sand, backfilled in OU1 following completion of remediation, was reached. Each AOC6 excavation extended vertically, into water-saturated soil, to soil that was visually free of residual petroleum. Monitoring well MW-15 was removed as part of the AOC6 excavations. The extents of the final AOC6 excavations are shown in Figure OU2RAR-14. MW-15B, which has had measurable free product, as previously discussed, will continue to be monitored and remediated in accordance with the Site Management Plan located in Appendix B (see Volume 3). No product was encountered in wells MW-15A and MW-15C; therefore, only MW-15B will be used for long term monitoring.

Following the removal of grossly contaminated soil at and below the water table in AOCs 6-1, 6-MW15, and 6N1, Oxygen Release Compound Advanced™ (ORCA) was applied to the open excavations to treat any low levels of dissolved VOCs in groundwater at the likely source areas. The rationale for using ORCA in these areas was based on the low concentrations of dissolved oxygen measured in groundwater when monitoring wells were sampled. Oxygen is a limiting factor for the aerobic degradation of dissolved hydrocarbons, such as those detected in MW-14, in groundwater. Benzene, 1,2,4-trimethylbenzene, 1,3,5-trimethylbenzene and xylenes were detected in MW-14 at concentrations exceeding TOGS GA standards (see Section 4.1). Oxygen

released after ORCA is hydrated can stimulate aerobic microbial activity, accelerating the rate of natural degradation of dissolved hydrocarbons detected in groundwater in these areas. A total ORCA dose of 140 pounds was applied to AOC6-MW15, 385 pounds to AOC6N1 and 775 pounds to AOC6-1 on August 25, 2005. The dry ORCA was mixed on site with clean imported sand prior to backfilling the saturated zone of the excavation. ORCA was not applied to the AOC6E excavation because groundwater conditions were not known at the time the area was remediated. The AOC6 excavations were backfilled using either onsite reusable recycled concrete aggregate (RCA) or imported clean sand (see Section 3.0).

2.5.4 Post-Excavation End Point Soil Sample Results

Post-excavation end point soil samples were collected from the sidewalls and bottom of each AOC6 excavation to document post-excavation conditions. Post-excavation end point soil samples were collected at the bottom of each sidewall at a frequency of one per every 30 linear feet of sidewall and one per 900 square feet at the base of the excavation, in accordance with DER-10. In total, 53 final post-excavation end point soil samples (including three duplicates) were collected from 50 locations: five samples from AOC6N1, 6 samples from AOC6-MW15, 19 samples from AOC6W and 23 samples from AOC6E. Post-excavation end point soil samples were analyzed for STARS SVOCs and VOCs, as specified in the RAWP. At the request of NYSDEC, post-excavation end point soil samples were also analyzed for polychlorinated biphenyls (PCBs). PCB analysis in AOC6 was performed in all but five samples collected in AOC6N1. PCB analysis was not performed on the five AOC6N1 end point samples due to an omission on the chain of custody; however, no PCBs were detected in the investigation or pre-delineations samples collected in this location. PCBs were not detected at concentrations exceeding SSSALs in any of the bottom or sidewall samples collected at AOC6W, AOC6E, and AOC6N1.

Post-excavation end point soil sample locations and results are summarized in Figure OU2RAR-14. Analytical results are provided in Table 10. Post-excavation end point soil samples for AOC6 were collected at and below the water table. Of the 53 post-excavation end point soil samples collected, 42 met the SSSALs for all monitored parameters, while eleven did not meet SSSAL for at least one parameter. The table below is a summary of the post-excavation end point soil sample results that exceeded SSSALs. The notes at the right-hand side of the table provide details regarding the circumstances of each sample that contains an exceedance. In accordance with the objectives of the RAWP and the Invasive Work Implementation Plan for

Odorous Soils, further remediation was not necessary in locations where post-excavation soil samples showed SSSAL exceedances because of one or more of the following reasons:

- they were considered marginal exceedances of the SSSALs,
- the sample locations did not fall within the metes and bounds of OU2,
- the samples were collected at the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required,
- the soils were addressed subsequently as part of another AOC remediation, and/or
- in areas with odorous soils, the excavation area was pre-delineated, excavated to the extent defined by the pre-delineation sampling, and backfilled immediately following the collection of end point samples, in accordance with the Invasive Work Implementation Plan for Odorous Soil.

Any remaining SSSAL exceedances will be addressed by the site covers and institutional controls detailed in Section 2.9 and in the Site Management Plan located in Appendix B (see Volume 3).

Final Post Excavation End Point Soil Sample Results for AOC6 that Exceeded SSSALs

Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration/ SSSAL (ppm)	Notes
QW-AOC6E(12)B1	B	12.8	Arsenic	48.90 (23)	1
QW-AOC6E(12)B10	B	14.3	Benzene Isopropylbenzene N-propylbenzene 1,3,5-Trimethylbenzene	0.66 (0.06) 2.75 (2.30) 3.84 (3.70) 6.33 (3.30)	1
QW-AOC6E(12)B5	B	11.8	Arsenic	35.80 (23)	1
QW-AOC6E(12)E2	B	12.3	Benzene Isopropylbenzene N-propylbenzene 1,2,4-Trimethylbenzene 1,3,5-Trimethylbenzene Total Xylenes BAP Equivalent	1.09 (0.06) 4.79 (2.30) 6.67 (3.70) 15.70 (10.0) 4.55 (3.30) 8.23 (1.20) 50.67 (10.00)	1
QW-AOC6E(12)S1	B	12.3	Benzene	0.73 (0.06)	1
QW-AOC6N1-B1(12')	B	11.7	Benzene Isopropylbenzene N-propylbenzene	0.78 (0.06) 3.55 (2.30) 4.62 (3.70)	1
QW-AOC6N1-E1(12')	B	11.7	Benzene Isopropylbenzene N-propylbenzene	0.88 (0.06) 3.13 (2.30) 4.16 (3.70)	3

Final Post Excavation End Point Soil Sample Results for AOC6 that Exceeded SSSALs					
Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration/ SSSAL (ppm)	Notes
QW-AOC6N1-N1(12')	B	11.7	Benzene Ethylbenzene Isopropylbenzene 1,2,4 -Trimethylbenzene 1,3,5 -Trimethylbenzene Total Xylenes	1.53 (0.060) 6.50 (5.50) 2.47 (2.30) 11.70 (10.00) 4.47 (3.30) 5.04 (1.20)	3
QW-AOC6N1-S1(12')	B	11.7	Benzene Isopropylbenzene N-propylbenzene	0.98 (0.06) 5.36 (2.30) 6.53 (3.70)	3
QW-AOC6N1-W1(12')	B	11.7	Benzene Isopropylbenzene N-propylbenzene	1.03 (0.06) 6.63 (2.30) 8.33 (3.70)	3
QW-MW15-W1(10')	B	14.3	Benzene	0.08 (0.06)	2, 3

Notes:

1. Sample location corresponds to the deepest depth within the saturated zone at which no dewatering or additional excavation support or excessive sidewall sloping was required.
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Extent of remedial excavation was determined through the use of pre-delineation soil sampling as required by NYSDEC in the Invasive Work Implementation Plan for Odorous Soil, dated December 2004.
4. Finished grade will be the surface elevation in OU2 after completion of development.

2.5.5 Transportation and Disposal of Wastes

Soil was characterized for waste disposal in-situ by compositing five grab samples per 3,600 square feet of surface area (one composite sample per 800 cubic yards). In-situ grab samples were collected using direct-push macrocore samplers. Soil excavated from AOC6 was characterized as non-hazardous petroleum-contaminated soil and was disposed at either Soil Safe, located in Logan Township, New Jersey, or Tilcon – Mount Hope Recycling Facility, located in Wharton, New Jersey. Approximately 8,740 tons of AOC6 soil was excavated and transported to Soil Safe between March 23, 2005 and August 25, 2005 and 2,970 tons were transported to Tilcon between March 23, 2005 and May 6, 2005, as documented in Appendix G.

2.6 Underground Storage Tanks (USTs) (AOC7) Remediation

Previous records reviews and geophysical surveys indicated the potential presence of underground storage tanks (USTs) in OU2. As stated in the RAWP, the objectives of the remedial actions in AOC7 were to:

- Decommission, remove and dispose off-site of any USTs and associated piping systems found within OU2,
- Excavate and properly dispose of any grossly contaminated soil and any waste representing an environmental concern associated with the tanks, and
- Remediate significant impacts to groundwater quality resulting from past discharges from the USTs.

As per the RAWP, grossly contaminated soils containing free product at and below the water table would be excavated for off-site disposal. Following the excavation of any grossly contaminated soils, post-excavation soil samples were to be collected in accordance with DER-10 and analyzed for STARs VOCs and SVOCs. If contaminant levels above the water table were to exceed the SSSALs for VOCs, carcinogenic PAHs, and SVOCs, excavation of soil would continue until post-excavation end point sampling indicates that the cleanup objectives have been met.

Five historic underground storage tanks (USTs) were removed from OU2. No aboveground storage tanks (ASTs) were removed as part of the RA. Remedial activities were conducted between November 13, 2003 and April 6, 2005. Remediation of AOC7 in OU2 consisted of the removal, decommissioning and off-site disposal of the five historic USTs, and excavation, removal, and off-site disposal of associated fill containing VOC, SVOC, arsenic and lead concentrations exceeding the SSSALs established in the RAWP.

2.6.1 Underground Storage Tanks and Soil Removal Activities and Backfilling

Three USTs were identified after investigating geophysical anomalies in OU2, including a 2,500-gallon fuel oil UST (UST 1) located in AOC1S, bordering 5th Street and approximately 100 feet north of 47th Road, and two concrete encased 1,000-gallon gasoline USTs (UST-1A and UST-1B) located in Center Boulevard between 47th Road and 47th Avenue. These tanks were found to

be in good condition (i.e., no pitting). A PID was used to detect the presence of total organic volatiles, which indicated a maximum organic vapor concentration of 15 ppm inside each of the tanks. No elevated PID readings, stained soil and strong odors were detected in soil surrounding these three USTs. A tank subcontractor removed, cleaned and disposed of each of the USTs.

Two additional USTs, not previously identified by the geophysical survey, were encountered and removed during the excavation of soils in the AOC1S remedial excavation. One 4,000-gallon UST (UST 3) and one 5,000-gallon UST (UST 4) were found along the eastern property line between 46th Road and 47th Avenue. Both tanks were encased in a brick vault filled with sand and were in good condition. The USTs were found to be filled with sand and showed no visual or olfactory evidence of contamination. A PID was used to screen the areas in and around the USTs before removal. No volatile organic compounds were detected by the PID. The USTs were cleaned and disposed of off-site. Records of UST decommissioning are included in Appendix H.

As noted above, there was no evidence of releases from any of the removed USTs and no grossly contaminated soil was identified in association with the AOC7 remediation. A PID and field observations were utilized to screen soil around the tanks. Based on field measurements and observations, there was no evidence of contaminated soil at the final extent of the UST excavations. In accordance with the RAWP, remedial activities were considered complete when post-excavation end point soil samples for soils above the water table were less than SSSALs. The four tank areas (tanks 1A and 1B were contained in the same excavation) comprising the AOC7 excavations are depicted in Figure OU2RAR-8. After remedial activities were complete, AOC7 was backfilled using imported clean sand (see Section 3.0).

Historic records indicated the presence of six USTs in the southeast corner of the AOC8 remediation area. Following a geophysical survey and investigation of potential tank areas, the six historic USTs in the AOC8 remediation area were not encountered and were likely removed prior to the RA. Refer to Section 2.7.2 for details regarding AOC8 end-point soil sampling results and excavation throughout the southeast corner of the AOC8 remediation area.

2.6.2 Post-Excavation End Point Soil Sample Results

As shown on Figure OU2RAR-8, soil samples were collected from each sidewall and the bottom of each UST excavation in accordance with the DER-10 sampling protocol and the QAPP located in Appendix A of the RAWP. Soil samples were analyzed for STARS VOCs, STARS SVOCs and, for USTs removed from within the AOC1 area, for lead and arsenic.

Post-excavation end point soil samples were collected along the base of the sidewalls of the final excavated areas and at the bottoms of the excavations. For two of the three USTs located adjacent to 5th Street (USTs 3 and 4), no sidewall samples were collected in the north, west, or south because the entire area was subsequently excavated as part of AOC1S. Eleven (including one duplicate) post-excavation end point soil samples were collected and analyzed within AOC7, including four bottom and seven sidewall samples. In each of the eleven post-excavation end point soil samples in AOC7, SSSALs were met.

Figure OU2RAR-8 presents the final post-excavation end point soil sample locations and results for AOC7. Post-excavation end point soil sample results for AOC7 are presented in Table 11. Laboratory analytical results indicated that soil constituents were below the respective SSSALs at each of the eleven post-excavation end point soil samples. Therefore, the remedial objectives for this area have been met, and no further remediation is necessary.

2.6.3 Transportation and Disposal of Wastes

The decommissioned USTs were cleaned and transported to a permitted off-site scrap metal recycling facility. No grossly contaminated soil was associated with the USTs. There was no liquid waste associated with the removal of the USTs found along 5th Street (USTs 1, 3, and 4). A total of 220 gallons of oily water were pumped from USTs 1A and 1B prior to removal. Documentation of disposal is provided in Appendix H. Soil associated with USTs 3 and 4 (co-located with AOC1-S) was characterized in-situ for waste disposal by compositing five grab samples per 3,600 square feet of surface area. Grab samples were collected using direct-push macrocore samplers.

Soil excavated from AOC7 was characterized as non-hazardous petroleum-contaminated soil and was disposed of with material from AOC1S-E at Soil Safe located in Logan Township, New Jersey, and Waste Management-Waste Disposal Facility, located in Tulleytown, Pennsylvania.

2.7 Historic Subterranean Oil Refinery Systems (AOC8) Remediation

As outlined in the RAWP, the objectives of the remediation in AOC8 were to:

- Decommission or remove the historic subterranean oil refinery systems and other subsurface features of concern,
- Excavate and dispose off-site impacted soil that exceeds SSSALs or have free product,
- Remediate soils with residual product so they exhibit no objectionable odors, and
- Perform any required soil and groundwater remediation to achieve the Groundwater Cleanup Objectives.

The RAWP states that soil exceeding SSSALs or exhibiting gross contamination in the form of free product would be excavated to the elevation that no longer would be disturbed by site development activities. The remediation of the AOC8 areas was conducted after the restrictions of the Invasive Work Implementation Plan for Odorous Soil were in place. In accordance with the invasive work plan, the AOC8 area was evaluated for subsurface structures, excavated and direct loaded, end point samples were collected and the excavation was promptly backfilled. AOC8 could not be pre-delineated because excavation areas were driven by the presence of underground piping and refinery systems.

Historic piping and a circular 3,850 square foot foundation of a former gasholder associated with the historic refinery operation was removed as part of the remediation of AOC8. Due to the empty and disjointed condition of the subsurface pipe network, the piping and surrounding soil was excavated as a bulk solid waste. Soil was field screened for impacts, excavated for off-site disposal, and post excavation end point soil samples were collected. Removal and remediation efforts associated with pipe and gasholder removal were completed between January 31, 2005 and May 11, 2005. Soil associated with the AOC8 area that exceeded SSSALs was characterized both in-situ and in stockpiles and disposed of at an appropriate offsite disposal facility. Pipe fragments were transported to an offsite recycling facility.

2.7.1 Subterranean Oil Refinery Systems and Soil Removal Activities and Backfilling

Historic piping and contaminated fill, including fill containing residual petroleum contamination, from AOC8 was excavated to four feet bgs. The extent of the excavated area in AOC8 is illustrated on Figure OU2RAR-15. In certain areas, excavations in AOC8 overlapped with other excavations performed for other areas of concern. These are also shown on Figure OU2RAR-15. Remedial activities were considered complete when arsenic, VOC, SVOC and PCB concentrations in post-excavation end point soil samples were less than the SSSALs, or until excavations extended to the elevation that no longer would be disturbed by site development activities. The final AOC8 excavation covered an area of approximately 20,500 square feet and was bordered by 47th Avenue to the south, AOC6E and AOC1N to the north and AOC6 to the west. After remedial activities were complete, AOC8 was backfilled using both imported clean sand and onsite, reusable fill material (see Section 3.0).

2.7.2 Post-Excavation End Point Soil Sample Results

Post-excavation end point soil sample results were collected to confirm that historic fill containing arsenic, SVOC, and VOC concentrations greater than SSSALs had been removed and remedial activities had been completed. At the request of NYSDEC, PCB analysis was also performed in the areas of AOC8 where residual petroleum contamination was observed. Post-excavation end point soil samples were collected and analyzed in accordance with NYSDEC's DER-10 sampling protocol and the QAPP located in Appendix A of the RAWP.

Post-excavation end point soil samples were collected along the base of the sidewalls of the final excavated area and at the bottom of the excavation. A total of 106 post-excavation end point (including five duplicate samples) soil samples were within AOC8. Samples were collected from 101 sample locations which included 53 bottom and 48 sidewall sample locations. Post-excavation end point soil sampling results are presented in full in Table 12. Figure OU2RAR-15 presents the final post-excavation end point soil sample locations and results for AOC8.

One hundred of the 106 post-excavation end point soil samples collected in AOC8 met all the SSSALs for SVOCs, VOCs, PCBs and arsenic. As previously discussed, the remediation of the AOC8 areas was conducted after the restrictions of the Invasive Work Implementation Plan for Odorous Soil was in place but AOC8 could not be pre-delineated because excavation areas were

driven by the presence of underground piping and refinery systems. Due to direct loading and prompt backfilling procedures, excavations could not remain open while waiting for the results of the post-excavation soil sample results. Therefore, some exceedances of SSSALs occurred. Consistent with the approach in the Invasive Work Implementation Plan for Odorous Soil for areas with odorous soils, the extent of the excavations in areas with odorous soils was determined based on pre-delineation sampling and the post-excavation sampling was conducted for documentation purposes.

The table below is a summary of those post-excavation end point soil samples that did not meet SSSALS. The notes at the right-hand side of the table provide details regarding the circumstances of each sample that contains an exceedance. Based on the results of the remediation and post-excavation end point samples, the remedial objectives in AOC8 have been met and further remediation is not necessary.

Final Post-Excavation End Point Soil Sample Results for AOC8 that Exceeded SSSALs

Sample Name	Above/Below Water Table	Depth Below Finished Grade (feet)	Parameter	Concentration (ppm) SSSAL (ppm)	Notes
QW-AOC8-E4-23-W1(4)	A	5.5	BAP Equivalent	20.99 (10)	3
QW-AOC8-F4-3-S(6)	B	8.7	BAP Equivalent	16.06 (10)	1
QW-AOC8-F4-5-E(4)	A	6.7	BAP Equivalent	13.77 (10)	2
QW-AOC8S-(4)B1	A	5.2	Phenanthrene BAP Equivalent	58.00 (50) 19.92 (10)	2
QW-AOC8S-(4)W3	A	8.4	BAP Equivalent	19.12 (10)	2
QW-AOC8-SR3-4 (6) B16	B	5.3	Arsenic	48.30 (23.0)	1
QW-AOC8-SR3-4(4) B16	A	3.3	Fluoranthene Phenanthrene Pyrene BAP Equivalent	66.00 (50) 66.00 (50) 56.00 (50) 32.58 (10)	3

Notes:

1. Sample location corresponds to a depth at or below the elevation that would no longer be disturbed by site development activities, as per the RAWP.
2. SSSAL exceedance(s) at this sample location are considered marginal.
3. Sample location subsequently addressed as part of another remedial excavation.
4. Finished grade will be the surface elevation in OU2 after completion of development.

2.7.3 Transportation and Disposal of Wastes

Soil was characterized for waste disposal in-situ by compositing five grab samples per 3,600 square feet of surface area. Grab samples were collected using direct-push macrocore samplers. Soil excavated from AOC8 was characterized as non-hazardous petroleum-contaminated soil and was disposed at Waste Management Disposal-Waste Treatment Plant located in Tulleytown, Pennsylvania; Tilcon's Mt. Hope Recycling Facility located in Wharton, New Jersey; Soil Safe located in Logan Township, New Jersey; and Edgeboro Landfill located in East Brunswick, New Jersey. Soil excavated from AOC8 was transported to the respective disposal facilities between January 26, 2005 and May 11, 2005, as documented in Appendix G. A total of 11,510 tons of soil was excavated, transported and disposed of from AOC8. A total of 1,259 tons were transported to Waste Management; 3,173 tons were transported to Tilcon; 6,165 tons were transported to Soil Safe; and 913 tons were transported to Edgeboro for off-site disposal.

2.8 Subsurface Structures of Concern (AOC9) Remediation

As outlined in the RAWP, the objectives of the remediation in AOC9 were the same as those for AOC8 and included:

- Decommission or remove the historic subterranean oil refinery systems and other subsurface features of concern,
- Excavate and dispose off-site impacted soil that exceeds SSSALs or have free product,
- Remediate soils with residual product so they exhibit no objectionable odors, and
- Perform any required soil and groundwater remediation to achieve the Groundwater Cleanup Objectives.

The RAWP states that soil exceeding SSSALs or exhibiting gross contamination in the form of free product would be excavated to the elevation that no longer would be disturbed by site development activities. The remediation of the AOC9 areas was conducted prior to the implementation of the Invasive Work Implementation Plan for Odorous Soil.

As documented in the OU1 Final Report for Interim Remediation Measures (IRM) and Remedial Action Work Plan, dated April 2005, a pair of suspected drainage pipes extending across the southern boundary of OU1 into OU2 was identified while investigating a geophysical anomaly near the south end of the Site. The pipes were situated one on top of the other, parallel to 47th Road, and ran from about 90 feet east of Center Boulevard to about 70 feet east of the OU1 and OU2 boundary. The upper-most pipe was located between 5.5 and 6.5-feet bgs and consisted of a two to six-inch diameter steel pipe encased discontinuously by a two-inch thick ceramic shell. Underlying the top pipe, at a depth between 6.5 and 8 feet bgs, was a six to eight-inch diameter metallic pipe. Sediment, free of staining and odor, was identified in each pipe. The area of the pipe excavation is shown on Figure OU2RAR-9.

While excavating an area in OU1 having historic lead and arsenic contamination, a fragment of a tank and adjacent contaminated soil was uncovered from the southeast corner of OU1, at the boundary between OU1 and OU2. The tank fragment and the immediately surrounding soil were removed in accordance with guidelines for a petroleum underground storage tank (UST) outlined in the RAWP. Appendix C contains photographic documentation of removal of the steel fragment and associated petroleum-impacted soil. The area of this excavation, identified as area AOC9-UST2, is shown on Figure OU2RAR-9.

2.8.1 Subsurface Structure and Soil Removal Activities and Backfilling

Both drainage pipes and the tank fragment were removed and disposed. The soil was screened for impacts, excavated until no impacted soil was encountered and post-excavation end point samples were collected. Removal and remediation activities associated with pipe removal were completed between March 23, 2004 and July 26, 2004, while remedial activities associated with the tank fragment were completed on August 17, 2004.

In conducting the pipe excavation, overlying soil was first removed using an excavator, exposing both drainage pipes. The drainage pipes were entirely removed from the ground, leaving behind no piping to be decommissioned and sealed. Following removal of the pipes, post-remediation end point soil samples were collected every 100 feet along the bottom of the pipe excavation, in accordance with the RAWP. The excavation associated with the removal of both drainage pipes covered an area of approximately 2,500 square feet in OU2.

After removing the pair of drainage pipes, a black, viscous tar-like material was observed along the south sidewall of the pipe excavation. The north wall of the excavation was free of this material. Two samples were collected from the tar-like material and analyzed for TCL SVOCs, revealing concentrations of SVOCs that exceeded SSSALs. The tar-like material and related soil was excavated in accordance with the RAWP. The remedial excavation for the pipe trench, therefore, extended south to the property line. The pair of drainage pipes terminated in OU2 and formed a hooked shaped final excavation, as shown on Figure OU2RAR-9. The AOC9 pipe area was excavated to the elevation that no longer would be disturbed by site development activities. The end-point samples collected at the end of the pipe area were labeled AOC9-5-56.

The tank fragment was removed in accordance with the procedures outlined in the RAWP. After removing overlying soil during the OU1 AOC1 remediation, the tank fragment was exposed using an excavator. Following its removal from the ground, the tank fragment was cleaned and staged on plastic sheeting before being transported for disposal off-site. The excavation associated with the removal of the tank fragment covered an area of approximately 340 square feet in OU2.

The final extent of excavation for these subsurface structures of concern is shown in Figure OU2RAR-9. After post-excavation end point soil samples confirmed that SSSALs had been achieved, the pipe trench and tank fragment excavation were backfilled using a combination of on-site, reusable fill and imported clean sand. Imported clean sand was provided by New York Sand and Stone. In accordance with the RAWP, reusable, overburden soil was used to backfill the excavation. Approximately 2,080 cubic yards of soil excavated as part of the AOC9 remediation was deemed reusable for backfill.

2.8.2 Post-Excavation End Point Soil Sample Results

After removal of grossly contaminated soil and SSSAL exceedances from the pipe excavation, there were no visual or olfactory signs of any gross contamination observed in the remaining soil. The remediation of AOC9 in OU2 was conducted prior to the implementation of the Invasive Work Implementation Plan for Odorous Soil. End point samples were collected at five locations in AOC9. Post-excavation end point soil sampling results for the pipe trench area are presented in Table 12 and shown on Figure OU2RAR-9. Soil samples were analyzed for TCL SVOCs. Of the five end point samples collected from the pipe excavation in OU2, two samples

exceeded the SSSAL for BaP equivalents. However, the exceedances were considered to be marginal (i.e., 12.98 ppm and 11.39 ppm compared with the SSSAL of 10 ppm).

After removal of the tank fragment and surrounding soil, the excavated area was evaluated to identify additional impacts to soil and/or groundwater conditions. A photoionization detector (PID) instrument and field observations were utilized to determine whether the UST fragment had impacted subsurface conditions beyond the area that had already been excavated. Based on field measurements and observations, there was no evidence of petroleum contamination remaining in the soil at the final extent of the excavation.

As shown on Figure OU2RAR-9, soil samples were collected from each sidewall and the bottom of the tank fragment excavation. Soil samples were analyzed for STARS VOCs, TCL SVOCs, arsenic, lead, mercury and PCBs. Post-excavation end point soil sampling results for the tank excavation area are presented in Table 12 and shown on Figure OU2RAR-9. End point samples were collected at five locations within the UST fragment excavation. Laboratory analytical results indicated that the soil constituents were below the respective SSSALs at each of the five locations.

Based on the results of the remediation and post-excavation end point samples, the remedial objectives in AOC9 have been met and further remediation is not necessary.

2.8.3 Transportation and Disposal of Wastes

The cleaned tank fragment and drainage pipes were transported to a permitted offsite scrap metal recycling facility. An appropriate offsite disposal facility for the excavated soil in AOC9 was determined based on the results of 52 waste characterization samples collected from stockpiled soil excavated from the pipe trench and the tank area. Based on these results, soil from both excavations that was not reusable, was characterized as non-hazardous petroleum-contaminated soil and was transported to Clean Earth's thermal treatment facility located in Philadelphia, Pennsylvania, for disposal. Approximately 5,630 tons of soil from the pipe excavation and 195 tons of soil from the tank excavation were transported to Clean Earth between August 2 and September 7, 2004. Documentation of solid waste disposal related to the pipe and tank fragment removal is provided in Appendix G.

2.9 Site-wide Soil (AOC10) Remediation/Reuse

The overall remedial objectives of AOC10, as described in the RAWP are:

- To establish protocols that ensure that disturbances of Site-wide historic fill and residual contaminated soil (AOC 10) associated with Site remediation occur in a manner protective of human health (workers and general public) and the environment, and
- To minimize future disturbances of AOC10 by placement of an barrier layer.

As a result of remediation and site development activities, site-wide historic fill (AOC10) in OU2 has been graded and covered in accordance with the RAWP. Section 2.9.1 describes reusable soil, Section 2.9.2 describes grading activities and Section 2.9.3 contains a description of the barrier layer and final covers. Information about the barrier layer and final development covers is included in the following figures:

- Figure OU2RAR-16: the remediation areas with elevations of the base of the remedial excavations,
- Figure OU2RAR-17: the residual soil management zone,
- Figure OU2RAR-18: the location of the demarcation layer,
- Figure OU2RAR-19: the barrier layer details,
- Figure OU2RAR-20: final site development plan, and
- Figure OU2RAR-21: the final site covers.

2.9.1 Reusable Soil

Excavated soil from other than remedial excavations (i.e., overburden and post-remediation site grading) was stockpiled, and this soil was subsequently evaluated to determine its suitability for onsite reuse. As required by the RPSMP located in Appendix B of the RAWP, soil qualifying for onsite reuse must meet the following requirements: comply with the SSSALs; exhibit no evidence of gross contamination, as defined by DER-10; and contain no organic matter or other solid waste. In addition, excavated soil was excluded for reuse if it did not meet specific geotechnical properties defined in the RPSMP. Lastly, reusable soil was only used as fill material below the clean fill layer. Table 4 presents the results of soil reuse characterization sampling for onsite reuse or offsite disposal. Table 5 presents a summary of the final disposition of soil stockpiles generated by OU2 work.

2.9.2 Grading

OU2 was excavated and graded for installation of the barrier layer at the Final Grade for OU2. "Final Grade" is defined as the surface elevation achieved in OU2 after completion of remediation and placement of barrier material. A barrier layer consisting of two feet of clean fill were installed in OU2 because the development (i.e., buildings, parks, and landscaping) will not be completed in its entirety until approximately 2008. Paving of the roads in OU2 is expected to be completed by October 2006. Where needed, imported clean sand provided by New York Sand and Stone, Brooklyn, New York, was also used in combination with on-site, reusable soil to obtain the Final Grade for OU2.

In conjunction with the remedial activities described above and site work to achieve Final Grades, existing soil and imported fill were excavated and/or managed in accordance with the RPSMP Appendix B of the RAWP. A demarcation layer consisting of long-lasting orange plastic grid was placed at the locations and elevations shown on Figure OU2RAR-18, immediately below the clean fill cover described below in Section 2.9.3.

2.9.3 Installation of Barrier Layer and Final Covers

After completion of remedial activities and backfilling of excavations, two feet of imported clean fill cover was placed over the demarcation layer in the building, park and landscaping areas and in the utility corridors where there is no demarcation layer. Subbase course, consisting of crushed reusable concrete aggregate, was placed on the road beds by QWDC. The clean fill cover consisted of imported clean sand, provided by New York Sand and Stone. The sand was from a virgin source and met the requirements for imported fill materials, as defined by the RPSMP located in Appendix B of the RAWP. A copy of New York Sand and Stone's certification of clean fill and laboratory analytical reports of samples collected from the fill material are included in Appendix I.

A barrier layer in OU2 consists of at least two feet of clean fill cover in building parcels, park areas and utility corridors in unpaved areas. The future roads were covered by subbase course provided by QWDC.

To complete the final cover the following elements will be constructed as part of the development:

- The final cover for building parcels will consist of a minimum of one foot of clean fill and building concrete slab on grade. Building courtyards anticipated to be constructed on building Parcel 5 that contain landscaping will have at least two feet of cover consisting of imported fill or top soil.
- Park areas were covered by a minimum of two foot of imported clean fill following remediation. In addition to the two-foot fill layer, the park areas were covered with additional imported fill or top soil cover material.
- Center Boulevard and 47th Avenue were covered with subbase course following remediation and will be paved by October 2006.

No exposed native soil or historic fill remains as a result of the covers described above. The barrier layer and final site development covers for OU2 are shown on Figures OU2RAR-20 and OU2RAR-21. Elevations of the native residual soil (i.e., "Residual Soil Management Zone") and the demarcation layer are presented in Figure OU2RAR-17 and Figure OU2RAR-18, respectively.

2.9.4 Engineering and Institutional Controls

The institutional controls will consist of a deed restriction applying to post-remediation disturbances of soil below Site covers and usage of groundwater. An annual report will be submitted to the NYSDEC in accordance with the SMP located in Appendix B (see Volume 3). The annual report will be signed by a New York State licensed Professional Engineer will contain a certification that nothing has occurred to the institutional and engineering controls that would impair the ability of these controls to protect public health and the environment.

2.10 Building Sub-Slab Depressurization Systems (SSDS)

Figure OU2RAR-22 shows the layout of the sub-slab depressurization pits (SSDS), underground piping and monitoring points for the SSDS of Parcel 7 Building. Figure OU2RAR-23 depicts the details for the SSDS. As previously discussed in Section 2.9.3, a barrier layer exists in the area of OU2 where the Parcel 5 and Parcel 7 Buildings will be present. Figure OU2RAR-24 presents a conceptual layout of the Parcel 5 Building SSDS. The SMP located in Appendix B (see Volume 3) provides details for the operation, monitoring and maintenance of the SSDS for the buildings within OU2.

3.0 POST-REMEDIATION SAMPLING

Post-remediation sampling to date within OU2 has consisted of the sampling of one deep and six shallow overburden groundwater monitoring wells and collection of soil gas samples at eleven locations in OU2. The results of this post-remediation soil-gas sampling and groundwater sampling are discussed in the following subsections.

3.1 Groundwater Sampling Results

Following completion of soil remediation and backfilling activities, four existing (MW-4S, MW-4D, MW-5 and MW-10) and six new (MW-2, MW-8, MW-14, MW-15A, MW-15B, and MW-15C) groundwater monitoring wells were sampled or gauged to determine post-remediation groundwater quality in OU2.

Three new wells, MW-15A, MW-15B and MW-15C, were not sampled because their purpose was to monitor for the presence of free product following the removal of soil in the area around the former monitoring well MW-15. Monitoring well MW-15 was removed as part of the AOC6 remediation on August 25, 2005 (see Section 2.5). Wells MW-15A, MW-15B and MW-15C were installed within ten to twenty feet of the former monitoring well MW-15 to monitor product thickness and recharge. In the most recent measurement period, petroleum product measuring 0.05 feet was detected in well MW-15B (refer to Figure OU2RAR-25B). No product was detected in monitoring wells MW-15A or MW-15B. Monitoring well MW-15B, located in the sidewalk of 47th Avenue will be used for performance and long-term monitoring in accordance with the Site Management Plan. The well logs for these wells are included in Appendix J.

Groundwater samples were collected in accordance with the QAPP, which is Appendix A of the RAWP. Representative groundwater samples from each well were analyzed for STARS VOCs, STARS SVOCs and Priority Pollutant Metals. Figure OU2RAR-25B presents the locations of post-remediation groundwater sampling locations and summary data. Table 15, Post-Remediation Groundwater Sample Results, presents the groundwater data. Groundwater results were compared to the GA Standard. SVOC concentrations in groundwater were less than applicable GA Standards for all wells sampled. The table below is a summary of the groundwater results that exceeded GA Standards. The notes at the right-hand side of the table provide details regarding the circumstances of each sample that contains an exceedance.

Post-Remediation Groundwater Sample Results for OU2 that exceed SSSALs			
Sample Name	Parameter	Concentration/TOGS (ug/L)	Notes
OU2-MW2	Chromium Nickel Benzene sec-Butylbenzene Isopropylbenzene n-Propylbenzene	76.1 (50) 118 (100) 1.5 (1) 6.4 (5) 24.2 (5) 18.7 (5)	1
OU2-MW4D	Chromium Nickel Benzene Methyl Tert Butyl Ether	99 (50) 129 (100) 13.3 (1) 11.9 (10)	2
OU2-MW4S	Benzene	35.1 (1)	2
OU2-MW14	Arsenic Benzene 1,2,4-Trimethylbenzene 1,3,5-Trymethylbenzene Total Xylenes	26.4 (25) 4.7 (1) 6.3 (5) 5.4 (5) 5.9 (5)	1, 3
OU2-MW8	Benzene	16.2 (1)	1
OU2-MW8 DUP	Benzene	14.6 (1)	1

Notes:

1. Source soil has been removed and groundwater will continue to be monitored as discussed in the OM&M plan located in the appended SMP.
2. Wells are located outside of the Site boundary. Origin of groundwater impacts is likely an off-site source. Potential source soil has been excavated from the Site.
3. Groundwater well was sampled prior to removal of potential contamination source soil. Groundwater will continue to be monitored as discussed in the OM&M plan located in the appended SMP.

Laboratory analytical result reports are provided in their entirety in Appendix E. Although groundwater exceedances were detected in post-remediation samples, it is anticipated that these concentrations will degrade with time now that impacted soil that likely contributed to the dissolved constituents in groundwater has been removed. Groundwater will continue to be monitored in accordance with the SMP, which is located in Appendix B (see Volume 3).

Groundwater from monitoring well MW-2 was sampled on June 21, 2005 and the constituents detected above the GA Standards are shown in the table above. No product was detected in MW-2 during the sampling event on June 21, 2005. Site-wide groundwater gauging was conducted as part of the OUs 3 and 4 RIR in December 2005 and April 2006. During both of those gauging events 0.07 feet of product was measured on groundwater in MW-2. Because the constituents detected in the dissolved groundwater were relatively low and no change in product thickness occurred over a four month period it is likely that any product remaining in this area is not recoverable. On August 3, 2006, a test pit was excavated near MW-2 to determine whether there was free product or a potential source of free product in the area of this monitoring well.

The test pit was excavated ten feet in depth and extended through approximately two feet of recycled concrete aggregate and eight feet of clean fill sand and reusable soil. The groundwater table was exposed and there was no evidence of free product. The former MW-2, which had been destroyed by construction activity, was removed. A replacement well for MW-2 will be located in the sidewalk adjacent to the sports field for the purpose of long-term and performance monitoring in accordance with the Site Management Plan.

Dissolved benzene in MW-4S and benzene, chromium, methyl tert butyl ether (MTBE) and nickel in MW-4D (off-site, perimeter sidewalk monitoring wells) were detected at concentrations greater than GA Standards for those parameters. Figure OU2RAR-26 shows the groundwater elevation contours, which indicate that MW-4S and MW-4D are located at a hydraulic low point along 47th Road, with groundwater likely flowing offsite, toward MW-4S and MW-4D. Groundwater flows towards this hydraulic low point in 47th Road from all directions and is likely caused by preferential pathways caused by the sewers in the sidewalk and road. For further discussion regarding this groundwater flow pattern, refer to the OUs 1 and 2 RIR. Potential on-site source soil that may have contributed to dissolved constituents in groundwater in this area has been removed as part of the AOC1S remediation (see Section 2.1).

3.2 Soil Vapor Sampling Results

Thirteen soil gas samples (including one duplicate sample) were collected in accordance with the RAWP. Sample locations were distributed across OU2 and Figure OU2RAR-27 depicts the sample locations with respective laboratory analytical results. Soil gas sample data is presented in Table 16, Post-Remediation Soil Gas Sample Results. Sample results are included in their entirety in Appendix E. Soil gas samples were collected to determine if current soil gas conditions in OU2 are at or below acceptable risk levels, based on an evaluation of the vapor intrusion exposure pathway.

Soil gas samples were targeted within the planned footprints of Buildings 5 and 7 to be constructed in OU2, as well as the planned sports field and other park locations. Two soil gas samples were collected within the footprint of Building 5 (OU-SG-22 from the OU2 sampling event and OU1-SG-16 from the OU1 sampling event). Four soil gas samples were collected within the footprint of Building 7 (SG-11, SG-12, SG-13 and SG-14 from the OU2 sampling event). A total of five soil gas samples, including a duplicate sample, were collected from the planned sports field area (samples SG-15, SG-17, SG-18, and duplicate samples at SG-19). A

duplicate ambient air sample was also collected from the area of the sports field. Two soil gas samples (SG-20 and SG-21) were collected from a planned landscaped/lawn area north of the sports field, and one soil gas sample was collected from a planned community garden area to the west of Building 5.

At each location, a direct push probe was used to drive rods with an expendable steel tip through a 3 square foot piece of 6-mil (one mil is equal to one thousandth of an inch) plastic sheeting to the final sample depth. The samples were collected at depth of three to seven feet bgs. Plastic sheeting was used at the ground surface in an attempt to limit infiltration of ambient air into the shallow soil vapor samples. All samples were collected within the vadose zone, above the capillary fringe in order to avoid excess moisture. Teflon-lined polyethylene tubing was inserted into the rods and screwed into the tip of the direct push probe rods to create an airtight seal. The rods were then pulled up approximately 6 inches to allow the expendable point to fall out, and air to enter the rod. A bentonite seal was packed around the rod at each ground surface insertion point to prevent atmospheric air from infiltrating the sample. A Gillian Personal Air Sampler pump with a low flow module was used to purge air within the tubing at a rate of 0.2 liters per minute (L/min) for at least two minutes prior to sampling. The tubing was then connected to a summa passivated canister (i.e., the interior is polished for inertness) to collect the vapor sample. Flow regulators were used to control flow into each canister at a rate of 0.2 L/min.

Soil gas samples were analyzed for the targeted list of parameters approved by NYSDOH. Air Toxics Ltd of Folsom, California performed sample analysis. One duplicate sample was collected at the SG-19 location and duplicate background samples was collected of ambient air at the soil gas sample location SG-17, on the southwest corner of the planned sports field adjacent to 47th Avenue.

A quantitative assessment of the vapor intrusion exposure pathway was conducted in accordance with the US Environmental Protection Agency's (EPA's) current guidance for evaluating the vapor intrusion exposure pathway (EPA, 2002) using Version 3.1 of the Johnson and Ettinger Model (EPA, 2004). The advanced soil gas version of the model was used to conduct the assessment. The model estimates the potential risk associated with exposure to vapors in indoor air that are assumed to have intruded from impacted soil gas beneath the building. The model calculates risk associated with continuous exposure for 24 hours per day for 350 days per year for 30 years, which is a conservative estimate of residential exposure. The model has been

modified to better reflect actual conditions. The modifications to the model were based on the following information.

Site-Specific Assumptions for Johnson and Ettinger Soil Gas Model	
Site-Specific Input Parameter	Value
Depth to Soil gas	3 - 7 feet (average depth evaluated)
Depth to Bottom of Enclosed Space	1 foot bgs
Building Area (s)	Bldg 5 – 24,610 ft^2, Bldg 7 – 55,569 ft^2
Soil Type	Loamy sand
Building Air Exchange Rate	3 per hour (based upon HVAC specifications)

The assessment evaluates potential exposure to future residents, based on the highly conservative assumption that vapors will intrude into the residential buildings constructed at OU2. This assessment does not consider engineering controls, including the planned installation of active sub-slab depressurization systems beneath the two buildings, and is, therefore, considered highly conservative.

Soil gas data specific to the footprints of the two buildings were used in calculating the average soil gas concentration for each VOC detected (with the exception of those constituents without toxicity criteria). Soil gas samples OU1-SG-16 and OU2-SG-22 were used to evaluate potential indoor air risk to future occupants of Building 5. Soil gas samples SG-11, SG-12, SG-13 and SG-14 were used to evaluate potential indoor air risk to future occupants of Building 7.

The use of an average concentration is consistent with the model assumptions. The model assumes that vapors intrude from under the entire footprint of the building via a perimeter crack between the basement slab and the basement walls and that vapors intruding into a building are homogeneously mixed. Therefore, vapors intruding from one area where soil gas concentrations would be higher would be homogeneously mixed with vapors intruding from areas with lower concentrations or would be mixed with air intruding from areas beneath the building that are not impacted.

The results of the Building 5 assessment indicate that the average concentration of 1, 3-butadiene detected in soil gas is above acceptable risk levels. The compound 1, 3-butadiene was detected in soil gas at concentrations ranging from non-detectable levels to 54 $\mu g/m^3$, or 24 parts per billion by volume (ppbv). However, 1, 3-Butadiene was not detected in any soil and

groundwater samples. 1, 3-Butadiene is a colorless gas with a mild gasoline-like odor. It is a petroleum constituent that is almost always found at low levels in urban air samples, but it breaks down quickly in the air and decomposes within a few hours of exposure to sunlight.

The cumulative cancer risk for the soil gas data associated with Building 5 is $4x10^{-6}$, all of which is attributable to 1,3-butadiene; this exceeds the acceptable cancer risk management level of $1x10^{-6}$. The cumulative hazard index is $2.1x10^{-4}$, which is well below the acceptable hazard index of 1.0. The supporting data tables for Building 5, including the risk assessment results, are presented in Appendix K. Although the risk assessment indicates that 1,3-butidiene was detected at concentration above an acceptable risk level for Building 5, this assessment does not consider the effectiveness of the planned active sub-slab vapor depressurization system in controlling infiltration of vapors into the building from the subsurface, which will mitigate these potential risks for building occupants.

The results of the Building 7 assessment indicate that the average concentrations of volatile organic compounds detected in soil gas beneath Building 7 are all within acceptable risk levels. The cumulative cancer risk for this scenario is $9x10^{-7}$, which is below the acceptable cancer risk management level of $1x10^{-6}$. The cumulative hazard index is $1.5x10^{-4}$, which is well below the acceptable hazard index of 1.0. The support tables for Building 7 including the risk results are presented in Appendix K.

Engineering and institutional controls will be implemented in OU2 that will mitigate any potential exposures due to soil vapor, and soil vapor conditions will be monitored over time. Sub-slab depressurization systems will be constructed beneath Buildings 5 and 7 and will be actively operated to ensure that vapors that may be present beneath the slab are conveyed outside the building envelopes.

4.0 QUALITY ASSURANCE/QUALITY CONTROL DATA EVALUATION

A Quality Assurance/Quality Control (QA/QC) program for the OU2 RA was instituted to ensure that the analytical and project objectives were met. The QA/QC program consisted of the development of the Quality Assurance Project Plan (QAPP) located in Appendix A of the RAWP, which detailed the data quality objectives (DQOs) for each analytical parameter for the entire RA. During the program, the collection of QC samples was monitored by the Project QA Officer to ensure that the field QC samples were collected at the proper frequency. Finally, the QA/QC program included data validation for a percentage of the analytical data, as outlined in the QAPP. That is, only those samples collected for the purpose of characterizing the subsurface, delineating impacted areas, and/or documenting no further action, as in the case of meeting cleanup criteria or action levels, were validated. For OU2, approximately 10% of the data generated for the supplemental investigation and final post-excavation end point soil samples, groundwater samples and soil vapor samples were validated.

The results of the data validations were summarized in Data Usability Summary Reports (DUSRs). A more detailed overview of the data evaluation completed for OU2 and the DUSRs appear in Appendix L, including a discussion of each qualified result, for the potential bias and the effect on the data usability.

5.0 SUMMARY AND CONCLUSIONS

Remediation of OU2 was conducted in accordance with the RAWP dated September 2005, a stipulation list dated January 18, 2006, and, following their implementation, the Enhanced Odor and Vapor Control Plan and Expanded CAMP and the Invasive Work Implementation Plan for Odorous Soil. The results of the remedial activities conducted in OU2 indicate that the identified areas of concern have been satisfactorily addressed. Remediation activities consisted of the excavation and offsite disposal of arsenic and lead contaminated fill (AOC1), presumed hazardous levels of leachable lead in soil (AOC2), tetrachloroethylene-impacted soil (AOC3), hot spot excavation (AOC5), grossly contaminated soil at and below the water table (AOC6), underground storage tanks (AOC7), and subsurface refinery and structures of concern (AOCs 8 and 9). Figure OU2RAR-16 shows the areas that were excavated and their corresponding depths bgs and elevations. In summary, 55,000 tons of soil was removed, 900 tons of soil and 7,000 tons of recycled concrete aggregate were reused, and 47,000 tons of clean sand backfill and cover material was imported.

5.1 Soil Remediation

Post-excavation end point soil samples that met SSSALs were achieved at approximately 85% of 439 total end point samples collected. Of the post-excavation end point soil samples that did not meet the SSSALs, approximately half of these were located within the saturated zone at the deepest depth at which no dewatering or additional excavation support was required, or in the case of AOCs 8 and 9, at a depth below the elevation that no longer would be disturbed by site development activities. In accordance with the RAWP, remediation was not required below these depths. Of the samples collected from above the saturated zone that contained SSSAL exceedances, additional remediation was not deemed necessary because either:

- the results were considered marginal exceedances of SSSALs;
- the samples were collected in areas where the extent of the excavation was pre-delineated, as required by the Invasive Work Implementation Plan for Odorous Soil, and the post-excavation samples were collected for documentation purposes only;

- the samples were located outside of the metes and bounds of OU2; and/or
- the soils represented by the sample were subsequently over-excavated as part of the remedial excavation of an adjacent AOC. A summary of the frequency of post-excavation end point soil samples meeting SSSALs above and below the water table is located below.

Frequency of End point Samples Meeting SSSALs by AOC Above and Below the Water Table

AOC	Description of AOC	Samples Collected Above the Water Table		Samples Collected At or Below the Water Table		Total Samples	
		Frequency	Percent	Frequency	Percent	Frequency	Percent
1	Non-hazardous elevated levels of lead and arsenic in soil	35 of 59	59%	78 of 97	80%	113 of 156	72%
2	Presumed hot spot exhibiting hazardous levels of leachable lead	NA	NA	6 of 6	100%	6 of 6	100%
3	Elevated levels of tetrachloroethylene in the soil	12 or 12	100%	NA	NA	12 of 12	100%
5	Hot spot areas exhibiting elevated lead, arsenic, mercury, and/or cPAHs	47 of 47	100%	31 of 38	82%	78 of 85	92%
6	Grossly contaminated soil associated with Residual petroleum product	NA	NA	42 of 53	79%	42 of 53	79%
7	Potential presence of petroleum underground storage tanks (USTs)	NA	NA	11 of 11	100%	11 of 11	100%
8	Historic subterranean oil refinery systems	101 of 106	93%	NA	NA	101 of 106	95%
9	Other subsurface structures of concern (drains, pits, etc.)	8 of 10	80%	NA	NA	8 of 10	80%
Total		202 of 251	80%	168 of 225	75%	371 of 439	85%

Note:

Endpoint samples which were subsequently addresses by another AOC or were located outside the metes and bounds of OU2 were not included.

Due to community concerns regarding odors generated during remedial activities, many excavations in OU2 were pre-delineated in order to determine the exact extent of excavation prior to beginning the soil excavation, so that the excavation could be completed and covered immediately to prevent excessive odors. In most cases where pre-delineation was conducted, the final post-excavation end point soil samples achieved the SSSALs, however, in some cases, exceedances remain, and this is likely due to the heterogeneity of the onsite fill material being remediated. In accordance with the Invasive Work Implementation Plan for Odorous Soil, the bounds of the excavations were based on the pre-delineation samples and the post-excavation samples were collected for documentation purposes. Although some soil with levels of contamination above the SSSALs remains, all areas of grossly contaminated soil have been excavated in OU2. Additionally, the soil remediation resulted in the removal of all identified subsurface structures of concern and soil that could serve as a potential source of future groundwater contamination.

Potential sources of groundwater contamination, specifically those in AOC3, AOC6, AOC7, and AOC9 have been removed from OU2. Remaining soil contamination in OU2 will be addressed by institutional and engineering controls, including covering OU2 in its entirety with at least two feet of clean fill, building slabs, or roads. A deed restriction will be put in place to prohibit construction or use of OU2 after development that would result in unacceptable human exposure to contaminated soil and to require soil management in accordance with the SMP. Annual certification will be required to verify compliance with these restrictions. Groundwater monitoring will also be performed, in accordance with the OM&M plan, which is included in the SMP.

5.2 Groundwater Remediation

The results of the groundwater characterization indicated the depth to groundwater in OU2 averages approximately six to ten feet below existing grade. Gradients were slight, as were tidal fluctuations. The general groundwater flow direction in OU2 is towards the southwest.

Significantly elevated levels of dissolved VOCs were not detected in OU2. The highest concentration of dissolved VOCs was detected in MW-4S, which is located offsite in the sidewalk of 47th Road. These dissolved VOCs are most likely attributed to an offsite source. No SVOCs were detected at concentrations above GA Standards. Metals slightly exceeding GA

Standards included arsenic, chromium, and nickel. During the last gauging event in December 2005, 0.05 feet of floating product was detected in MW-15B along 47th Avenue.

Potential sources of groundwater contamination, specifically those in AOC3, AOC6, AOC7, AOC8, and AOC9, have been removed from the Site. Groundwater is not used as a source of drinking water in this area of Queens. A deed restriction will be imposed limiting groundwater use. The SMP will address long-term groundwater monitoring and groundwater management to prevent unacceptable human exposure to contaminated groundwater. Long term groundwater monitoring, as detailed the SMP, will continue until the floating product is not detected and GA Standards are achieved or until achieving such standards and guidance values is determined by the NYSDEC to be technically infeasible.

5.3 Soil Gas

Soil gas was sampled and analyzed in OU2 in the area of Building 5 and 7 and the laboratory results assessed using the Johnson & Ettinger soil gas model. The model does not consider the anticipated installation of sub-slab depressurization systems under the buildings. The results of the Building 5 modeling indicate that the concentration of 1, 3-butadiene, a petroleum constituent, detected in soil gas is above acceptable risk levels. The results of the Building 7 assessment indicate that the average concentrations of volatiles detected in soil gas are all below acceptable risk levels. Although 1, 3-butadiene was detected at concentrations above risk levels in the area of Building 5, the sub-slab depressurization systems that will be installed under each building will mitigate any potential risks to future building occupants posed by soil gas. 1, 3-butadiene was not detected in soil and groundwater samples. It is a colorless gas with a mild gasoline-like odor usually found at low levels in urban air samples, which typically decomposes within a few hours after exposure to sunlight.

5.4 Achievement of Project Remedial Objectives

The completion of the active excavation, removal and treatment phase of remediation under the RAWP within OU2, as summarized above, has resulted in the satisfactory remediation of known environmental conditions within the OU2 to prepare it for future uses including restricted residential use, roads and parks. The SMP will ensure the proper management of OU2 after completion of remediation. The elements of the SMP are summarized in the following table.

ELEMENT	PROPOSED FUTURE ACTION
The site-wide presence of remaining historic fill and soil below the clean fill cover layer containing levels of cPAHs, other SVOCs, and metals generally meeting the SSSALs and groundwater containing low levels of certain SVOCs and metals exceeding GA standards (AOC10)	Operation, maintenance, and monitoring requirements for post-remediation subsurface disturbances of the clean fill soil layer and residual soil and groundwater
The potential presence of floating product on groundwater (AOC6)	Groundwater performance monitoring for product on groundwater
The presence of soil gases at concentrations, that once mitigated by the SSDS, is not anticipated to pose a significant risk to future occupants of the proposed buildings	Installation, operation and maintenance of sub-slab depressurization systems for the Parcel 5 and Parcel 7 Buildings
Need for institutional controls	Establishing a deed restriction

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OPERABLE UNIT ONE
SITE MANAGEMENT PLAN

Queens West Development - Stage 2 Site
46-00 5th Street
Long Island City, New York

NYSDEC Voluntary Cleanup Program
Site Number V00505A
Index Number A2-0494-0903

Prepared by:

TRC Engineers, Inc.
1430 Broadway
New York, New York 10018

TRC Project No. 35204-2010

May 2006

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Professional Engineer's Certification

OPERABLE UNIT ONE
SITE MANAGEMENT PLAN

Queens West Development - Stage 2 Site
46-00 5th Street
Long Island City, New York

NYSDEC Voluntary Cleanup Agreement
Site Number V00505A, Index Number A2-0494-0903

May 2006

It is a violation of New York State Law for any person, unless acting under the direction of a licensed professional engineer or land surveyor, to alter any item in any way. If an item bearing the seal of an engineer or land surveyor is altered, the altering engineer or land surveyor shall affix to the item his seal and notation "altered by" followed by his signature and the date of such alteration, and a specific description of the alteration.

_____ _____

Date

Steven D. Meersma, P.E.
NYS Professional Engineer
License Number 076572

1.0 INTRODUCTION

This Operable Unit One Site Management Plan ("SMP") establishes the procedures for the management of Operable Unit One (OU1) of the Queens West Development (QWD) Stage 2 Site (the "Site"), located at 46-00 5th Street, Long Island City, New York after completion of remediation by the volunteers under the applicable the Voluntary Cleanup Agreement (VCA) (Index Number A2-0494-0903) (individually or collectively the "Volunteer"). The OU1 Final Remedial Action Report (the "RAR") documents the completion of remediation in OU1.

The SMP consists of the following elements:

- Soil and Dewatering Fluids Management Plan (Section 2.0),
- Pipeline Management Plan (Section 3.0),
- Operations, Maintenance and Monitoring (OM&M) Plan (Section 4.0), and
- Engineering and Institutional Controls (Section 5.0).

Each of these elements is described in its respective section of this document.

1.1 Objective

The overall objective of this SMP is to ensure the proper management of OU1 after completion of remediation in this portion of the Site, during both development and routine maintenance activities during and following development. The Volunteer shall be responsible for carrying out the measures in this SMP and shall employ, as necessary, qualified environmental professionals to conduct such measures.

1.2 Applicability

The SMP will apply to OU1 after the New York State Department of Environmental Conservation (NYSDEC) has accepted for public notice the RAR documenting completion of remediation, and will apply to required OM&M activities (see Section 4.0), and to management of OU1 during site development activities and routine maintenance activities that disturb clean fill covers and underlying native soil and/or historic fill material (such underlying native soil and/or historic fill materials shall collectively hereinafter be referred to as "Residual Soil"), require dewatering (see Section 2.0), or that require decommissioning and removal of any piping (see Section 3.0). The SMP also presents the engineering and institutional controls that will apply to OU1 after completion of remediation (see Section 5.0).

2.0 SOIL AND DEWATERING FLUIDS MANAGEMENT PLAN

This section of the SMP describes the management of soil and dewatering fluids in OU1 during site development or routine maintenance activities. The work addressed by this component of the SMP will be the responsibility of the Volunteer conducting site development or maintenance activities that trigger the need for the SMP measures and may be implemented by a contractor retained by such Volunteer.

2.1 Applicability of the Soil and Dewatering Fluids Management Plan

The Soil and Dewatering Fluids Management Plan component of the SMP will apply to activities that (1) disturb the clean fill cover layer or (2) the clean fill cover layer and the Residual Soil. Figure OU1SMP-1 depicts the elevation of the Residual Soil in OU1, where known.

As more specifically described below, different procedures will be implemented depending on whether only the clean fill cover layer or both the clean fill cover layer and Residual Soil have been or will be disturbed. In addition, this SMP will apply to dewatering fluids management during dewatering activities. See Section 5.0 for a description of the clean fill cover layers in OU1.

2.2 Objective

The objective of the Soil and Dewatering Fluids Management Plan is to ensure that the post-remediation disturbances of the clean fill cover layer and Residual Soil and dewatering activities at OU1 occur in a manner protective of human health (workers and the general public) and the environment. With this objective in mind, this component of the SMP addresses the following topics:

1. Soil disturbance protocols for the clean fill cover layer and Residual Soil,
2. Management of excavated Residual Soil and other solid materials,
3. Management of dewatering fluids,
4. Criteria for and management of imported fill material, and
5. Site-specific health and safety requirements during activities that disturb Residual Soil and generate dewatering fluids.

2.3 Soil Disturbance Activities and Dewatering Fluids Management

After remediation is complete, construction of new buildings, roads and utilities, and parks will disturb certain areas of OU1. Examples of post-remediation activities with the potential to disturb Residual Soil or generate dewatering fluids in OU1 subject to this plan include the following:

- Installation of caissons and/or driving pilings,
- Installation of foundations,
- Installation of sheeting and shoring,
- Repair or construction of subsurface utilities,
- Trenching for subsurface utility hookups,
- Landscaping, including planting of trees, and
- Construction or repair of roads and walkways.

Residual Soil disturbance activities and generation of dewatering fluids associated with site development of OU1 and future maintenance of OU1 shall be conducted in accordance with the protocols established in this section of the SMP.

The Volunteer will provide notification of activities that will disturb Residual Soil or generate dewatering fluids to the NYSDEC at least one week prior to their start date, except in the event of emergency maintenance, whereby the notification will be as soon as practical. No prior notification to the NYSDEC will be required for the installation and maintenance activities within the clean fill cover layer consistent with the contemplated development and use of OU1, assuming that the clean fill cover is maintained and restored. In the event there is a disturbance of Residual Soil, the Volunteer implementing the SMP will provide a certification to the NYSDEC following the activities resulting in the disturbance stating that the clean fill cover layer has been restored and describing how the requirements of this SMP were implemented. The Volunteer's certification shall include appropriate substantiating documentation (e.g., field reports, air monitoring data, disposal documentation, imported fill test results, including revisions to appropriate figures, etc.) that demonstrates such compliance. The disturbance of Residual Soil will also be documented in the annual report and certification as indicated in Section 5.3.

2.4 Residual Soil Disturbance and Dewatering Fluids Protocols

Figure OU1SMP-1 indicates the elevation of the top of the Residual Soil layer. Protocols to be followed during the post-remediation (see Section 1.2 for applicability) Residual Soil disturbance activities shall include:

- Screening procedures,
- Dust suppression measures,
- Community air monitoring,
- Odor control, and
- Decontaminating vehicles and equipment.

Specific procedures for management of excavated Residual Soils are presented in Section 2.5. Specific procedures for management of dewatering fluids are presented in Section 2.6. See Section 2.7 for specific criteria and procedures for selection and management of imported fill.

2.4.1 Screening and Remediation Procedures

This subsection establishes the screening procedures to be utilized by the Volunteer to identify any additional areas potentially requiring remediation during the development and/or maintenance of OU1 in the event Residual Soil is disturbed or dewatering fluids are generated. If the conditions encountered warrant additional remediation, the Volunteer will remediate such additional areas in accordance with the OU1 Remedial Action Work Plan (RAWP).

The Volunteer shall implement the work in accordance with the following protocols:

1. Utilize a photoionization detector (PID) or equivalent, along with appropriate field procedures, to identify Residual Soil exhibiting evidence of contamination. Appropriate field procedures will include visual and strong odor observations to identify grossly contaminated soils (e.g., free or residual product).

2. Cease soil disturbing activities if soil exhibits evidence of contamination until the evaluation of subsurface conditions described below is complete.

3. Determine whether or not the area will be considered an area requiring remediation by performing detailed field observations, as well as collecting PID measurements in the worker's breathing zone. If total volatile organic compound (VOC) levels exceed ambient background levels by five parts per million (ppm) or field observations suggest significantly impacted Residual Soil distinct from the typical urban fill generally present at the Site (i.e., visibly identifiable evidence of and/or strong odors characteristic of free or residual product, chemical sludges, tank bottoms or coal tars) then the area will require

remediation. Residual Soil that exhibits some evidence of contamination (e.g., PID readings less than five ppm in ambient air, no visibly identifiable evidence of free or residual product, no strong odors, etc.) but does not require remediation shall be managed in accordance with Section 2.5 (i.e., must be tested for reuse criteria prior to potential reuse).

4. Remediate the identified soil in accordance with the applicable procedures outlined in the RAWP for OU1. It shall be the Volunteer's responsibility to obtain any additional approvals required by NYSDEC.

5. Stockpile Residual Soil excavated for remediation separately from other soils and materials and place on and cover by plastic sheeting; if the excavated Residual Soil is odorous, place on plastic sheeting and cover, by tarpaulin (such as Griffolyn Type 55); until the Volunteer completes its evaluation of the soils for either on-site reuse or off-site disposal.

6. Monitor groundwater conditions to identify potential areas of separate phase or dissolved petroleum product during construction activities that encounter groundwater, such as trenching for installation of deeper subsurface utilities or elevator pits. Visual and olfactory observations will be relied upon to identify such contamination. If a sheen or petroleum product layer is observed on the groundwater or strong odors are observed emanating from the groundwater, the Volunteer performing the work shall cease Residual Soil disturbance activities until the Volunteer has completed its evaluation of groundwater conditions. If free product removal or other remedial actions are required, they will be performed in accordance with the OU1 RAWP.

7. Evaluate subsurface conditions, following the field screening procedures described above, and if warranted, perform confirmatory sampling and analysis. Samples from suspected petroleum contaminated areas will be analyzed for parameters established by the NYSDEC (i.e., Spill Technology and Remediation Series (STARS) or Spill Prevention Operation Technology Series (SPOTS)). Samples from other suspected contaminated areas (i.e., non-petroleum) will be analyzed for full-scan parameters: Target Compound List (TCL) Volatile Organic Compounds (VOCs), TCL Semivolatile Organic Compounds (SVOCs) and Target Analytic List (TAL) metals, as warranted.

8. Perform any necessary characterization sampling of the stockpiles of Residual Soil to determine their suitability for on-site reuse.

9. Reuse on-site or transport and dispose off-site Residual Soil, based upon the results of the characterization sampling, in accordance with the criteria set forth in Section 2.5.

2.4.2 Dust Suppression

The Volunteer will implement dust suppression measures during Residual Soil disturbance activities. Such measures will include misting of haul roads, and other exposed surfaces contributing to dust formation, with water using a water truck and, if appropriate, applying a dust suppressant, such as calcium chloride, in high vehicle traffic areas. To evaluate the effectiveness of the dust suppression measures, air monitoring utilizing real time dust monitoring equipment will be performed. The requirements for air monitoring during post-remediation soil disturbance activities are presented in Subsection 2.4.3 of this plan.

2.4.3 Community Air Monitoring

During Residual Soil disturbance activities, New York State Department of Health's (NYSDOH's) Generic Community Air Monitoring Plan (gCAMP) shall be performed at the upwind and downwind perimeter of the work area. In addition, the Volunteer will conduct odor monitoring within the work area and the downwind perimeter of the work area. At both the upwind and downwind end of the work area, gCAMP monitoring will include continuous, real-time air monitoring for particulates measuring less than 10 micrometers in size (PM-10). At the downwind end of the work area, periodic, real-time air monitoring for VOCs will be performed. In areas of VOC contamination, the Volunteer will conduct continuous real-time air monitoring for VOCs.

The response levels and actions for the air monitoring will follow the gCAMP protocol indicated below:

- If VOC levels > 5 part per million (ppm) are detected over a 15-minute, running average at the downwind perimeter of the work area, work activities will be temporarily halted until VOC levels decline to < 5 ppm,

- If VOC levels > 5 ppm but < 25 ppm are detected over a 15-minute, running average at the downwind perimeter of the work area, work activities will be suspended; the source will be identified, and corrective actions will be taken to abate VOC emissions so that VOC levels are less than 5 ppm,

- If VOC levels > 25 ppm are detected over a 15-minute, running average at the downwind perimeter of the work area, work activities will be shut down, and the source of the VOC contamination will be investigated and appropriate corrective action will be taken,

- If downwind PM-10 particulate levels > 100 micrograms per cubic meter ($\mu g/m^3$) over a 15-minute, running average above background (upwind) are detected, work will be suspended and resumed only after dust suppression measures are implemented and downwind PM-10 particulate levels are < 150 $\mu g/m^3$ above background, and

- If downwind PM-10 particulate levels > 150 $\mu g/m^3$ over a 15-minute, running average above background are detected after dust suppression, work will be suspended, and a re-evaluation of activities initiated.

The response levels and actions with regards to odor will follow the requirements set forth in the Expanded Odor and Vapor Control Plan and Expanded Community Air Monitoring Plan (see Attachment 1).

2.4.4 Odor and Vapor Control

Based upon the results of the community air monitoring, the Volunteer will employ odor and vapor control methods during disturbance of Residual Soil which will include:

- A tarpaulin (such as Griffolyn Type 55) shall be placed to fully cover the exposed Residual Soil. The tarpaulin shall be continuously anchored along the edges with imported soil. Alternatively, a biodegradable, synthetic-based foam concentrate (such as Rusmar Long Duration Foam AC-600 Series) will be applied with a foaming unit over the exposed Residual Soil and stockpiles to a thickness of at least three inches to control fugitive odors and vapors. Odor and vapor controls will be monitored and maintained until such time as the odors and vapors from the area have dissipated or have otherwise been addressed.

- If sustained objectionable nuisance odors outside the work zone continue to be an issue, Ecosorb 404 Odor Control Solution or equivalent will be applied to the soil being disturbed. The method and rate of application will be determined based on field observations.

If vapors outside the work zone continue to be an issue as defined by the gCAMP or by the presence of sustained objectionable nuisance odors, soil disturbance activities will temporarily cease and the Invasive Work Implementation Plan for Odorous Soils and Expanded Odor and Vapor Control Plan and Expanded Community Air Monitoring Plan will be implemented. See Attachment 1 for a copy of these documents.

2.4.5 Decontamination of Vehicles and Equipment

Vehicles and equipment shall be cleaned to remove Residual Soil before such vehicles and equipment leave OU1. Brooms or shovels will be utilized for the removal of the Residual Soil from vehicles and equipment. If brooms or shovels do not sufficiently remove Residual Soil adhered to vehicles and equipment, vehicles and equipment will be washed with water and detergent. Wastewater with a measurable sheen or free phase product layer will be disposed off-site. Residual Soil generated by the gross removal and decontamination process will be stockpiled at a designated area of the Site for on-site reuse or, if not qualifying for on-site reuse, off-site disposal (see Section 2.5).

2.5 Management/Characterization of Excavated Residual Soil and Other Solid Materials

During Residual Soil disturbance activities, subsurface conditions will be evaluated for evidence of contamination potentially requiring remediation (see subsection 2.4.1). The criteria for on-site reuse of Residual Soil below the clean fill cover layer are set forth in Attachment 2. Excavated Residual Soil from any suspected areas requiring remediation will be stockpiled separately from other Residual Soil and construction materials. Suspect materials exhibiting different characteristics will be stockpiled separately. Stockpiles of excavated contaminated Residual Soil and other materials shall generally be located a minimum of 50 feet from the OU1 boundary, are not to exceed the maximum size for collecting composite reuse samples (i.e., one five point composite sample per 2,000 cubic yards), shall be covered by a tarpaulin, and shall be protected with silt fencing and appropriately graded to control run-off. Excavated Residual Soil and other materials from potentially contaminated areas shall be characterized as necessary. If additional areas potentially requiring remediation are found, the Volunteer will evaluate subsurface conditions and perform necessary remediation to the satisfaction of the NYSDEC.

Unless excavated from an area identified as a contaminated area requiring additional remediation (see Section 2.4.1), excavated Residual Soil that meets the re-use criteria of Attachment 2 will be designated for on-site reuse below the clean fill cover layer without the need for additional testing. Excavated Residual Soil that is not needed for reuse on-site will be characterized and disposed off-site by the Volunteer in accordance with applicable regulations and this SMP.

Soils maybe re-used for the clean fill cover layer if they meet the NYSDEC Technical Administrative Guidance Memorandum (TAGM) 4046 or have exceedances of NYSDEC TAGM 4046 acceptable to the NYSDEC.

The following subsections present the preferred and alternative management methods for excavated Residual Soil qualifying for on-site reuse.

2.5.1 Preferred Management Method: On-Site Reuse of Residual Soil as Fill Material below Clean Soil Cover Layer

On-site reuse of Residual Soil as fill material below clean soil cover is the preferred method for management of soils qualifying for on-site reuse. Since the excavated Residual Soil to be reused will be non-hazardous and be similar to other Residual Soil in OU1, this alternative is consistent with a NYSDEC's existing pre-determined Beneficial Use Determination (i.e., 6 NYCRR, Part 360-1.15, (b), (8)).

2.5.2 Alternative Method: Off-Site Disposal

Residual Soil or other waste, such as construction debris, may be disposed of at an appropriate off-site disposal facility. If disposed of in New York State, all wastes will be disposed of in compliance with Part 360 regulations and/or other applicable requirements. Waste classification sampling will be performed in accordance with the requirements of the proposed off-site disposal facility. Written approval from the disposal facility accepting the material is required prior to shipment. The Volunteer will retain appropriate documentation that will provide full accountability for off-site disposal of waste and Residual Soil.

2.6 Management of Dewatering Fluids

Appropriate alternatives for the management of dewatering fluid that has no free-phase petroleum product layer or sheen will include:

1. Discharge to the New York City Sewer with prior approval from New York City Department of Environmental Protection (NYCDEP),
2. Transportation and disposal at an off-site treatment facility.

If dewatering will require the installation of wells to remove a total capacity of groundwater at rates greater than 45 gallon per minute, then the substantive requirements of a Long Island Well Permit (6 NYCRR Part 602) must be met and a permit may be required.

If the groundwater has a free-phase petroleum product layer or measurable sheen, it will be remediated in accordance with the RAWP for OU1.

The following subsections present the preferred and alternative management methods for dewatering fluids.

2.6.1 Preferred Management Method: Discharge to the New York City Sewer

Discharge to the New York City sewer represents the preferred method for management of dewatering fluids during construction. The NYCDEP regulates discharges to the New York City sewers under NYCDEP's Title 15, Rules of the City of New York (RCNY) Chapter 19. Discharge to the New York City sewer system will require an authorization and sampling data demonstrating that the dewatering fluids meets New York City's influent discharge criteria. If necessary, the dewatering fluid will be pretreated to meet the New York City effluent discharge criteria.

2.6.2 Alternative Method: Transportation and Disposal at an Off-Site Treatment Facility

If discharge to the New York City sewer system is not feasible, the dewatering fluids will be managed by transportation and disposal at an off-site treatment facility.

2.7 Criteria for and Management of Imported Fill Materials

This section presents the requirements for imported fill materials to be used below the clean fill cover layer, as the clean fill cover layer, or above the clean fill cover layer. The goal for imported material will be to meet TAGM 4046 RSCOs. The NYSDEC will consider exceedances of TAGM 4046 RSCOs for imported fill, on a case-by-case basis. Based upon the nature of the TAGM 4046 exceedances and source of the imported material, the NYSDEC will provide case-by-case guidance as to the allowable range of TAGM 4046 exceedances for the imported fill material.

2.7.1 Potential Fill Sources

A preliminary site investigation will be conducted to evaluate sources of potential fill to be used on site, and will include documentation of each source's location, and current and historical use(s). The following potential sources will be considered:

- Virgin sources (i.e., natives soils and/or sediments from undeveloped sites),
- Construction projects at non-industrial sites,
- Roadway or other transportation-related projects,
- Soils and/or materials from Construction and Debris (C&D) processing facilities where material sources are recognizable, uncontaminated, non-processed, and non-industrial. In addition, the C&D processing facilities must have a system to verify that the material meets the aforementioned qualification criteria, and
- Other non-industrial sources.

Industrial sites with fill not impacted by industrial activities will also be considered as sources of potential fill. Laboratory results indicating no impacts by industrial activities will be provided to the NYSDEC, and the fill material from these sites must meet TAGM 4046 RSCOs or have only modest exceedances that are acceptable to the NYSDEC.

2.7.2 Source Screening and Testing

Prior to acceptance of fill material, the procedures set forth in Section 2.7.3 through 2.7.5 will be followed to verify the acceptability of the source.

2.7.3 Documentation

Site use history will be determined using historical Sanborn Fire Insurance maps, if available, and one or more of the following sources:

a. For fill sites in New York City or other urban areas, historical topographic maps will be reviewed, if available,
b. Aerial photographs,
c. Historical title information,
d. Site reconnaissance,
e. Database review, and
f. Interviews of knowledgeable persons.

An attempt will be made to obtain suitable coverage, using multiple sources if necessary, from the 1940s or predevelopment (whichever is later) to the present, provided that historical Sanborn Fire Insurance maps starting from 1900 will be consulted for potential source sites in New York City, where available. Documentation of source site history will be retained by the Volunteer.

2.7.4 Testing at Source Loading Point

Other than virgin sources, imported fill materials will be tested in accordance with this subsection. Materials from virgin sources will be tested initially, and will consist of collecting and analyzing one composite sample for the parameters described below.

Prior to delivery on-site, sampling of all material imported to OU1 will be conducted to obtain representative composite samples for analysis at a NYSDOH-certified laboratory. Each composite sample of fill materials will consist of five different individual samples taken from the surface and interior of the source pile. A composite sample will be taken for every 2,000 cubic yards of material, and will be analyzed to determine whether the fill material is nonhazardous, using the Toxic Characteristic Leaching Procedure (TCLP), and meets TAGM 4046 parameters: TCL VOCs, TCL SVOCs, TCL pesticides/PCBs, TCL herbicides, and TAL metals.

Potential fill material must have accompanying documentation acceptable to the NYSDEC about the source's history and confirmatory testing results. Once it is determined that the fill material is non-hazardous and meets TAGM RSCOs, the fill material will be loaded onto trucks for delivery to OU1.

2.7.5 Imported Fill Guidelines

The following conditions will apply to imported fill material for OU1:

1. Site access will be controlled and trucks with fill material will enter OU1 at designated locations.

2. Each truck with fill material will be inspected for odors indicative of contamination and evidence of staining after dumping of its load.

3. Fill material will be from virgin sources or other suitable fill sources (see Section 2.7.1), and will be placed in areas requiring such material.

4. Fill material will be free of bricks, blocks, pavement materials and debris, stumps, roots, and other organic matter, as well as ashes, oil and other perishables or foreign matter, except in the case of fill material used to support landscaping which may include organic material consistent with typical topsoil composition.

2.8 Site-Specific Health and Safety Requirements

Residual Soil and groundwater disturbance activities (i.e., installation of caissons and/or piles, subsurface utility hookups, foundations, and work on the park areas, such as planting of trees and installation of subsurface utilities) will follow a site-specific Health and Safety Plan (HASP) prepared by the Volunteer. The overall objective of this HASP will be to protect workers from the hazards posed by the residual contaminants in the OU1 soils and groundwater. Due to the nature of the soils below the clean fill cover and the limited extent of the disturbances, work will not require Occupational Safety and Health Administration (OSHA) 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training for routine site activities. Air monitoring will be required for workers. Requirements for key components of the HASP are presented in subsections 2.8.1 through 2.8.3 below. An appropriate outline for the HASP can be found in Attachment 4 of this plan.

2.8.1 Worker Training

Since the soil disturbance activities below the clean fill cover layer after remediation will be minimal and involve disturbances of Residual Soils in areas that have been fully characterized, workers will not require OSHA 40-hour HAZWOPER training. However, workers will need to receive appropriate hazard communication training and demonstrate the ability to wear a full-face respirator.

2.8.2 Personal Protection Equipment (PPE)

The normal level of personal protection for soil disturbance activities below the clean fill cover layer will be Level D PPE to be specified in the HASP:

- Standard work uniform, coveralls,
- Steel-toe and steel shank work boots,
- Hard hat, and
- Vinyl gloves.

As specified in the HASP, if air monitoring results indicate dust levels or VOC levels in excess of threshold values, the level of PPE will be upgraded to Level C:

- Same personal protection as Level D, plus
- Full-face respirator equipped with organic vapor/dust filters.

2.8.3 Worker Air Monitoring Program

The air monitoring program section of the HASP will establish the appropriate equipment and sampling frequency for evaluating airborne dust and VOC levels in the work area during soil disturbance activities beneath the clean fill cover layer. Based upon the results of the air monitoring program, appropriate corrective action will be taken for protection of workers and public health. NYSDOH community air monitoring guidelines will also be implemented during activities that disturb contaminated Residual Soil beneath the clean fill cover layer if warranted by air monitoring results in the work area. The community air monitoring program is presented above in Section 2.4.3.

3.0 PIPE MANAGEMENT PLAN

This section of the SMP describes the procedures for evaluating, decommissioning, and removing piping encountered in OU1 after completion of remediation in this area of the Site.

The Remedial Investigation Report (RIR) for OUs 1 and 2, dated July 2005 identified locations of piping that represented an environmental concern. During remediation activities, known piping was properly decommissioned and removed from OU1. In the event that piping is encountered in the future, however, the Volunteer will implement the procedures outlined below.

3.1 Objective

The overall objective of the Pipe Management Plan is to ensure the proper evaluation and, if necessary, decommissioning and removal of piping encountered after remediation, and to remediate any soils impacted by such piping in a manner consistent with the RAWP for OU1.

3.2 Evaluation, Decommissioning and Removal of Piping

Piping will be opened (if necessary) and inspected. If piping contains sediment or liquid, the sediment or liquid will be sampled. If the piping contains liquid or sediment with contaminants exceeding Site Specific Soil Action Levels (SSSALs) for OU1, the Volunteer will decommission and remove the piping in the manner described below.

- To minimize odors, the size of the open excavations will be no larger than 20 by 20 feet.
- All historic subterranean oil refinery systems and other subsurface structures of concern will be removed.
- Liquids within piping will be handled in the following manner:
    - Plugs and caps for the various sized piping will be on hand to control liquid releases once the piping is cut.
    - Piping will be cut using non-sparking cut-off saws and/or other suitable pipe cutting equipment.
    - Initial cuts will be at the low point of the run and if liquids are encountered, plugs and caps will be utilized to stop liquid flow.

- Buckets, drums and/or containers will be used to collect liquid if sufficient volumes of liquid are present. The plugs and/or caps will be released to enable liquid flow to be collected. Liquids will be transferred to drums certified for storing the liquid types encountered.

- Drums will then be labeled and temporarily staged pending further packaging and disposal according to their waste classification.

- Once void of liquid, piping will be cut, sized and staged for subsequent disposal/recycling.

This process would continue until all contaminated piping is removed.

3.3 Soil Screening and Remediation Procedures

Following removal of piping the soil screening procedures set forth in Section 2.4.1 herein shall be implemented.

4.0 OPERATIONS, MAINTENANCE AND MONITORING PLAN

This section of the SMP describes the operations, maintenance and monitoring (OM&M) activities for OU1 after completion of remediation. The Volunteer will implement the OM&M activities outlined here, unless indicated otherwise.

4.1 Objectives

The principal objectives of the OM&M activities for OU1 are as follows:

1. Monitor groundwater conditions in OU1, as part of a Site-wide evaluation of groundwater conditions after completion of remediation,

2. Monitor groundwater conditions to evaluate the performance of Oxygen Release Compound Advanced™ (ORCA) and to determine the need for reapplication of this product or a more rigorous approach, such as application of a chemical oxidant, and

3. Operate, maintain and monitor the sub-slab depressurization system (SSDS) for the private development buildings in OU1.

4.2 Scope of OM&M Activities

The OM&M activities will consist of Site-wide, monitoring of: groundwater conditions and groundwater quality in existing and proposed wells; methane monitoring beneath the sub-slab of buildings; monitoring and maintaining the sub-slab depressurization systems for buildings on the private development parcels; evaluating groundwater remediation in groundwater performance monitoring well locations, and, if necessary, reapplication of ORCA for treatment of dissolved VOCs in groundwater and, as a contingency, chemical oxidation (e.g., Regen-Ox) or other NYSDEC approved technology for further treatment of dissolved naphthalene in groundwater. Figure OU1SMP-2 shows the location of groundwater wells that will be monitored under this plan. Procedures and equipment to implement this OM&M Work Plan are detailed in the following Sections 4.3 through 4.7.

4.3 Site-Wide Groundwater Monitoring Plan

The Volunteer will perform groundwater monitoring in OU1 as part of a Site-wide groundwater monitoring plan. The principal objective of this monitoring will be to evaluate the overall impact of remediation upon groundwater conditions in OU1. Initially, the Site-wide groundwater monitoring will be performed only in OU1. As remediation is completed in other OUs, the Site-

wide monitoring will be expanded to include them. Groundwater monitoring wells will be installed after substantial completion of the construction in the waterfront areas of the Site. It is envisioned that one or more of the performance monitoring wells described in Section 4.4 will be retained for the Site-wide groundwater monitoring plan. Figure OU1SMP-2 shows the existing and proposed groundwater monitoring well locations in OU1 as part of the Site-wide monitoring plan.

As part of the Site-wide groundwater monitoring, wells will initially be sampled every three months for the parameters listed below.

- Depth of the groundwater table (i.e., elevation) and presence of any petroleum phase product layer (if detected, product thickness noted);
- Temperature, conductivity, pH and dissolved oxygen;
- VOC levels in the airspace of the wells;
- TCL VOCs, TCL SVOCs and TAL metals in the groundwater; and
- After one year of quarterly groundwater monitoring, the NYSDEC will be petitioned for its approval to sample wells on a semiannual basis.

The following subsections describe the procedures for purging and sampling the wells, and the analytical requirements, which are consistent with Attachment 3.

4.3.1 Well Purging

The objective is to purge monitoring wells until turbidity stabilizes to a level as low as possible. Turbidity will be given the greatest weight in determining when groundwater sampling may begin. With this objective in mind, the well purging will utilize a low-flow pump to minimize entrainment of particulates within the well or from the formation. Groundwater from each well will be purged until groundwater parameters have stabilized. A turbidity level of fifty nephelometric turbidity units (NTUs) or less is the well purging goal, but not an absolute value before sampling. Other field parameters including temperature, conductivity, pH and dissolved oxygen (DO) will also be monitored. When practical, all field measurements will be taken from the flow cell and will be recorded during and after purging, and before sampling. Stabilization of field parameters will be determined when two consecutive readings taken one minute apart are within plus or minus ten percent.

Upon opening each monitoring well, the concentration of VOCs in the headspace will be measured using a PID and water level measurements will be recorded using an electronic oil-water interface probe. The depth to product (if present), depth to water and the total depth will be measured from the top of the marked PVC casings. Water level and free product (none anticipated) measurements will first be made and the volume of water in the well determined. The volume of water in the well will be calculated so that the number of well volumes purged and an estimate of the time required to purge the well can be made. Before sampling, the wells will be purged utilizing a low-flow submersible stainless steel pump using dedicated Teflon® or Teflon®-lined polyethylene tubing connected to a flow cell. Low purging rates are proposed, on the order of 100 milliliter per minute (ml/min) to 500 ml/min, so as to minimize suspension of particulate matter in the well.

Purging will be done with the pump placed near the top of the water column to insure that all stagnant water in the well is removed, while not stirring sediment that may have accumulated on the bottom of the well. Equipment will be lowered into the well so as to prevent suspension of bottom sediment and subsequent entrainment onto sampling equipment. Surging will be avoided. Pumps will be carefully cleaned between wells. It is anticipated that no more than three well volumes will be purged in order for turbidity to reach a minimum and the other parameters to stabilize. Ideally, pumping rates will be at a rate so that no draw-down of the groundwater level occurs (i.e., pumping rate is less than recharge rate). During purging, the volume of water purged and the field parameter readings will be actively monitored and tracked. Data will be recorded in the field logbook. For example, the running total volume purged from each well and the readings for the corresponding field parameters will be recorded.

4.3.2 Groundwater Sampling

Once groundwater conditions have stabilized and groundwater levels have recovered, all samples except those slated for VOC analysis will be collected from the flow cell outlet (connected to the low-flow submersible pump). Samples for VOC analysis will be sampled using a micro stainless steel and/or Teflon® bailer or some other appropriate VOC sampling method.

Sampling will be performed by suspending the bottom of the pump and/or bailer a minimum of 15 inches above the bottom of the well and a minimum of 0.5 feet from the top of the water level, in order to minimize the amount of suspended sediment in the sample. Pumping rates for withdrawing the samples will be similar to those followed for well purging, 100 ml/min to 500 ml/min.

The samples will be collected in sample bottles (pre-preserved, if appropriate), placed in iced coolers and removed from light immediately after collection. In addition, all samples bottles will be filled to the top so that no aeration of the samples occurs during transport. All bottles will be filled so as to avoid cascading and aeration of the samples, the goal being to minimize any precipitation of colloidal matter.

4.3.3 Analytical Requirements

Groundwater samples will be analyzed for TCL VOCs by United Stated Environmental Protection Agency (USEPA) method 8260B, TCL SVOCs by USEPA method 8270, and TAL metals by USEPA method 6010B/7000 Series. The analysis of groundwater samples for these parameters will meet the requirements outlined in Attachment 3.

4.4 Groundwater Performance Monitoring Plan

The groundwater performance monitoring plan will consist of evaluating groundwater conditions in areas where ORCA had been applied to treat dissolved VOCs in OU1. On a quarterly basis, TRC will monitor the below listed groundwater parameters in OU1 wells TRC-MW17, TRC-MW18, TRC-MW19, TRC-MW30, and TRC-MW16S to evaluate the effectiveness of groundwater remedation of dissolved VOCs. After one year of quarterly performance groundwater monitoring, NYSDEC will be petitioned for its approval to conduct the performance monitoring on a semiannual basis.

The locations of these wells for the performance monitoring are shown in Figure OU1SMP-3. Groundwater monitoring and, if necessary, remediation will continue until the GA standards and guidance values are achieved, achieving such standards and guidance values is determined by the NYSDEC to be technically infeasible, or asymptotic contaminant levels have been achieved.

The following parameters will be evaluated for the OU1 groundwater performance monitoring:

- Dissolved oxygen (DO) levels;
- Oxidation reduction potential (ORP);
- Dissolved and total iron and manganese levels;
- Depth of the groundwater table and presence of any petroleum phase product layer (if detected, product thickness noted);
- Groundwater elevations;

- pH, Temperature, and Conductivity;
- VOC levels in the airspace of the wells; and
- Levels of benzene, toluene, ethylbenzene, and xylenes (BTEX) and naphthalene in the groundwater, via EPA method 8260.

Dissolved Oxygen

Levels of DO are a primary indicator of the groundwater's suitability for enhanced bioremediation via aerobic degradation. The table below summarizes ranges of dissolved oxygen suitable for aerobic bioremediation.

DO Level (mg/L)	**Condition for Bio-remediation by Aerobic Microorganisms[1]**
<1.0	Unfavorable
2 to 4	Favorable
Greater than 4	Very favorable

[1] Weidemeier, Rifai, Newell, Wilson, 1999

Oxidation-Reduction Potential

ORP represents another indicator for evaluating the potential of enhanced bioremediation. Generally, positive values for ORP in the groundwater indicate an absence of free electrons and thereby suggest oxygen rich environments. ORP values of +100 millivolts (mV) to +200 mV or higher indicate conditions favorable for aerobic degradation.

Dissolved and Total Iron and Manganese

The relative concentration of dissolved and total iron and manganese in the groundwater also can indicate the amount of available oxygen that is present. Iron and manganese at a higher valence state (Fe^{3+}, Mn^{3+}) typically exist in oxygen rich environments, forming insoluble precipitates, and thereby reducing the concentration of these metals dissolved in the groundwater. Thus, a low concentration of dissolved iron and manganese relative to total concentrations of these metals represent an indirect way of evaluating the abundance of available oxygen for enhanced aerobic bioremediation.

Levels of BTEX and Naphthalene

As required by the NYSDEC, quarterly sampling of the groundwater monitoring wells TRC-MW17, TRC-MW18, TRC-MW19, TRC-MW30 and TRC-MW16S will be conducted to evaluate the effectiveness of the groundwater remediation, by analyzing groundwater samples for benzene, toluene, ethylbenzene, and xylene (BTEX) and naphthalene via USEPA Method 8260.

On an as-needed basis, necessary repairs and/or replacement of the existing performance wells shown in Figure OU1SMP-3 will be performed. Future development of OU1 may require abandonment of the existing wells within the property boundaries prior to completion of OM&M activities. In that case, quarterly monitoring of groundwater will be continued at replacement wells installed in proximity to the former well location that meet the approval of the NYSDEC.

Elevation of the Groundwater Table

To evaluate the influence of the barrier wall along the southern boundary of OU1 on groundwater flow direction, the groundwater table elevations of both the monitoring and the performance wells on either side of the barrier will be measured. Specifically, groundwater elevations will be measured quarterly in wells TRC-MW17, TRC-MW18 and other OU1 wells to the north of the barrier wall and in well TRC-MW3 to the south of the Site (see Figure OU1SMP-3). If warranted by changes in the groundwater flow direction, or, if directed by NYSDEC, additional wells will be installed for the purpose of evaluating post-remediation groundwater conditions.

Methodology

The table below lists the instrumentation or method to be utilized for the quarterly monitoring of the aforementioned groundwater parameters.

Parameter	Instrument or Method
Dissolved Oxygen	Dissolved Oxygen Meter and Field Sampling Kit (CHEMetrics), Rhodazine Method
Oxidation Reduction Potential	WTW Multi 340i
Temperature, Conductivity, pH	Meter (Horiba Water Quality Checker) or WTW Multi 340i
Dissolved and Total Iron and Manganese	Field Sampling Kits (Chemetrics or Hach): 1,10-Phenanthroline Method for Iron, Periodate Method for Manganese
Groundwater and Product Levels	Groundwater Interface Meter (ORS Interface Probe)
VOC Levels in Airspace within Wells	Photoionization Detector (PID)

The instrumentation or kits listed above will provide real-time data for the parameters of concern, and therefore will require no sample collection for off-site laboratory analysis. In addition, in-situ measurements of dissolved oxygen, ORP, temperature, conductivity and pH will be obtained by utilizing a downhole probe or a flow cell. Any ORCA socks in wells will be removed at least one week prior to the groundwater sampling event.

4.5 Contingency Groundwater Remediation Measures

For OU1, groundwater remediation consisted of removing contaminant source soils at and below the water table, installation of a barrier wall at the southwest boundary of OU1, and application of ORCA. This section presents the criteria for evaluating the performance of ORCA and an overview of the likely scope of additional groundwater remediation measures for OU1, should they be required, under this SMP.

4.5.1 Evaluation of ORCA Performance

ORCA has demonstrated a capability to release oxygen to the groundwater for at least one year following an application. The need for additional ORCA applications to treat VOCs will be evaluated based upon the results of the groundwater performance monitoring program (see Section 4.3). Additional applications of ORCA might be warranted if the groundwater performance monitoring program indicates that the quantity of ORCA applied at the Site is inadequate for the contaminant mass. Criteria for additional application of ORCA are illustrated in Figure OU1SMP-4. If indicated by the results of groundwater performance monitoring, alternate and more rigorous groundwater remediation measures will be considered in areas where naphthalene and VOCs in groundwater persist (see Section 4.5.3).

4.5.2 Reapplication of ORCA

If it is determined that an additional ORCA application is required, an ORCA liquid slurry will be injected into the groundwater via direct-push temporary injection points at locations outside of building footprints and at six permanent injection points installed beneath Building 6. The locations of these permanent injection points are shown on Figure OU1SMP-3. The permanent injection points consist of 10 feet of steel well screen installed into the groundwater. Groundwater monitoring wells for performance monitoring or the area-wide groundwater monitoring will not be used as injection wells for ORCA application, but may be used for the passive application of ORCA through diffusion socks.

Termination of the groundwater remediation system will occur after the remediation objectives, as set forth in the RAWP for OU1 are achieved, achieving such standards and guidance values is determined by the NYSDEC to be technically infeasible, or asymptotic contaminant levels have been achieved. The determination to terminate OM&M activities relating to groundwater monitoring will be made no sooner than following the completion of four quarterly groundwater sampling rounds without any ORCA applications. ORCA applications will continue until such time as NYSDEC determines that no further ORCA applications are required in any wells. Subsequently, the closure of the groundwater remediation or monitoring system will consist of abandoning the monitoring wells and reinjection points in accordance with NYSDEC protocol.

4.5.3 Alternate Groundwater Remediation Measures

As an alternative remedy, chemical oxidation will be performed in areas where elevated naphthalene and VOCs in groundwater persist after treatments with ORCA. The alternative groundwater remediation measure will consist of utilizing RegenOx™, a solid oxidant complex (percarbonate/catalytic formulation) and an activator complex (a composition of ferrous salt). RegenOx™ removes contaminants of concern by a direct chemical oxidation involving hydrogen peroxide and catalyzed by ferrous iron.

The specific design of the contingency groundwater remediation system will be based upon the following information and will be presented to the NYSDEC in a letter work plan addendum for its review and approval prior to implementation:

- Results of the groundwater performance monitoring (see Section 4.4.1) and previous soil sampling results for OU1 to estimate the remaining contaminant mass in both the solid and dissolved phase, and

- Laboratory bench test to determine Total Oxidant Demand (TOD) in the area.

After establishing the design for the chemical oxidation, a solution of RegenOx™ will be applied to the area via direct-push injection points. Evaluation of RegenOx™ performance will be based upon pre- and post-remediation soil and/or groundwater sampling results.

4.5.4 OM&M Groundwater Reporting Requirements

The quarterly groundwater field testing data will be recorded on appropriate field sampling forms (see Forms 1 and 2). Each groundwater monitoring event will be documented in a quarterly report to be submitted to NYSDEC. If the quarterly sampling and monitoring frequency decreases (with NYSDEC approval) so will the reporting requirements. Each report will include the groundwater sampling results and appropriate graphs and figures showing contaminant trends. With each report, an evaluation of the overall performance of ORCA will be presented.

Sub-Slab Depressurization System (SSDS) Monitoring

For each private development parcel building in OU1, an active sub-slab depressurization system (SSDS) will be designed and installed to prevent VOCs in soil gas from entering the building. The principal components of the SSDS for the private development parcel buildings in OU1 will consist of:

- A 12-inch concrete floor slab, with a 46-millimeter Preprufe 300 R membrane or approved equivalent,
- Suction pits beneath the floor slab,
- Pipe running horizontally beneath the slab from each suction pit to a common header,
- A vertical riser of at least six inches diameter from the common header discharging to the outdoors,
- An exterior suction fan near the discharge of the riser,
- A valve box for control of the air flow from each pit, and
- Monitoring points at selected locations throughout the building floor slab.

The OM&M requirements for the SSDS will consist of an initial start-up testing, routine maintenance and monitoring activities, and non-routine maintenance. Each is described in the following subsections.

4.6.1 Initial SSDS Start-Up Prior to Building Occupancy

This subsection outlines the procedures for confirming the effectiveness and proper installation of the SSDS prior to building occupancy, and complies with the post-mitigation/confirmation testing requirements of the NYSDOH guidance document. The goal for operation of the SSDS will be to achieve a sub-slab pressure of -0.002 inches of water. With this goal in mind, the following actions will be performed during initial start of the SSDS:

1. Prior to operation of the SSDS, representative sub-slab vapor samples will be collected at three monitoring points within each private development parcel building. The monitoring points will be selected to provide the greatest geographic coverage within each building. The testing will be performed utilizing SUMMA canisters and analyzing the samples for VOCs via EPA TO-14 method to include the following VOCs found in the soil and/or groundwater at the Site:

   - Aromatic VOCs (Petroleum-related): benzene, toluene, m,p-Xylene, o-Xylene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, isoproply benzene, n-Propylbenzene, 4-ethyltoluene, p-Isopropyltoluene, n-Butylbenzene, sec-Butylbenzene, tert-Butylbenzene, and naphthalene, and

   - Other VOCs: vinyl chloride, 1,1-Dichloroethane, cis-1,2-Dichloroethene, 1,1,1-Trichloroethane, 1,2-Dichloroethane, Trichloroethene, cis-1,3-Dichloropropene, Tetrachloroethene, Acetone, trans-1,2-Dichloroethene, 2-Butanone (MEK), n-nonane, and 1,2,3-trimethylbenzene.

2. Shortly after start up of the SSDS, the sub-slab pressure at each monitoring points will be measured utilizing an appropriate hand-held manometer. If necessary, the sub-slab pressure will be adjusted to -0.002 inches of water at each monitoring point. The valve box controlling the vacuum to each suction pit will be utilized to balance the sub-slab pressure.

3. After achieving as uniform as possible sub-slab pressure of -0.002 inches of water, smoke tests will be performed to identify any leaks through cracks in the concrete floor, floor joints, and suction pits. If necessary, identified leaks will be resealed until smoke tests indicate that an appropriate seal of the floor slab has been achieved.

4. Appliances relying upon natural draft for exhaust of carbon monoxide and other combustion gases will be tested for back draft caused by the operation of the SSDS. Backdraft poses a potential health concern because of carbon monoxide. Testing for back draft will entail utilizing a carbon monoxide meter to detect the presence of this compound in the air near exhausts for appliances. If necessary, any back drafts caused by the SSDS will be corrected by sealing any leaks in the floor slab, as indicated above.

5. The operation of the warning device monitoring the operation of the exhaust fan will be confirmed.

6. After 30 days of operating the SSDS during the heating season, VOC levels in the indoor air of the building and ambient outdoor air will be tested. The testing will be performed utilizing SUMMA canisters and analysis of VOCs will correspond to the those previously found in soil and/or groundwater in OU1, as listed above.

4.6.2 Routine Maintenance and Monitoring Activities for the SSDS

Routine maintenance and inspection will be conducted to ensure that the SSDS is operating properly until NYSDEC and NYSDOH has determined no need for such a system (see Section 4.6.4). On a monthy basis, qualified building personnel will confirm that the suction fan and warning device are working properly (see Section 4.6.3 if routine montoring indicates that one or both of these warning device is not working properly).

On an annual basis, the following will be performed:

- Conduct a visual inspection of the complete system.
- Inspect fan for bearing failures or signs of other abnormal operations, and repair or replace, if required.
- Inspect the discharge location of the vent pipe to ensure that no air intake or operable window has been located nearby.
- Determine, through discussions with building management, if any Heating, Ventilation, and Air Conditioning (HVAC) system modifications occurred that might effect the performance of the SSDS.
- Inspect the floor slab and foundation walls for evidence of cracks and/or holes, and request the repair of cracks and/or holes, if required.
- Test the integrity of the riser pipe(s), via smoke tests, and repair the riser pipe, if required.
- Test the levels of VOCs in the sub-slab vapor at three monitoring points to determine the need to continue operation of the SSDS. Testing will be performed utlizing SUMMA cannisters for the VOCs found in the soil and groundwater (see Section 4.7.1) via modified TO-14 method.

4.6.3 Non-Routine Maintenance Activities for the SSDS

Non-routine maintenance typically occurs when the warning device indicates the system is not working properly, the system becomes damaged, or the building's HVAC system has undergone modifications that might reduce the effectiveness of the system. The scope of non-routine maintenance will vary depending upon the situation. In general, the following actions will be taken as part of non-routine maintenance:

- Examine and address the building for structural or HVAC system changes, or other changes that may affect the performance of the SSDS (e.g., new combustion appliances or deterioration of the concrete slab).

- Examine and address the operation of the warning device and the suction fan, and measure the sub-slab pressure at monitoring points, via a manometer.

- Repair or adjust the SSDS as appropriate. If necessary, the SSDS should be redesigned and restarted (see subsection 4.7.1 for system startup).

4.6.4 SSDS Deactivation

If supported by annual sub-slab vapor sampling and groundwater sampling results, NYSDEC and NYSDOH will be requested to consider deactivation of the SSDS. Deactivation of the SSDS will occur only after NYSDEC's and NYSDOH's approval.

4.6.5 Methane Monitoring

Previous methane monitoring in OU1 found no significant amounts of methane associated with the Residual Soil (Remedial Investigation Report, July 2005). Methane monitoring, therefore, will not need to be conducted in areas outside of buildings, since low levels of methane would easily dissipate to the atmosphere. Rather, the methane monitoring will be focused to the private development parcel buildings in OU1, where methane could accumulate; however, the operation of an active SSDS will prevent accumulations of methane within the private development parcel buildings.

On an annual basis, beginning with the SSDS startup, methane levels in the sub-slab vapor will be measured at three monitoring points that provide the greatest geographic coverage of each private development parcel building. A portable Drager MiniWarn or equivalent instrument will be utilized to measure methane levels. If levels of methane in the sub-slab vapor are found to be present at levels meeting or exceeding 25 percent of the lower explosive limit (LEL) for methane (1.2 percent methane by volume), monitoring of methane within the indoor air of the building also will be performed.

4.6.6 OM&M Reporting Requirements for the SSDS

The SSDS start-up data will be documented in a report to be submitted to the NYSDOH. Following start-up, annual inspection data will be recorded on appropriate field sampling forms (see Form 3) and sub-slab vapor sampling results, including methane, will be submitted annually to the NYSDEC and NYSDOH as part of the annual report and certification as indicated in Section 5.3.

4.7 OM&M Schedule

The OM&M activities for groundwater and the SSDS will commence upon acceptance of the SMP including this OM&M Work Plan by the NYSDEC and will continue until NYSDEC determines that the remedial objectives for OU1, as presented in the OU1 RAWP have been achieved or that the activities outlined herein are otherwise no longer necessary.

5.0 ENGINEERING AND INSTITUTIONAL CONTROLS

This section of the SMP describes the engineering and institutional controls that apply to OU1 of the Site.

5.1 Engineering Controls

Engineering controls at OU1 consist of interim and permanent clean fill covers and a barrier wall at the southwest boundary. Interim covers for OU1 are described in the OU1 RAWP, and Figure OU1SMP-5 shows details of interim covers in OU1. The permanent clean fill covers that represent the long-term engineering controls for OU1 are new buildings, landscaped areas, and roads. Details of these engineering controls are shown in Figure OU1SMP-5 and consist of a minimum of two feet of clean cover across OU1 including:

- One foot of imported clean fill, six-inches of gravel, and one-foot of concrete slab on-grade in the private development parcel buildings;
- One foot of imported clean fill, plus additional imported soil for landscaping (minimum 2.5 feet of total cover), in park areas and in court yards of the private development parcels; and
- Two feet of subbase course, and nine inches of pavement for road areas.

In park areas, a demarcation layer consisting of a long-lasting, open, orange plastic grid or netting has been placed to indicate that all soil above that demarcation layer consists of imported clean fill, to provide a physical indicator of a depth at which the Residual Soil could potentially begin, in order to aid in managing future site disturbance. The elevation of the demarcation layer in OU1 is shown in Figure OU1SMP-6.

An approximately 300-foot long, barrier wall has been installed along the southwestern boundary of OU1 to mitigate potential future on-site migration of groundwater contamination from offsite sources to the south. The barrier wall consists of 17.5-foot long steel sheets driven to the desired depths (i.e., top of barrier wall approximately four feet above the water table and bottom of barrier wall at least five feet into a sandy silt layer). The interlocks between the steel sheets have been treated to form a watertight seal. The location of the barrier wall is shown in Figure OU1SMP-7.

5.2 Institutional Controls

The institutional controls for OU1 will consist of a deed restriction applying to post-remediation disturbances of soil below the clean fill covers and usage of groundwater. This SMP will be referenced in the deed restriction.

5.3 Annual Certification Requirements

Since institutional and engineering controls are relied upon as part of the remedy implemented, the Volunteers will prepare and submit an annual report to the NYSDEC by January 15th of each year. The annual reports will include the annual SSDS inspections and a summary of the quarterly groundwater monitoring reports and any other certifications of the disturbance of Residual Soil submitted that year. The annual reports will be prepared and filed until the NYSDEC notifies the Volunteers in writing that an annual report is no longer required. The annual report will be signed by a New York State licensed Professional Engineer and shall contain a certification that nothing has occurred to the institutional and engineering controls in OU1 that would impair the ability of these controls to protect public health and the environment.

6.0 REFERENCES

1. *Technical Assistance Guidance Memorandum HWR-94-4046, January 24, 1994, and December 20, 2000 revisions (TAGM) Residential Soil Cleanup Objectives (RSCO).*

2. Technical and Operational Guidance Series (1.1.1) (TOGS), June 1998.

3. *Invasive Work Implementation Plan for Odorous Soil*, TRC Engineers, December 14, 2004.

4. *Expanded Odor and Vapor Control Plan and Expanded Community Air Monitoring Plan*, TRC Engineers, November 3, 2004.

5. *Operable Units One and Two Remedial Investigation Report*, Volumes I and II, TRC Engineers, July 2005.

6. *Interim Remediation Measures Work Plan (IRMWP), Volumes I, II, and II,* TRC Engineers, Inc., June 2004.

7. *Natural Attenuation of Fuels and Chlorinated Solvents in the Subsurface,* Weidemeir, T.H., Rifai, H.S., Newell, C.J., Wilson, J.T., 1999, John Wiley & Sons, New York.

OPERABLE UNIT TWO
SITE MANAGEMENT PLAN

Queens West Development - Stage 2 Site
46-00 5th Street
Long Island City, New York

NYSDEC Voluntary Cleanup Program
Site Number V00505B
Index Number A2-0495-0903

Prepared by:

TRC Engineers, Inc.
1430 Broadway
New York, New York 10018

TRC Project Number 35204-2010

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1.0 INTRODUCTION

1.1 Site Description

This Operable Unit Two Site Management Plan ("SMP") establishes the procedures for the management of Operable Unit 2 (OU2) of the Queens West Development (QWD) - Stage 2 Site (the "Site"), located at 46-00 5th Street, Long Island City, New York after completion of remediation by the volunteers under the applicable Voluntary Cleanup Agreement (VCA) (Index Number A2-0495-0903) (individually or collectively the "Volunteer"). The metes and bounds description of OU2 is included in Attachment 1. Figure OU2SMP-1 shows the general Site location. OU2 covers approximately six acres in Tax Blocks 20 and 21. Tax Blocks 20 and 21 are separated by 47th Avenue. OU2 is bordered by OU3 to the north, 5th Street to the east, 47th Road to the south and OU1 to the west, as shown on Figure OU2SMP-2.

1.2 Purpose

The purpose of this SMP is to provide a detailed description of the procedures warranted to properly manage the environmental conditions which are described in Section 2.0. Proper management and monitoring will be achieved by conducting the tasks outlined in Sections 3.0 through 6.0.

Site management is the last phase of remediation, which begins with the approval of the final remedial report and/or issuing of the NYSDEC release and covenant not to sue ("the Release") and continues until the remedial action objectives for OU2 have been satisfied and OU2 is closed out. The owner and all future owners of OU2 are responsible to ensure that all site management responsibilities are performed and that the deed restrictions are followed and in place. Implementation of the SMP is the responsibility of the Volunteer and all future Site owners.

The SMP is intended to provide a detailed description of the procedures required to properly manage residual contamination left in place at OU2 following completion of the remedial action in accordance with the VCA with the NYSDEC, including (1) development, implementation and management of all engineering and institutional controls; (2) development and implementation of post-remediation monitoring systems and a monitoring plan; (3) development of a plan to operate and maintain any mitigation, treatment and containment systems; (4) submittal of site

management reports, performance of inspections and certification of results and insurance of proper communication of site information to the NYSDEC; and (5) defining criteria for termination of mitigation system operation.

This SMP includes four plans, the Institutional and Engineering Control Plan for implementation and management of institutional and engineering controls; a Monitoring Plan for implementation of monitoring; an Operation and Maintenance Plan for implementation of remedial collection, containment, mitigation, treatment and recovery systems; and a Site Management Reporting Plan for submittal of data, information, recommendations and certifications to the NYSDEC.

Where the remedial action objectives call for residual contaminants to be retained and managed onsite, the requirements outlined in this SMP are to be in place in perpetuity, or until removal of the deed restriction according to an approval by the NYSDEC, or until otherwise approved by the NYSDEC. This plan is subject to change based on the results of the monitoring and maintenance described in this SMP.

This SMP defines the means for implementation of deed restriction requirements. Site management activities, reporting and institutional and engineering control certification will be scheduled on a certification period basis. The certification period will be annually as described in Section 6.1 hereof. The Volunteer and all future Site owners will identify a qualified environmental professional to provide or oversee all services described in this SMP. The deed restriction is binding and enforceable.

2.0 SITE BACKGROUND

2.1 Site Description

Site History

Originally, the entire Site was part of the Hunter family farm in the early 1800s. Based on water grant maps, the original shoreline ran roughly along the proposed alignment for Center Boulevard. Through the 1800s and to a limited extent during the 1900s, the Site was filled on land and on water to roughly form the current water's edge location. A summary of the past industrial usage for OU2 is presented below.

In the late 1880s, the N.Y. Mastics Company Works (the Mastics Company) and Enamel Sign Company occupied the south end of OU2 (i.e., south of the existing 47th Avenue). The Standard Oil Company of New York (SOCONY) occupied the remainder of OU2 (i.e. north of the existing 47th Avenue). SOCONY had steam stills for petroleum refining and a container factory on OU2. By 1915, the area formerly occupied by the Mastics Company Works had become vacant and the National Varnish Company had replaced the Enamel Sign Company. The varnish company contained several buildings labeled gum storage, oil storage, oil tank storage, oil tank shed, coke shed, alcohol storage, and benzene and turpentine tanks. SOCONY continued to occupy the remaining areas of OU2, and its operations now included a gasholder, iron tank, condenser tanks, piping and aboveground oil tanks. The 1936 Sanborn Map shows that the south end of OU2 continued to be used for the production of varnishes. By this time, the SOCONY operations had ceased on OU2, as evident by the disappearance of oil refinery systems (steam stills, aboveground oil tanks, etc.). By 1947, PepsiCo occupied buildings in OU2 to the north of 47th Avenue. The remainder of OU2 was occupied by a manufacturer of machine products, Buchmann Sparkwheel Corporation, and a manufacturer of industrial sanitary and maintenance chemical products. Sanborn Maps for subsequent years show no significant change in the use of OU2, with the area north of 47th Avenue being occupied by PepsiCo, and the area south of 47th Avenue utilized by various manufacturing companies, including paint and varnish manufacturers.

Future Use

OU2 will be developed for residential high-rise buildings which will include commercial establishments on the ground floors, parks (including ball fields), roads, utilities, courtyards and parking. Although the developer has not yet defined specific uses by building and building floor,

ground floor uses will be limited to one or more of the following: parking, retail, professional offices, lobbies, mechanical equipment rooms, service vestibules and residential units (including building offices). The buildings will not have basement or subgrade levels.

2.2 Remedial Investigation Findings

The Operable Units One and Two Remedial Investigation Report prepared by TRC and dated July 2005 presents a summary of the results of historic investigations, as well as the results of the remedial investigation activities in OU2. The Remedial Investigation (RI) included the following elements:

- Geophysical Survey
- Characterization of Site Geology and Hydrogeology
- Groundwater Sampling
- Soil Sampling
- Surface Water Sampling
- Soil Gas Sampling
- Quality Assurance/Quality Control Data Evaluation
- Human Health Exposure Assessment
- Fish and Wildlife Resource Impact Analysis
- Site Conceptual Model

The results of the RI for OU2 indicated the presence of OU2-wide soil contamination caused by historic fill (SVOCs and metals), petroleum-related impacts caused by historic oil refinery systems, impacts of hazardous and non-hazardous metals (i.e., lead and arsenic), a localized area of elevated levels of tetrachloroethylene in soil, widespread areas where soil concentrations exceeded Site Specific Soil Action Levels (SSSALs), underground storage tanks, and historic subterranean oil refinery systems and subsurface structures of concern.

2.3 Remedial Actions

Interim Remedial Action Measures

A NYSDEC-approved Interim Remediation Measures Work Plan (IRMWP) was implemented between September 2004 and August 2005. The IRMWP proposed SSSALs and engineering and institutional controls for the Site that were consistent with the contemplated future use.

The approved SSSALs of the IRMWP are summarized in the following table:

Contaminant Class	Approved IRMWP Site-Specific Soil Action Levels
VOCs	TAGM RSCO[1]
SVOCs	TAGM Guidance Values [500 ppm (total) and 50 ppm (individual)
PCBs	TAGM RSCOs: 1 ppm for surficial soil and 10 ppm for subsurface soil
Pesticides/Herbicides	TAGM RSCOs
Arsenic	23.0 ppm
Lead	1,000 ppm
Cadmium	5.0 ppm
Mercury	2.0 ppm
Total Carcinogenic PAHs	10 ppm in terms of BaP equivalents
All	No characteristics of hazardous waste, as defined by applicable state and federal hazardous waste regulations

[1] TAGM RSCOs: NYSDEC's recommended soil cleanup objectives, as presented in Technical and Administrative Guidance Memorandum HWR-94-4046.

In addition, a remedial objective was to excavate and remove grossly contaminated soil, as defined by NYSDEC's Draft DER-10, Technical Guidance for Site Investigation and Remediation document, dated December 2002 (DER-10). The remedial groundwater cleanup objectives for OU2 were to remove floating, free-phase petroleum product from the groundwater and to meet NYSDEC Class GA Technical and Operating Guidance Series (TOGS) Ambient Water Quality Standard (GA Standard).

Nearly all of the remediation activities in OU2 were completed as part of the IRMWP. Remediation of OU2 resulted in the excavation and off-site disposal of over 55,000 tons of contaminated material, removal of residual product, decommissioning and removal of historic subterranean refinery systems, and removal of underground storage tanks.

Remedial Actions

A Remedial Action Work Plan (RAWP) dated September 2005, as amended by an addendum dated January 18, 2006, was approved by the NYSDEC and NYSDOH. The RAWP describes the remedial measures required to assure long-term control of residual contamination. The RAWP also includes by reference a Health and Safety Plan (HASP), Storm Water Pollution Prevention and Control Plan (SWPPP), Community Air Monitoring and Odor and Vapor Control Plans, and Invasive Work Implementation Plan for protection of site workers, the surrounding community, and nearby surface water during the remediation activities. The remedy primarily

completed as part of the IRM, included excavation and removal of contaminated soil and subterranean structures. Development will include new buildings, roads, utilities, parks and landscaped areas. Buildings will be constructed with a vapor barrier and an active sub-slab depressurization system to minimize the potential for soil vapor to enter the buildings. Road and utility corridors will be backfilled with at least two feet of clean fill and/or paving. Parks and landscaped areas will be constructed with an upper layer of at least two feet of clean fill. A final Remedial Action Report dated September 11, 2006 documenting the results of remediation activities in OU2 has been submitted to the NYSDEC.

2.4 Residual Contamination

Remediation of OU2 was conducted in accordance with the RAWP dated September 2005, a stipulation list dated January 18, 2006, and, following their development, the Enhanced Odor and Vapor Control Plan and Expanded CAMP and the Invasive Work Implementation Plan for Odorous Soil. The results of the remedial activities conducted in OU2 indicate that the identified areas of concern have been satisfactorily addressed. Remediation activities consisted of the excavation and offsite disposal of arsenic and lead contaminated fill [Area of Concern 1 (AOC1)], presumed hazardous levels of leachable lead in soil (AOC2), tetrachloroethylene-impacted soil (AOC3), hot spot excavation (AOC5), grossly contaminated soil at and below the water table (AOC6), underground storage tanks (AOC7), and subsurface refinery and structures of concern (AOCs 8 and 9). Figure OU2SMP-3 shows the areas that were excavated and their corresponding depths below ground surface and elevations. In summary, 55,000 tons of soil were removed and disposed off site, 900 tons of soil and 7,000 tons of recycled concrete aggregate were reused, and 47,000 tons of clean sand backfill and cover material was imported. Figures OU2SMP-3 and OU2SMP-4 show the remediation areas and the residual soil management zone respectively. Figures OU2SMP-5 through OU2SMP-16 show the post excavation soil sample locations and results.

Soil Remediation

Post-excavation end point soil samples that met SSSALs were achieved at approximately 85% of 439 total post-excavation end point soil samples collected (refer to Table OU2SMP-1). Of the post-excavation end point soil samples that did not meet the SSSALs, approximately half of these were located within the saturated zone at the deepest depth at which no dewatering or additional excavation support was required. In accordance with the RAWP, remediation was not required below these depths. Of the samples collected from above the saturated zone that contained SSSAL exceedances, additional remediation was not deemed necessary because either:

- the results were considered marginal exceedances of SSSALs;
- the samples were collected in areas where the extent of the excavation was pre-delineated, as required by the Invasive Work Implementation Plan for Odorous Soil;
- the samples were located outside of the metes and bounds of OU2; and/or
- the soils represented by the sample were subsequently over-excavated as part of the remedial excavation of an adjacent AOC. A summary of the frequency of post-excavation end point soil samples meeting SSSALs above and below the water table is located below.

Frequency of End Point Samples Meeting SSSALs by AOC Above and Below the Water Table							
AOC	Description of AOC	Samples Collected Above the Water Table		Samples Collected At or Below the Water Table		Total Samples	
		Frequency	Percent	Frequency	Percent	Frequency	Percent
1	Non-hazardous elevated levels of lead and arsenic in soil	35 of 59	59%	78 of 97	80%	113 of 156	72%
2	Presumed hot spot exhibiting hazardous levels of leachable lead	NA	NA	6 of 6	100%	6 of 6	100%
3	Elevated levels of tetrachloroethylene in the soil	12 or 12	100%	NA	NA	12 of 12	100%
5	Hot spot areas exhibiting elevated lead, arsenic, mercury, and/or cPAHs	47 of 47	100%	31 of 38	82%	78 of 85	92%
6	Grossly contaminated soil associated with Residual petroleum product	NA	NA	42 of 53	79%	42 of 53	79%
7	Potential presence of petroleum underground storage tanks (USTs)	NA	NA	11 of 11	100%	11 of 11	100%
8	Historic subterranean oil refinery systems	101 of 106	93%	NA	NA	101 of 106	95%
9	Other subsurface structures of concern (drains, pits, etc.)	8 of 10	80%	NA	NA	8 of 10	80%
Total		202 of 251	80%	168 of 225	75%	371 of 439	85%

Note:

End Point samples which were subsequently addressed by another AOC or were located outside the metes and bounds of OU2 were not included in this table.

Due to community concerns regarding odors generated during remedial activities, many excavations in OU2 were pre-delineated in order to determine the exact extent of excavation prior to beginning the soil excavation, so that the excavation could be completed and covered immediately to minimize excessive odors. In most cases where pre-delineation was conducted, the final post-excavation end point soil samples achieved the SSSALs, however, in some cases, exceedances remain, and this is likely due to the heterogeneity of the onsite fill material being remediated. In accordance with the Invasive Work Implementation Plan for Odorous Soil, the bounds of the excavations were based on the pre-delineation samples and the post-excavation samples were collected for documentation purposes. Although some soil with levels of contamination above the SSSALs remains, all known areas of grossly contaminated soil have been excavated in OU2. Additionally, the soil remediation resulted in the removal of all identified subsurface structures of concern.

Potential sources of groundwater contamination, specifically those in AOC3, AOC6, AOC7, and AOC9 have been removed from OU2. Remaining soil contamination in OU2 will be addressed by institutional and engineering controls, including covering OU2 in its entirety with at least two feet of clean fill, building slabs, or paved roads and walkways. A deed restriction will be put in place to prohibit construction or use of OU2 after development that would result in unacceptable human exposure to contaminated soil and to require soil management in accordance with the SMP. Annual inspection and certification will be required to verify compliance with these restrictions. Groundwater monitoring will also be performed, in accordance with the SMP.

Groundwater Remediation

The results of the groundwater characterization indicated the depth to groundwater in OU2 averages approximately six to ten feet below existing grade. Gradients were slight, as were tidal fluctuations. The general groundwater flow direction in OU2 is towards the southwest.

Pre-remediation or baseline groundwater conditions are shown on Figure OU2SMP-17. Significantly elevated levels of dissolved VOCs were not detected in OU2 (refer to Table OU2SMP-2 and Figure OU2SMP-18). The highest concentration of dissolved VOCs was detected in MW-4S, which is located offsite in the sidewalk of 47th Road. These dissolved VOCs are most likely attributed to an offsite source. No SVOCs were detected at concentrations above GA Standards. Metals slightly exceeding GA Standards included arsenic, chromium, and nickel. During the last gauging event in December 2005, 0.05 feet of floating product was detected in MW-15B along 47th Avenue. Sections 4.3.2 and 4.3.3 address the monitoring and contingency remedial measures for floating product.

Potential sources of groundwater contamination, specifically those in AOC3, AOC6, AOC7, AOC8, and AOC9, have been removed from OU2. Groundwater is not used as a source of drinking water in this area of Queens. A deed restriction is in place restricting groundwater use. The SMP includes groundwater monitoring and groundwater management to prevent unacceptable human exposure to contaminated groundwater. Groundwater monitoring, as detailed in the SMP, will continue until floating product is not detected and GA Standards are achieved or until otherwise approved by NYSDEC.

Post-Remediation Soil Gas

Soil gas was sampled and analyzed in OU2 in the area of Building 5 and 7 and the laboratory results assessed using the Johnson & Ettinger soil gas model (refer to Table OU2SMP-3 and Figure OU2SMP-19). The model does not consider the anticipated installation of sub-slab depressurization systems under the buildings. The results of the Building 5 modeling indicate that the concentration of 1, 3-butadiene, a petroleum constituent, detected in soil gas exceeds acceptable risk levels. 1, 3-butadiene was not detected in soil and groundwater samples. It is a colorless gas with a mild gasoline-like odor usually found at low levels in urban air samples, which typically decomposes within a few hours after exposure to sunlight. The results of the Building 7 assessment indicate that the average concentrations of volatiles detected in soil gas are all less than acceptable risk levels. Although 1, 3-butadiene was detected at concentrations greater than acceptable risk levels in the area of Building 5, the sub-slab depressurization systems that will be installed under each building will mitigate any potential risks to future building occupants posed by soil gas.

2.5 Provisions in Deed Restriction

The provisions in the deed restriction applying to OU2 include the following controls that apply to the post-remediation use of OU2. OU2 may be used for restricted residential use as long as the following long-term institutional and engineering controls are employed:

- The Controlled Property may be used for restricted-residential use (as defined in the New York Code of Rules and Regulations ("NYCRR") Part 375), provided the long-term engineering and institutional controls in the SMP are employed.
- The Controlled Property may not be used for a less restrictive use than restricted-residential, i.e., residential or unrestricted (as such terms are defined in NYCRR Part 375), without an amendment or termination of this Declaration of Covenants and Restrictions.

- Vegetable gardens are prohibited on the Controlled Property, with the exception of those located entirely above the Barrier Layer and separated from the Residual Soil by a high density polyethylene (HDPE) liner or equivalent approved by the Relevant Agency.
- Farming is prohibited on the Controlled Property.
- Engineering controls as specified in the SMP may not be discontinued or modified without an amendment of the SMP (approved by the Relevant Agency) or the termination of this Declaration of Covenants and Restrictions.
- A composite cover system consisting of the asphalt covered roads, the concrete covered sidewalks, the clean fill in park and courtyard areas, and concrete building slabs must be maintained, inspected and certified at a frequency and in a manner as specified in the SMP.
- The soil vapor mitigation system on the Controlled Property consisting of the sub-slab depressurization systems under all building structures must be maintained, inspected and certified at a frequency and in a manner as specified in the SMP.
- All data and information pertinent to site management for the Controlled Property must be reported at the frequency and in the manner defined in the SMP.
- All groundwater, soil vapor, and other environmental or public health monitoring requirements related to the Controlled Property must be preformed as required in the SMP.
- Environmental monitoring devices, including but not limited to, groundwater monitoring wells and soil vapor probes, must be protected and replaced as necessary to ensure continued functioning as specified in the SMP.
- All future activities on the Controlled Property that will disturb residual contaminated material are prohibited unless such activities are conducted in accordance with the soil management provisions in the SMP.
- The use of the groundwater underlying the Controlled Property is prohibited without treatment rendering it safe for the intended purpose.

3.0 INSTITUTIONAL AND ENGINEERING CONTROL PLAN

This Institutional and Engineering Control Plan details the oversight steps and any media-specific requirements necessary to assure that the institutional and engineering controls required by the decision document for OU2 remain in place and effective. Following is a description of all institutional controls and engineering controls and the role they are intended to play. The plan for annual inspection and certification of the institutional and engineering controls, including identification of the issues to be specifically evaluated by the inspection and certification, and any criteria that might apply is included in Sections 4 through 6 below. A copy of the Deed Restriction requiring the engineering and institutional controls for OU2 is included in Attachment 1 along with the metes and bounds.

The Volunteer will provide, in a computer database format acceptable to the NYSDEC, the following information for any deed restriction or other institutional control approved by the NYSDEC including but not limited to:

- A site summary;
- Name of current owner and/or the Volunteer implementing the SMP for OU2;
- The location of OU2;
- The current status of OU2 remedial activity;
- A copy of the deed restriction; and
- A contact name and phone number of a person knowledgeable of the deed restriction, in order for the NYSDEC to obtain additional information.

If and when a deed restriction is modified or extinguished, the copy of the deed restriction contained in the database will be updated accordingly.

3.1 Engineering Control Components

Engineering controls at OU2 consist of a barrier layer and final site development covers and sub-slab depressurization systems. The barrier layer consists of 2 feet of clean fill cover or, in the roads (i.e., rights-of-way), subbase course. The final site development covers that represent the long-term engineering controls for OU2 are new buildings, landscaped areas, and paved roads and walkways. Details of these final site development covers are shown in Figures OU2SMP-27 and OU2SMP-28 and consist of the following:

- One foot of imported clean fill, six-inches of gravel, and one-foot of concrete slab on-grade in the private development parcel buildings;
- Two feet of imported clean fill, plus additional imported soil for landscaping (minimum 2.5 feet of total cover), in park areas and in court yards of the private development parcel; and
- Nine inches of pavement underlain by 12 inches of subbase course for road areas.

In the building, park and landscaping areas, a demarcation layer consisting of a long-lasting, open, orange plastic grid or netting has been placed to indicate that all soil above that demarcation layer consists of imported clean fill, to provide a physical indicator of a depth at which the Residual Soil could potentially begin, in order to aid in managing future disturbances. The elevation of the demarcation layer in OU2 is shown in Figure OU2SMP-25.

The other engineering control in OU2 consists of sub-slab depressurization systems at each of the buildings (refer to Figures OU2SMP-22, OU2SMP-23 and OU2SMP-24). Details regarding the sub-slab depressurization system are located in Section 5.1.

These engineering controls will be inspected annually to ensure that they continue to perform as designed and continue to be protective of human health and the environment. Inspections will also occur after any severe condition occurs such as major erosion or flooding (see Section 5.0 for details).

3.2 Institutional Control Components

The institutional controls for OU2 will consist of a deed restriction which is provided as Attachment 1. Refer to Section 2.5 for the provisions to be included in the deed restriction. This SMP will be referenced in the deed restriction and defines the means for implementation of deed restriction requirements.

4.0 MONITORING AND MANAGEMENT PLAN

4.1 Soil and Dewatering Fluids Management

This section of the SMP describes the management of soil and dewatering fluids in OU2 during development or routine maintenance activities. The work addressed by this component of the SMP will be the responsibility of the Volunteer or future property owner conducting development or maintenance activities that trigger the need for the SMP measures and may be implemented by a qualified contractor retained by such Volunteer or future property owner.

The Soil and Dewatering Fluids Management Plan component of the SMP will apply to activities that disturb the native soil and/or historic fill material (such underlying native soil and/or historic fill materials shall collectively hereinafter be referred to as "Residual Soil"). In addition, this SMP will apply to dewatering fluids management during dewatering activities and any piping from historical Site operations. Figure OU2SMP-4 depicts the elevation of the top of the Residual Soil layer in OU2 where known.

As more specifically described below, different procedures will be implemented depending on whether only the clean fill cover layer or both the clean fill cover layer and Residual Soil have been or will be disturbed. See Section 3.1 for a description of the clean fill cover layers in OU2.

The objective of the Soil and Dewatering Fluids Management Plan is to ensure that the post-remediation disturbances of the clean fill cover layer and Residual Soil and dewatering activities at OU2 occur in a manner protective of human health (workers and the general public) and the environment. With this objective in mind, this component of the SMP addresses the following topics:

1. Soil disturbance protocols for the clean fill cover layer and Residual Soil,
2. Management of excavated Residual Soil and other solid materials,
3. Management of dewatering fluids,
4. Criteria for and management of imported fill material, and

5. Site-specific health and safety requirements during activities that disturb Residual Soil and generate dewatering fluids.

Soil Disturbance Activities and Dewatering Fluids Management

After remediation is complete, construction and maintenance of buildings, roads and utilities, and parks will disturb certain areas of OU2. Examples of post-remediation activities with the potential to disturb Residual Soil or generate dewatering fluids in OU2 include the following:

- Installation of caissons and/or driving pilings,
- Installation of foundations and slabs,
- Installation of sheeting and shoring,
- Construction of or repair of subsurface utilities,
- Trenching for subsurface utility hookups,
- Landscaping, including planting of trees, and
- Construction or repair of roads, walkways, and utilities.

Residual Soil disturbance activities and generation of dewatering fluids associated with development of OU2 and future maintenance of OU2 shall be conducted in accordance with the protocols established in this section of the SMP.

The Volunteer will provide notification of activities that will disturb Residual Soil or generate dewatering fluids to the NYSDEC at least one week prior to their start date, except in the event of emergency inspection and maintenance[1], whereby the notification will be provided as soon as practical. No prior notification to the NYSDEC will be required for activities within the clean fill cover layer that are consistent with the contemplated development and use of OU2, assuming that the clean fill cover layer is maintained and restored. In the event there is a disturbance of the demarcation layer and/or Residual Soil, the Volunteer implementing the SMP will provide a certification to the NYSDEC following the completion of activities resulting in the disturbance stating that the clean fill cover layer has been restored and describing how the requirements of this SMP were implemented. The Volunteer's certification shall include appropriate substantiating documentation (e.g., field reports, air monitoring data, disposal documentation, imported fill test results, including revisions to appropriate figures, etc.) that demonstrates such compliance. The disturbance of Residual Soil will be documented in the annual report and certification as indicated in Section 6.0.

[1] Emergency inspection and, if necessary, maintenance will be conducted in the event of severe conditions (e.g., major erosion or flooding).

Residual Soil Disturbance and Dewatering Fluids Protocols

Figure OU2SMP-4 indicates the elevation of the top of the Residual Soil layer. Protocols to be followed during the post-remediation Residual Soil disturbance activities shall include:

- Field screening and remediation procedures,
- Dust suppression measures,
- Community air monitoring,
- Odor and vapor control, and
- Decontamination of vehicles and equipment.

Specific procedures for management of excavated Residual Soils are presented in Section 4.1.1. Specific procedures for management of dewatering fluids are presented in Section 4.1.2. See Section 4.1.4 for specific criteria and procedures for selection and management of imported fill.

Screening and Remediation Procedures

This subsection establishes the screening procedures to be utilized by the Volunteer to identify any additional areas potentially requiring remediation during the development and/or maintenance of OU2 in the event Residual Soil is disturbed or dewatering fluids are generated. If the conditions encountered warrant additional remediation, the Volunteer will remediate such additional areas in accordance with the OU2 Remedial Action Work Plan (RAWP) or other NYSDEC-approved work plan.

The Volunteer shall implement work that disturbs Residual Soil in accordance with the following protocols:

1. Utilize a photoionization detector (PID) or equivalent, along with appropriate field procedures, to identify Residual Soil exhibiting evidence of contamination (i.e., visibly identifiable evidence of, strong odors and/or PID readings characteristic of free or residual product, chemical sludges, tank bottoms or coal tars).

2. Cease soil disturbing activities if soil exhibits evidence of contamination until the evaluation of subsurface conditions described below is complete.

3. Determine whether or not the area will be considered an area requiring remediation by performing detailed field observations, as well as collecting PID measurements in the worker's breathing zone. If total volatile organic compound (VOC) levels exceed ambient background levels by five parts per million (ppm) or field observations suggest significantly impacted Residual Soil distinct from the typical urban fill generally present

at the Site (i.e., visibly identifiable evidence of and/or strong odors characteristic of free or residual product, chemical sludges, tank bottoms or coal tars) then the area will require remediation. Residual Soil that exhibits little to no evidence of contamination (e.g., PID readings less than five ppm in ambient air, no visibly identifiable evidence of free or residual product, no strong odors, etc.) and therefore does not require remediation shall be managed in accordance with Section 4.1.1 (i.e., must be tested for reuse criteria prior to potential reuse).

4. Remediate any soils identified as not meeting reuse criteria set forth in Attachment 3. It shall be the Volunteer's or the future property owner's responsibility to obtain any additional approvals required by NYSDEC.

5. Stockpile Residual Soil excavated for remediation separately from other soils and materials and place on and cover by plastic sheeting until the Volunteer completes its evaluation of the soils for either on-site reuse or off-site disposal as described above. If the excavated Residual Soil is odorous, refer to the odor and vapor controls described below.

6. Monitor groundwater conditions to identify potential areas of separate phase product or dissolved petroleum during construction activities that encounter groundwater, such as trenching for installation of deeper subsurface utilities or elevator pits. Visual and olfactory observations will be relied upon to identify such contamination. If a sheen or petroleum product layer is observed on the groundwater or strong odors are observed emanating from the groundwater, the Volunteer performing the work shall cease Residual Soil disturbance activities until the Volunteer has completed its evaluation of groundwater conditions. If free product removal or other remedial actions are required, they will be performed in accordance with Section 4.3, Contingency Groundwater Remediation Measures. Dewatering fluids will be managed in accordance with Section 4.1.2.

7. Evaluate subsurface conditions, following the field screening procedures described above, and if remediation is conducted, perform confirmatory sampling and analysis. Samples will be analyzed for full-scan parameters: Target Compound List (TCL) Volatile Organic Compounds (VOCs), TCL Semivolatile Organic Compounds (SVOCs) and Target Analytic List (TAL) metals.

8. Perform the necessary characterization sampling of the stockpiles of Residual Soil to determine their suitability for on-site reuse.

9. Reuse on-site or transport and dispose off-site Residual Soil, based upon the results of the characterization sampling, in accordance with the criteria set forth in Section 4.1.1. Soil that does not meet the reuse criteria will not be reused on-site and will be disposed of off-site.

Dust Suppression Measures

The Volunteer will implement dust suppression measures during Residual Soil disturbance activities. Such measures will include misting of haul roads, and other exposed surfaces contributing to dust formation, with water using a water truck and, if appropriate, applying a dust suppressant, such as calcium chloride, in high vehicle traffic areas. To evaluate the effectiveness of the dust suppression measures, air monitoring utilizing real time dust monitoring equipment will be performed. The requirements for air monitoring during post-remediation soil disturbance activities are presented below.

Community Air Monitoring

During Residual Soil disturbance activities, New York State Department of Health's (NYSDOH's) Generic Community Air Monitoring Plan (gCAMP) shall be performed at the upwind and downwind perimeter of the work area. In addition, the Volunteer will conduct odor monitoring within the work area and the downwind perimeter of the work area. At both the upwind and downwind ends of the work area, gCAMP monitoring will include continuous, real-time air monitoring for particulates measuring less than 10 micrometers in size (PM-10). At the downwind end of the work area, periodic, real-time air monitoring for VOCs will be performed. In areas of VOC contamination, the Volunteer will conduct continuous real-time air monitoring for VOCs.

The response levels and actions for the air monitoring will follow the gCAMP protocol indicated below:

- If VOC levels > 5 part per million (ppm) above background (upwind) are detected over a 15-minute, running average at the downwind perimeter of the work area, work activities will be temporarily halted. If VOC levels readily decrease to < 5 ppm, work activities can resume,

- If VOC levels > 5 ppm but < 25 ppm are detected over a 15-minute, running average above background at the downwind perimeter of the work area and do not readily decrease below 5 ppm, work activities will be suspended; the source will be identified, and corrective actions will be taken to abate VOC emissions so that VOC levels are less than 5 ppm,

- If VOC levels > 25 ppm are detected over a 15-minute, running average above background at the downwind perimeter of the work area, work activities will be shut down, and the source of the VOC contamination will be investigated and appropriate corrective action will be taken,

- If downwind PM-10 particulate levels > 100 micrograms per cubic meter ($\mu g/m^3$) over a 15-minute, running average above background (upwind) are detected, work will be suspended and resumed only after dust suppression measures are implemented and downwind PM-10 particulate levels are < 150 $\mu g/m^3$ above background, and

- If downwind PM-10 particulate levels > 150 $\mu g/m^3$ over a 15-minute, running average above background are detected after dust suppression, work will be suspended, and a reevaluation of activities initiated.

Odor and Vapor Control

If soils with strong odors are encountered, the Volunteer will employ odor and vapor control methods during disturbance of Residual Soil which will include:

- A tarpaulin (such as Griffolyn Type 55) shall be placed to fully cover the exposed Residual Soil. The tarpaulin shall be continuously anchored along the edges. Alternatively, a biodegradable, synthetic-based foam concentrate (such as Rusmar Long Duration Foam AC-600 Series) will be applied with a foaming unit over the exposed Residual Soil and stockpiles to a thickness of at least three inches to control fugitive odors and vapors. Odor and vapor controls will be monitored and maintained until such time as the odors and vapors from the area have dissipated or have otherwise been addressed and mitigated.

- If sustained objectionable nuisance odors outside the work zone continue to be an issue, Ecosorb 404 Odor Control Solution or equivalent will be applied to the soil being disturbed. The method and rate of application will be determined based on field observations necessary to mitigate nuisance odors.

If vapors outside the work zone continue to be an issue as defined by the gCAMP or by the presence of sustained objectionable nuisance odors, soil disturbance activities will temporarily cease, NYSDEC will be notified and the Invasive Work Implementation Plan for Odorous Soils and Expanded Odor and Vapor Control Plan and Expanded Community Air Monitoring Plan will be implemented. See Attachment 2 for a copy of these documents.

Decontamination of Vehicles and Equipment

Vehicles and equipment shall be cleaned to remove Residual Soil before such vehicles and equipment leave OU2. Brooms or shovels will be utilized for the gross removal of the Residual Soil from vehicles and equipment. If brooms or shovels do not sufficiently remove Residual Soil adhered to vehicles and equipment, vehicles and equipment will be washed with water and detergent. If washing vehicles and equipment with water and detergent is necessary, then a decontamination pad will be constructed and waste water will be collected and managed in accordance with Section 4.1.2. Wastewater will be appropriately disposed off-site (see Section

4.1.2). Residual Soil generated by the decontamination process will be stockpiled at a designated area of the Site for on-site reuse or, if not qualifying for on-site reuse, appropriate off-site disposal (see Section 4.1.1).

4.1.1 Management/Characterization of Excavated Residual Soil and Other Solid Materials

The criteria for on-site reuse of Residual Soil below the clean fill cover layer are set forth in Attachment 3. Excavated Residual Soil from any suspected areas requiring remediation will be stockpiled separately from other Residual Soil and other materials.

Excavated Residual Soil shall be characterized for reuse. Stockpiles of Residual Soil shall be sampled for reuse using a five part composite sample collected at the rate of one composite per 1,000 cubic yards of soil or less, shall be placed on and covered by plastic sheeting (if the excavated Residual Soil is odorous, soil shall be placed on plastic sheeting and covered by tarpaulin), and shall be protected with silt fencing and appropriately graded to control run-off.

Residual Soil that meets the reuse criteria of Attachment 3 will be designated for on-site reuse below the clean fill cover layer without the need for additional testing. Excavated Residual Soil that is not needed for reuse on-site will be characterized and disposed off-site by the Volunteer or future property owners in accordance with all applicable regulations and this SMP.

On-Site residual soil used for this purpose must receive NYSDEC approval. Clean fill cover material that is disturbed and kept separate from underlying Residual Soil is suitable for reuse as clean fill cover.

The following subsections present the preferred and alternative management methods for excavated Residual Soil qualifying for on-site reuse.

Preferred Management Method: On-Site Reuse of Residual Soil as Fill Material below Clean Soil Cover Layer

On-site reuse of Residual Soil as fill material below the clean soil cover layer is the preferred method for management of soils qualifying for on-site reuse. Since the excavated Residual Soil to be reused will be non-hazardous and be similar to other Residual Soil in OU2, this alternative is consistent with NYSDEC's existing pre-determined Beneficial Use Determination (i.e., 6 NYCRR, Part 360-1.15, (b), (8)).

Alternative Method: Off-Site Disposal

Residual Soil or other waste, such as construction debris, may be disposed of at an appropriate off-site disposal facility. If disposed of in New York State, all wastes will be disposed of in compliance with Part 360 regulations and all other applicable requirements. Waste classification sampling will be performed in accordance with the requirements of the proposed off-site disposal facility. A letter will be sent to the disposal facility notifying the facility that the material is from a New York State VCA site. Written approval from the disposal facility accepting the material is required prior to shipment. The Volunteer will obtain appropriate documentation that will provide full accountability for off-site disposal of waste and Residual Soil.

4.1.2 Management of Dewatering Fluids

Appropriate alternatives for the management of dewatering fluid that has no free-phase petroleum product layer or sheen will include:

1. Discharge to the New York City sewer with prior approval from New York City Department of Environmental Protection (NYCDEP),
2. Transportation and disposal at an off-site treatment facility.

If dewatering will require the installation of wells to remove a total capacity of groundwater at rates greater than 45 gallon per minute, then at DEC's discretion, the substantive requirements of a Long Island Well Permit (6 NYCRR Part 602) must be met, otherwise a permit will be required.

If the groundwater has a free-phase petroleum product layer or measurable sheen, it will be remediated in accordance with Section 4.3.3.

The following presents the preferred and alternative management methods for dewatering fluids.

Preferred Management Method: Discharge to the New York City Sewer

Discharge to the New York City sewer system represents the preferred method for management of dewatering fluids during construction. The NYCDEP regulates discharges to the New York City sewers under NYCDEP's Title 15, Rules of the City of New York (RCNY) Chapter 19. Discharge to the New York City sewer system will require an authorization and sampling data demonstrating that the dewatering fluids meets New York City's influent discharge criteria. If

necessary, the dewatering fluid will be pretreated to meet the New York City influent discharge criteria.

Alternative Method: Transportation and Disposal at an Off-Site Treatment Facility
If discharge to the New York City sewer system is not feasible, the dewatering fluids will be managed by transportation and disposal at an appropriate off-site treatment facility.

4.1.3 Management of Stormwater

Stormwater management during construction and development will be performed in accordance with approved construction plans and permits and all applicable rules and regulations. Stormwater management practices will be incorporated into construction and development plans to mitigate potential soil erosion, off-site sediment migration, and water pollution from erosion. Typical measures that may be applicable at various stages of the project include the use of hay bales, silt fences, stockpile protection, sewer inlet protection, a stabilized construction entrance, dust control measures, sediment basins and establishing appropriate vegetative cover on exposed soil.

If disturbances of one or more acres of total land area occur, the procedures for compliance with the New York SPDES General Stormwater Permit for Construction Activity (Permit Number GP-02-01 or equivalent permit) will be followed. This includes filing a notice of intent and development and implementation of a Storm Water Pollution Prevention Plan. Smaller scale disturbances for future utility maintenance and landscaping conducted after the completion of development are not anticipated to require coverage under the general SPDES permit and will be conducted in accordance with the NYSDEC Division of Water rules and regulations. However, best management practices such as the typical measures described above will be implemented.

4.1.4 Criteria for and Management of Imported Fill Materials

This section presents the requirements for imported fill materials to be used below the clean fill cover layer, as the clean fill cover layer, or above the clean fill cover layer. The goal for imported material will be to meet 6 NYCRR Part 375-6.8(a): Unrestricted Use Soil Cleanup Objectives. The NYSDEC will consider exceedances of 6 NYCRR Part 375 -6.8(a): Unrestricted Use Soil Cleanup Objectives for imported fill, on a case-by-case basis. Based upon the nature of the TAGM 4046 exceedances and source of the imported material, the NYSDEC will provide case-by-case guidance as to the allowable range of TAGM 4046 exceedances for the imported fill material.

Potential Fill Sources

A preliminary site review will be conducted to evaluate sources of potential fill to be used on site, and will include documentation of each source's location, and current and historical use(s). The following potential sources will be considered:

- Virgin sources (i.e., natives soils and/or sediments from undeveloped sites),
- Construction projects at non-industrial sites,
- Roadway or other transportation-related projects,
- Soils and/or materials from Construction and Debris (C&D) processing facilities where material sources are recognizable, uncontaminated, non-processed, and non-industrial. In addition, the C&D processing facilities must have a system to verify that the material meets the aforementioned qualification criteria, and
- Other non-industrial sources.

Source Screening and Testing

Prior to acceptance of fill material, the procedures set forth in Section 4.1.4 will be followed to verify the acceptability of the source.

Documentation

Site use history will be determined using historical Sanborn Fire Insurance maps, if available, and one or more of the following sources:

a. For fill sites in New York City or other urban areas, historical topographic maps will be reviewed, if available,
b. Aerial photographs,
c. Historical title information,
d. Site reconnaissance,
e. Database review, and
f. Interviews of knowledgeable persons.

An attempt will be made to obtain suitable coverage, using multiple sources if necessary, from the 1940s or predevelopment (whichever is earlier) to the present, provided that historical Sanborn Fire Insurance maps starting from 1900 will be consulted for potential source sites in New York City, where available. Documentation of source site history will be retained by the Volunteer.

Testing at Source Loading Point

Other than virgin sources, imported fill materials will be tested in accordance with this subsection. Materials from virgin sources will be tested initially, and will consist of collecting and analyzing one composite sample for the parameters described below.

Sampling of all material imported to OU2 will be conducted to obtain representative composite samples for analysis at a NYSDOH-certified laboratory. Each composite sample of fill materials will consist of five different individual samples taken from the surface and interior of the source pile. The exception to this will be the portion of each sample that will be submitted for analysis for VOCs which will not be homogenized and will consist of a grab sample. A composite sample will be taken for every 2,000 cubic yards of material, and will be analyzed to determine whether the fill material is nonhazardous, using the Toxic Characteristic Leaching Procedure (TCLP), and meets TAGM 4046 parameters: TCL VOCs, TCL SVOCs, TCL pesticides/PCBs, TCL herbicides, and TAL metals.

The Volunteer must have accompanying documentation acceptable to the NYSDEC about the potential fill material source's history and confirmatory testing results. Once it is determined that the fill material is non-hazardous and meets 6 NYCRR Part 375-6.8(a): Unrestricted Use Soil Cleanup Objectives, the fill material will be loaded onto trucks for delivery to OU2. Material meeting the requirements set forth in this SMP will not require individual approvals from the NYSDEC and will be documented as part of the Annual Report.

Imported Fill Guidelines

In addition to the foregoing requirements, the following conditions will apply to imported fill material for OU2:

1. Site access will be controlled, and trucks with fill material will enter OU2 at designated locations.

2. Each truck with fill material will be inspected for odors indicative of contamination and evidence of staining after dumping of its load.

3. Fill material will be free of solid waste, bricks, blocks, pavement materials and debris, stumps, roots, and other organic matter, as well as ashes, oil and other perishables or foreign matter, except in the case of fill material used to support landscaping which may include organic material consistent with typical topsoil composition.

4. Solid waste will not be imported to the Site.

4.1.5 Site-Specific Health and Safety Requirements

Residual Soil and groundwater disturbance activities will follow a site-specific Health and Safety Plan (HASP) prepared by the Volunteer. The overall objective of this HASP will be to protect workers from the hazards posed by the residual contaminants in the OU2 soils and groundwater. Due to the nature of the soils below the clean fill cover layer and the limited extent of the disturbances, work will not require Occupational Safety and Health Administration (OSHA) 40-hour Hazardous Waste Operations and Emergency Response (HAZWOPER) training for routine site activities. Air monitoring in the breathing zone will be implemented for worker protection. Requirements for key components of the HASP are presented below. An appropriate outline for the HASP can be found in Attachment 5.

Worker Training

Since the soil disturbance activities below the clean fill cover layer after remediation will be minimal and involve disturbances of Residual Soils in areas that have been fully characterized, workers will not require OSHA 40-hour HAZWOPER training. However, workers will need to receive appropriate hazard communication training and demonstrate the ability to wear a full-face respirator.

Personal Protection Equipment (PPE)

The normal level of personal protection for Residual Soil disturbance activities below the clean fill cover layer will be Level D PPE to be specified in the HASP:

- Standard work uniform, coveralls,
- Steel-toe and steel shank work boots,
- Hard hat, and
- Vinyl gloves.

As specified in the HASP, if air monitoring results indicate dust levels or VOC levels in excess of threshold values, the level of PPE will be upgraded to Level C:

- Same personal protection as Level D, plus
- Full-face respirator equipped with organic vapor/dust filters.

Worker Air Monitoring Program

The air monitoring program section of the HASP will establish the appropriate equipment and sampling frequency for evaluating airborne dust and VOC levels in the work area during soil disturbance activities beneath the clean fill cover layer. Based upon the results of the worker air monitoring program, appropriate corrective action will be taken for protection of workers and public health.

4.2 Pipe Management

This section of the SMP describes the procedures for evaluating, decommissioning, and removing piping encountered in OU2 after completion of remediation in this area of the Site.

The Remedial Investigation Report (RIR) for OUs 1 and 2, dated July 2005 identified locations of piping that represented an environmental concern. During remediation activities, known piping was properly decommissioned and appropriately removed from OU2. In the event that additional piping is encountered in the future, however, the Volunteer or future property owner will implement the procedures outlined below.

The overall objective of the Pipe Management Plan is to ensure the proper evaluation and, if necessary, decommissioning and removal of piping encountered after remediation, appropriate disposal of piping, and to remediate any soils impacted by such piping, as discussed below.

Evaluation, Decommissioning and Removal of Piping

Piping will be opened (if necessary) and inspected. If piping contains sediment or liquid, the sediment or liquid will be sampled for the appropriate parameters (e.g., waste characterization or finger print analysis). If the piping contains product or sediment with contaminants exceeding SSSALs for OU2, the Volunteer will decommission and remove the piping in the manner described below.

- To minimize odors, the size of the open excavations will be no larger than 20 by 20 feet.
- All historic subterranean oil refinery systems and other subsurface structures of concern will be removed.
- Liquids within piping will be handled in the following manner:
    - Plugs and caps for the various sized piping will be on hand to control liquid releases once the piping is cut.

- Piping will be cut using non-sparking cut-off saws and/or other suitable pipe cutting equipment.

- Initial cuts will be at the low point of the run and if liquids are encountered, plugs and caps will be utilized to stop liquid flow.

- Buckets, drums and/or containers will be used to collect liquid if sufficient volumes of liquid are present. The plugs and/or caps will be released to enable liquid flow to be collected. Liquids will be transferred to drums appropriate for storing the liquid types encountered.

- Drums will then be labeled and temporarily staged on site pending further packaging and off-site disposal according to their waste classification.

- Once void of liquid, piping will be cut, sized and staged for subsequent off-site disposal/recycling.

This process would continue until all contaminated piping is removed.

Following removal of piping the soil screening procedures set forth in Section 4.1.1 herein shall be implemented.

4.3 Groundwater Monitoring

The principal objectives of the groundwater monitoring activities for OU2 are as follows:

1. Monitor groundwater conditions in OU2 (i.e., the OU2 portion of the Site-wide network of monitoring wells) to evaluate the overall groundwater conditions in OU2 after completion of remediation, and

2. Monitor groundwater conditions in OU2 for the presence of petroleum product layer on groundwater.

The groundwater monitoring activities will consist of Site-wide monitoring of: groundwater conditions and groundwater quality in existing and proposed wells; evaluating groundwater remediation in groundwater performance monitoring well locations, and, if necessary, removing recoverable floating product on groundwater. Figure OU2SMP-20 and Figure OU2SMP-21 show the location of groundwater wells that will be monitored in OU2 and how they relate to the Site-wide network of wells. The final location of these monitoring wells is subject to change due to ongoing and future development activities. Details describing groundwater monitoring well

construction and development for the installation or reinstallation of monitoring wells are in Section 4.3.4.

4.3.1 Site-Wide Groundwater Monitoring

The Volunteer will perform groundwater monitoring in OU2 to evaluate the overall impact of remediation upon groundwater conditions in OU2. As indicated in Section 1.2, groundwater monitoring activities will begin after the NYSDEC approves the final remedial report and/or issues the Release. The following groundwater monitoring will be implemented in the OU2 portion of the Site-wide monitoring well network. As remediation is completed in other OUs on the Site, the Site-wide monitoring well network will be expanded to include sampling in those OUs. Figure OU2SMP-20 shows the existing and proposed groundwater monitoring well locations in OU2 and how they relate to the entire Site-wide monitoring well network.
As part of the OU2 portion of the Site-wide groundwater monitoring, wells in OU2 will initially be sampled every three months for the parameters listed below.

- Depth of the groundwater table (i.e., elevation) and presence of any petroleum phase product layer (if detected, product thickness noted);
- pH, temperature, conductivity, and dissolved oxygen;
- VOC concentrations in the airspace of the wells; and
- TCL VOCs, TCL SVOCs and TAL metals in the groundwater.

After one year of quarterly groundwater monitoring, the Volunteer may petition the NYSDEC for its approval to sample wells on a semiannual or annual basis and/or to limit the analysis to those analytes with concentrations above GA Standards, if conditions warrant.

The following subsections describe the procedures for purging and sampling the wells, and the analytical requirements for groundwater.

Well Purging

The objective is to purge monitoring wells until turbidity stabilizes to a level as low as possible, and turbidity will be given the greatest weight in determining when groundwater sampling may begin. With this objective in mind, the well purging will utilize a low-flow pump to minimize entrainment of particulates within the well or from the formation. Groundwater from each well will be purged until groundwater parameters have stabilized. A turbidity level of fifty

nephelometric turbidity units (NTUs) or less is the well purging goal, but not an absolute value before sampling. Other field parameters including temperature, conductivity, pH and dissolved oxygen (DO) will also be monitored. As practical, all field measurements will be taken from the flow cell and will be recorded during and after purging, and before sampling. Stabilization of field parameters will be determined when two consecutive readings taken one minute apart are within plus or minus ten percent.

Upon opening each monitoring well, the concentration of VOCs in the headspace will be measured using a PID and water level measurements will be recorded using an electronic oil-water interface probe. The depth to product (if present), depth to water and the total depth will be measured from the top of the marked PVC casings. Water level and free product thickness (if any) measurements will first be made and the volume of water in the well determined. The volume of water in the well will be calculated so that the number of well volumes purged and an estimate of the time required to purge the well can be made. Before sampling, the wells will be purged utilizing a low-flow submersible stainless steel pump using dedicated Teflon® or Teflon®-lined polyethylene tubing connected to a flow cell. Purging rates are, on the order of 100 milliliter per minute (ml/min) to 500 ml/min are proposed, so as to minimize suspension of particulate matter in the well.

Purging will be done with the pump placed near the top of the water column to insure that all stagnant water in the well is removed, while not stirring sediment that may have accumulated on the bottom of the well. Equipment will be lowered into the well so as to prevent suspension of bottom sediment and subsequent entrainment onto sampling equipment. Surging will be avoided. Pumps will be carefully cleaned between wells by washing and scrubbing with an Alconox/water mixture, rinsing with tap water and irrigating with deionized water. It is anticipated that no more than three well volumes will be purged in order for turbidity to reach a minimum and the other parameters to stabilize. Ideally, pumping rates will be at a rate so that no draw-down of the groundwater level occurs (i.e., pumping rate is less than recharge rate). During purging, the volume of water purged and the field parameter readings will be actively monitored and tracked. Data will be recorded in the field logbook. For example, the running total volume purged from each well and the readings for the corresponding field parameters will be recorded.

Groundwater Sampling

Once groundwater conditions have stabilized and groundwater levels have recovered, all samples except those slated for VOC analysis will be collected from the flow cell outlet (connected to the

low-flow submersible pump). Samples for VOC analysis will be sampled using a micro stainless steel or Teflon® bailer or other appropriate VOC sampling method.

Sampling will be performed by suspending the bottom of the pump or bailer a minimum of 15 inches above the bottom of the well and a minimum of 0.5 feet from the top of the water level, in order to minimize the amount of suspended sediment in the sample. Pumping rates for withdrawing the samples will be similar to those followed for well purging (100 ml/min to 500 ml/min).

The samples will be collected in sample bottles (pre-preserved, if appropriate), placed in iced coolers and removed from light sources immediately after collection. In addition, all sample bottles will be filled to the top, so that no aeration or cascading of the samples occurs during transport.

Analytical Requirements

Groundwater samples will be analyzed for TCL VOCs by United Stated Environmental Protection Agency (USEPA) method 8260B, TCL SVOCs by USEPA method 8270, and TAL metals by USEPA method 6010B/7000 Series. The analysis of groundwater samples for these parameters will meet the requirements outlined in Attachment 4. Laboratories used will be New York State Department of Health ELAP certified laboratories.

4.3.2 Groundwater Performance Monitoring

The groundwater performance monitoring plan will consist of evaluating groundwater conditions in areas where floating product had been removed from groundwater. Specifically, the Volunteer will monitor product thickness and depth to groundwater in monitoring well TRC-MW15B and all other monitor wells with evidence of free product. If no product is present in the well, the well will be sampled in accordance with the site-wide groundwater monitoring procedures set forth in Section 4.3.1. The gauging of this well will occur on a quarterly basis. After one year of quarterly performance groundwater monitoring, NYSDEC will be petitioned for its approval to conduct the performance monitoring on a semiannual basis if conditions warrant such a reduction in frequency.

The location of this well for the performance monitoring is shown in Figure OU2SMP-21. Groundwater monitoring and, if necessary, remediation will continue until the GA standards and guidance values are achieved, or until otherwise approved by NYSDEC.

4.3.3 Contingency Groundwater Remediation Measures

For OU2, groundwater remediation included removing floating petroleum product from monitoring well MW-15 and offset monitoring well MW-15B. Monitoring well MW-15 and associated free and residual product have been removed. The performance monitoring well has since been destroyed by development activities. Monitoring well, MW-15B will be reinstalled and used for performance monitoring for this area. This section presents an overview of the likely scope of additional groundwater remediation measures for OU2 to be conducted, should they be required, under this SMP.

If performance monitoring indicates the presence of free product in monitoring well MW-15B, the following tasks will be performed:

- Delineate the lateral and vertical extent of recoverable free product on groundwater, identify the nature of the free product by finger print analysis or other appropriate analytical methods, and utilize bail-down tests or other appropriate methods to determine the rate at which free product can be recovered.

- Utilize appropriate passive (absorbent socks, canisters, etc.) or active (skimmer pump, belt skimmer, vacuum truck, etc.) remedial methods to remove the free product on groundwater. The specific method or methods would depend upon the nature and extent of the recoverable product on groundwater.

- Transfer and stage removed product in appropriate drums in OU2 and label drums accordingly.

- Dispose of recovered free product at an appropriate off-site waste disposal facility in accordance with local, state, and federal regulations.

- At locations where free product is removed from the groundwater, monitor post remediation groundwater conditions as part of site-wide groundwater monitoring activities in accordance with Section 4.3.1.

4.3.4 Groundwater Monitoring Well Construction and Development

Groundwater monitoring wells will be constructed of threaded Schedule 40 PVC well casing and 10-slot well screen. Shallow wells will be screened at a minimum of 2 feet above the water table

and 8 feet below the water table, if the depth to water and surface elevation permits. Deep wells will be screened just above bedrock with a ten-foot screen. Solid PVC riser, attached to the well screen and a protective casing with a locking well cap will be installed and a measuring point marked on the north side of each PVC well riser. Clean silica sand, Morie No. 1, or equivalent, will be placed in the annular space around the well to a minimum of one foot above the top of the well screen, two feet being optimal. A two-foot bentonite seal will be placed above the sand pack. Well construction diagrams will be prepared for each well.

Following installation, the groundwater monitoring wells will be developed, using a submersible pump (or equivalent) until the water is reasonably free of turbidity and field readings (pH, conductivity, temperature, and dissolved oxygen) sufficiently stabilize. Fifty nephelometric turbidity units (NTUs) or less will be the turbidity goal, but not an absolute value. The wells will be developed aggressively to remove fines from the formation and sand pack. The wells will be allowed to equilibrate for 7 days prior to sampling. The volume of water removed, the well development time, and field instrument readings will be recorded.

5.0 OPERATIONS AND MAINTENANCE PLAN

This section of the SMP describes the operations and maintenance activities for OU2 after completion of remediation. The Volunteer will implement the operations and maintenance activities outlined here, unless indicated otherwise. The principal objectives of the operations and maintenance activities for OU2 are as follows: operate, maintain and monitor the sub-slab depressurization system (SSDS) for the private development buildings in OU2 and inspect and maintain the final covers.

5.1 Sub-Slab Depressurization System (SSDS) Monitoring

For the private development parcel building in OU2, an active sub-slab depressurization system (SSDS) will be designed and installed to prevent VOCs in soil gas from entering the building. The principal components of the SSDS for the private development parcel building will consist of:

- A 12-inch concrete floor slab, with a 46-mil Preprufe 300 R membrane or approved equivalent beneath the slab,
- Suction pits beneath the floor slab,
- Pipe running horizontally beneath the slab from each suction pit to a common header,
- A vertical riser of at least six inches diameter from the common header discharging to the outdoors,
- An exterior suction fan near the discharge of the riser,
- A valve box for control of the air flow from each pit,
- Monitoring points at selected locations throughout the building floor slab, and
- A warning device to alarm when the blower is deactivated, the flow drops below the set point, or the vacuum goes above the set point.

The requirements for the SSDS will consist of an initial start up testing, routine maintenance and monitoring activities, and non-routine maintenance activities. Each is described in the following subsections.

5.1.1 Initial SSDS Start Up Prior to Building Occupancy

This subsection outlines the procedures for confirming the effectiveness and proper installation of the SSDS prior to building occupancy, and complies with the post mitigation/confirmation testing requirements of NYSDOH guidance document. The goal for operation of the SSDS will be to achieve a uniform minimum sub-slab pressure of –0.002 inches of water. With this goal in mind, the following action will be performed during initial start of the SSDS:

1. Prior to operation of the SSDS, representative sub-slab vapor samples will be collected at each monitoring point within the private development parcel building in OU2. The testing will be performed utilizing SUMMA canisters and analyzing the samples for VOCs via a EPA TO-15 method to include the following VOCs found in the soil and/or groundwater at the Site:

    - Aromatic VOCs (Petroleum-related): benzene, toluene, m,p-Xylene, o-Xylene, 1,3,5-Trimethylbenzene, 1,2,4-Trimethylbenzene, isoproply benzene, n-Propylbenzene, 4-ethyltoluene, p-Isopropyltoluene, n-Butylbenzene, sec-Butylbenzene, tert-Butylbenzene, and naphthalene, and

    - Other VOCs: vinyl chloride, 1,1-Dichloroethane, cis-1,2-Dichloroethene, 1,1,1-Trichloroethane, 1,2-Dichloroethane, Trichloroethene, cis-1,3-Dichloropropene, Tetrachloroethene, Acetone, trans-1,2-Dichloroethene, 2-Butanone (MEK), n-nonane, and 1,2,3-trimethylbenzene.

2. Shortly after start up of the SSDS, the sub-slab pressure at each monitoring points will be measured utilizing an appropriate hand-held manometer. If necessary, the sub-slab pressure will be adjusted to –0.002 inches of water at each monitoring point. The valve box controlling the vacuum to each suction pit will be utilized to balance the sub-slab pressure.

3. After achieving as uniform as possible sub-slab pressure of –0.002 inches of water, smoke tests will be performed to identify any leaks through cracks in the concrete floor, floor joints, and suction pits. Identified leaks will be resealed until smoke tests indicate that an appropriate seal of the floor slab has been achieved.

4. Appliances relying upon natural draft for exhaust of carbon monoxide and other combustion gases will be tested for back draft caused by the operation of the SSDS. Back draft poses a potential health concern because of carbon monoxide. Testing for back draft will entail utilizing a carbon monoxide meter to detect the presence of this compound in the air near exhausts for appliances. If necessary, any back draft caused by the SSDS will be corrected by sealing any leaks in the floor slab, as indicated above.

5. The operation of the warning device for the exhaust fan will be confirmed.

5.1.2 Routine Maintenance and Monitoring Activities for SSDS

Routine maintenance and inspection will be conducted to ensure that the SSDS is operating properly until NYSDEC and NYSDOH has determined no need for such a system (see Section 5.1.4). On a monthly basis, qualified building personnel will confirm that the suction fan and warning device are properly working (see Section 5.1.3 if routine montoring indicates that one or both of these warning devices is not working properly).

On an annual basis, the following will performed:

- Conduct a visual inspection of the complete system.
- Inspect fan for bearing failures or signs of other abnormal operations, and repair or replace if required.
- Inspect the discharge location of the vent pipe to ensure that no air intake or operable window has been located nearby.
- Determine, through discussions with building management, if any Heating, Ventilation, and Air Conditioning (HVAC) system modifications occurred that might effect the performance of the SSDS.
- Inspect the floor slab and foundation walls for evidence of cracks and/or holes, and repair of cracks and/or holes, if required.
- Test the integrity of the riser pipe(s), via smoke tests, and repair the riser pipe, if required.
- Test the levels of VOCs in the sub-slab vapor at three monitoring points to determine the need to continue active operation of the SSDS. This decision will be made by NYSDEC. Testing will be performed utilizing SUMMA cannisters for the VOCs found in the soil and groundwater (see Section 5.1.1) via modified TO-14 method.

5.1.3 Non-routine Maintenance Activities for the SSDS

Non-routine maintenance typically occurs when the warning device indicates the system is not working properly, the system becomes damaged, or if the building's HVAC has undergone modifications that may reduce the effectiveness of the system. The scope of non-routine maintenance will vary depending upon the situation. In general, the following actions will be taken as part of non-routine maintenance:

- Examine the building for structural or HVAC system changes, or other changes that may affect the performance of the depressurization system (e.g., new combustion appliances or deterioration of the concrete slab).

- Examine and address the operation of the warning device and the suction fan, and measure the sub-slab pressure at monitoring points, via a manometer.

- Repair or adjust the SSDS as appropriate. If necessary, the SSDS should be redesigned and restarted (see subsection 5.1.1 for system startup).

5.1.4 SSDS Deactivation

If supported by annual sub-slab vapor sampling and quarterly groundwater sampling results, NYSDEC and NYSDOH will be requested to consider deactivation of the SSDS and associated monitoring. Deactivation of the SSDS will occur only after NYSDEC's and NYSDOH's approval.

5.1.5 Methane Monitoring

Previous methane monitoring in OU2 found no significant amounts of methane associated with the Residual Soil (Remedial Investigation Report, July 2005). Methane monitoring, therefore, will not need to be conducted in areas outside of buildings, since low levels of methane would easily dissipate to the atmosphere. Rather, the methane monitoring will be focused to the private development parcel buildings in OU2, where methane could accumulate; however, the operation of an active SSDS will prevent accumulations of methane within the private development parcel buildings.

On an annual basis, beginning with the system startup, methane levels in the sub-slab vapor will be measured at three monitoring points that provide the greatest geographic coverage within the private development parcel building. A portable Drager MiniWarn or equivalent instrument will be utilized to measure methane levels. If levels of methane in the sub-slab vapor are found to be present at levels meeting or exceeding 25 percent of the lower explosive limit (LEL) for methane (1.2 percent methane by volume), monitoring of methane within the indoor air of the building also will be performed.

5.2 Inspection and Maintenance of the Cover

At the completion of remedial activities a two foot barrier layer was placed across OU2. The activities required to complete the final site development covers and disturbances to the barrier layer are to be conducted in accordance with this SMP. The components of the barrier layer and final site development covers are described in Section 3.1. A qualified environmental professional will conduct a yearly inspection of the covers. This inspection will include, at a minimum, visual inspection of the covers to determine if they are intact and free from damage, and the results will be reported in the Annual Report described in Section 6.1. Any damage to the covers will be restored by the Volunteer.

6.0 SITE MANAGEMENT REPORTING PLAN

A Site Management Annual Report (Annual Report) will be submitted to the NYSDEC and will include the certification of engineering and institutional controls and the product of required site inspections. The Annual Report must identify all institutional and engineering controls required by this SMP, will include an evaluation of the Engineering and Institutional Control Plan, and assessment and certification of the continued effectiveness of all institutional and/or engineering controls required by this SMP for OU2. The Annual Report will be submitted to the NYSDEC on or about March 15th of each year. See Form 2, NYSDEC Institutional and Engineering Controls Certification Form.

The following schedule will be adhered to unless modifications are otherwise agreed to by the NYSDEC:

- ***Groundwater Monitoring*** – Well installation will occur within 30 days of the approval of the final remedial report and/or issuing of the Release, whichever is earlier. Groundwater monitoring will occur on a quarterly basis as set fourth in Section 4.3 until a determination has been made otherwise. Quarterly monitoring results will be issued to the NYSDEC in the annual report. The quarterly product thickness on groundwater monitoring and each groundwater sampling event will be documented in the quarterly report. If the quarterly sampling and monitoring frequency decreases (with NYSDEC approval) so will the reporting requirements. Each report will include the groundwater sampling results and appropriate graphs and figures showing contaminant trends. With each report, an evaluation of the presence of product on groundwater will be presented. The report will include recommendations for groundwater management.
- ***Monitoring of the Sub-Slab Depressurization System*** – The SSDS system will be inspected and monitored on an annual basis as specified in Section 5.1, and the results will be included in the Annual Report.
- ***Monitor the Integrity of the Covers*** - The covers will be inspected on an annual basis as specified in Section 5.2, and the results will be included in the Annual Report.

6.1 Certification of Engineering and Institutional Controls

The annual certification is to be a written statement prepared and signed by a professional engineer licensed to practice in New York State (Form 2). The engineer must inspect OU2 (see requirements in section 6.2) and must certify that the institutional controls and/or engineering

controls employed at OU2 are: unchanged from the previous certification; in-place and effective; and performing as designed. Certification must also be made that: nothing has occurred that would impair the ability of the controls to protect the public health and environment; and nothing has occurred that would constitute a violation or failure to comply with any operation and maintenance plan for such controls; and usage of OU2 is compliant with the deed restriction.

6.2 Site Inspection

A qualified environmental professional will conduct inspections of OU2 to assure the remedy remains in place and effective. Inspection of OU2 will be at least annually. Annual inspection of the SSDS will be documented (Form 1) in the Annual Report. Inspection will also occur whenever a severe condition, such as major erosion or flooding, which could effect engineering controls, occurs.

Inspections will be documented on an inspection form developed for OU2, which should compile sufficient information to assess:

1. Compliance with all institutional controls, including usage of OU2;
2. The condition of OU2 at the time of the inspection, including an evaluation of the condition and continued effectiveness of engineering controls;
3. The site management activities being conducted including, where appropriate, confirmation sampling and a health and safety inspection; and
4. Compliance with permits and schedules included in the Operation and Maintenance Plan.

Evaluation of Records and Reporting

The results of the inspection and monitoring data will be evaluated by the professional engineer to provide certification (see Section 6.1) that the:

1. Engineering controls, including necessary mitigation systems, and associated institutional controls are in place, are performing properly and remain effective;
2. Monitoring plan is being implemented;
3. Operation and maintenance activities are being conducted properly; and, based on the above items;
4. Remedy continues to be protective of public health and the environment and compliant with the decision document for OU2.

6.3 Annual Report

An Annual Report will be prepared for the certification period in accordance with the results of the monitoring plan, inspections, and the project evaluation discussed in above. This report will be submitted by March 15th of each year and include:

1. The certification of institutional and engineering controls required for OU2;
2. An evaluation of OU2, which addresses the following:
   - The compliance of the remedy with the requirements of the SMP for OU2;
   - The performance and effectiveness of the remedy including source removal for groundwater protection, will be evaluated and will include recommendations for additional remedial measures to address groundwater contamination;
   - The operation and the effectiveness of all mitigation measures, etc., including identification of any needed repairs or modifications;
   - Any new conclusions or observations regarding OU2 contamination based on the inspections or data generated by the monitoring plan for the media being monitored; and
   - Recommendations regarding any necessary changes to the remedy and/or monitoring plan.
3. Comments, conclusions and recommendations based on an engineering evaluation of the engineering controls or a mitigation system, prepared by a qualified environmental professional;
4. Comments, conclusions and recommendations based on an evaluation of the institutional controls prepared by a qualified environmental professional;
5. Summary and analysis of all quarterly monitoring data.
6. Until such time as the NYSDEC approves discontinuance of quarterly or biannual reports of performance monitoring this report will include and summarize the following:
   - A description of routine maintenance and inspection forms;
   - A description of breakdowns and/or repairs along with an explanation for any significant downtime;
   - A summary of the performance or effectiveness monitoring; and
   - Comments, conclusions and recommendations based on an evaluation and resolution of performance problems.
   - A figure showing sampling and well locations, and significant analytical values at sampling locations, if effectiveness monitoring is performed;
   - Where cumulative data summary tables and/or graphical representations of contaminants of concern are to be included in the report:

- Provide a listing of all compounds analyzed along with the applicable standards; however, only report detected compounds with any exceedance highlighted.
- The results of all analyses and laboratory data deliverables will be submitted electronically, in the NYSDEC identified format, for all points sampled.

7.0 REFERENCES

1. *Technical and Administrative Guidance Memorandum HWR-94-4046, January 24, 1994, and December 20, 2000 revisions (TAGM) Residential Soil Cleanup Objectives (RSCO).*

2. *Technical and Operational Guidance Series* (1.1.1) (TOGS), June 1998.

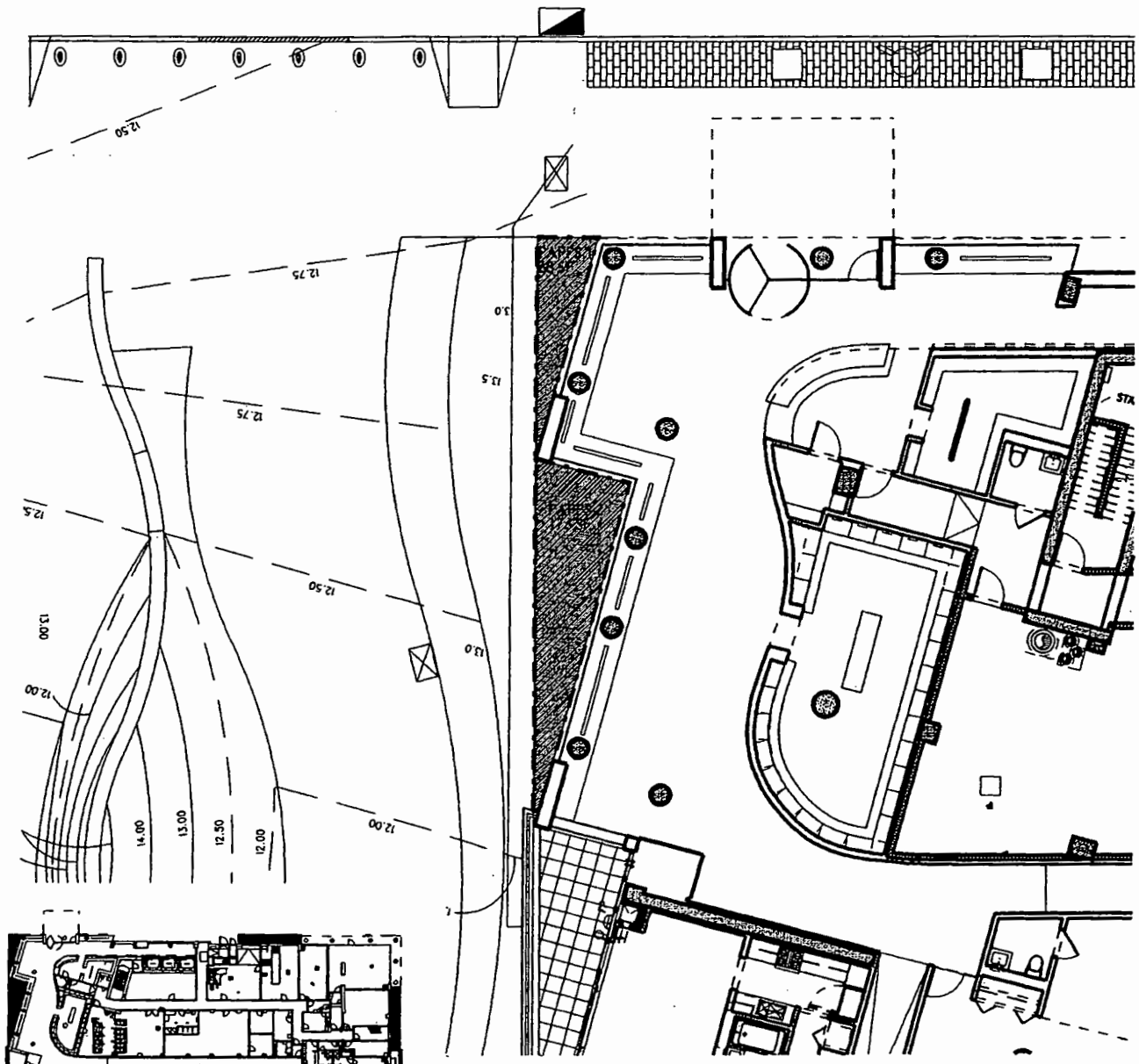
3. *Invasive Work Implementation Plan for Odorous Soil*, TRC Engineers, December 14, 2004.

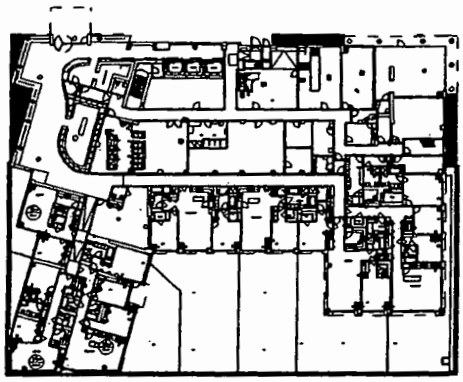
4. *Expanded Odor and Vapor Control Plan and Expanded Community Air Monitoring Plan*, TRC Engineers, November 3, 2004.

5. *Operable Units One and Two Remedial Investigation Report*, Volumes I and II, TRC Engineers, July 2005.

6. *Interim Remediation Measures Work Plan (IRMWP), Volumes I, II, and II,* TRC Engineers, Inc., June 2004.

7. *Operable Unit Two Remedial Action Work Plan (RAWP),* TRC Engineers, Inc., September 2005.
8. *Operable Unit Two Final Remedial Action Report (RAR), Volumes I and II,* TRC Engineers, Inc., September 2006.

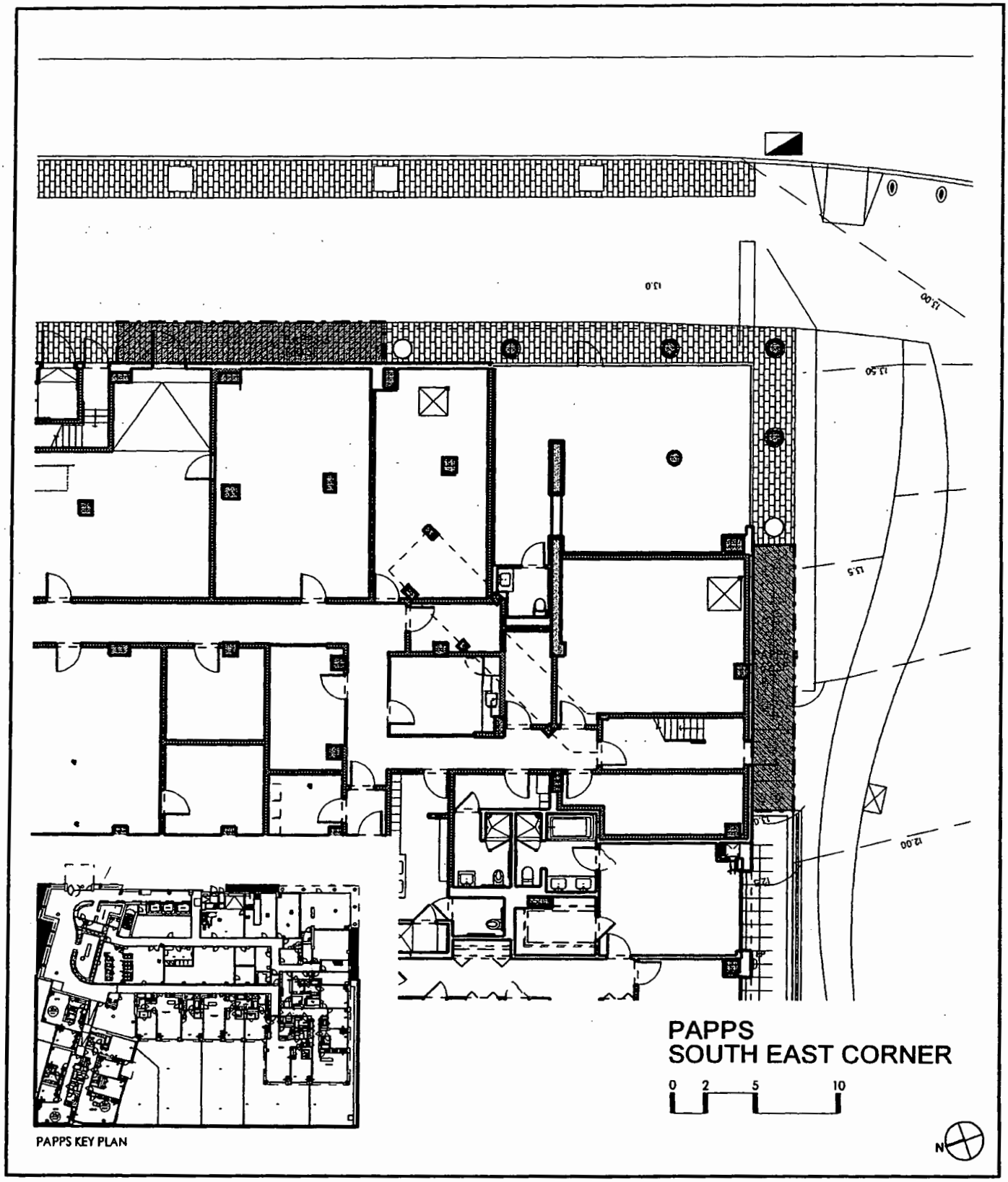




PAPPS KEY PLAN

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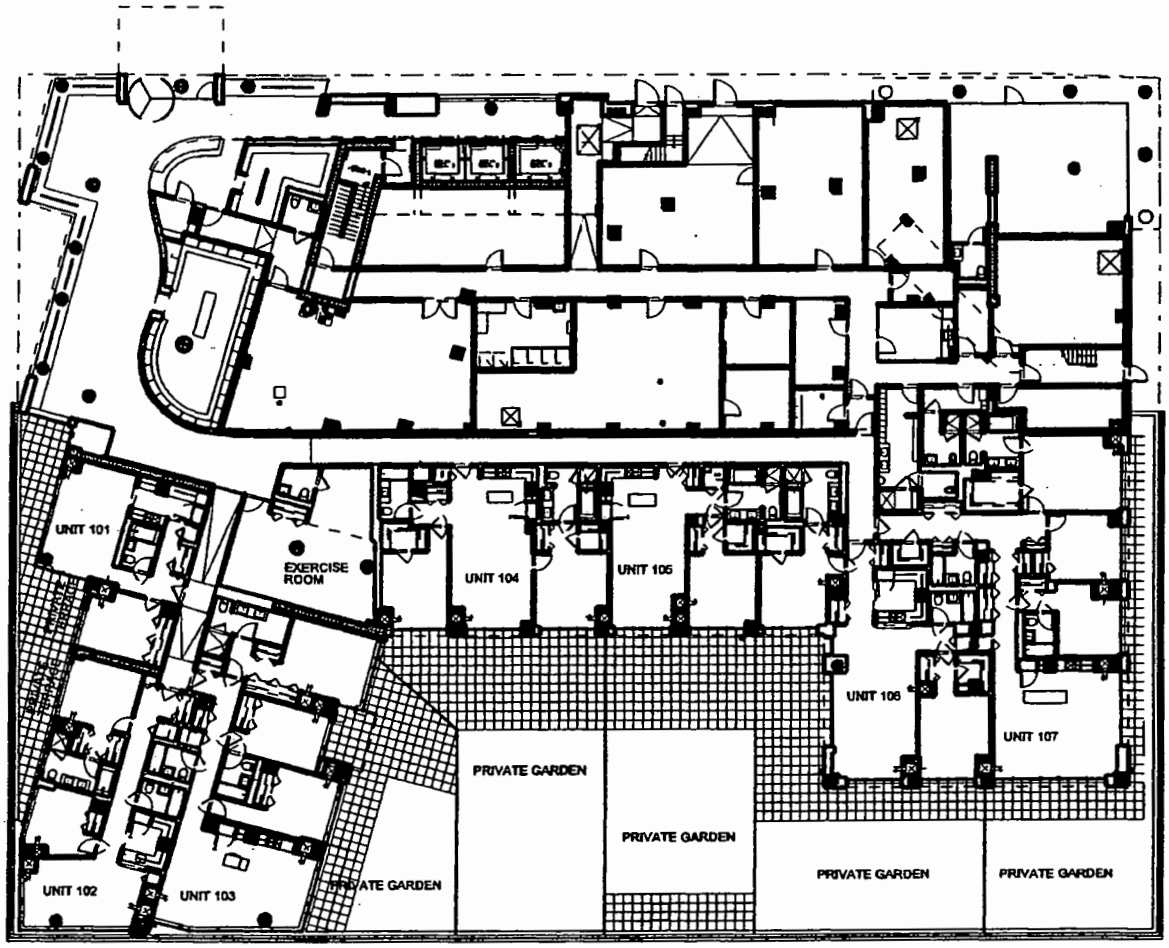


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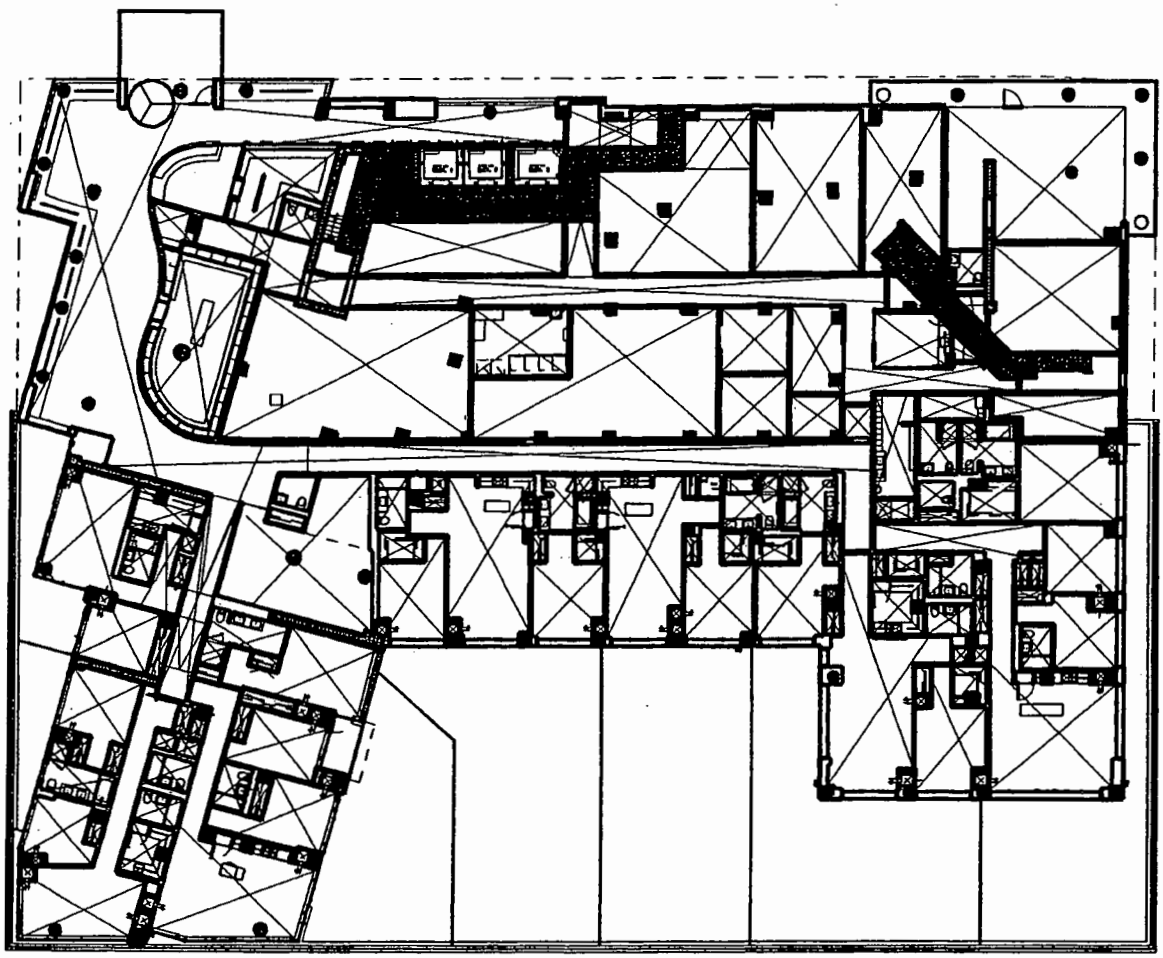
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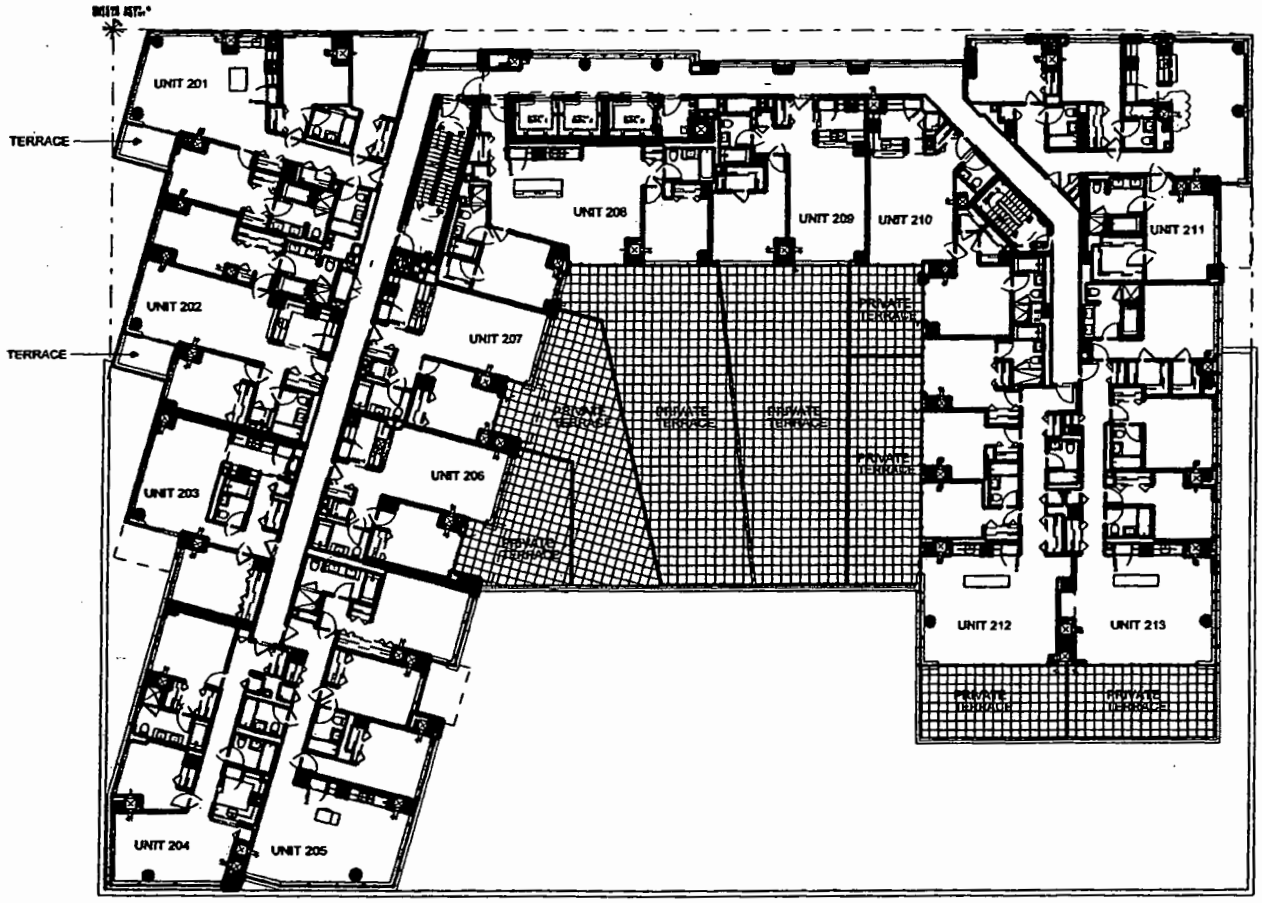
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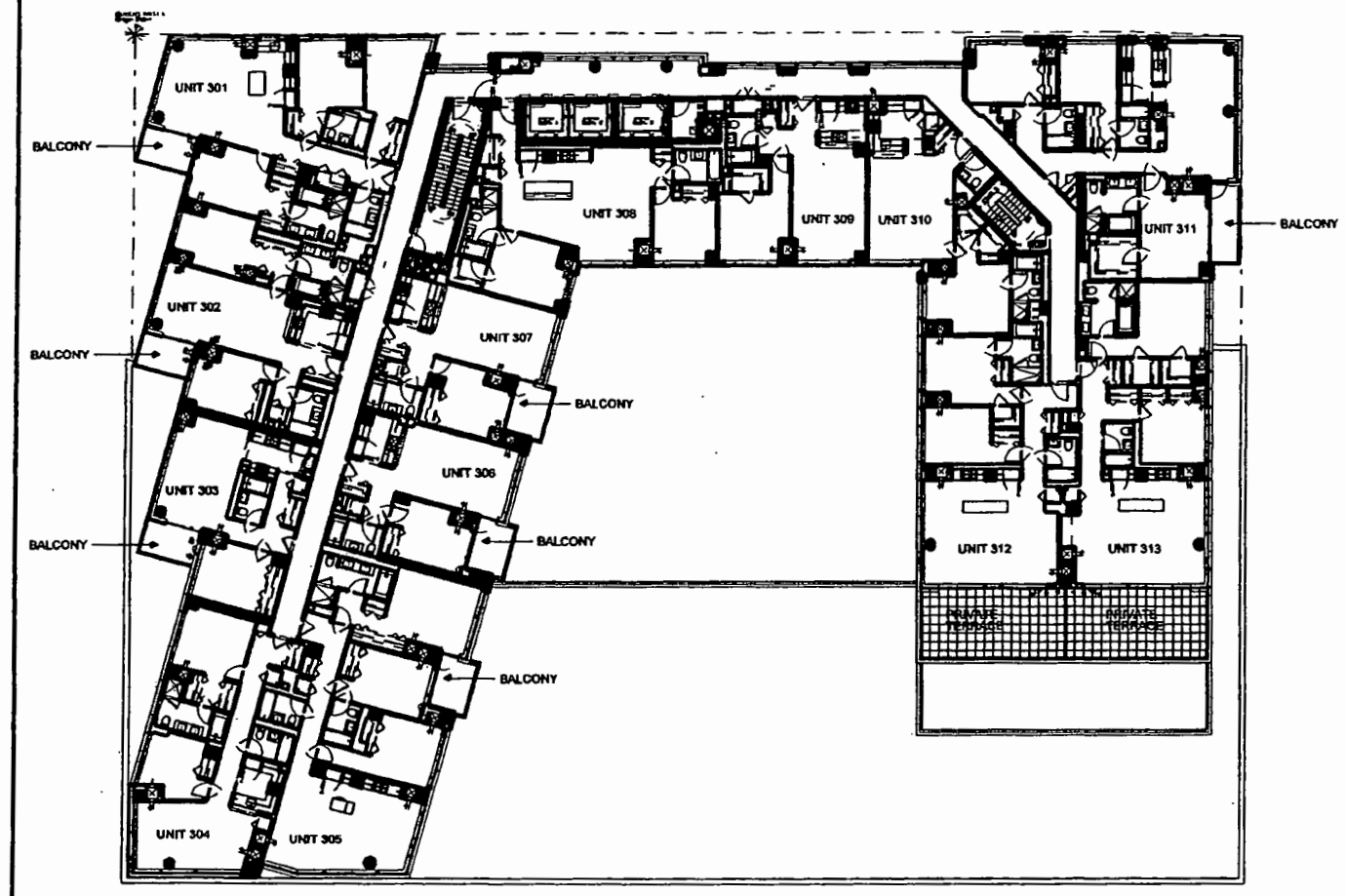
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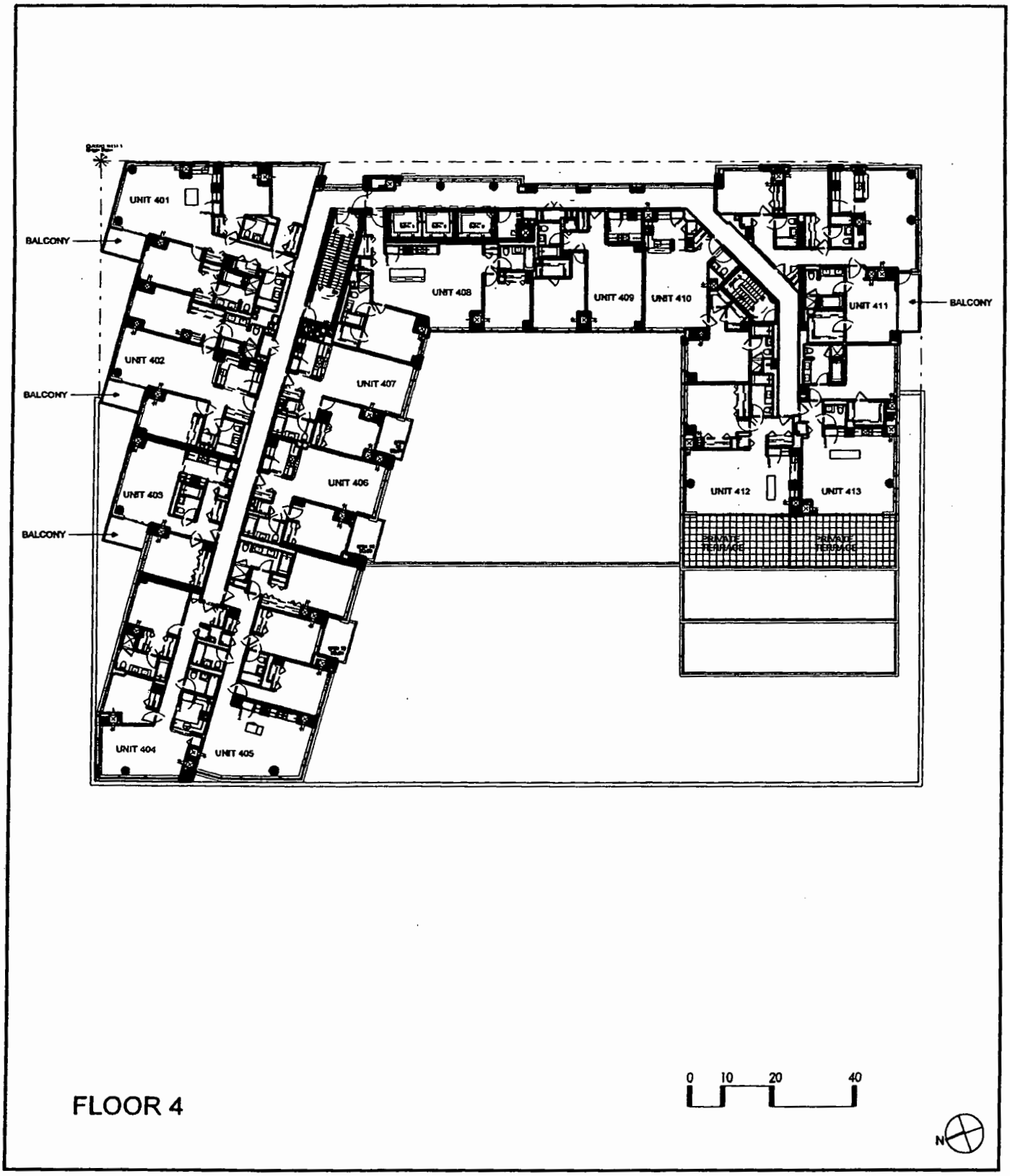
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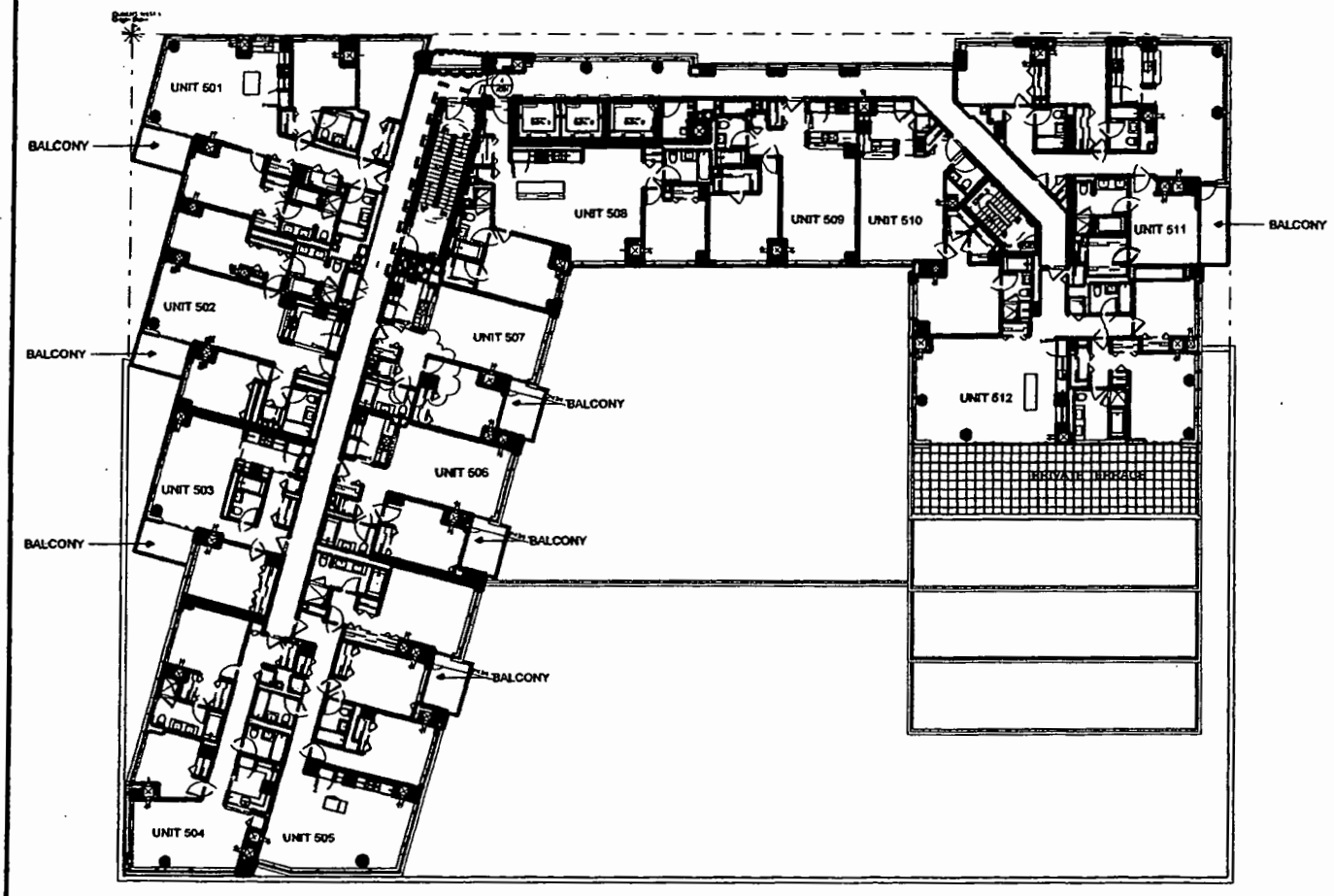
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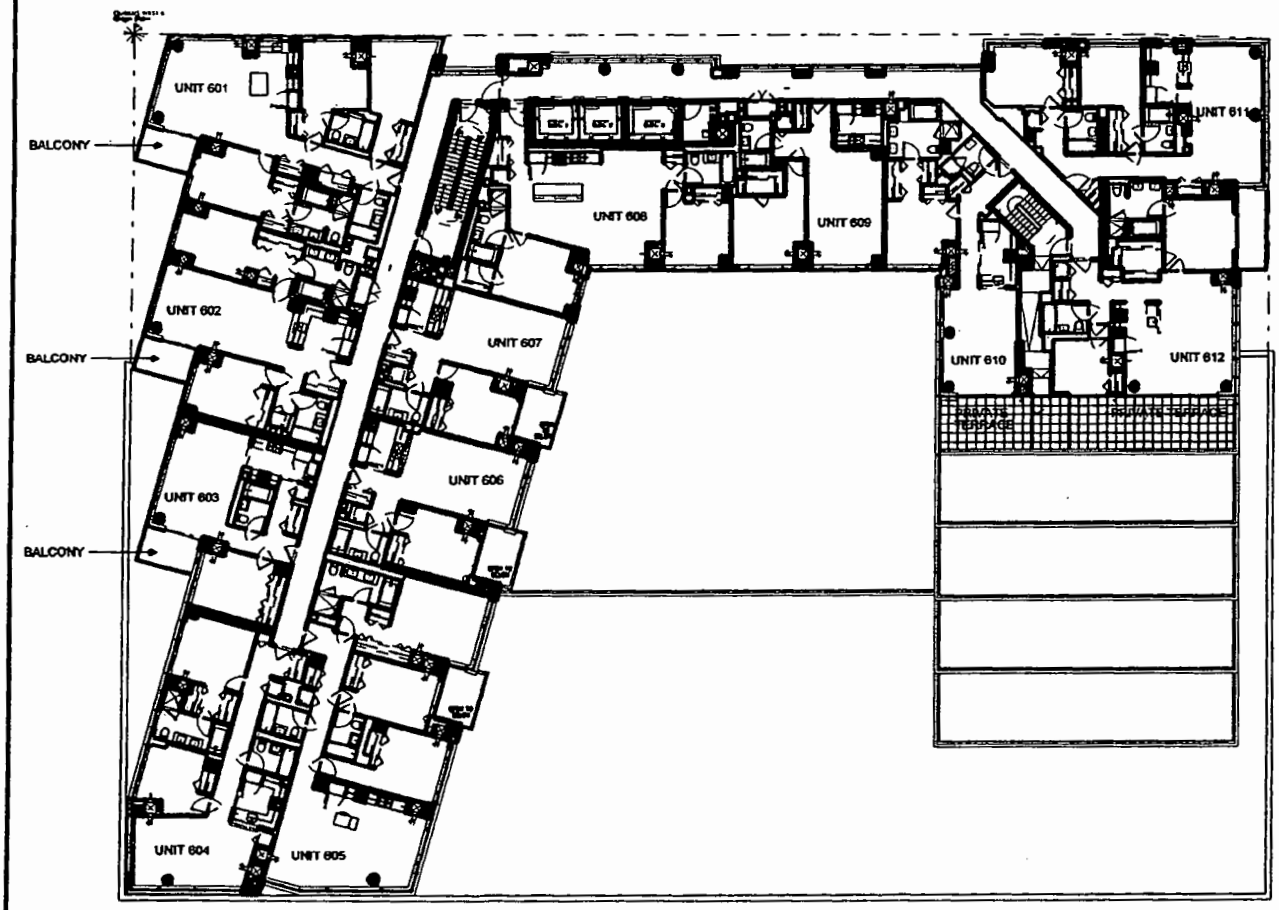
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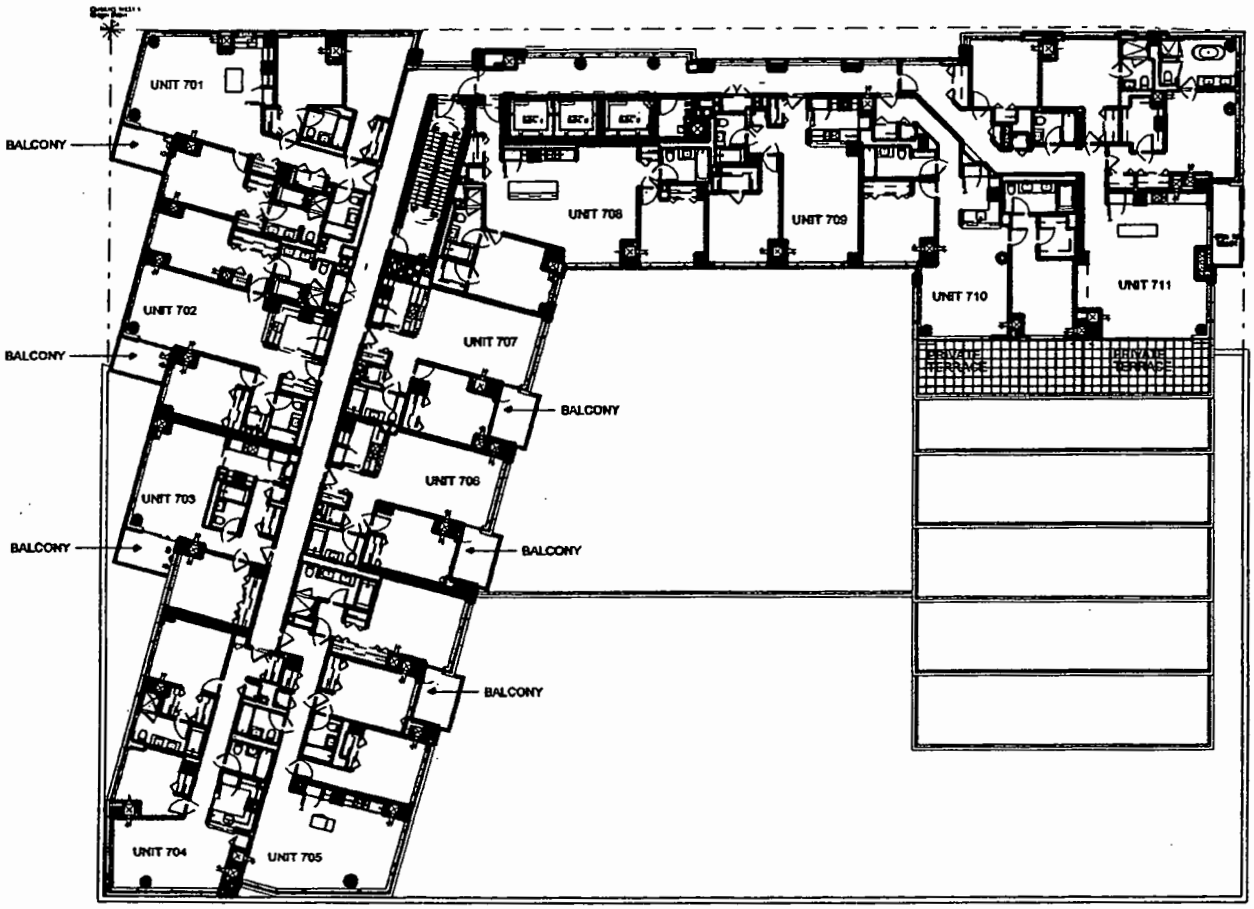
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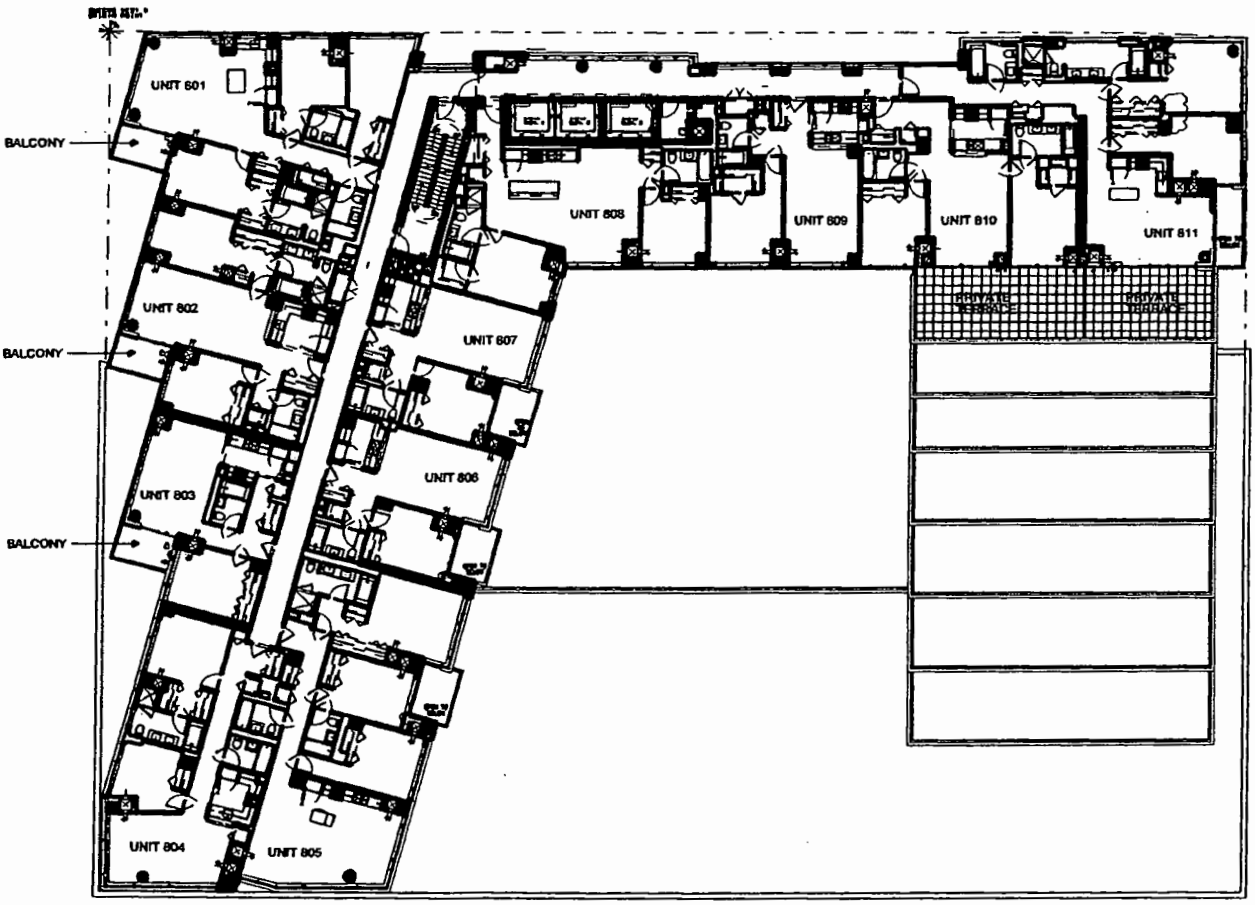
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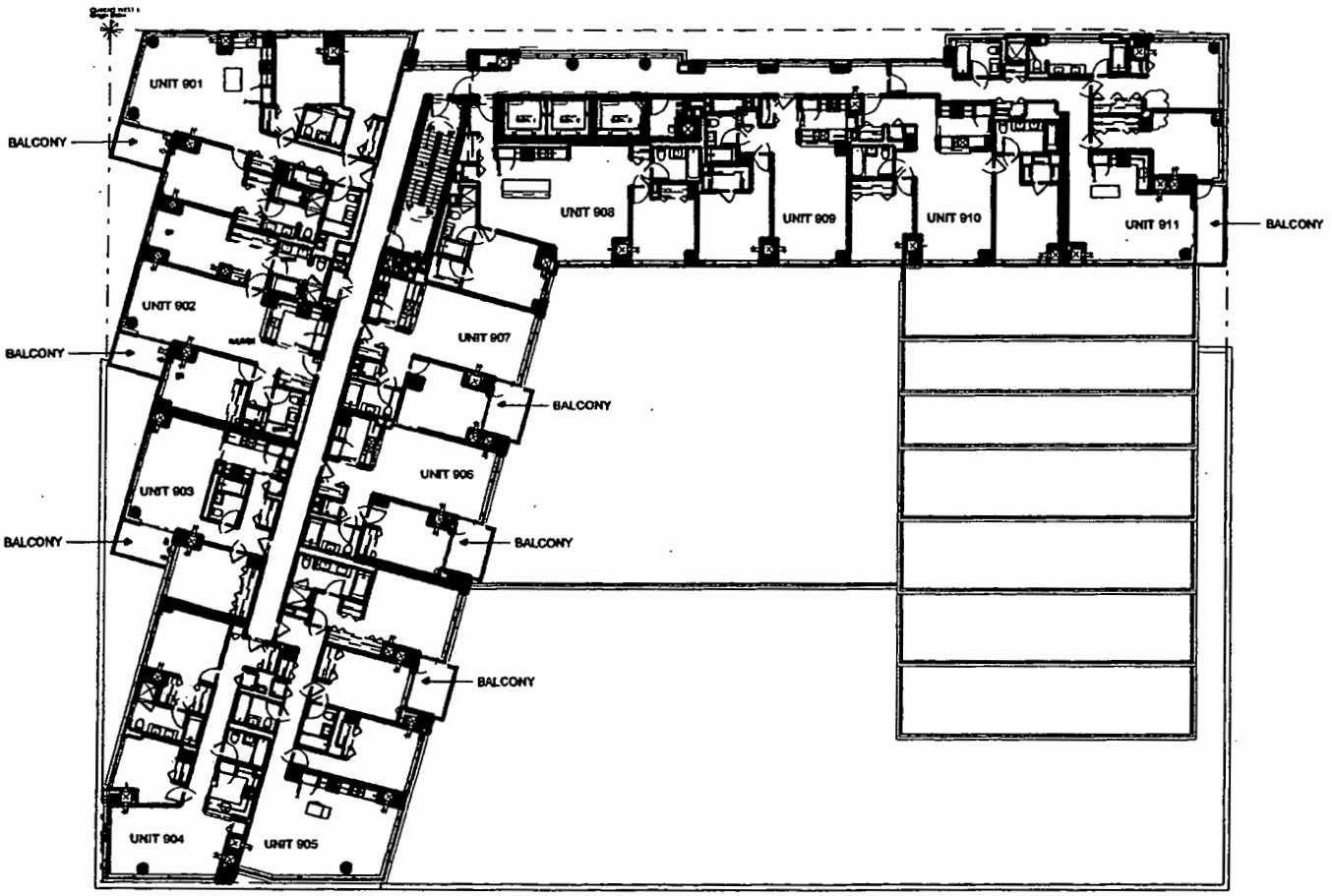
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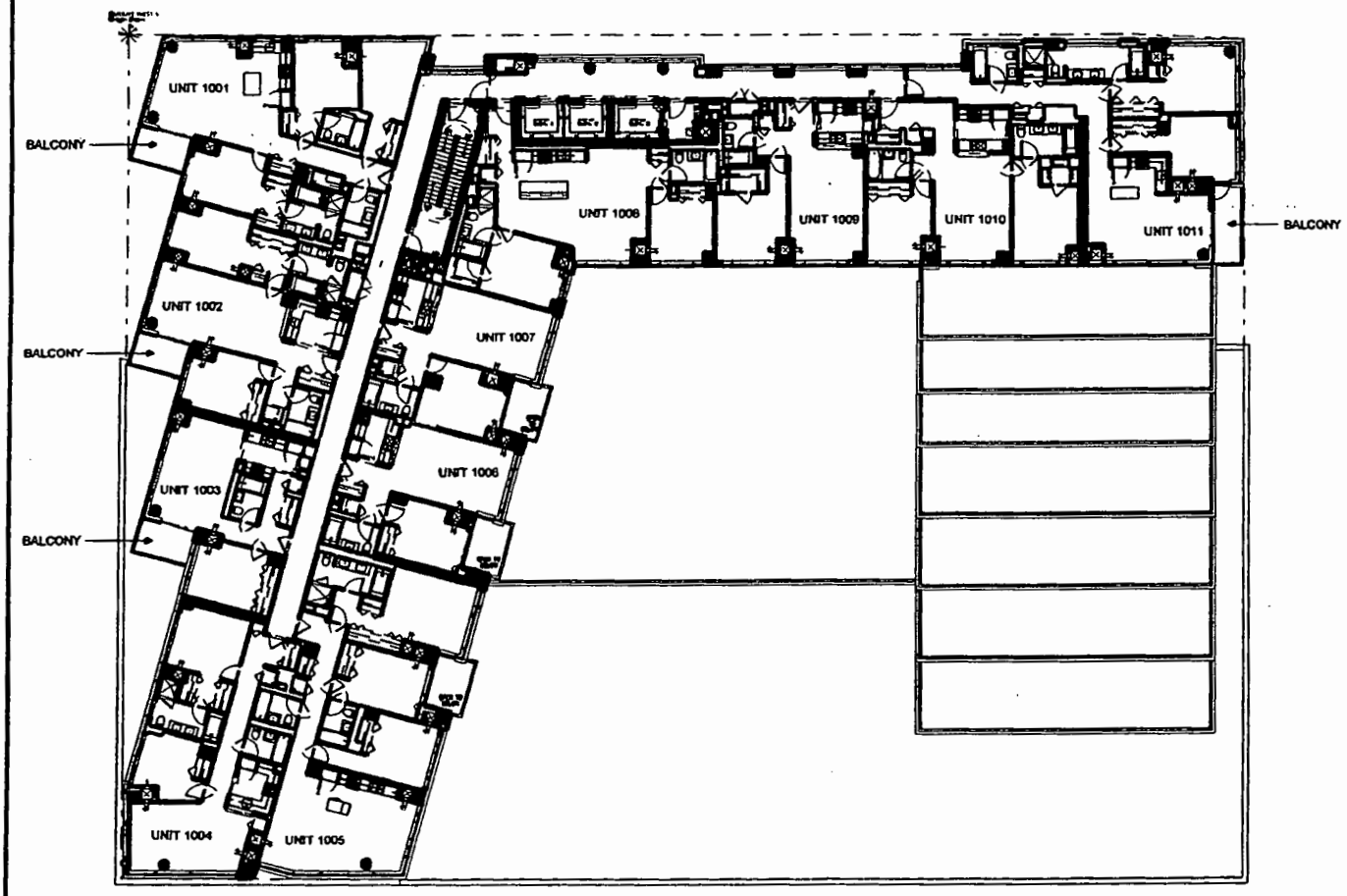
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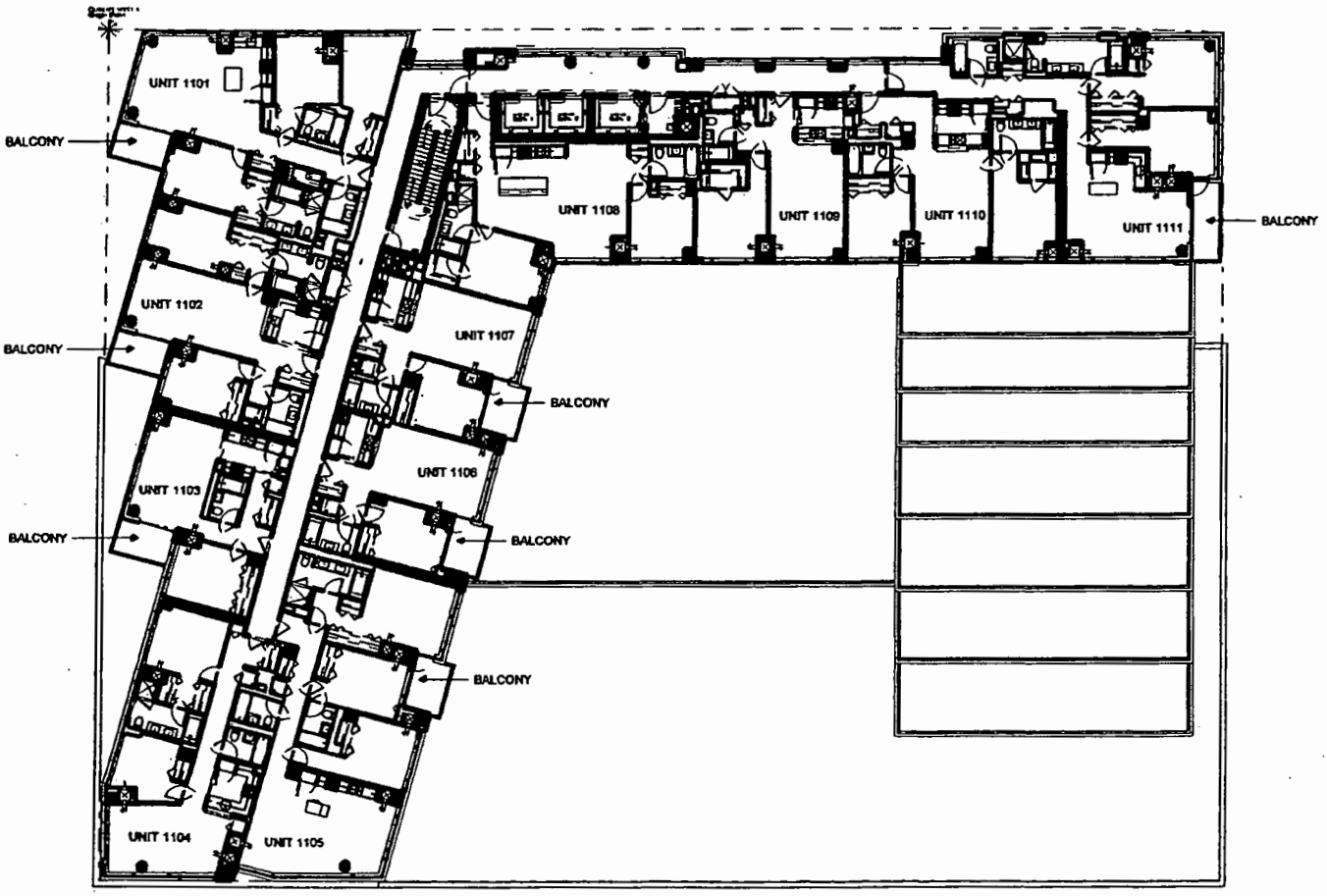
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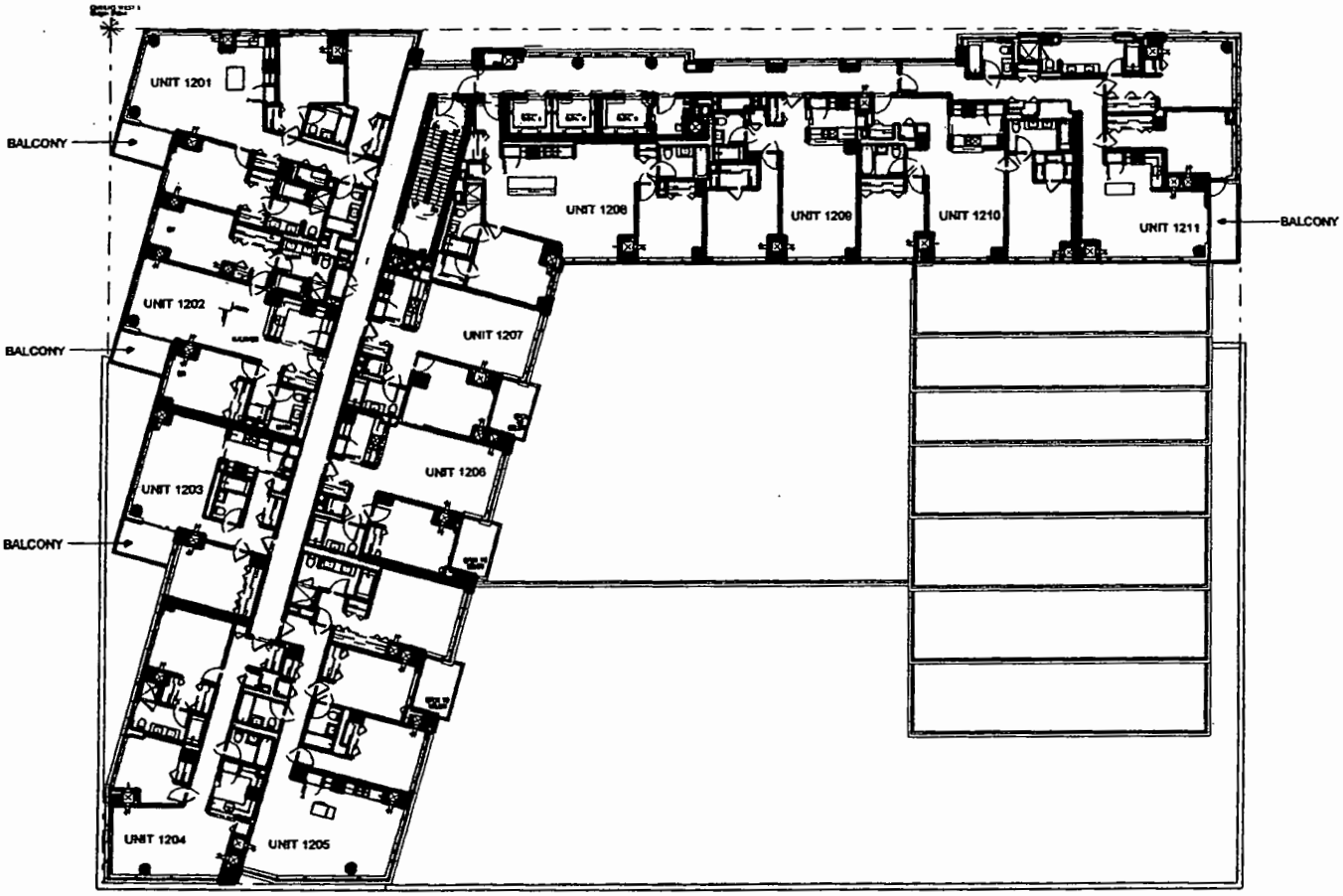
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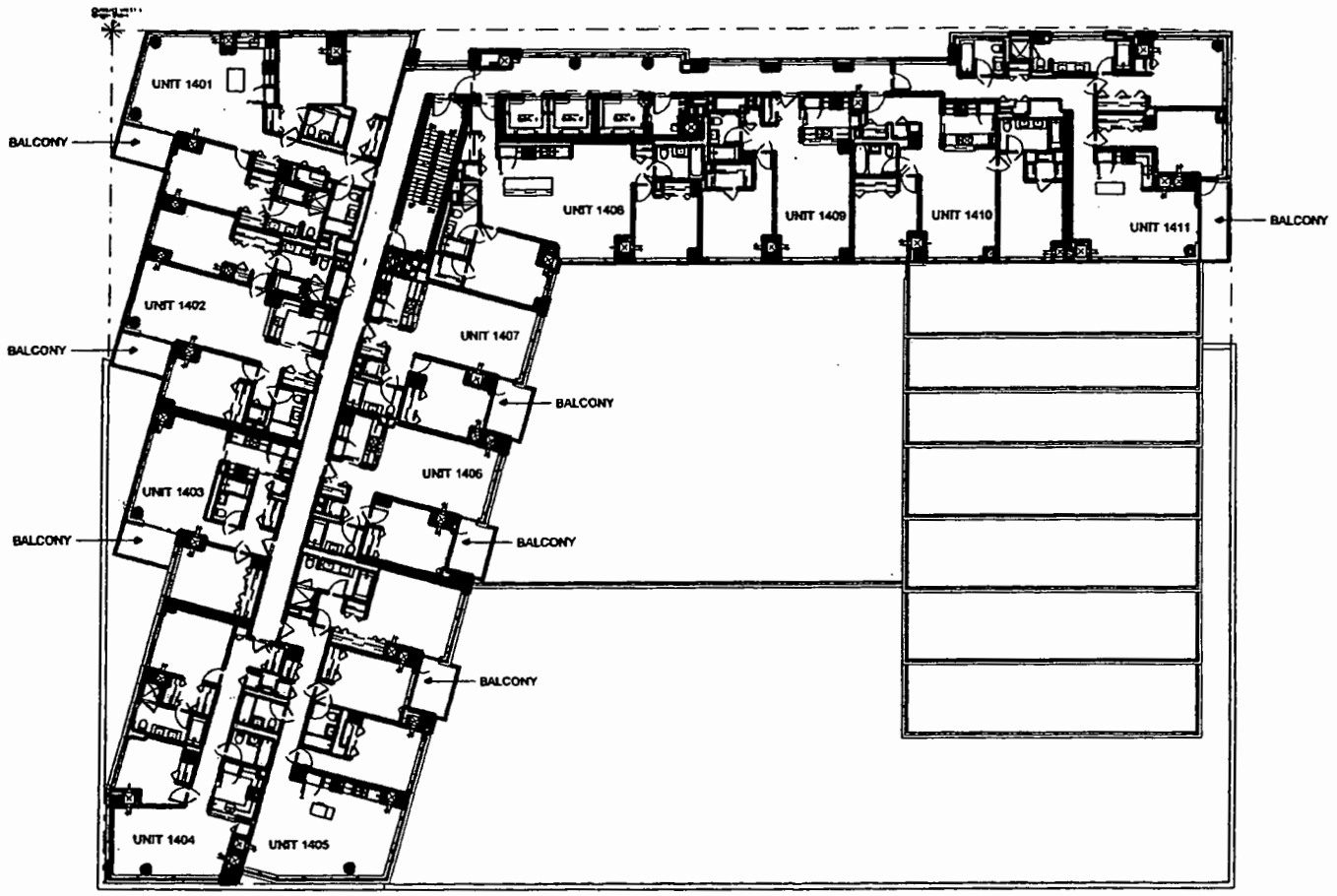
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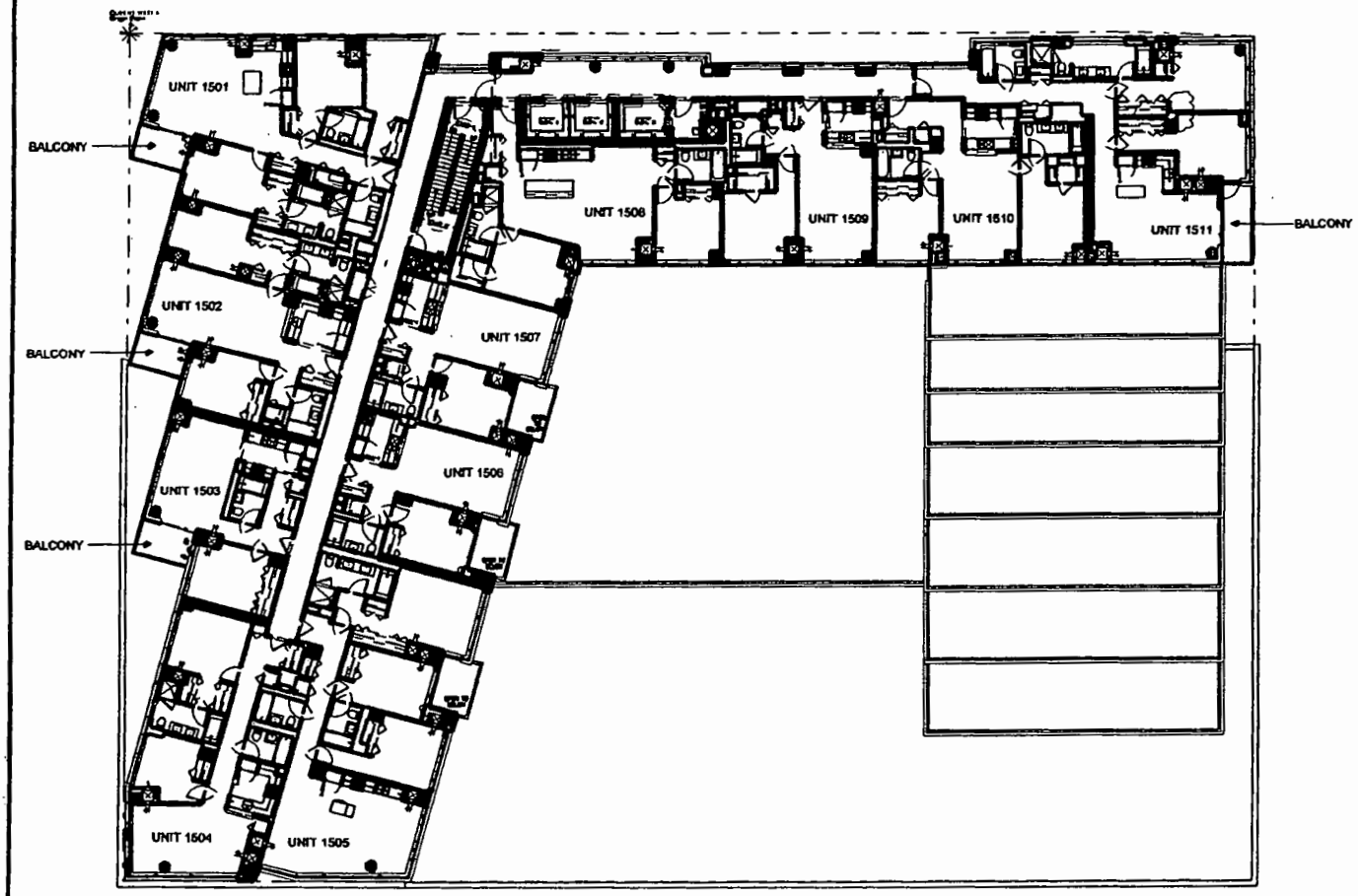


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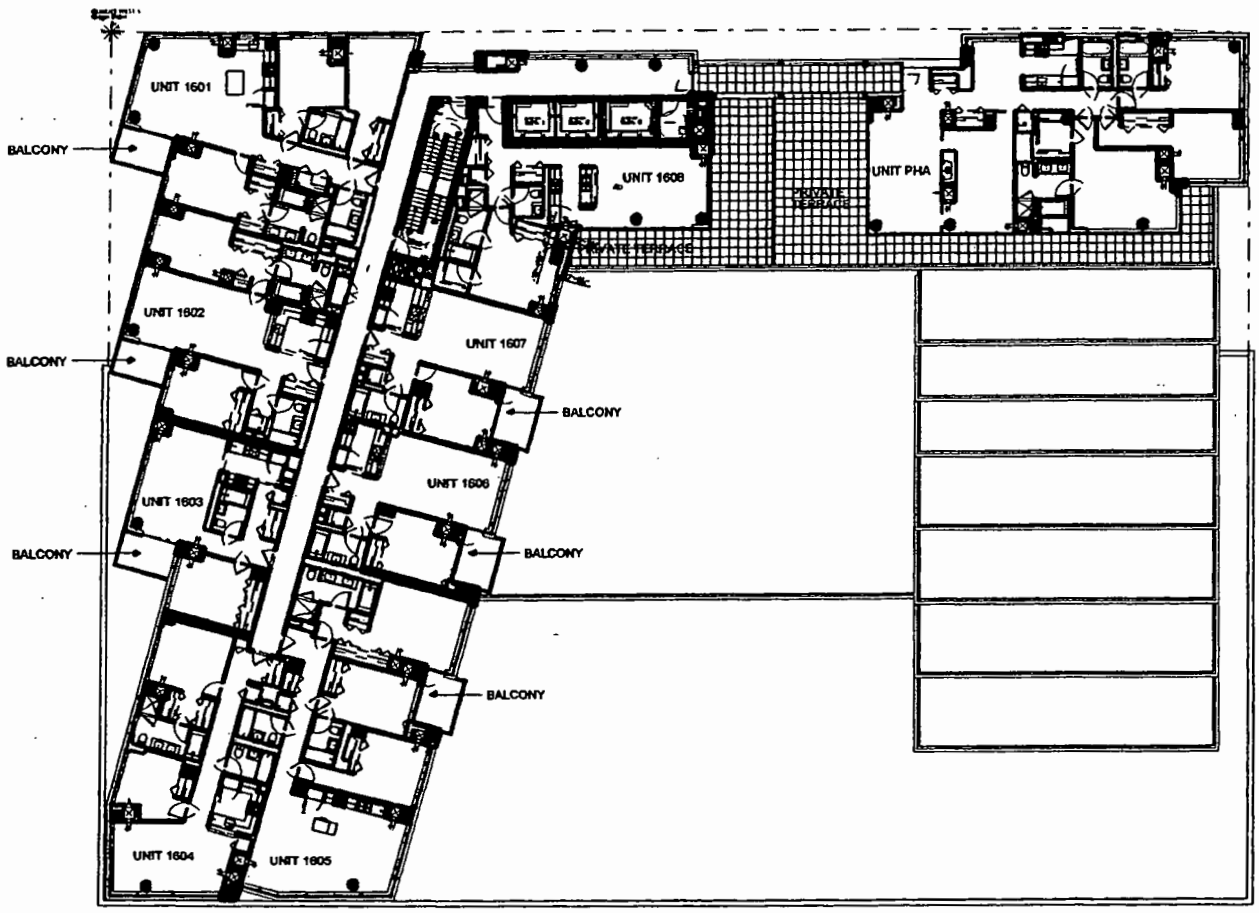
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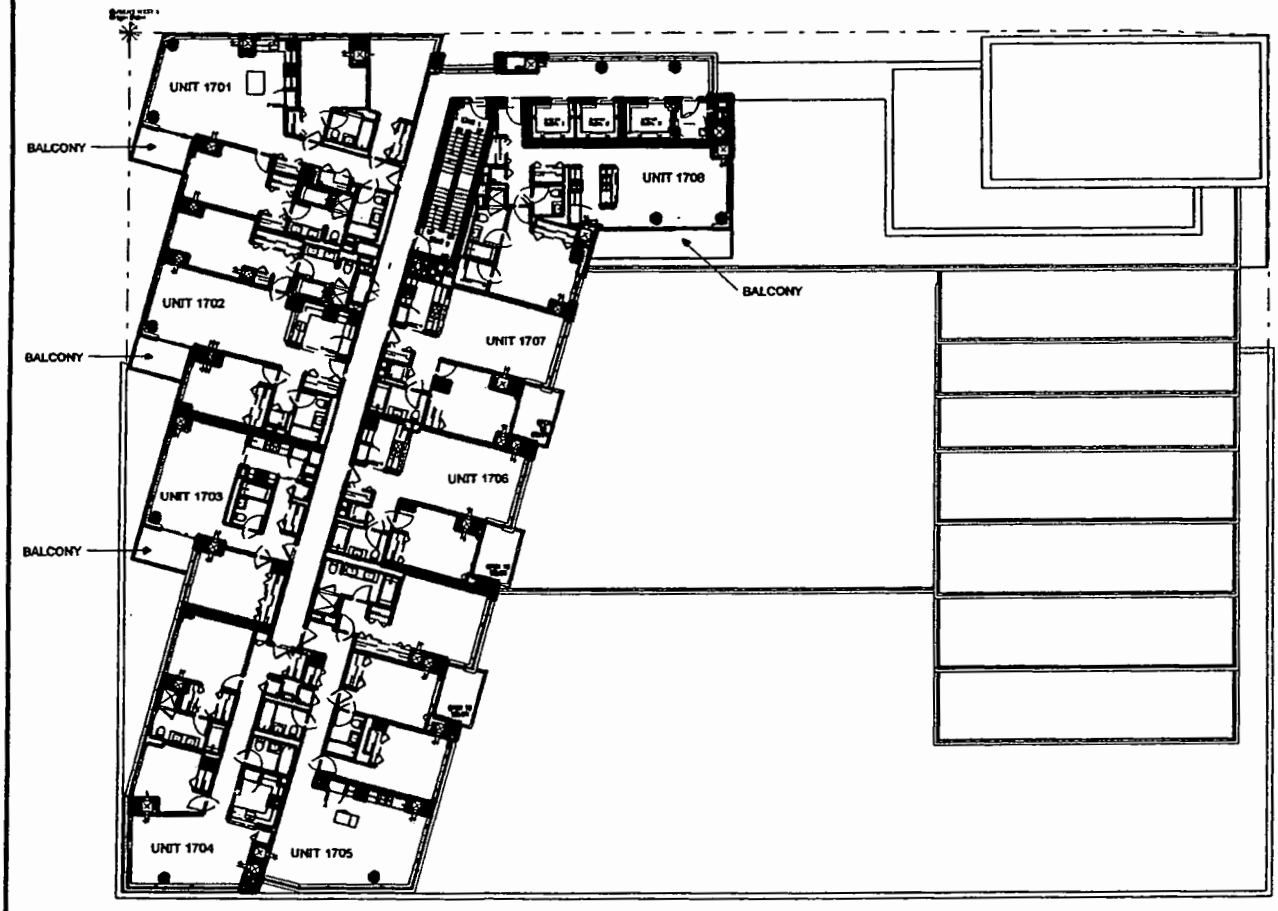
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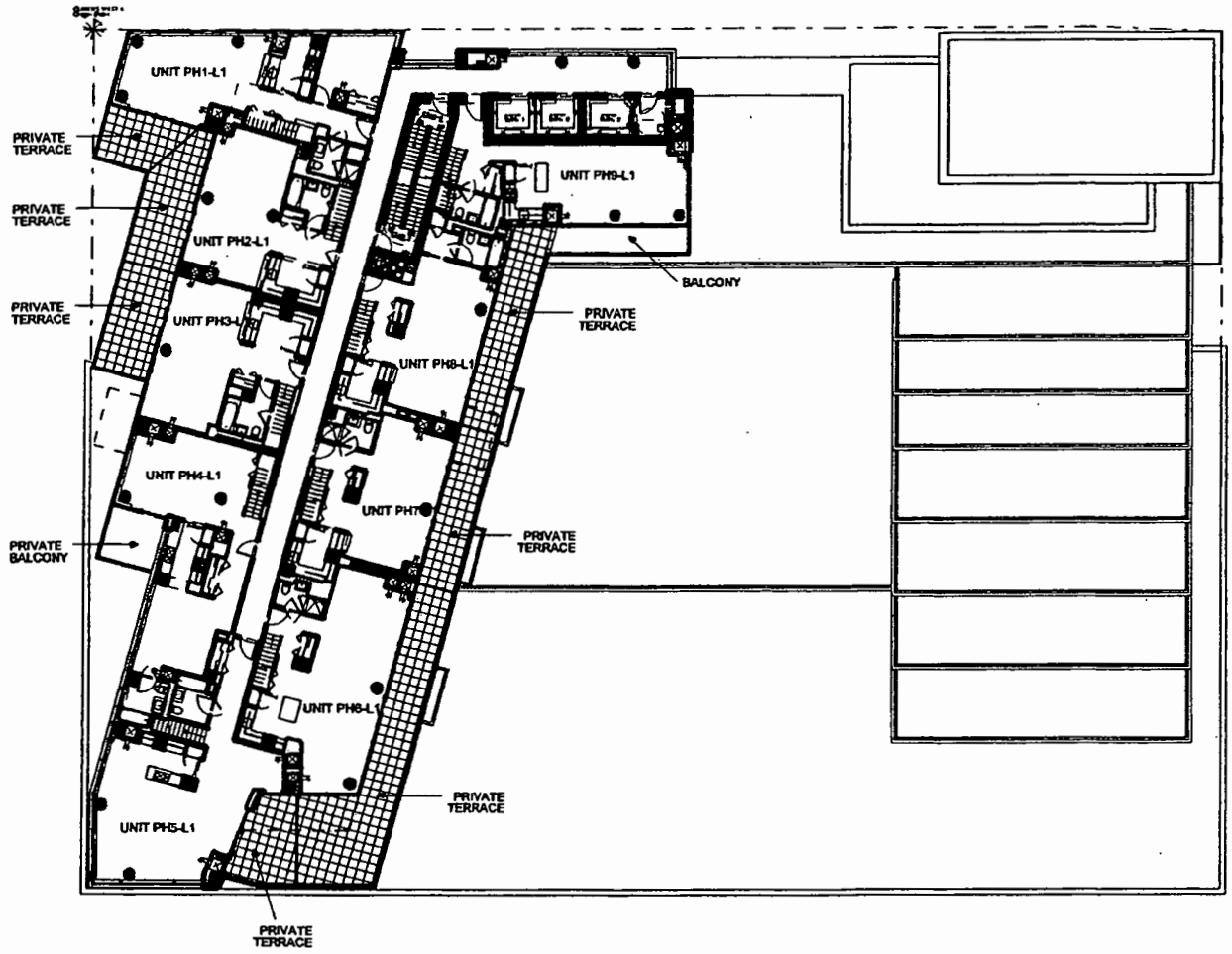
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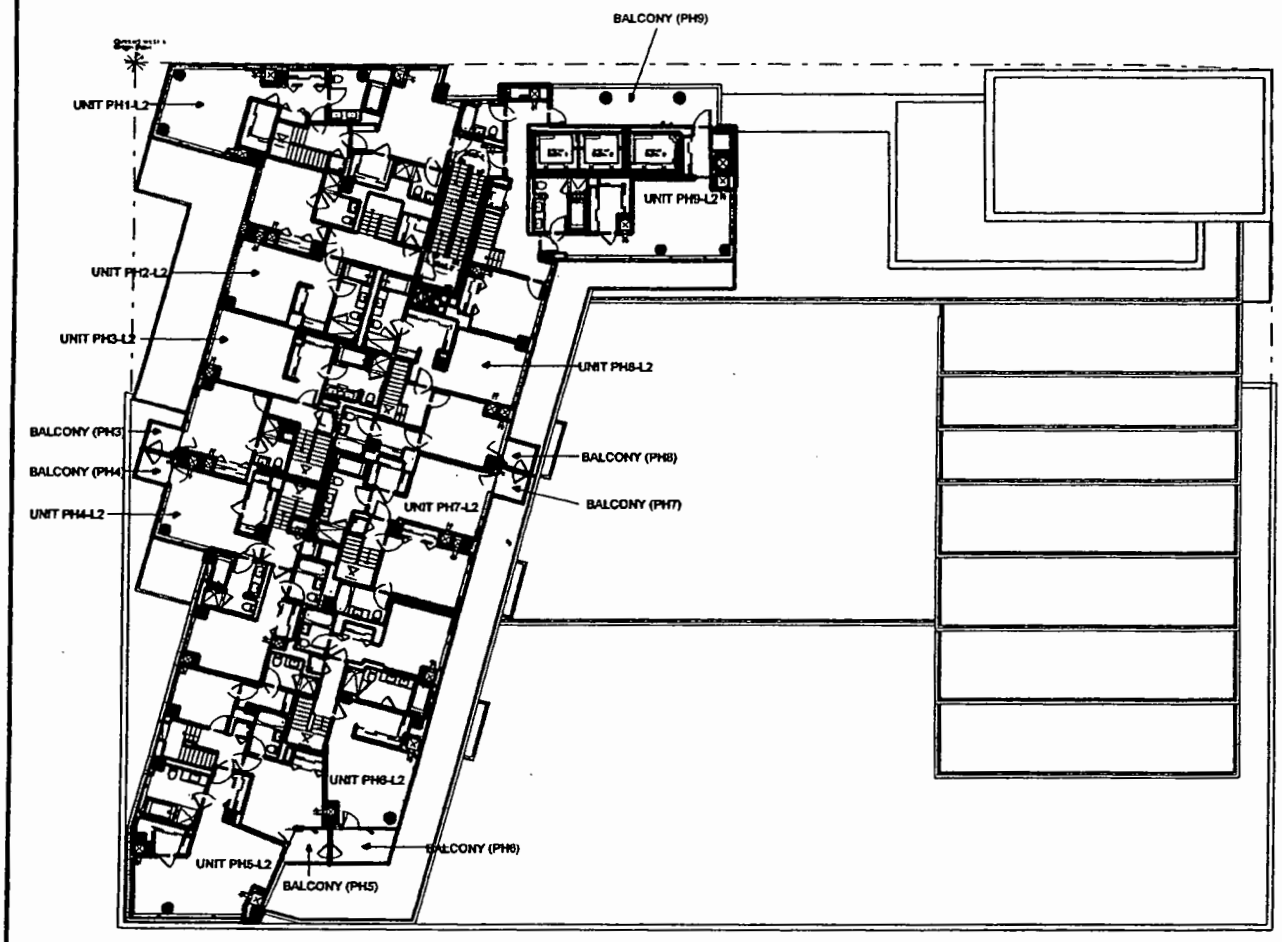
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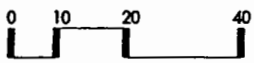
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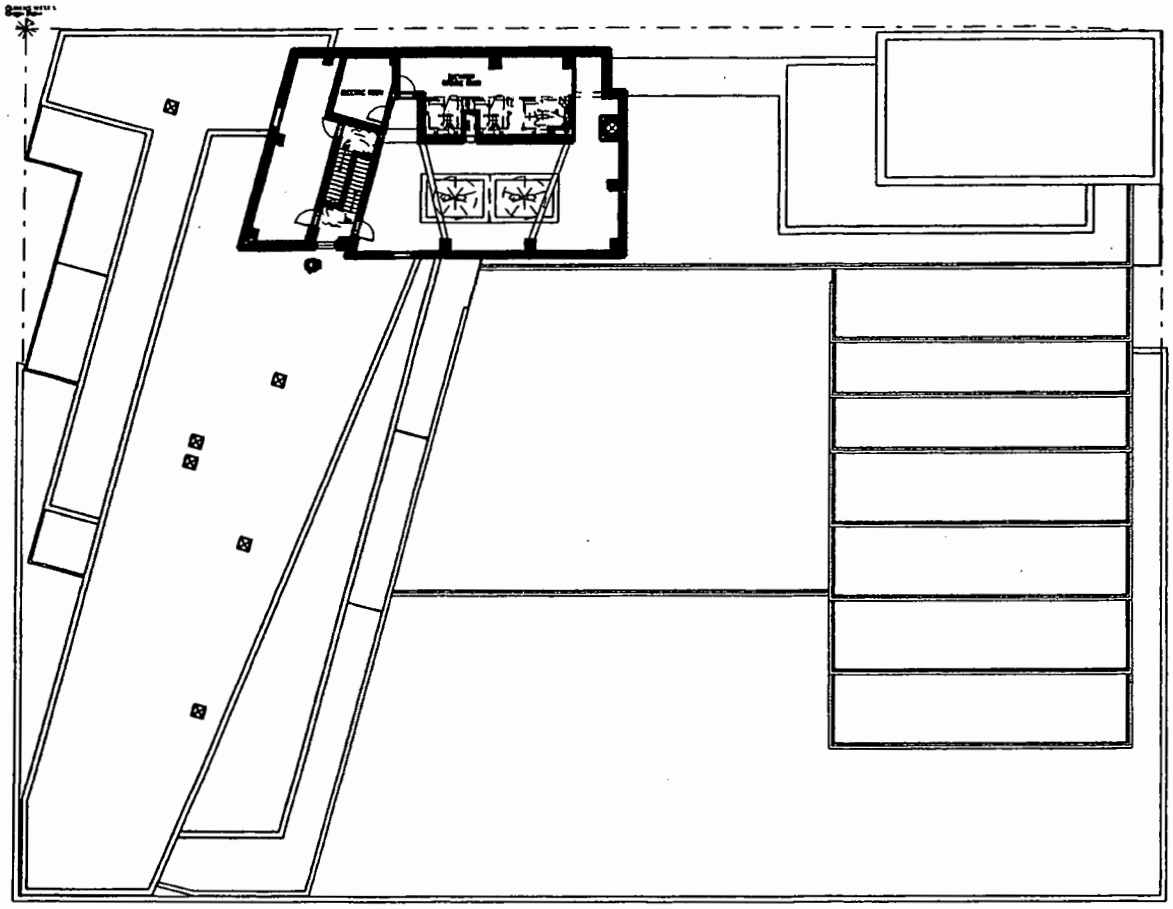
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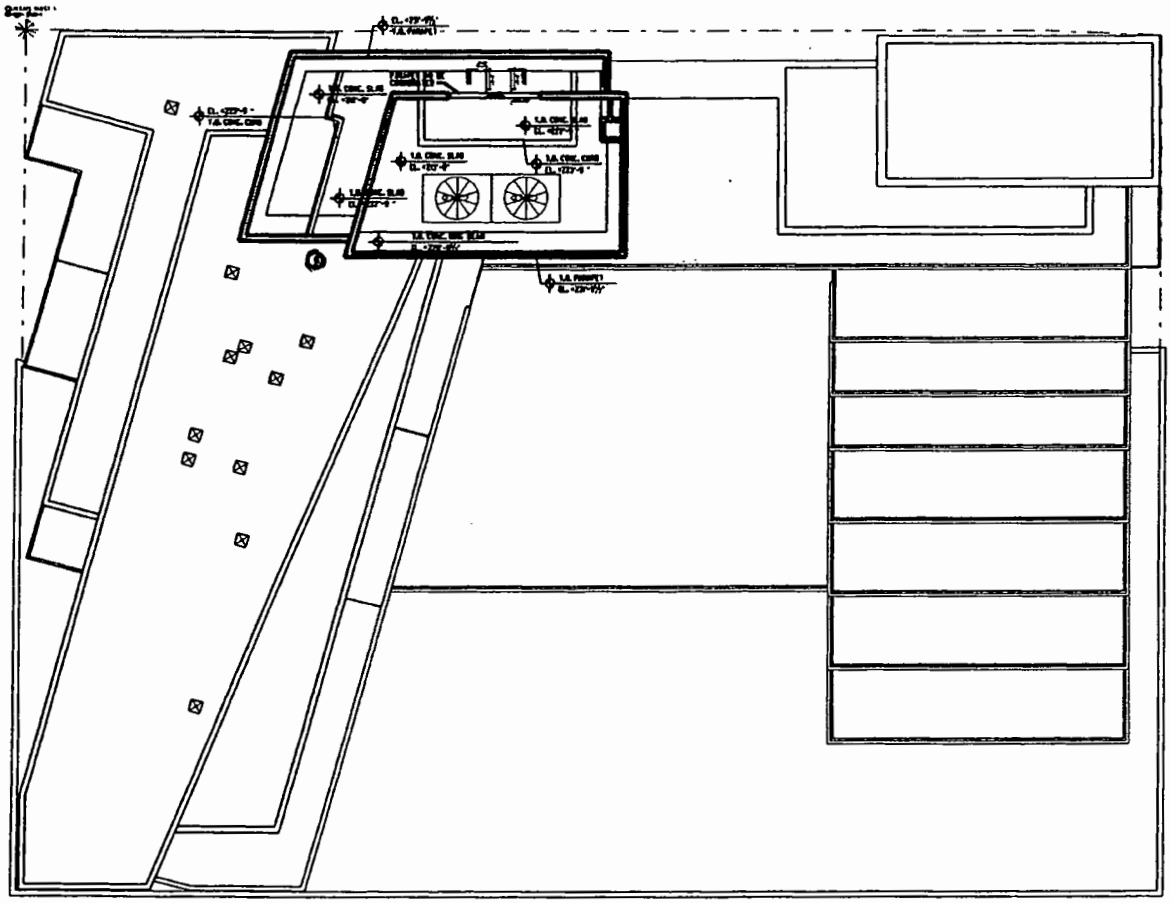
FLOOR 20/ MECH. L.

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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.16.07



ROOF LEVEL

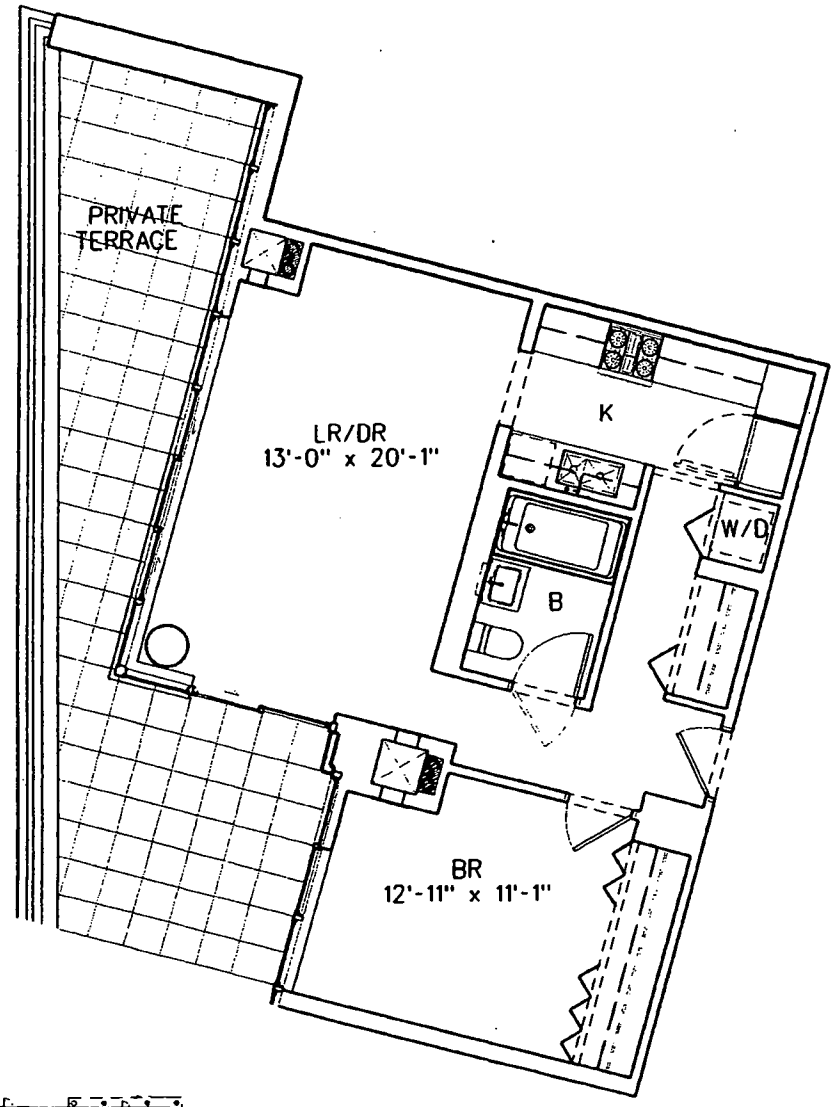
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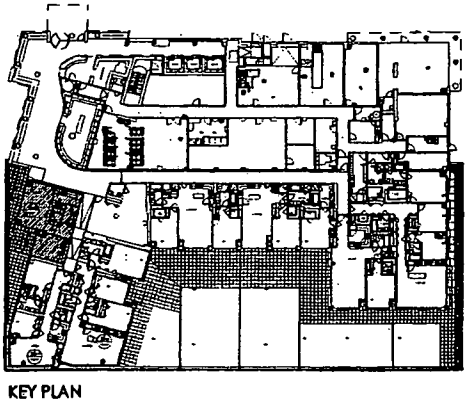
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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.16.07





KEY PLAN

UNIT: 101

FLOOR 1
777 SQ. FT. (72.18 SQ.M.)
1 BEDROOM, 1 BATH
TERRACE AREA: 299 SQ. FT. (21.74 SQ.M.)

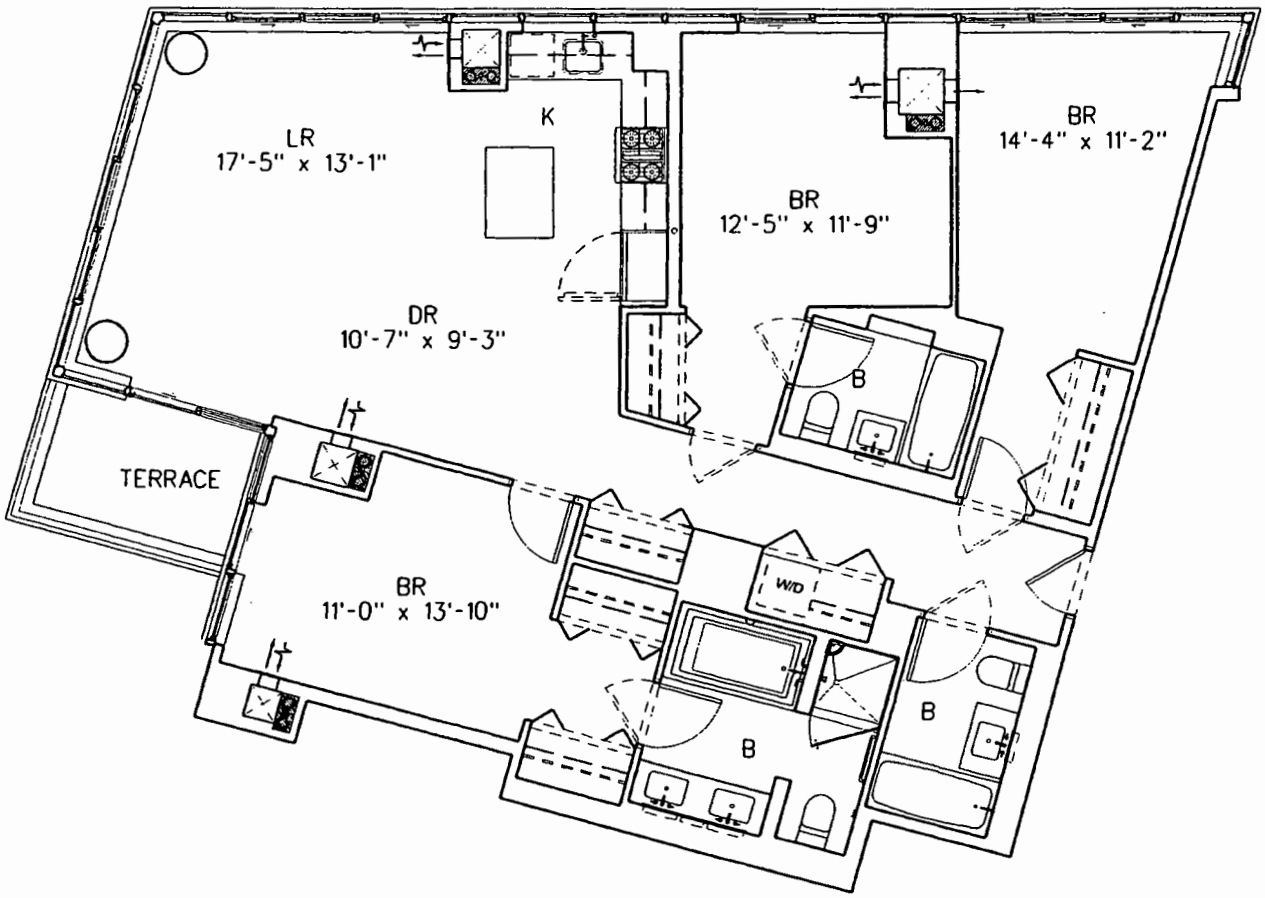
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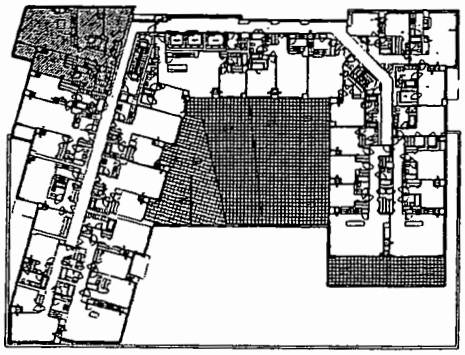
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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

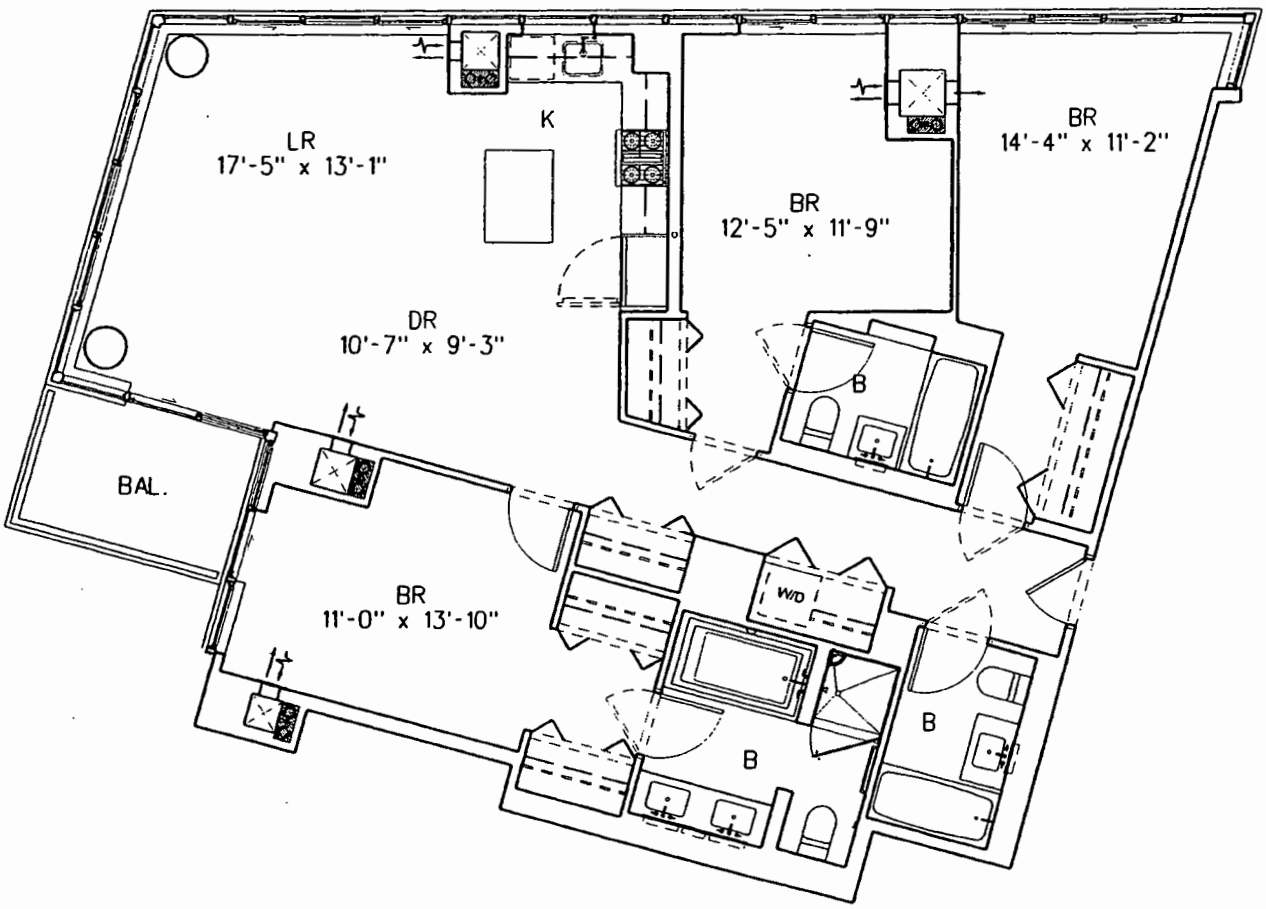
UNIT: 201

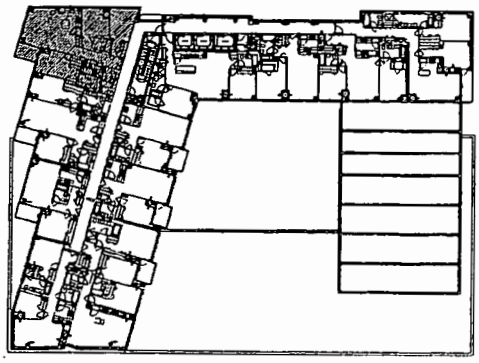
2ND FLOOR
1492 SQ. FT. (138.61 SQ.M.)
3 BEDROOM, 3 BATH
TERRACE AREA 64 SQ. FT. (5.94 SQ.M.)

0 2 5 10

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.





KEY PLAN

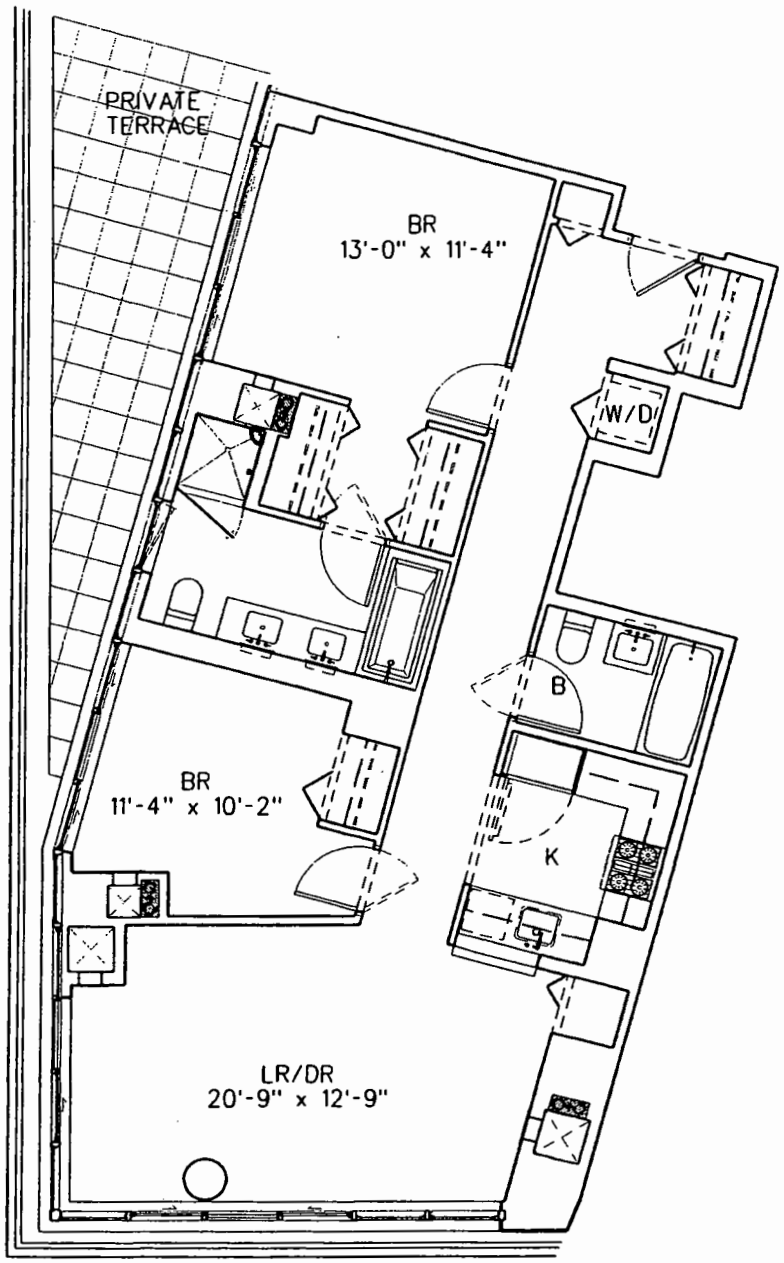
UNITS: 301, 401, 501, 601, 701, 801, 901, 1001, 1101, 1201, 1401, 1501, 1601, & 1701

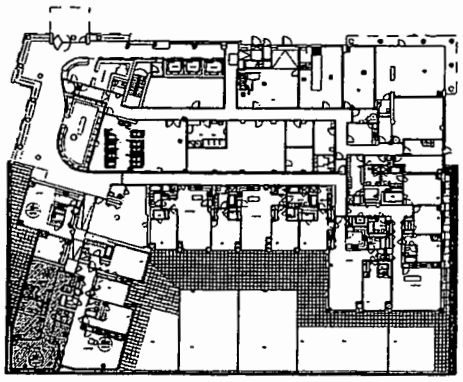
3RD THROUGH 17TH FLOOR
1492 SQ. FT. (138.61 SQ.M.)
3 BEDROOM, 3 BATH
BALCONY AREA 64 SQ. FT. (5.94 SQ.M.)

0 2 5 10

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.





KEY PLAN

UNIT: 102

FLOOR 1
1153 SQ. FT. (107.11 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 192 SQ. FT. (17.83 SQ.M.)

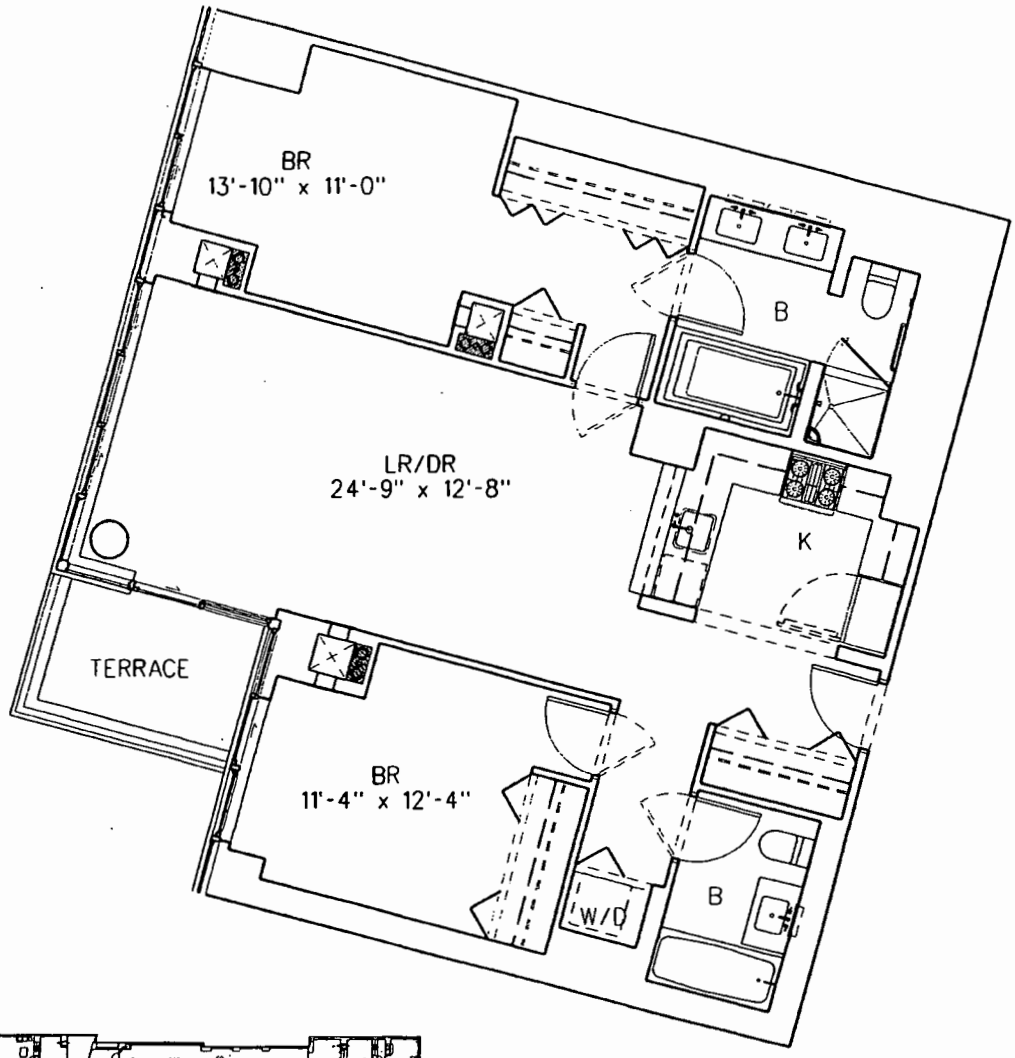
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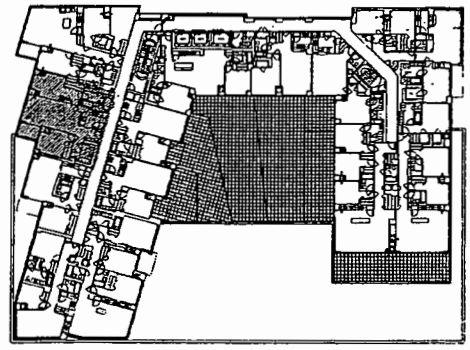
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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNIT: 202

2ND FLOOR
1159 SQ. FT. (107.67 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 64 SQ. FT. (5.94 SQ.M.)

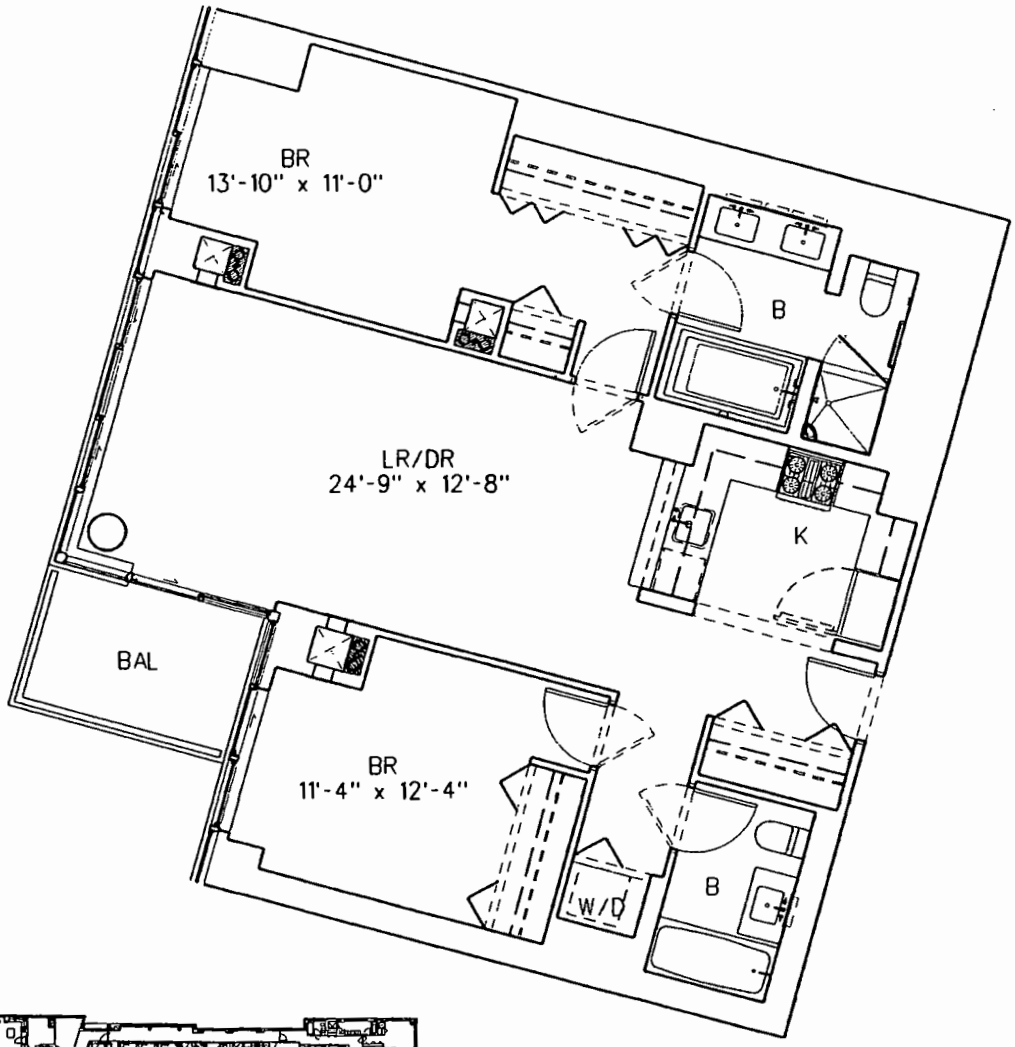
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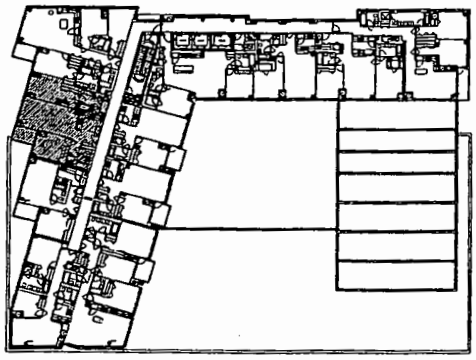
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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES, PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNITS: 302, 402, 502, 602, 702, 802, 902, 1002, 1102, 1202, 1402, 1502, 1602, & 1702

3TH THROUGH 17TH FLOOR
1159 SQ. FT. (107.67 SQ.M.)
2 BEDROOM, 2 BATH
BALCONY AREA: 64 SQ. FT. (5.94 SQ.M.)

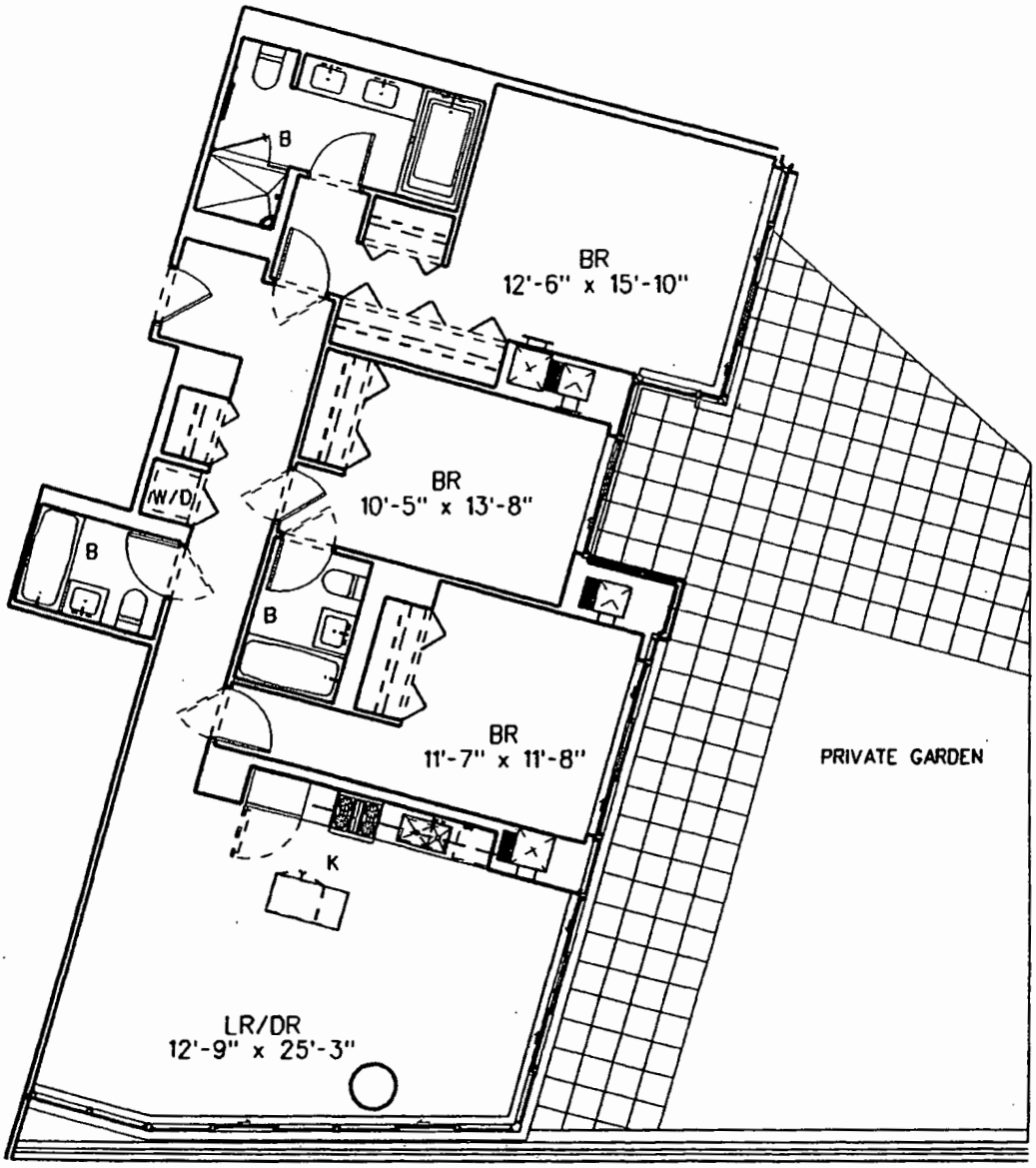
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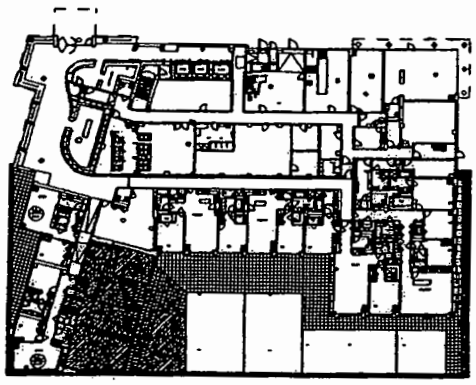
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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES, PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNIT: 103

FLOOR 1
1653 SQ. FT. (153.56 SQ.M.)
3 BEDROOM, 3 BATH
GARDEN AREA: 941 SQ. FT. (87.42 SQ.M.)

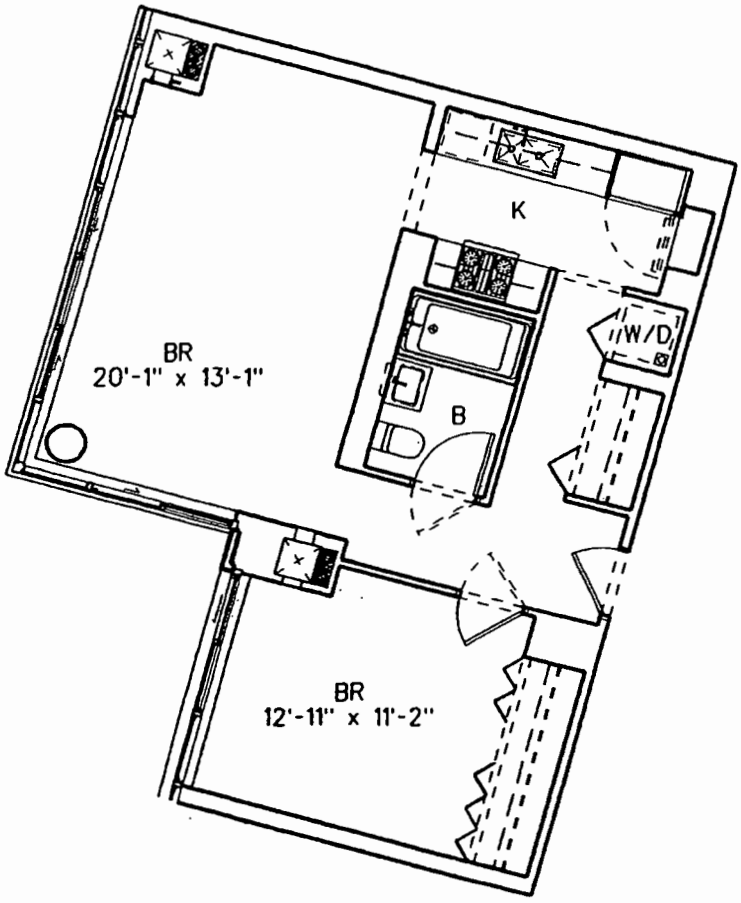
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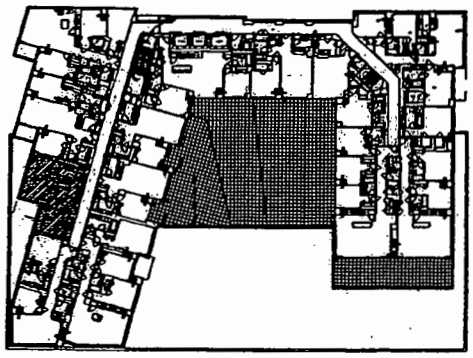
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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNIT: 203

FLOOR 2
777 SQ. FT. (72.18 SQ.M.)
1 BEDROOM, 1 BATH

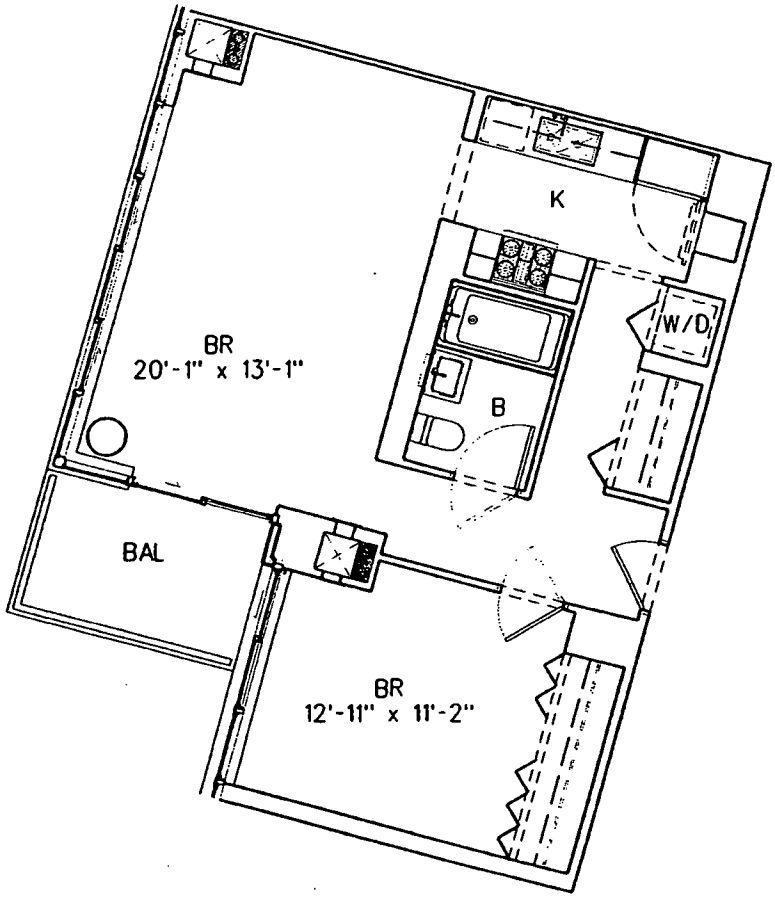
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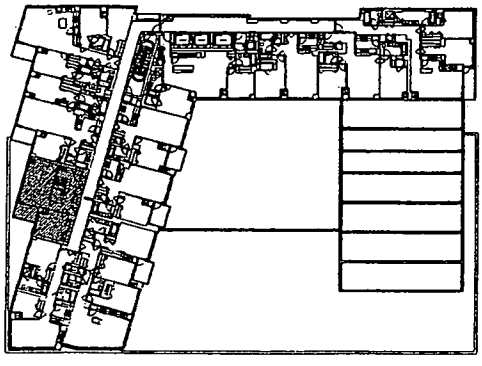
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46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07





KEY PLAN

UNITS: 303, 403, 503, 603, 703, 803, 903, 1003, 1103, 1203, 1403, 1503, 1603, & 1703

3RD THROUGH 17TH FLOOR
777 SQ. FT. (72.18 SQ.M.)
1 BEDROOM, 1 BATH
BALCONY AREA: 66 SQ. FT. (6.13 SQ.M.)

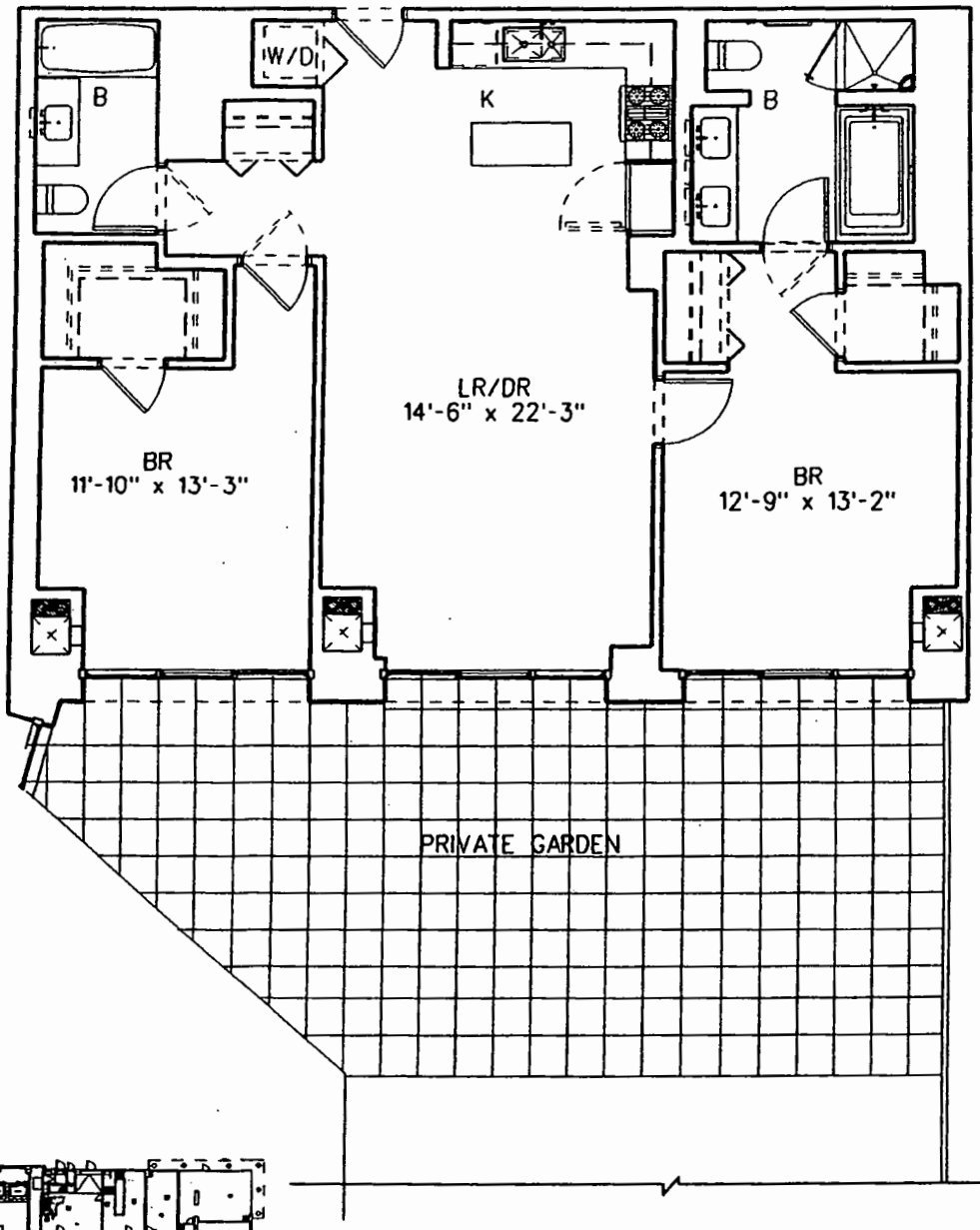
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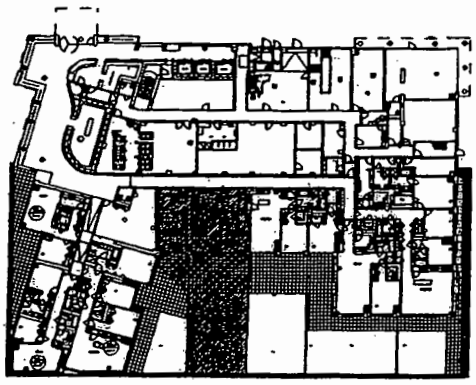
N

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNIT: 104

FLOOR 1
1204 SQ. FT. (111.85 SQ.M.)
2 BEDROOM, 2 BATH
GARDEN AREA: 1551 SQ. FT. (144.00 SQ.M.)

0 2 5 10

N

46-30 CENTER BOULEVARD CONDOMINIUM

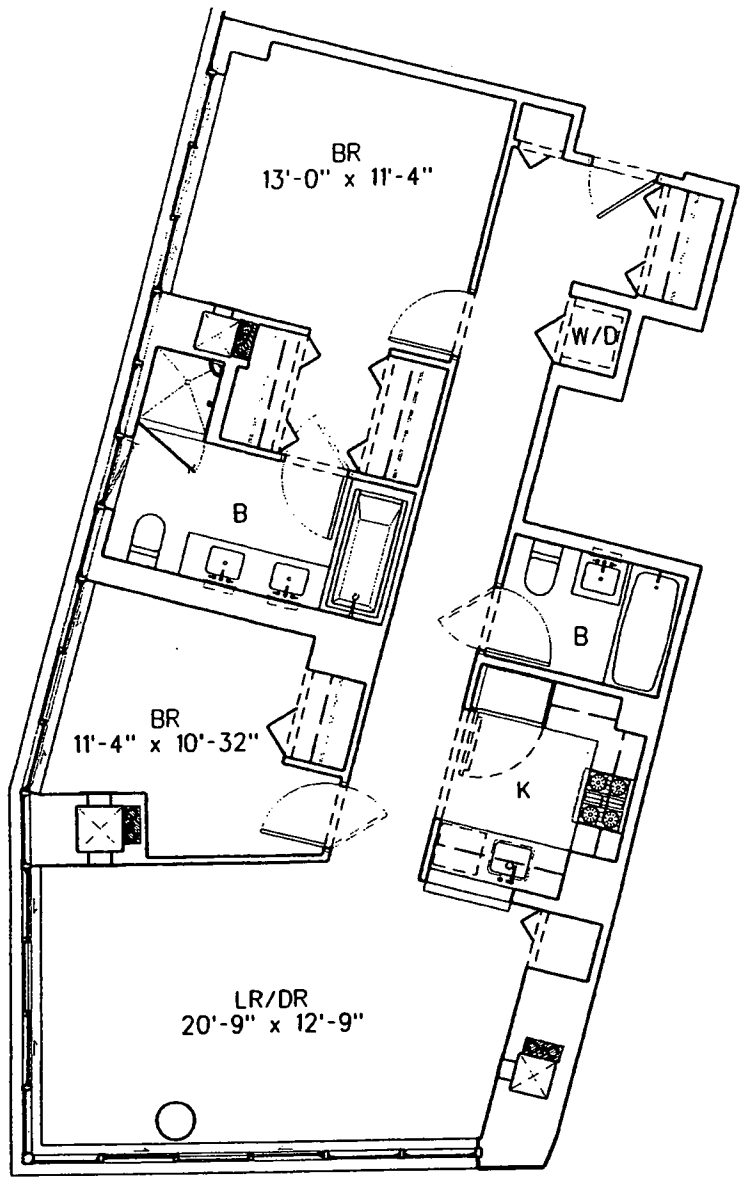
ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

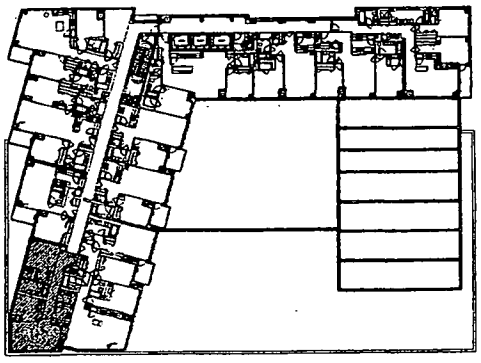
04.17.07

UNITS: 204, 304, 404, 504, 604, 704, 804, 904, 1004, 1104, 1204, 1404, 1504, 1604, & 1704

2ND THROUGH 17TH FLOOR
1153 SQ. FT. (107.11 SQ.M.)
2 BEDROOM, 2 BATH

0 2 5 10



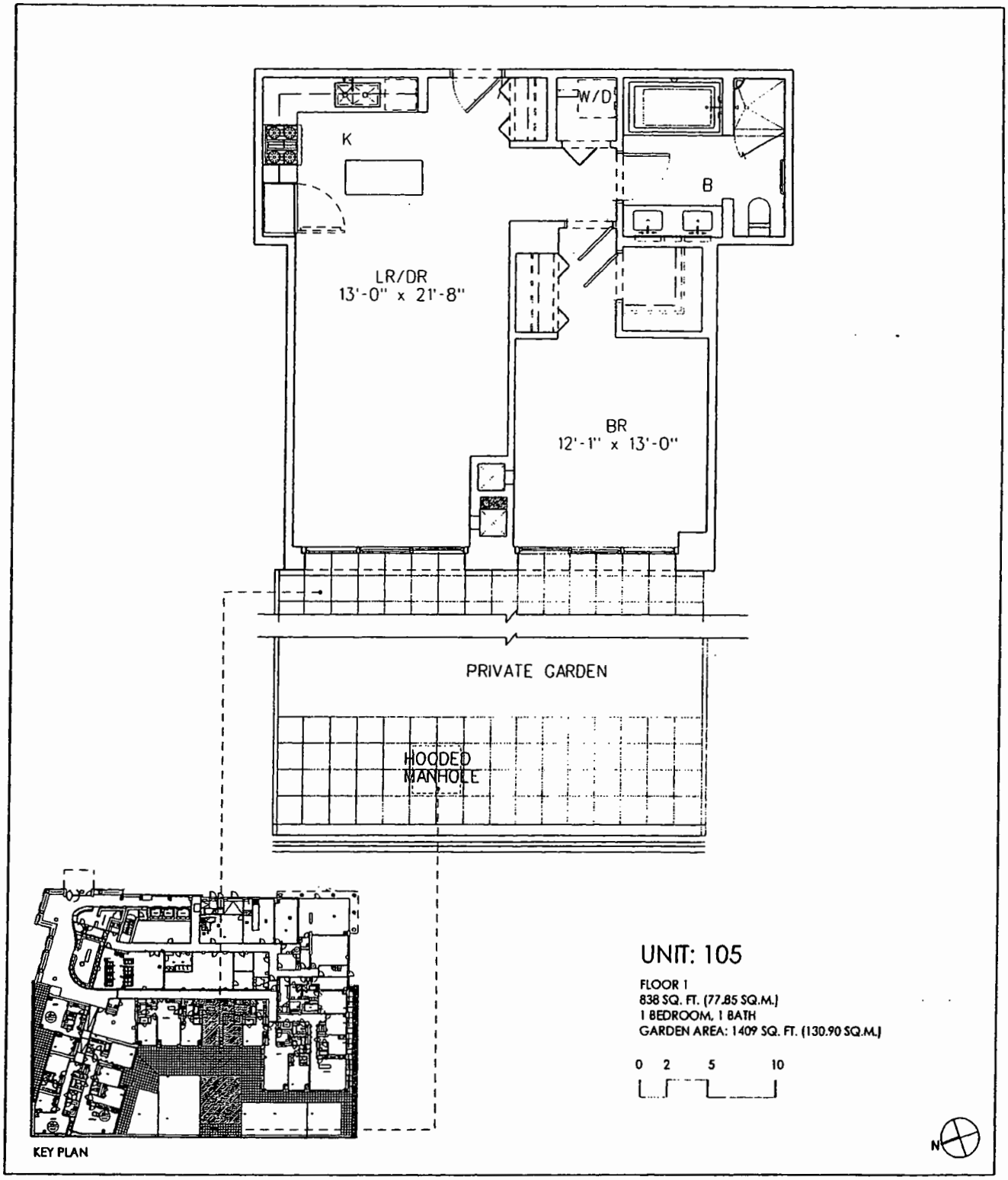


KEY PLAN

46-30 CENTER BOULEVARD CONDOMINIUM

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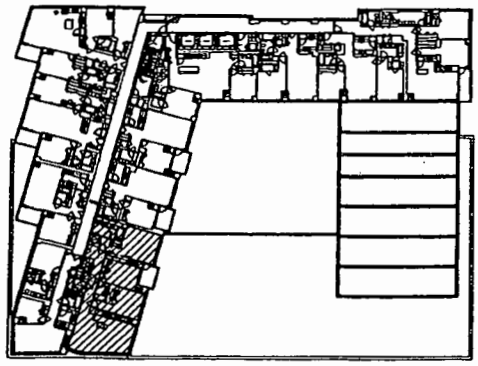
04.17.07



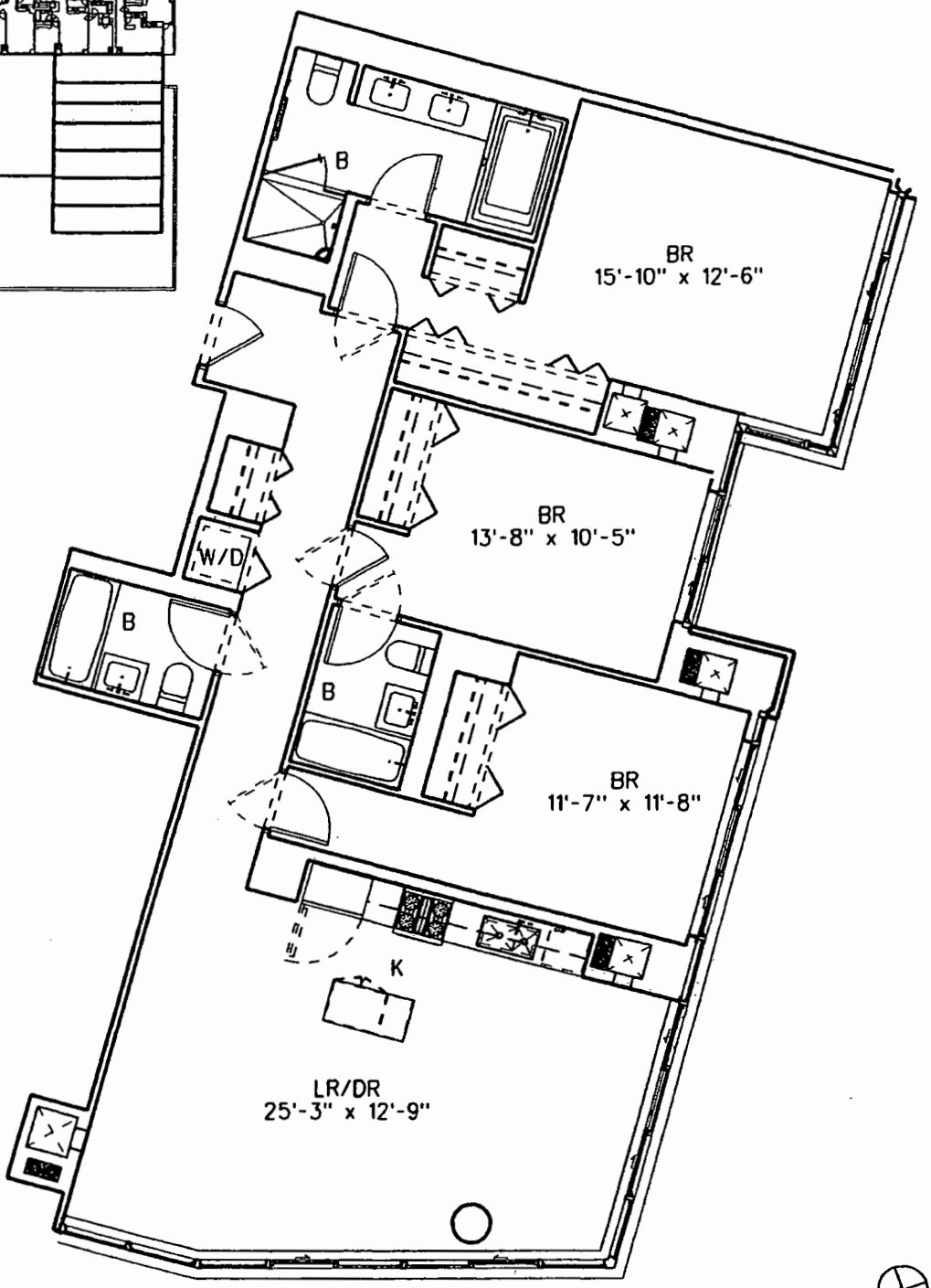
46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

06.15.07



KEY PLAN



UNIT: 205, 405, 605, 805, 1005, 1205, 1505, & 1705

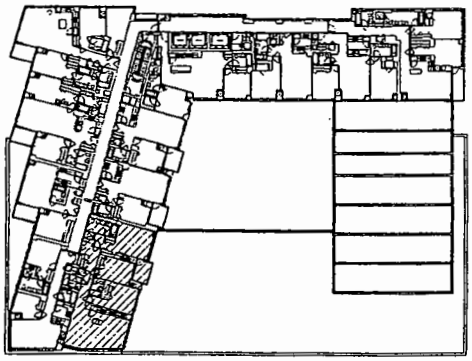
FLOORS 2, 4, 6, 8, 10, 12, 15, 17
1653 SQ. FT. (153.56 SQ.M.)
3 BEDROOM, 3 BATH

0 2 5 10

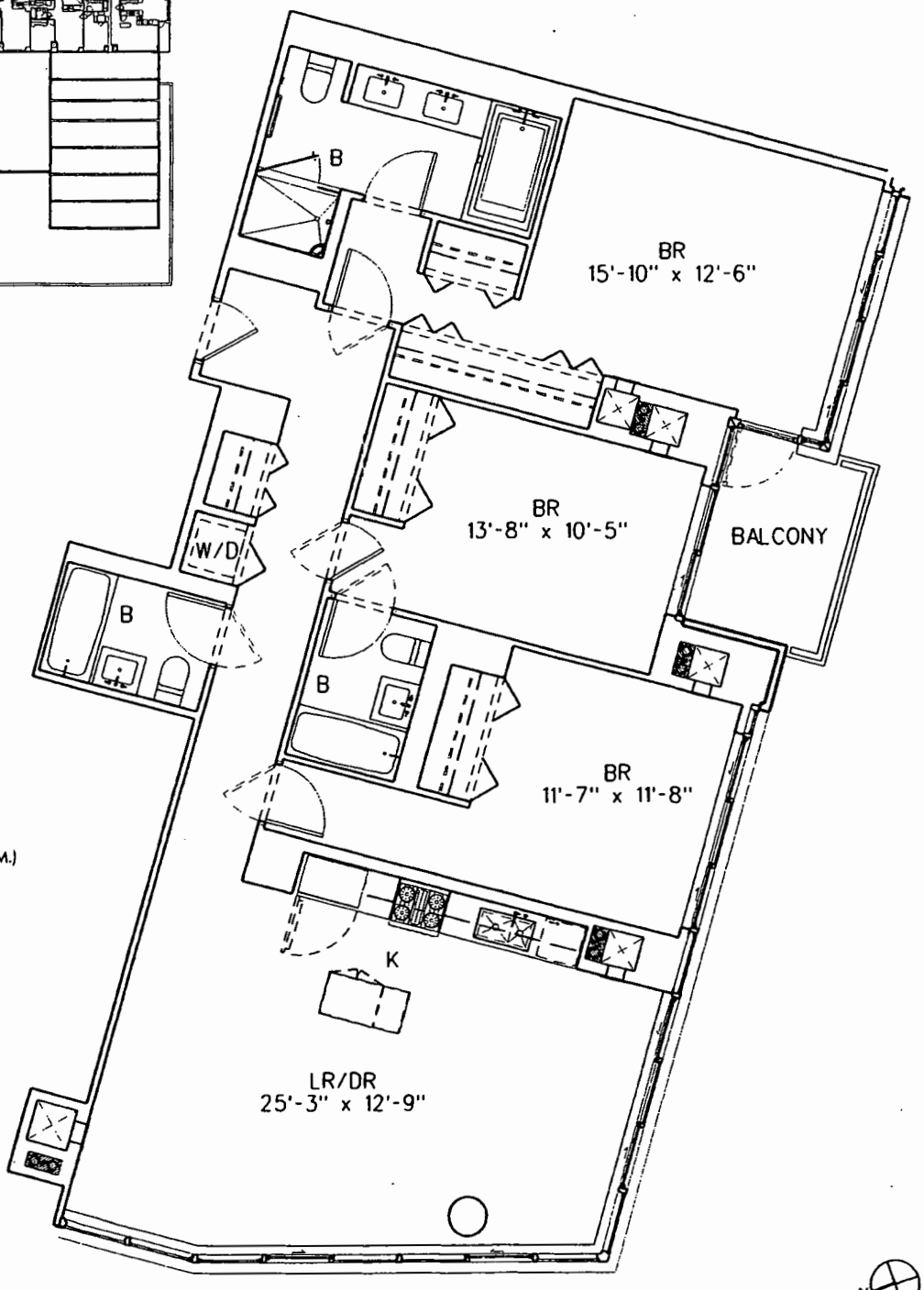
46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07



KEY PLAN



UNIT: 305, 505, 705, 905, 1105, 1405, & 1605

FLOORS 3, 5, 7, 9, 11, 14, 16
1653 SQ. FT. (153.56 SQ.M.)
3 BEDROOM, 3 BATH
BALCONY AREA: 66 SQ. FT. (6.13 SQ.M.)

0 2 5 10

46-30 CENTER BOULEVARD CONDOMINIUM

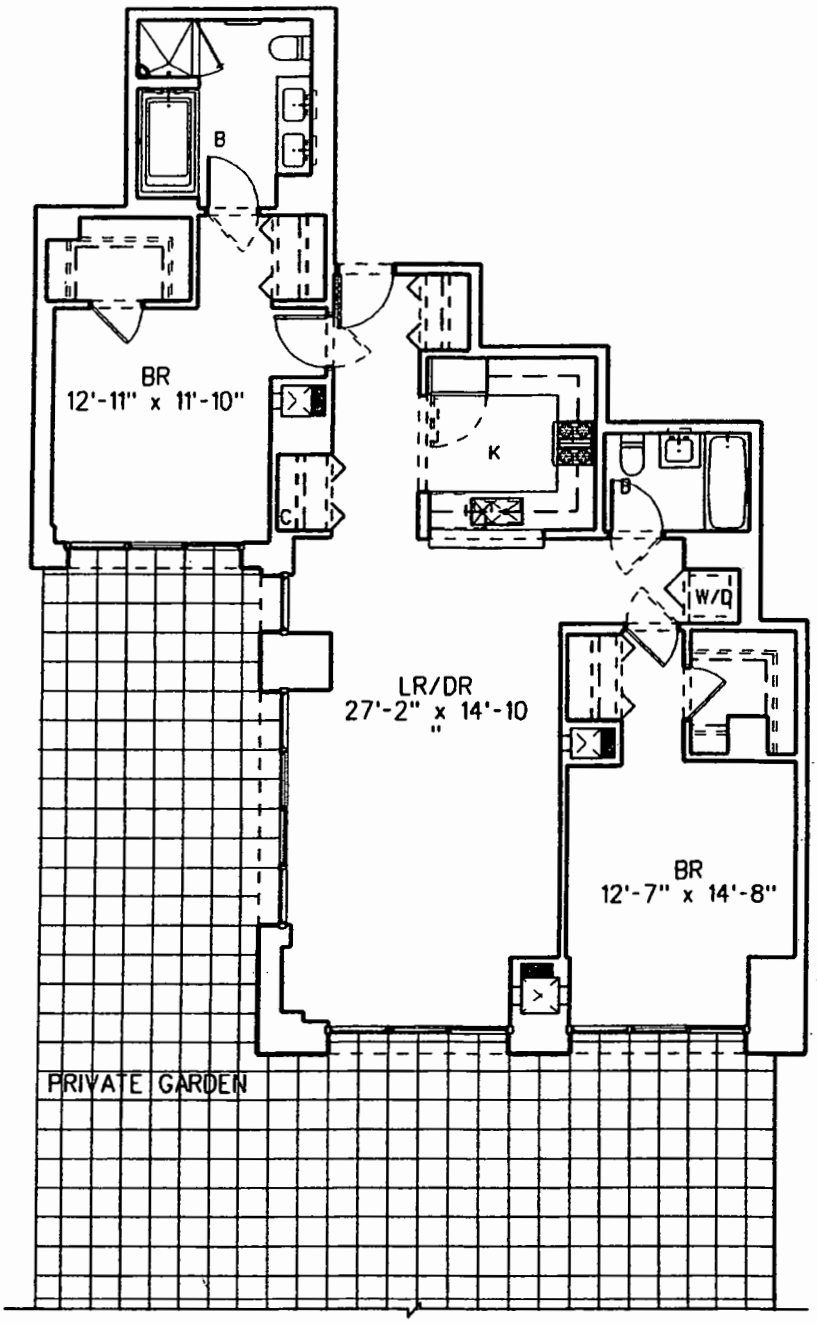
ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES, PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

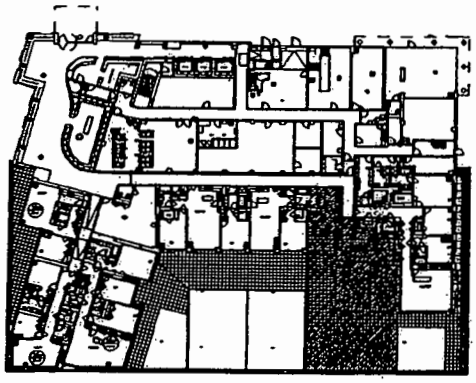
04.17.07

UNIT: 106

FLOOR 1
1437 SQ. FT. (133.50 SQ.M.)
2 BEDROOM, 2 BATH
GARDEN AREA: 1441 SQ. FT. (133.87 SQ.M.)

0 2 5 10



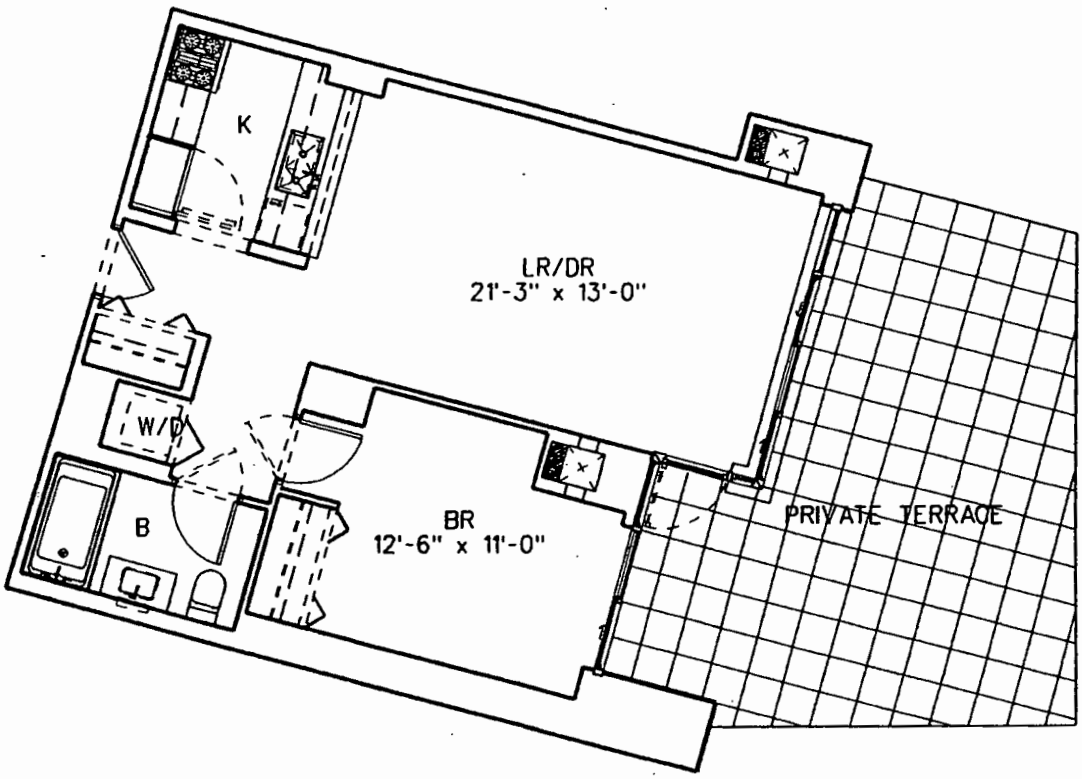


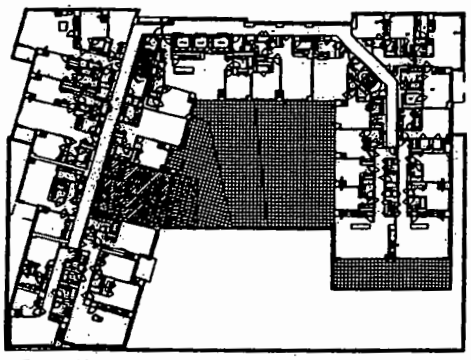
KEY PLAN

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNIT: 206

2 ND FLOOR
762 SQ. FT. (70.79 SQ.M.)
1 BEDROOM, 1 BATH
TERRACE AREA: 365 SQ. FT. (33.9 SQ.M.)

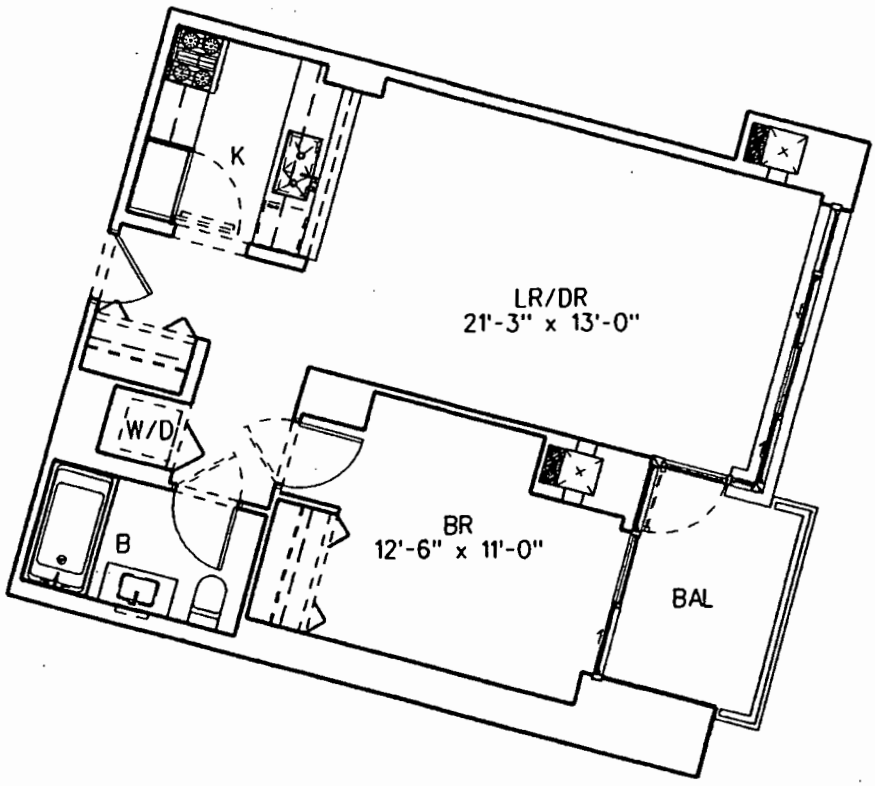
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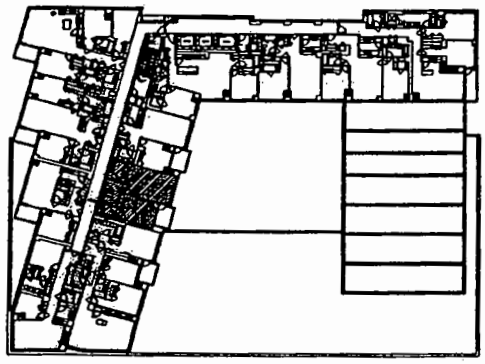
N

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNITS: 306, 506, 706, 906, 1106, 1406, & 1606

FLOORS 3, 5, 7, 9, 11, 14, 16
762 SQ. FT. (70.79 SQ.M.)
1 BEDROOM, 1 BATH
BALCONY AREA: 66 SQ. FT. (6.13 SQ. M.)

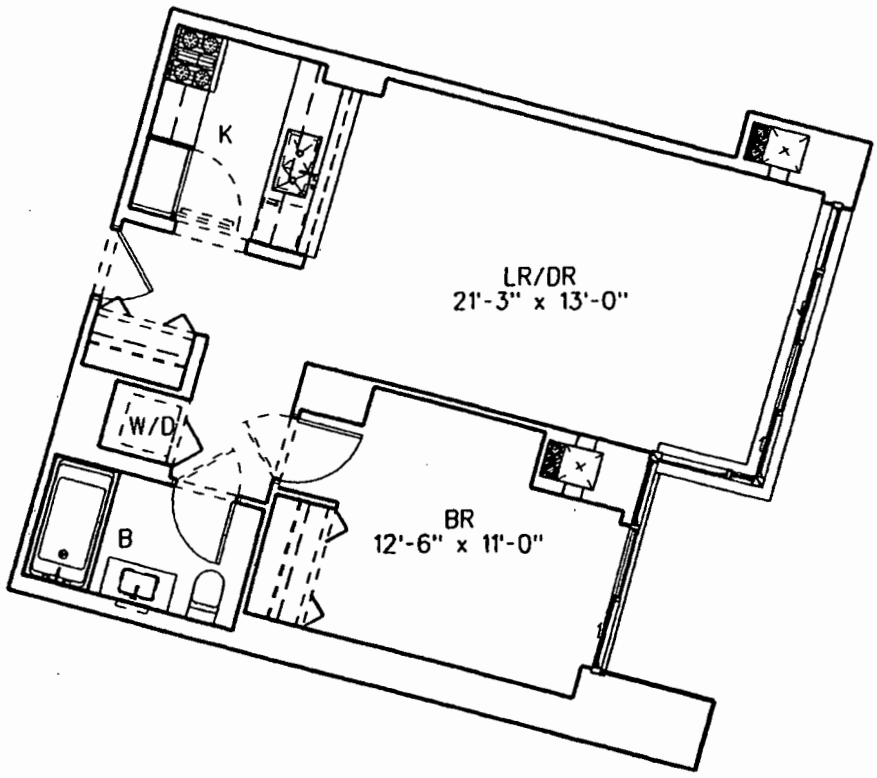
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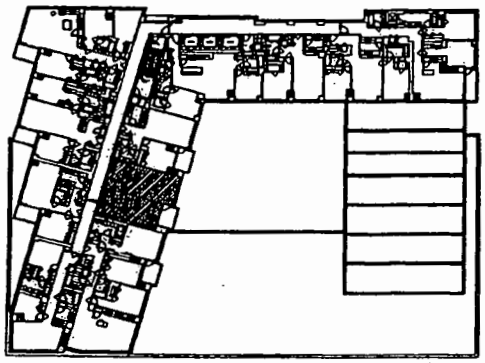
N

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNITS: 406, 606, 806, 1006, 1206, 1506, & 1706

FLOORS 4, 6, 8, 10, 12, 15, 17
762 SQ. FT. (70.79 SQ.M.)
1 BEDROOM, 1 BATH

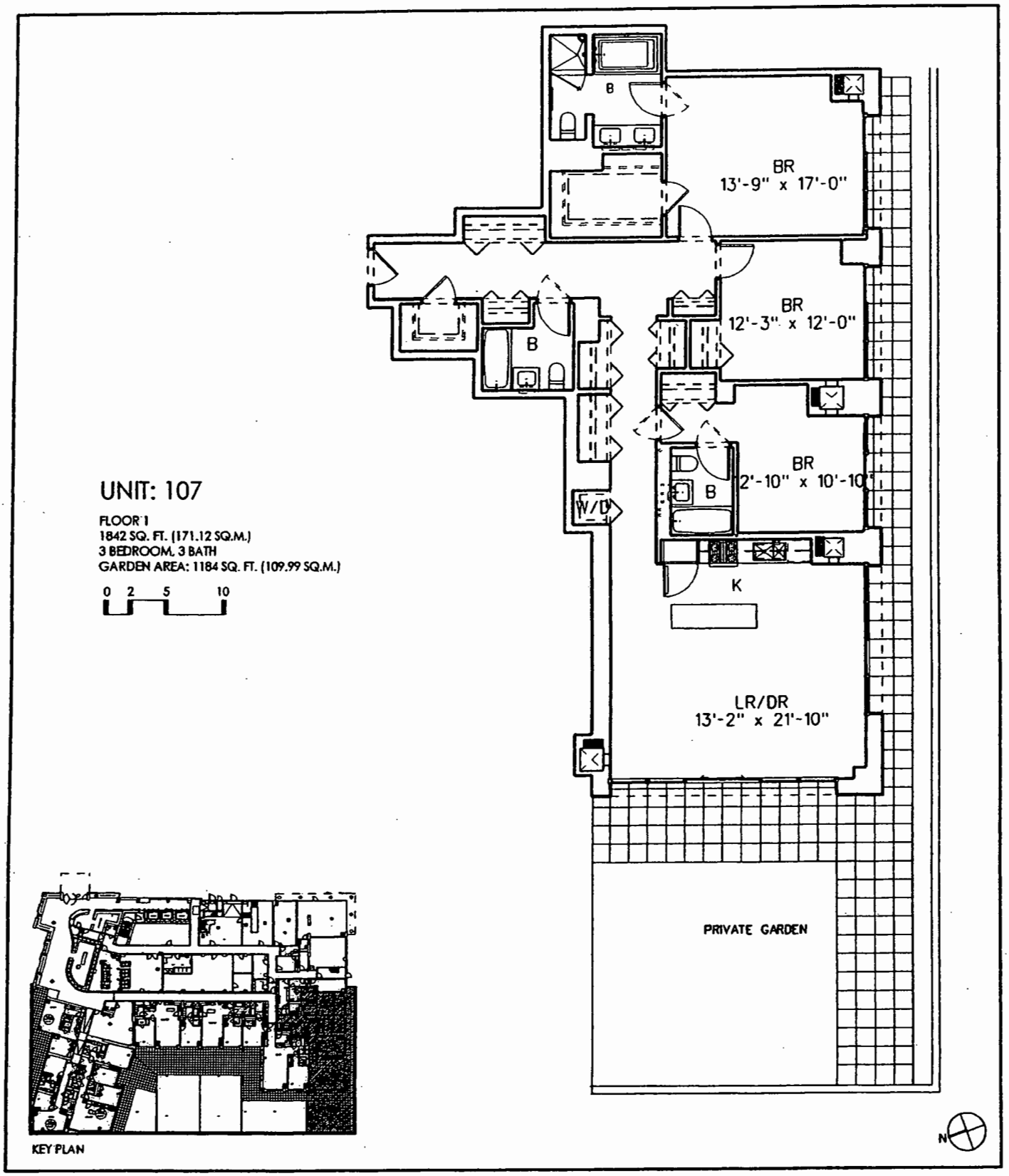
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N

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07



UNIT: 107

FLOOR 1
1842 SQ. FT. (171.12 SQ.M.)
3 BEDROOM, 3 BATH
GARDEN AREA: 1184 SQ. FT. (109.99 SQ.M.)

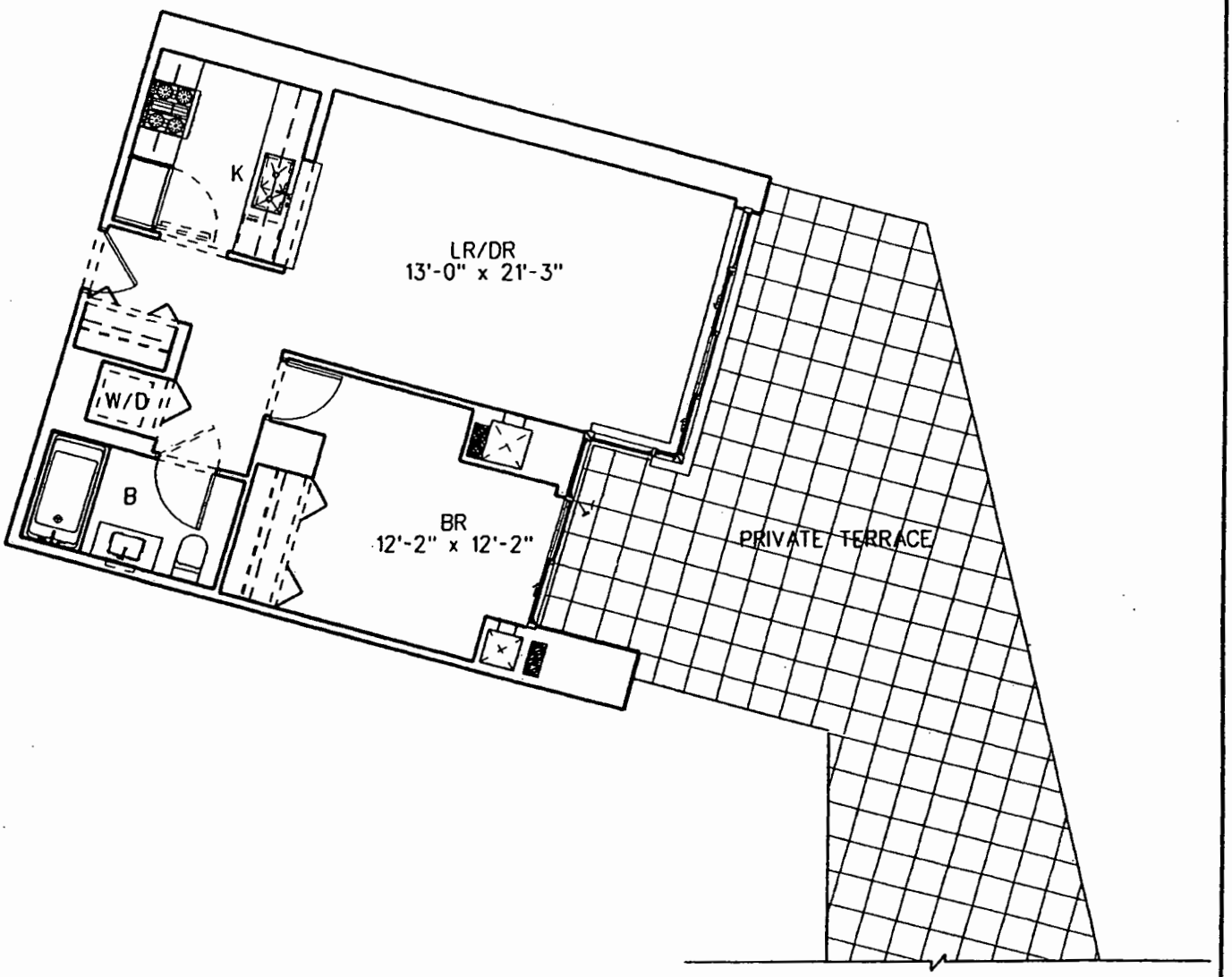
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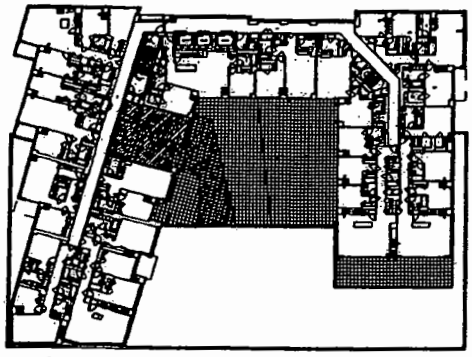
KEY PLAN

46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07





KEY PLAN

UNIT: 207

FLOOR 2
746 SQ. FT. (69.03SQ.M.)
1 BEDROOM, 1 BATH
TERRACE AREA: 728 SQ. FT. (67.63 SQ.M.)

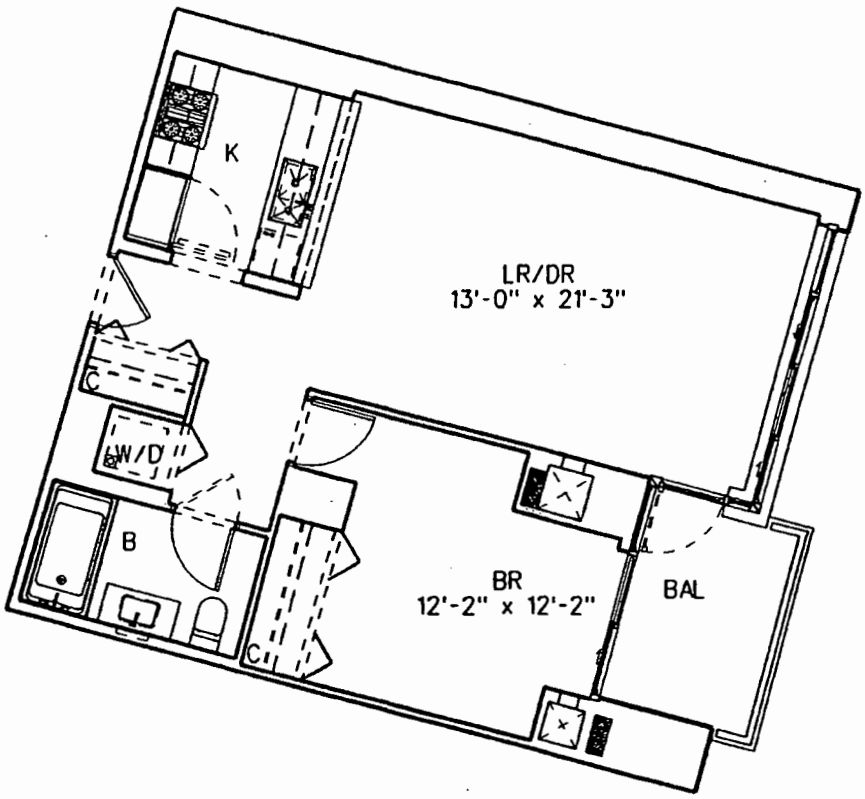
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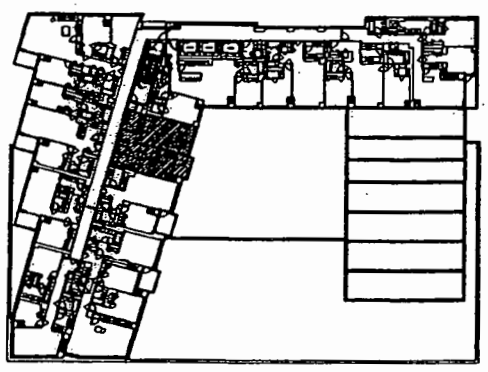
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04.17.07





KEY PLAN

UNITS: 307, 507, 707, 907, 1107, 1407, & 1607

FLOORS 3, 5, 7, 9, 11, 14, 16
746 SQ. FT. (69.30 SQ.M.)
1 BEDROOM, 1 BATH
BALCONY AREA: 66 SQ. FT. (6.13 SQ. M.)

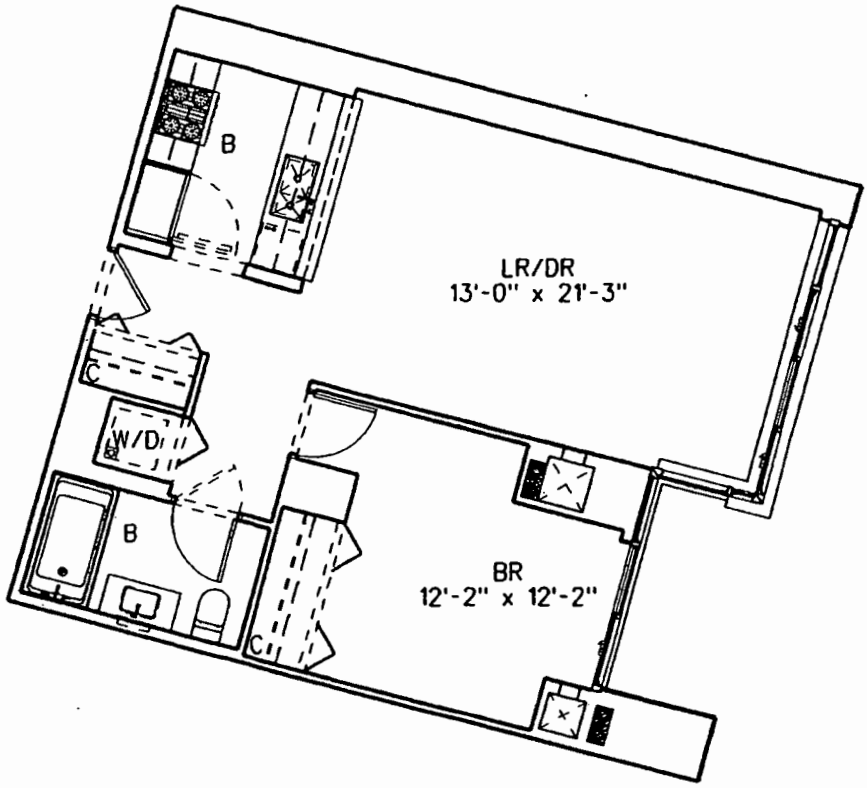
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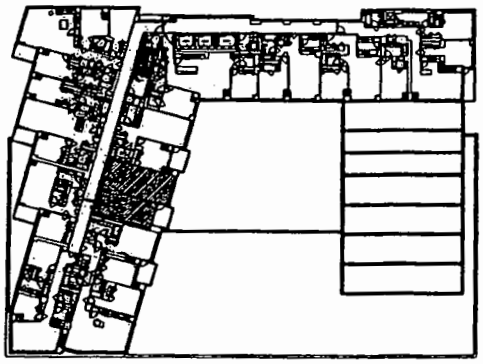
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04.17.07





KEY PLAN

UNITS: 407, 607, 807, 1007, 1207, 1507, & 1707

FLOORS 4, 6, 8, 10, 12, 15, 17

746 SQ. FT. (69.30 SQ.M.)

1 BEDROOM, 1 BATH

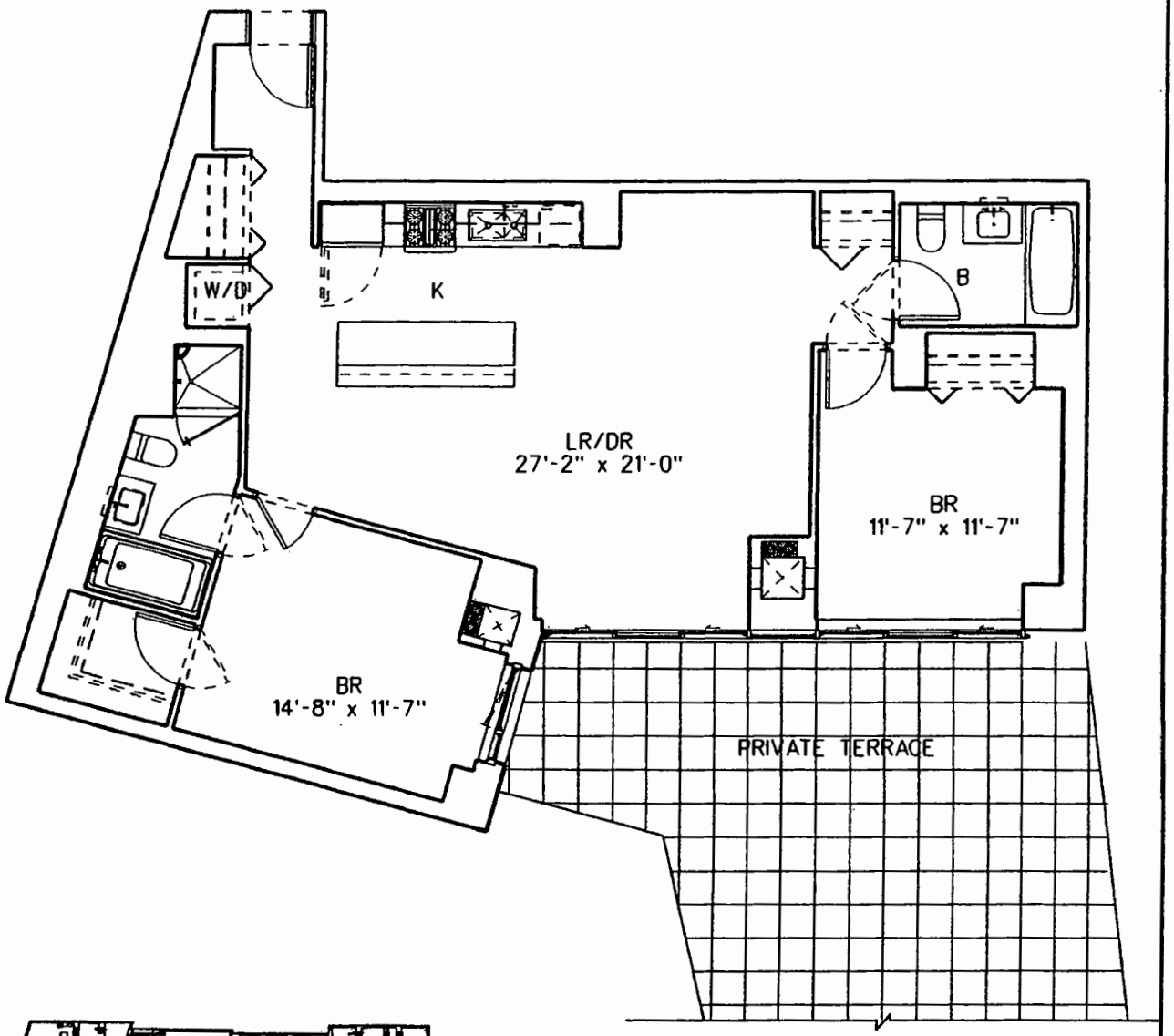
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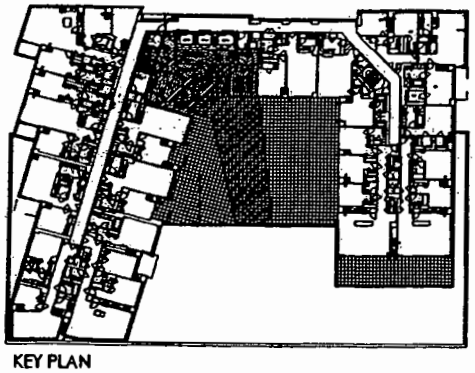
N

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04.17.07





KEY PLAN

UNIT: 208

FLOOR 2
1196 SQ. FT. (111.11 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 1165 SQ. FT. (108.23 SQ.M.)

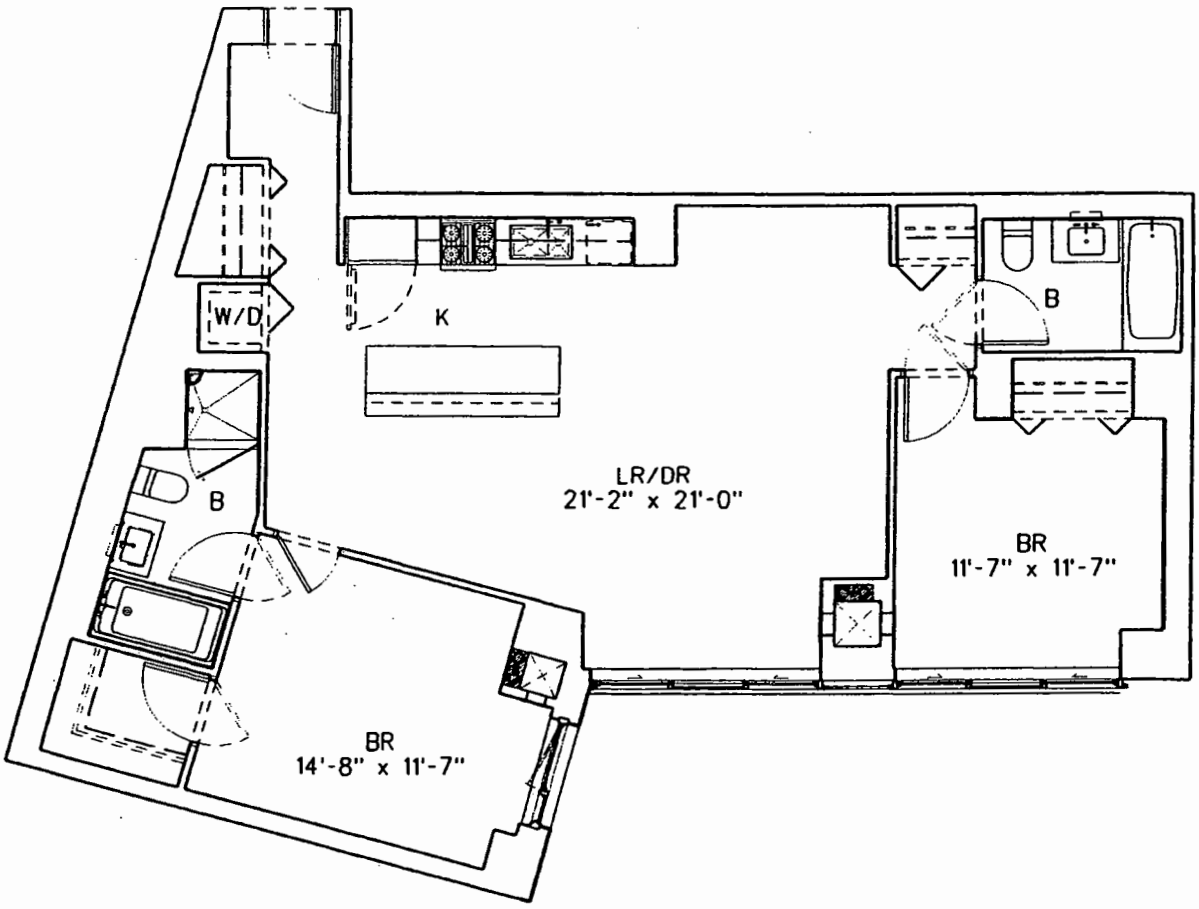
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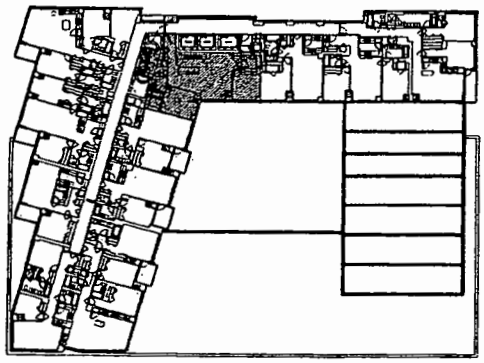
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04.17.07





KEY PLAN

UNITS: 308, 408, 508, 608, 708, 808, 908, 1008, 1108, 1208, 1408, & 1508

FLOOR 3 THROUGH 15
1196 SQ. FT. (111.11SQ.M.)
2 BEDROOM, 2 BATH

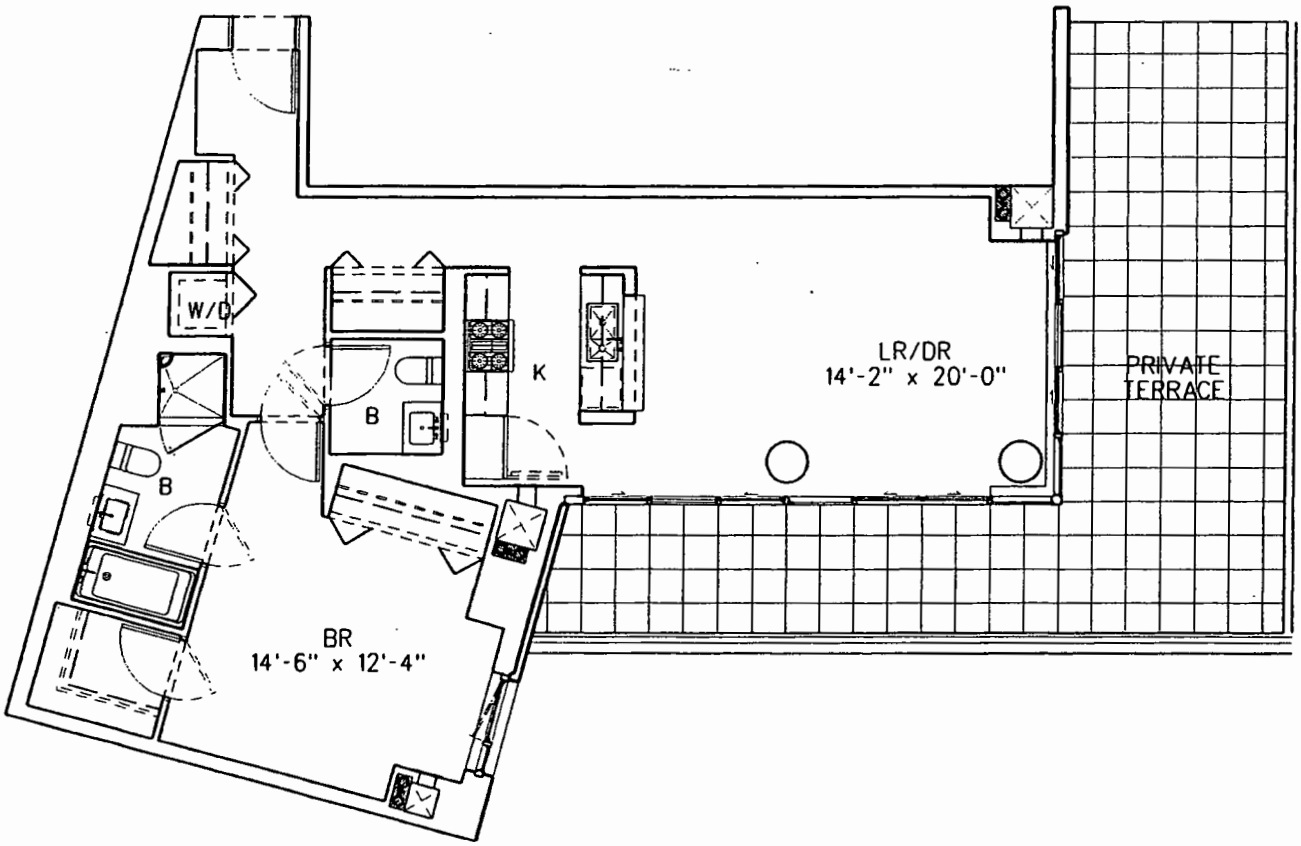
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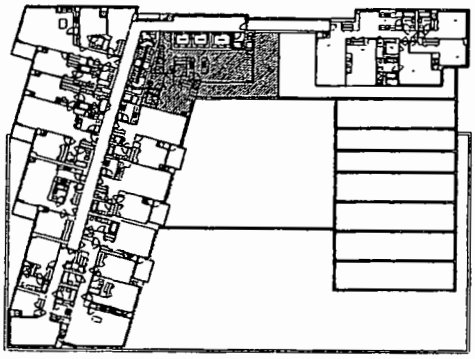
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04.17.07





KEY PLAN

UNIT: 1608

FLOOR 16
1036 SQ. FT. (96.24 SQ.M.)
1 BEDROOM, 1 1/2 BATH
TERRACE AREA: 501 SQ. FT. (46.54 SQ.M.)

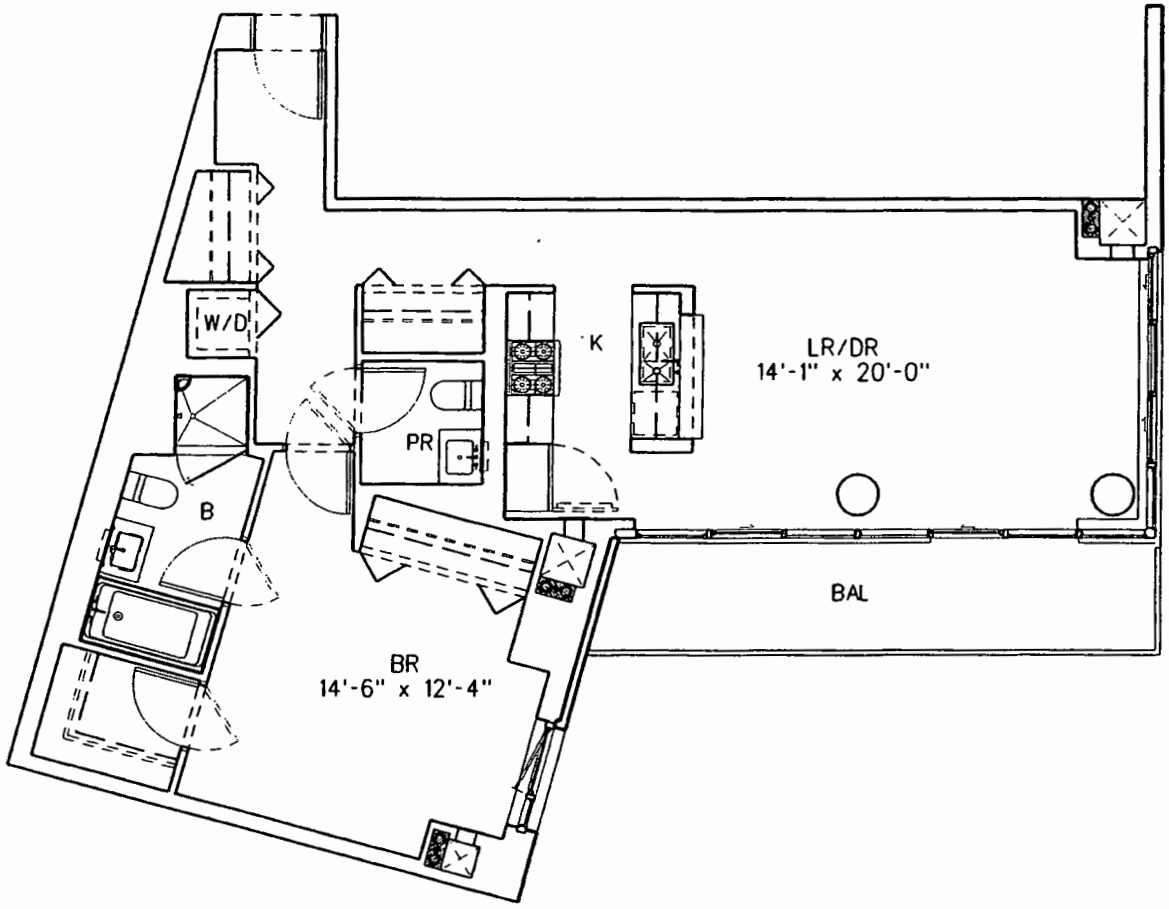
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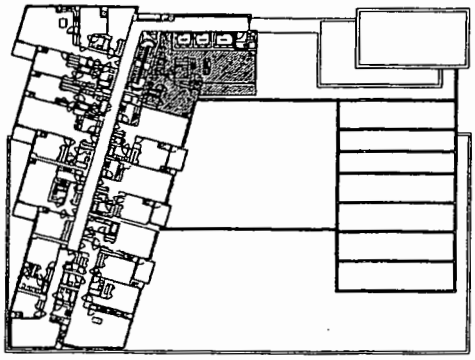
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04.17.07





KEY PLAN

UNIT: 1708

FLOOR 17
1036 SQ. FT. (96.24 SQ.M.)
1 BEDROOM, 1 1/2 BATH
BALCONY AREA: 127 SQ. FT. (11.79 SQ.M.)

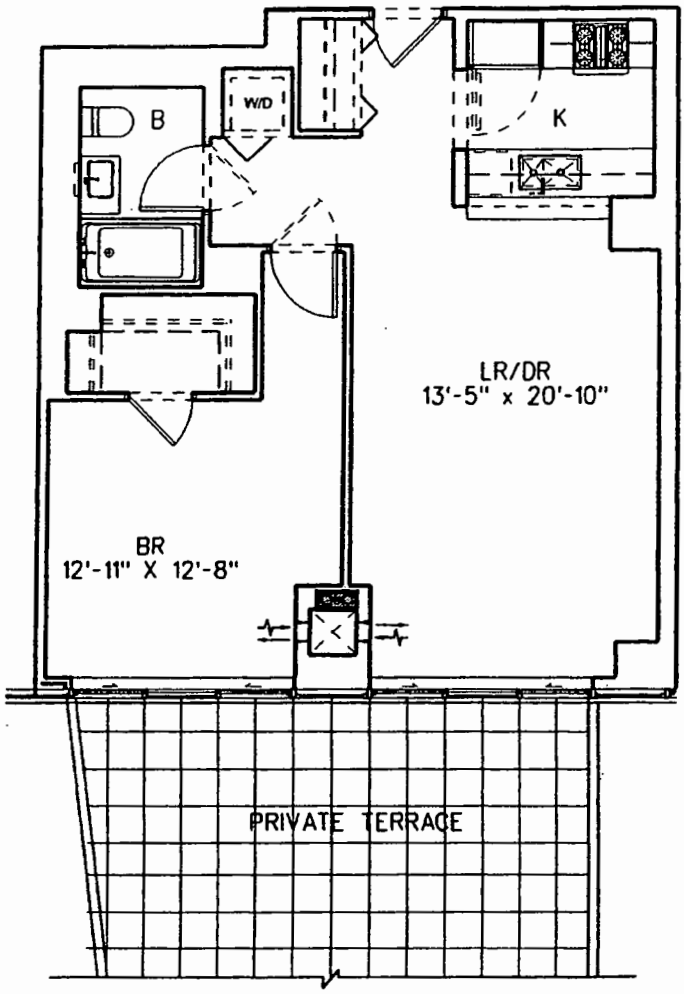
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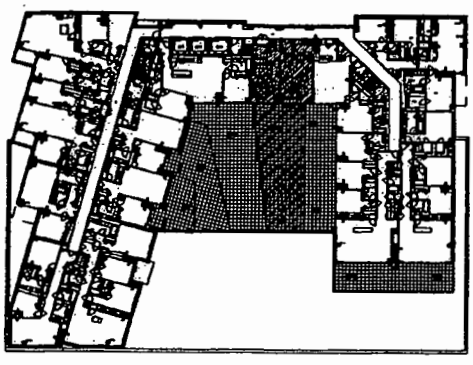
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04.17.07





KEY PLAN

UNIT: 209

FLOOR 2
777 SQ. FT. (72.18 SQ.M.)
1 BEDROOM, 1 BATH
TERRACE AREA: 1117 SF (103.77SQ.M.)

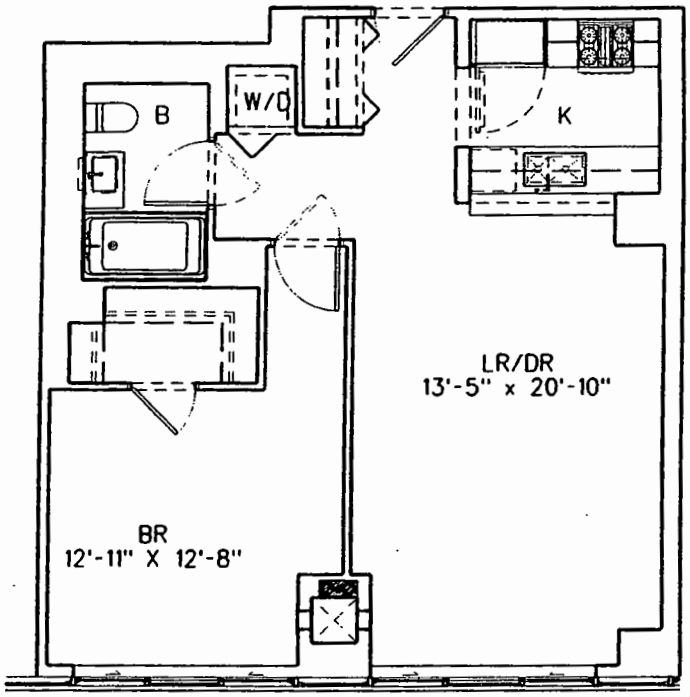
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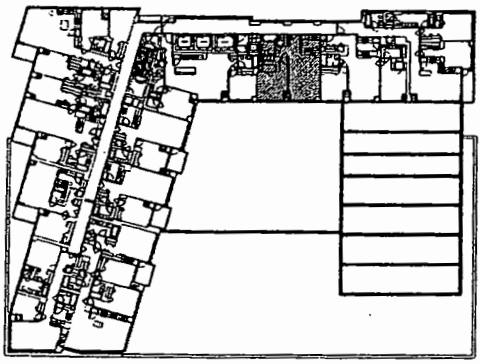
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04.17.07





KEY PLAN

UNITS: 309, 409, 609, 709, 1009 & 1109

FLOORS 3, 4, 6, 7, 8, 10, 11
777 SQ. FT. (72.18 SQ.M.)
1 BEDROOM, 1 BATH

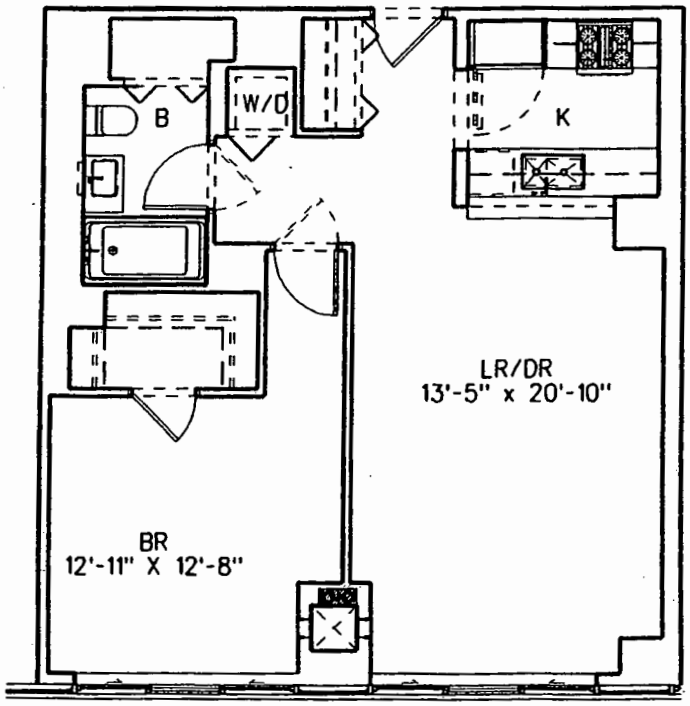
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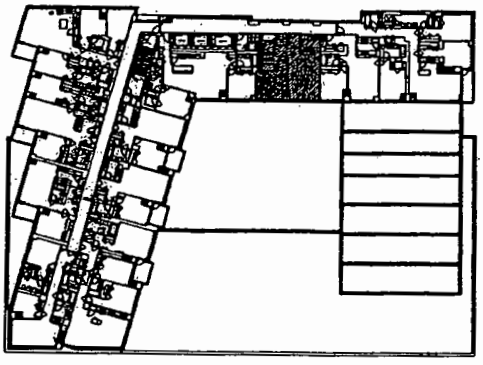
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04.17.07





KEY PLAN

UNITS: 509, 909, 1209, 1409, & 1509

FLOORS 5, 9, 12, 14, 15
795 SQ. FT. (73.85 SQ.M.)
1 BEDROOM, 1 BATH

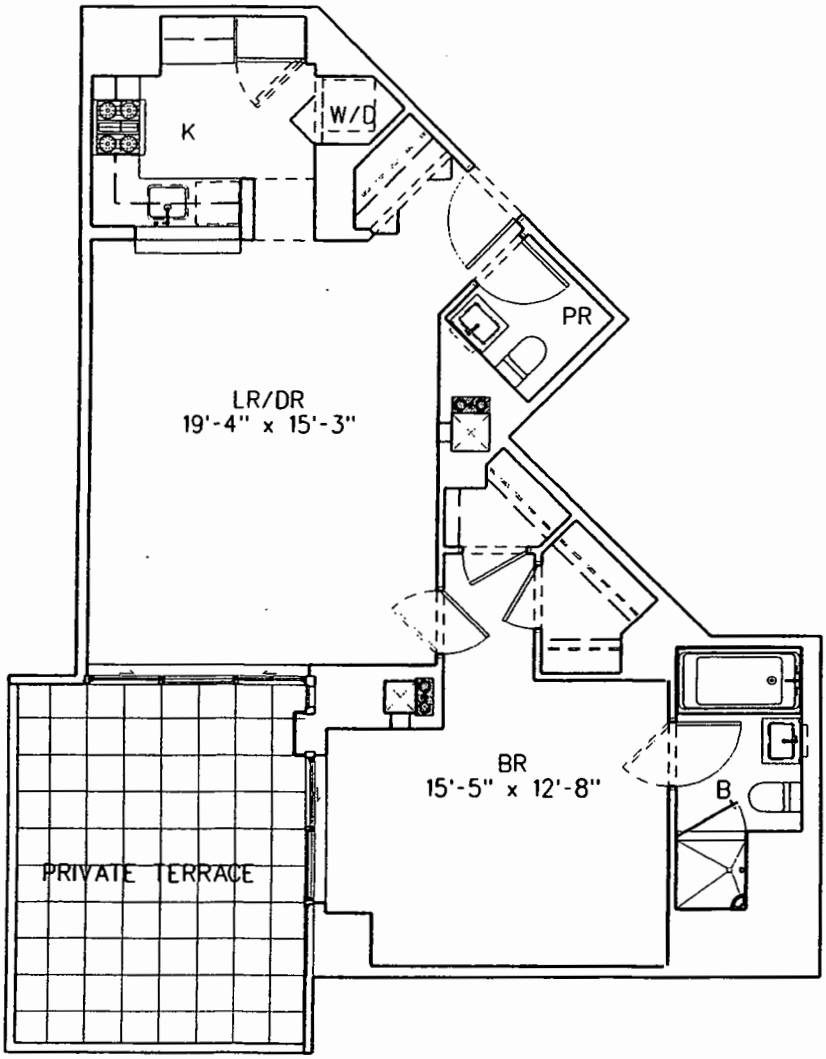
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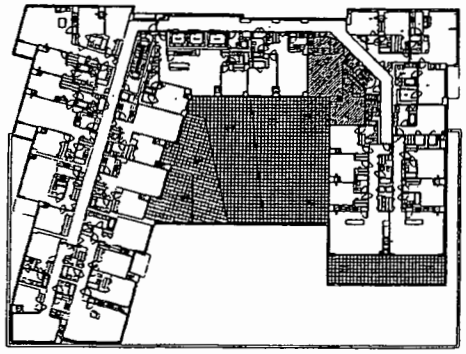
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04.17.07





KEY PLAN

UNITS: 210

FLOOR 2
877 SQ. FT. (81.47SQ.M.)
1 BEDROOM, 1 1/2 BATH
TERRACE AREA: 196 SQ. FT. (18.20 SQ.M.)

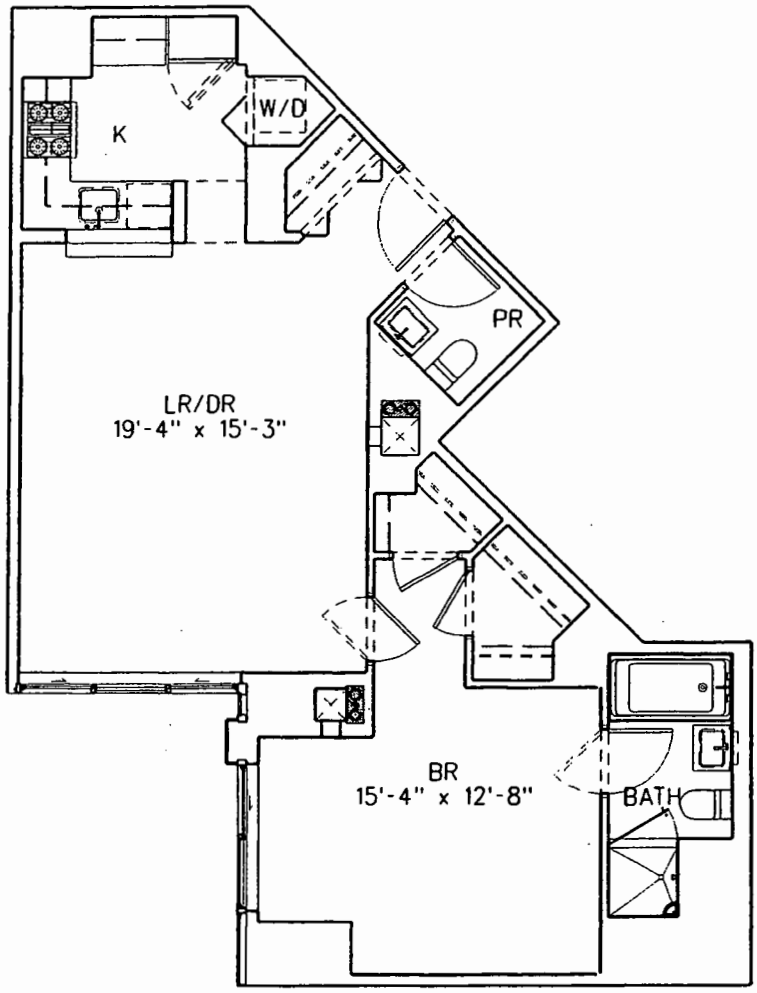
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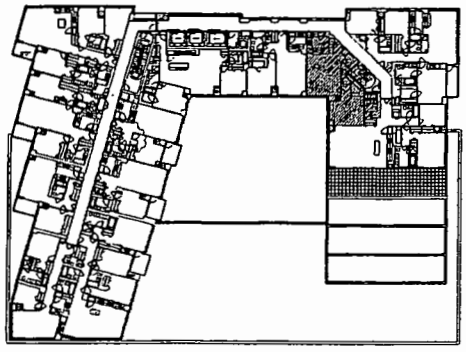
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04.17.07





KEY PLAN

UNIT: 310

FLOOR 3
863 SQ. FT. (80.17 SQ.M.)
1 BEDROOM, 1 1/2 BATH

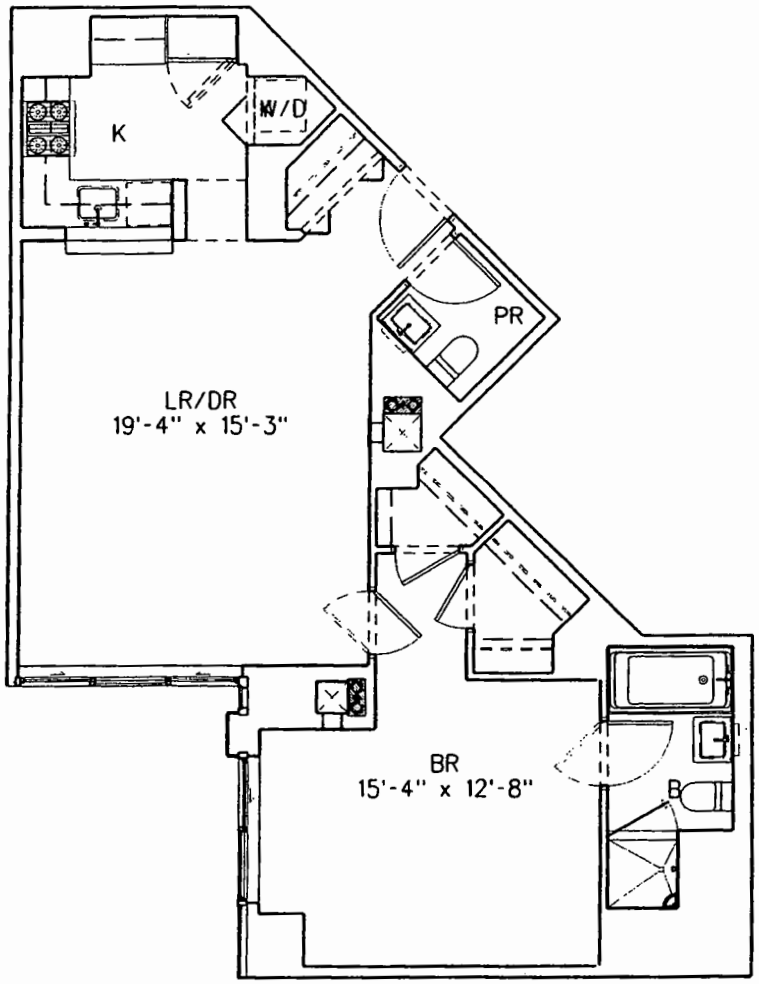
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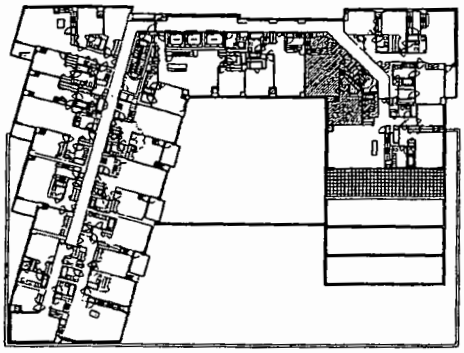
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04.17.07





KEY PLAN

UNITS: 410 & 510

FLOOR 4 & 5
877 SQ. FT. (81.47 SQ.M.)
1 BEDROOM, 1 1/2 BATH

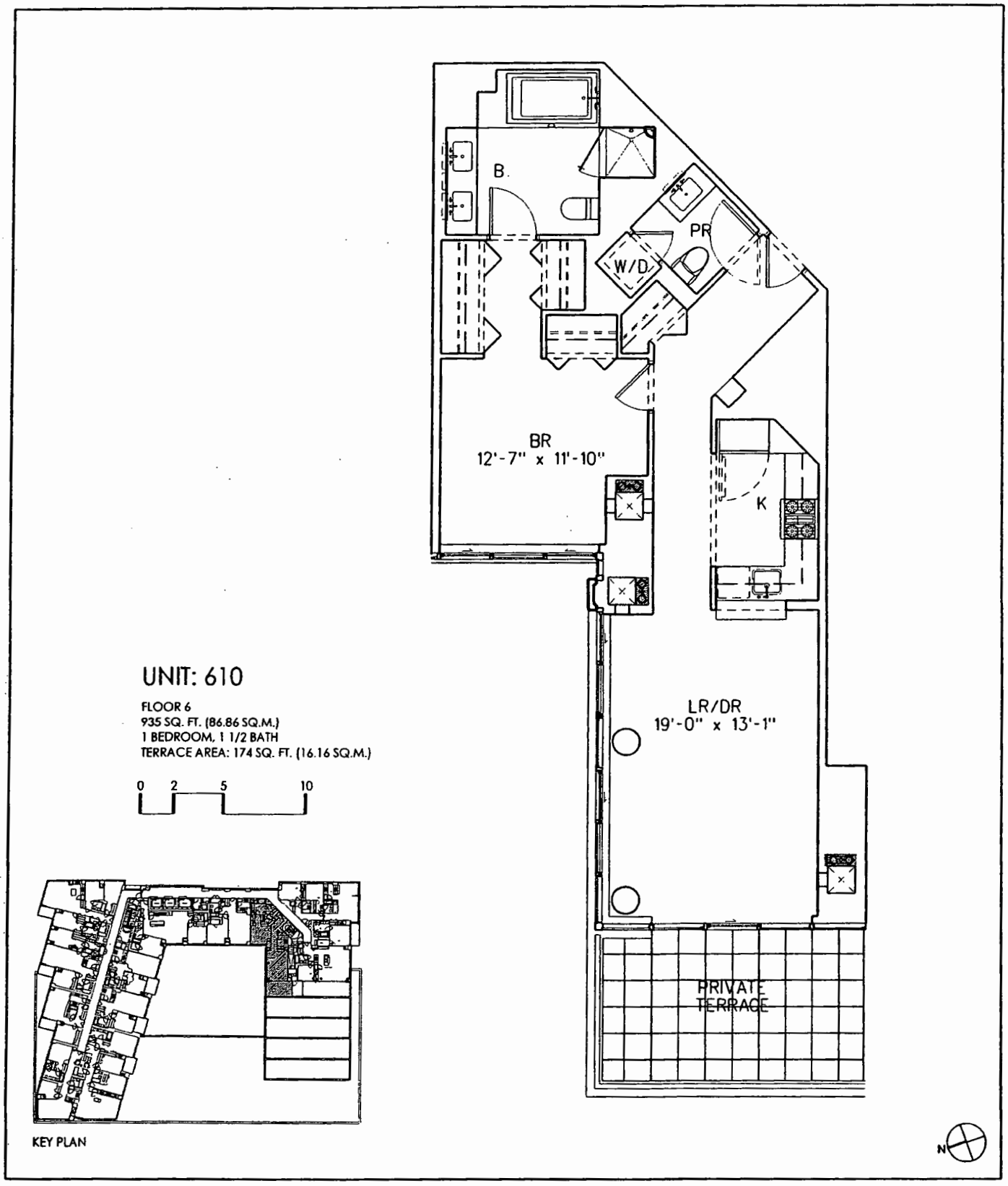
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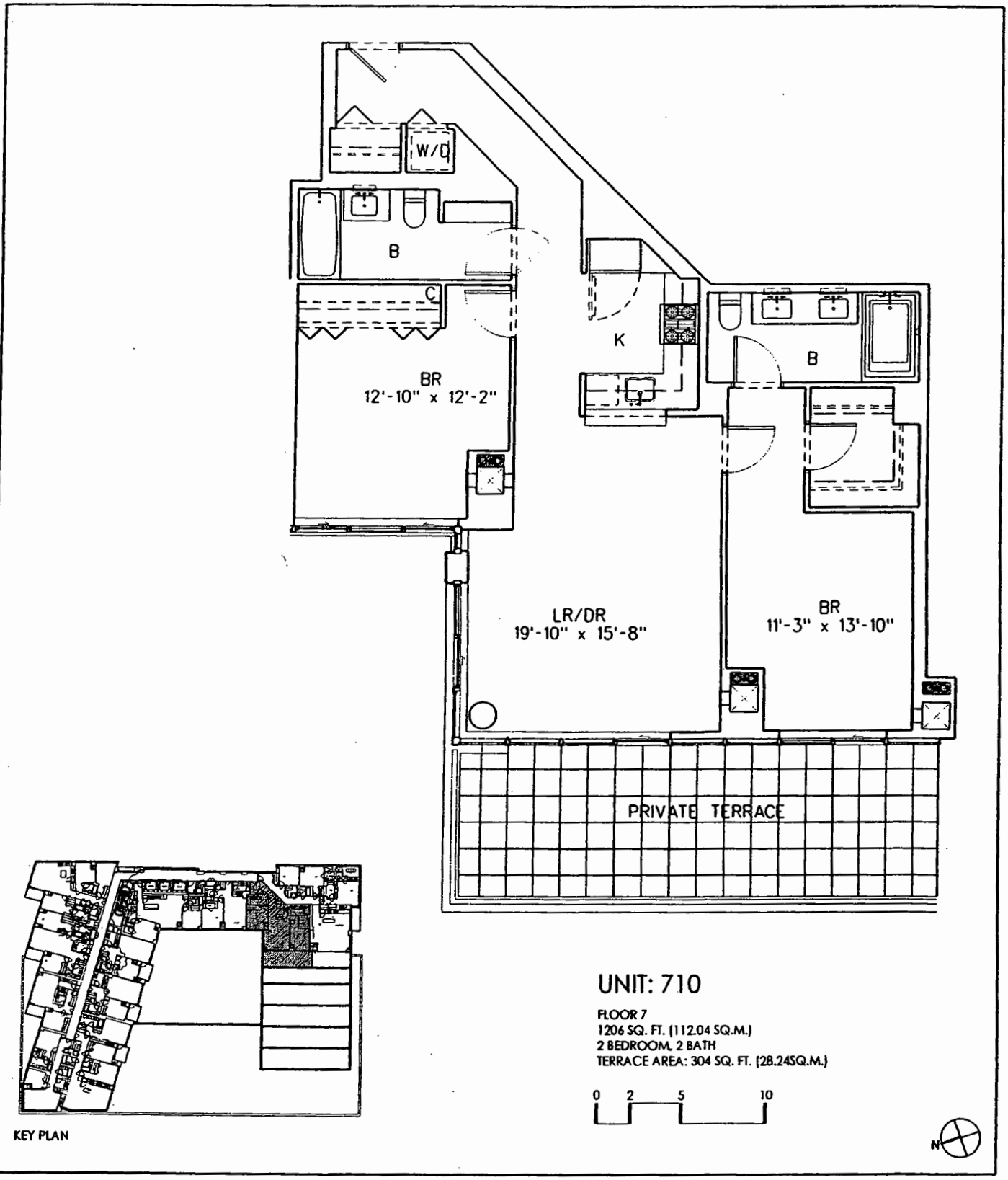
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04.17.07



KEY PLAN

UNIT: 710

FLOOR 7
1206 SQ. FT. (112.04 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 304 SQ. FT. (28.24SQ.M.)

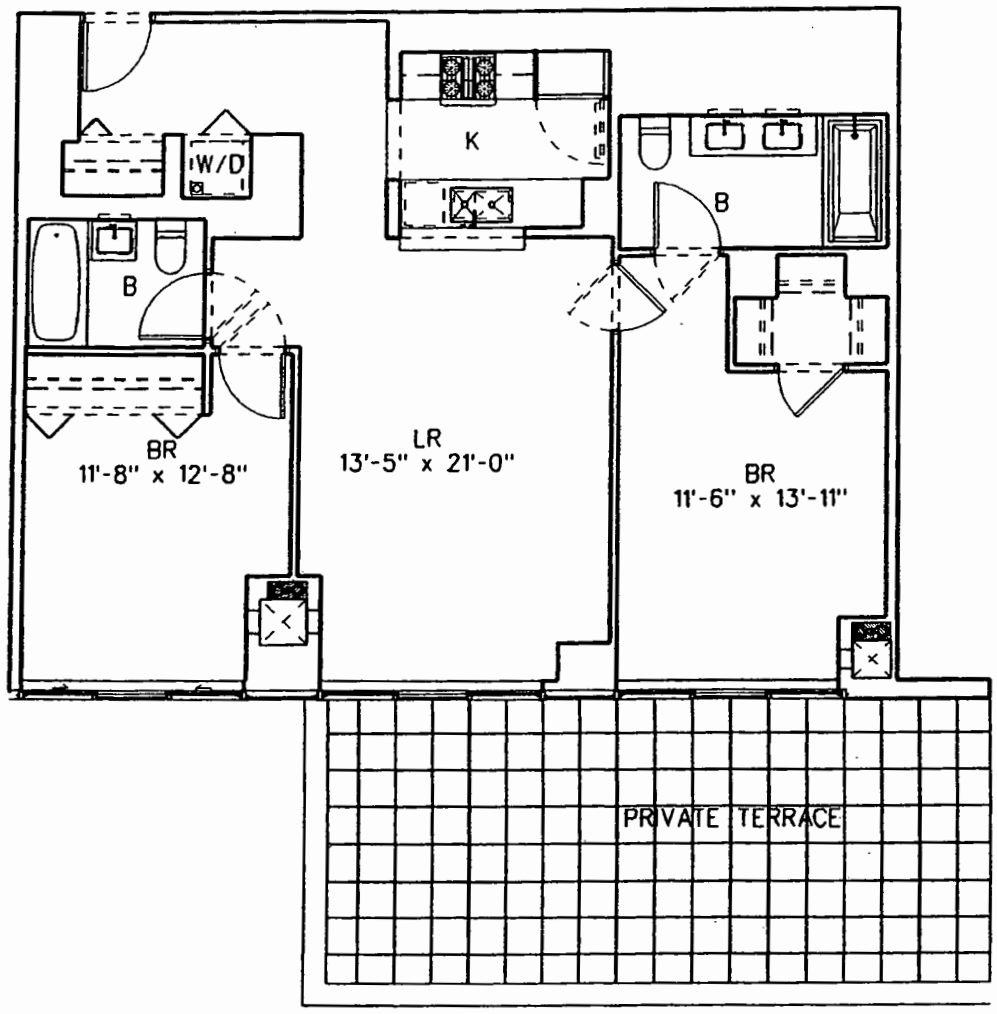
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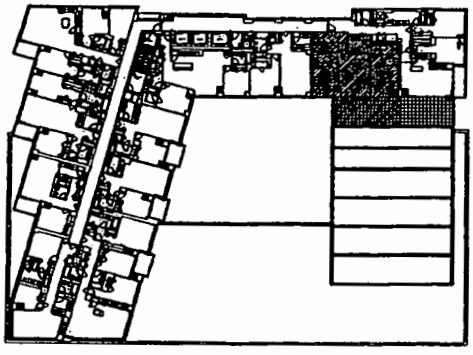
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04.17.07





KEY PLAN

UNIT: 810

FLOOR 8
1090 SQ. FT. (101.26 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA 397 SQ. FT. (36.88 SQ.M.)

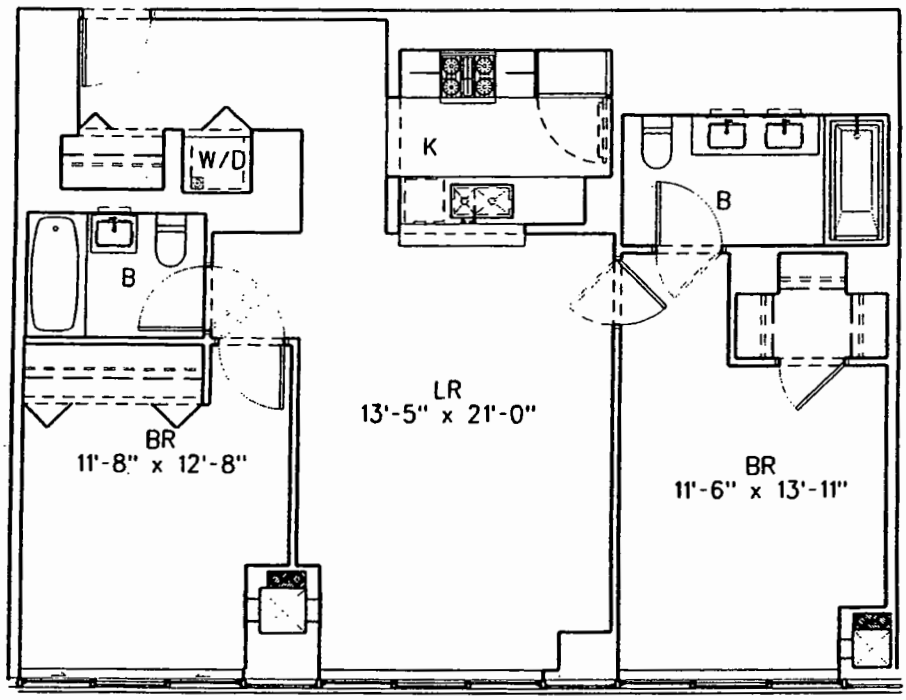
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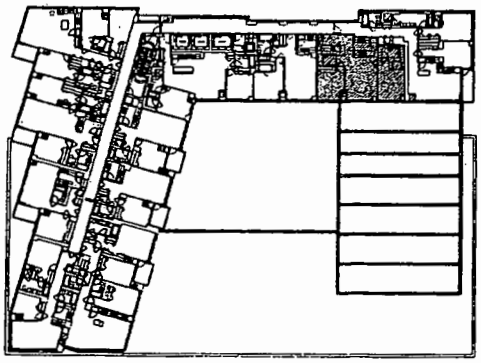
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04.17.07





KEY PLAN

UNITS: 910, 1010, 1110, 1210, 1410, & 1510

FLOORS 9 - FLOOR 15
1090 SQ. FT. (101.26 SQ.M.)
2 BEDROOM, 2 BATH

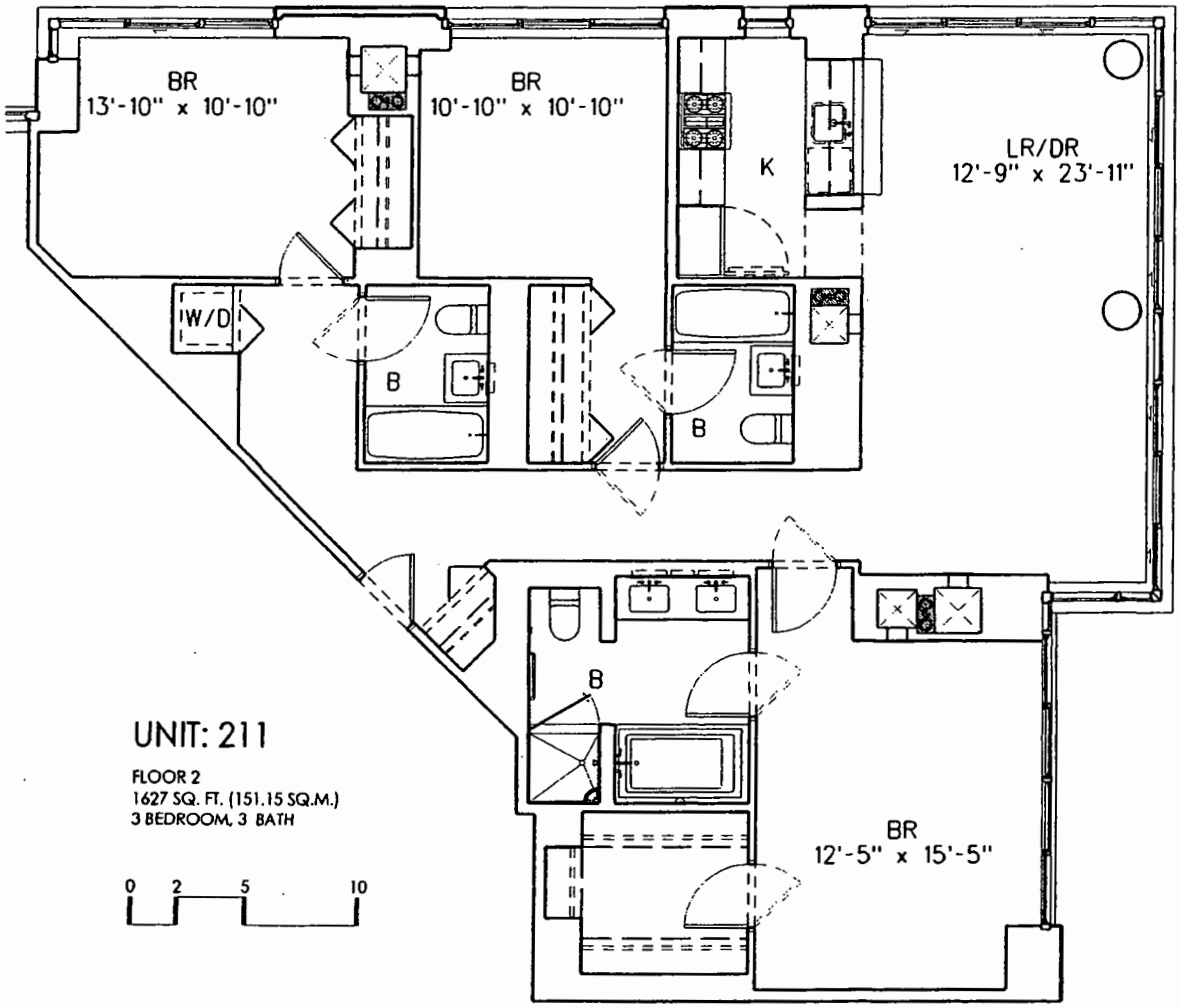
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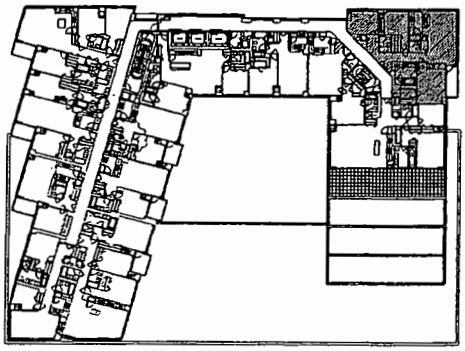
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04.17.07



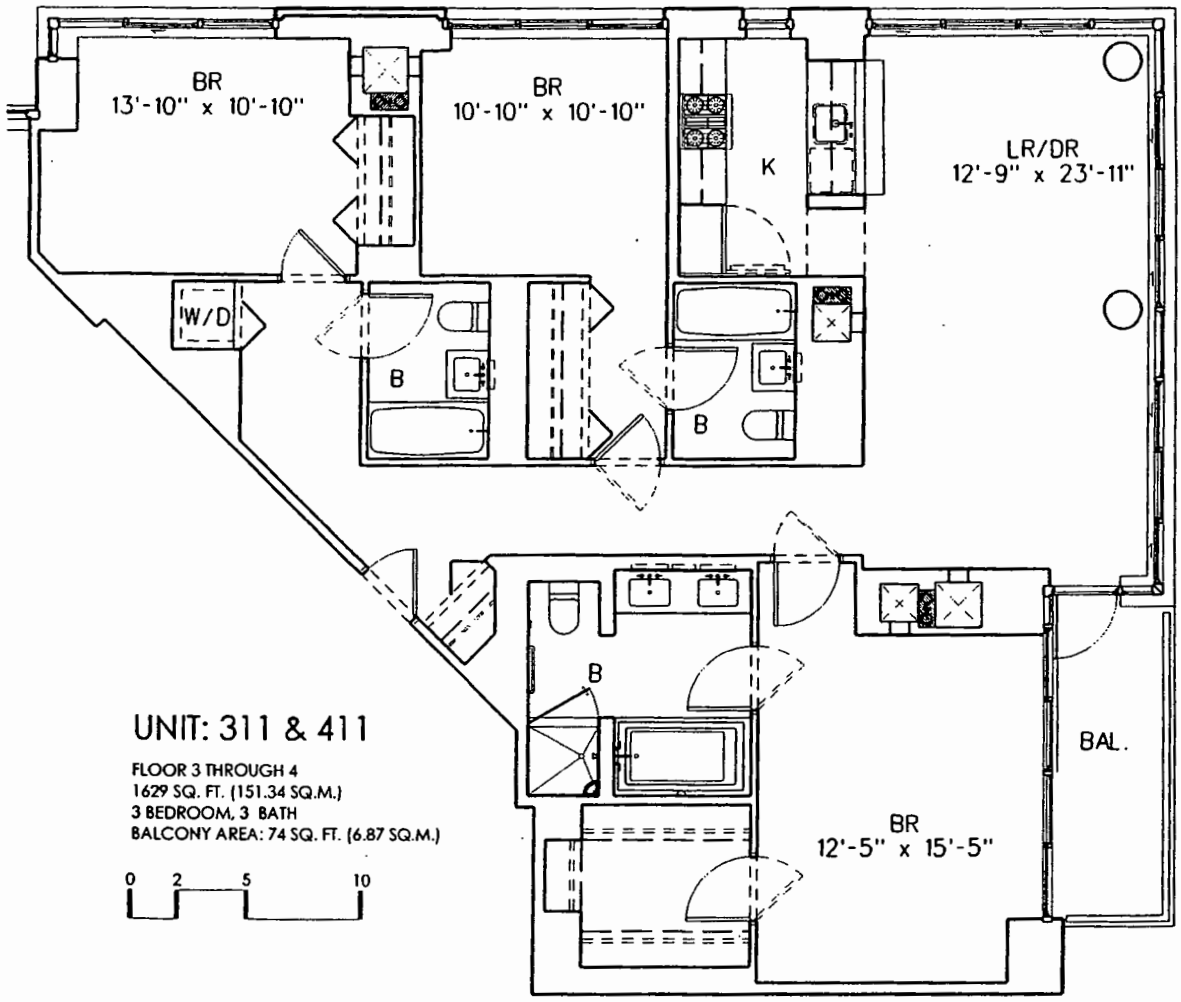


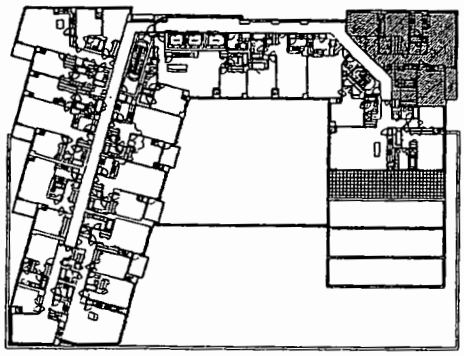
KEY PLAN

46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





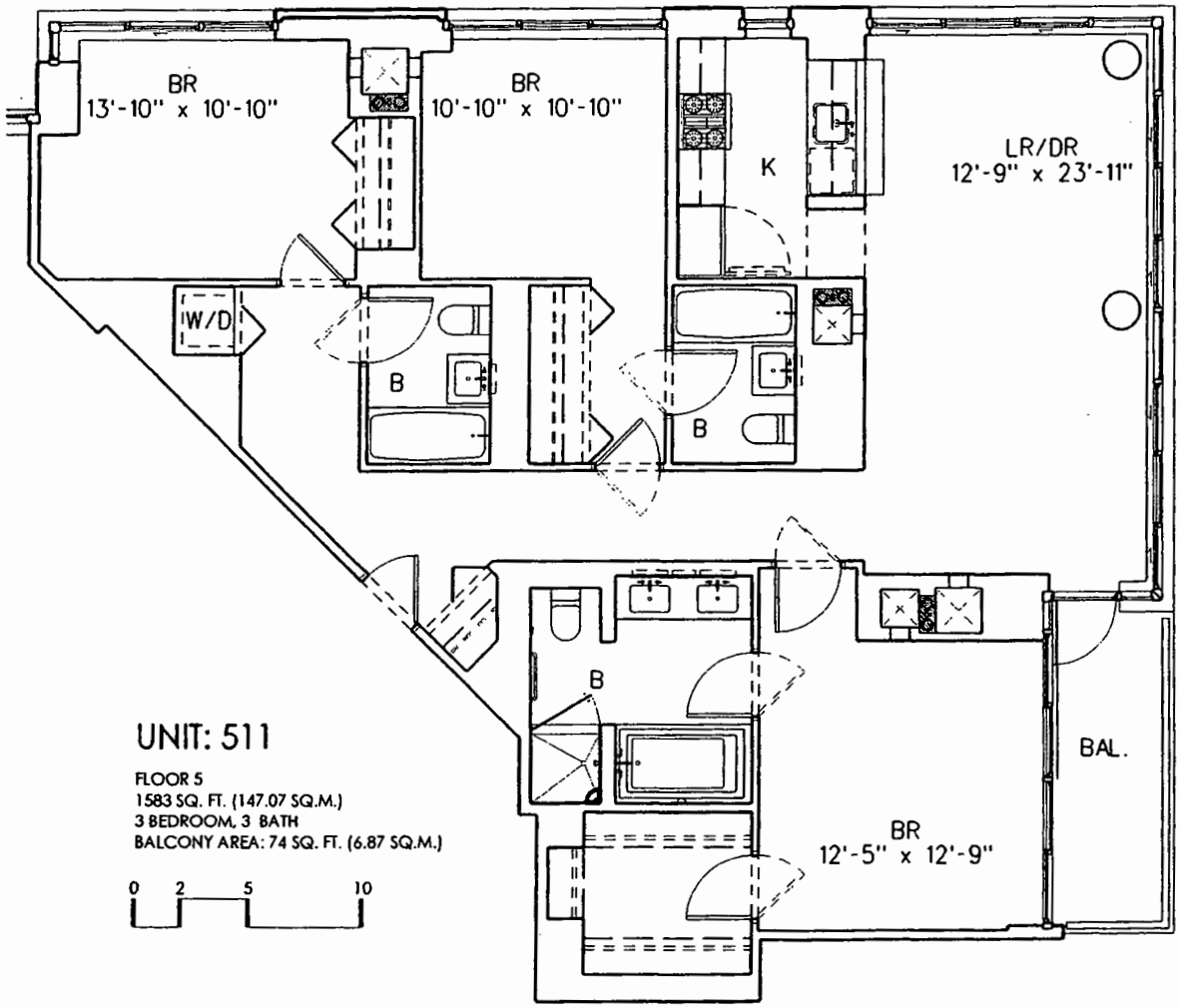
KEY PLAN

N

46-30 CENTER BOULEVARD CONDOMINIUM

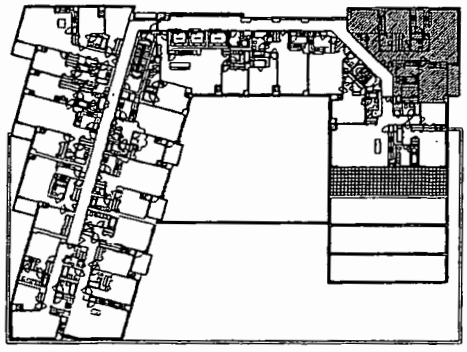
ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES. PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07



UNIT: 511

FLOOR 5
1583 SQ. FT. (147.07 SQ.M.)
3 BEDROOM, 3 BATH
BALCONY AREA: 74 SQ. FT. (6.87 SQ.M.)



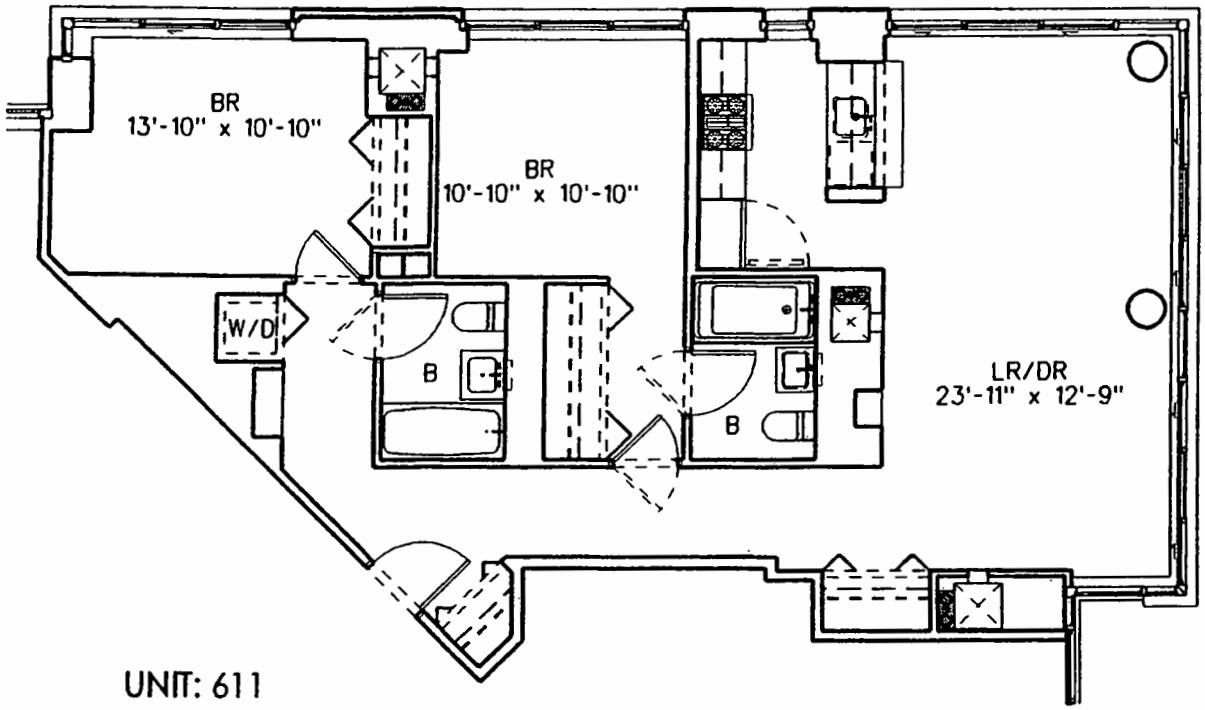
KEY PLAN

N

46-30 CENTER BOULEVARD CONDOMINIUM

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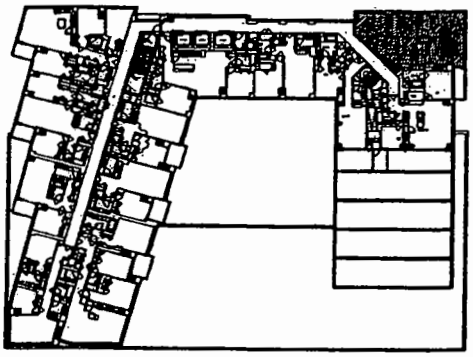
04.17.07



UNIT: 611

FLOOR 6
1207 SQ. FT. (112 SQ.M.)
2 BEDROOM, 2 BATH

0 2 5 10



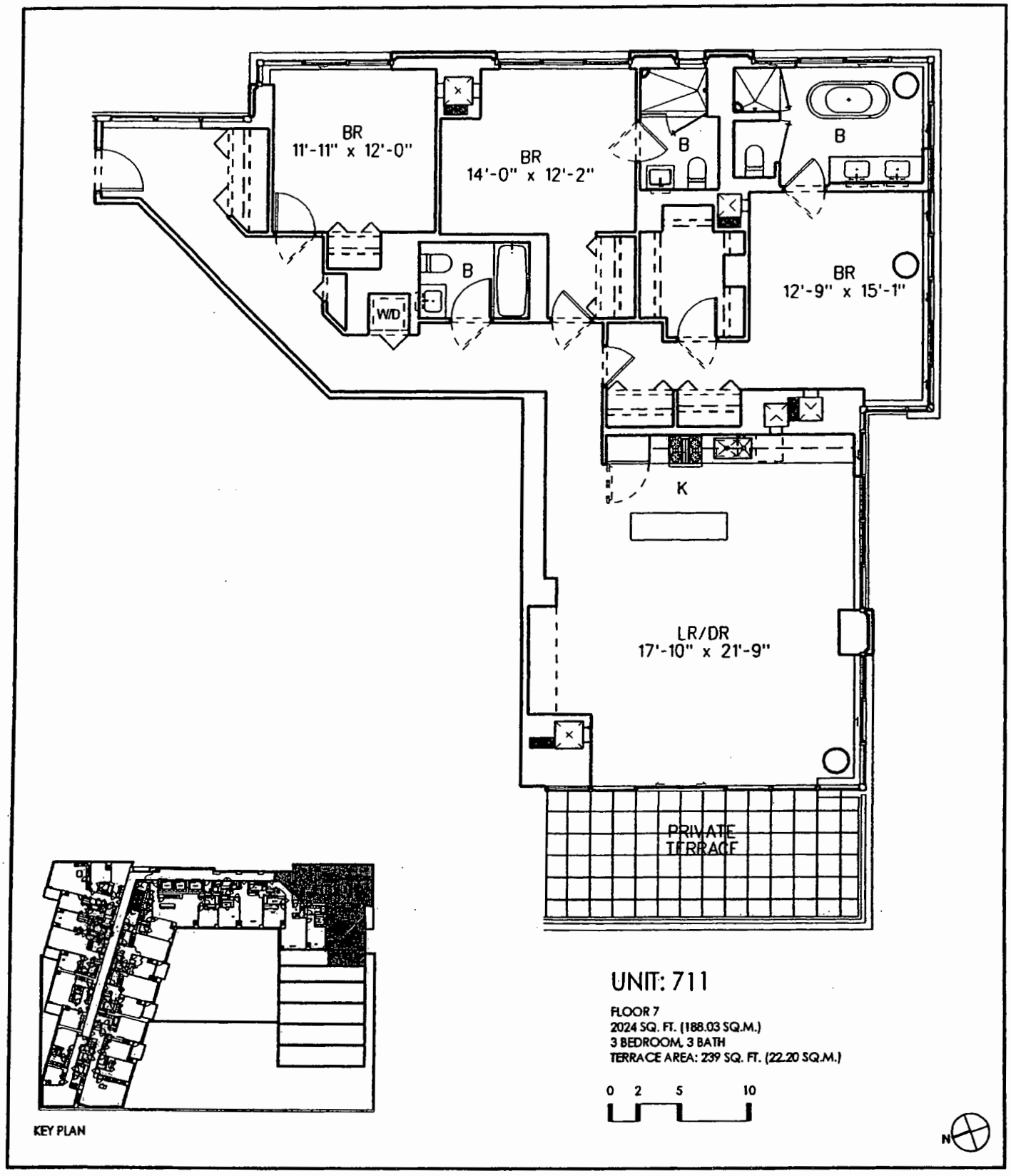
KEY PLAN

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46-30 CENTER BOULEVARD CONDOMINIUM

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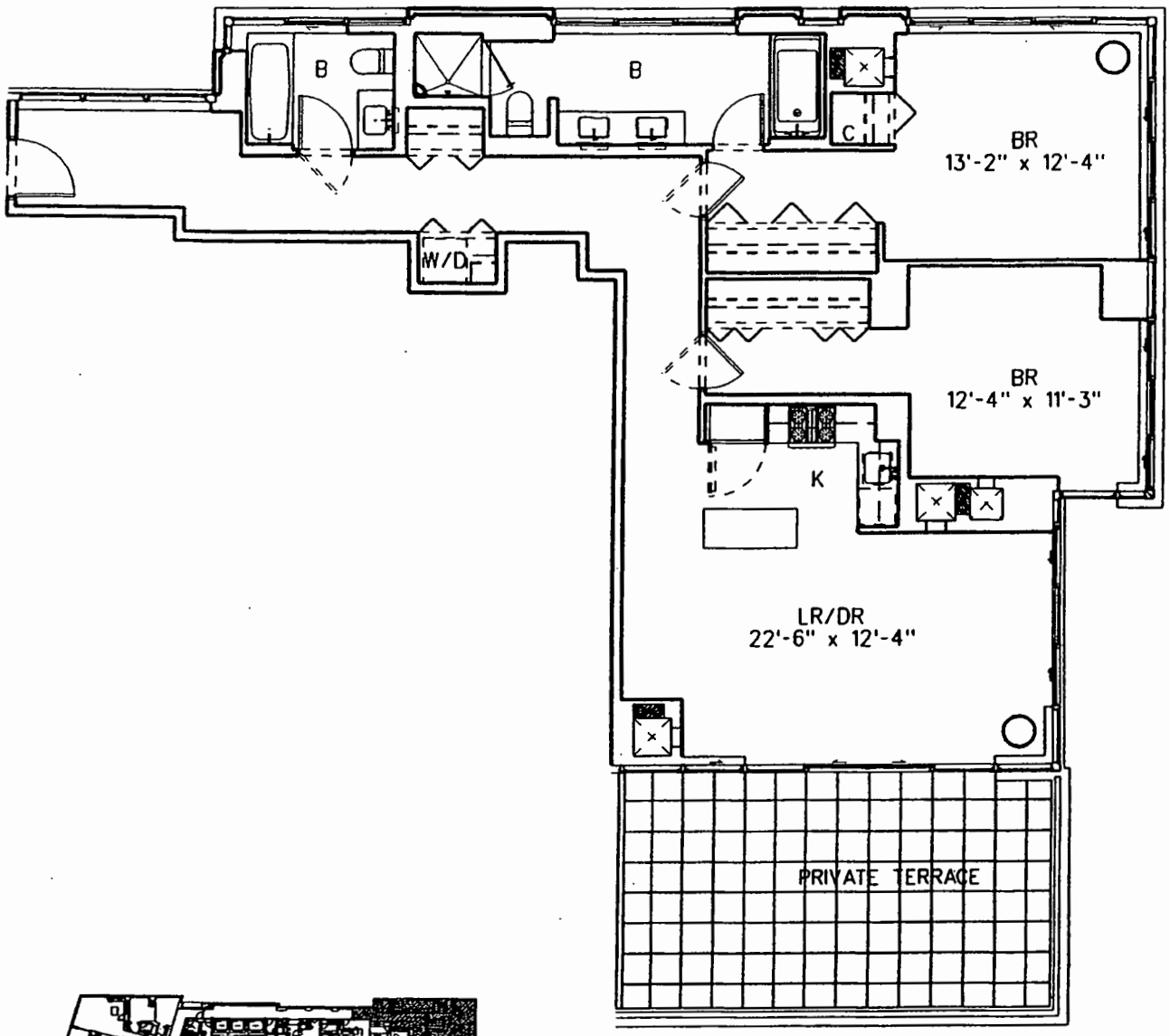
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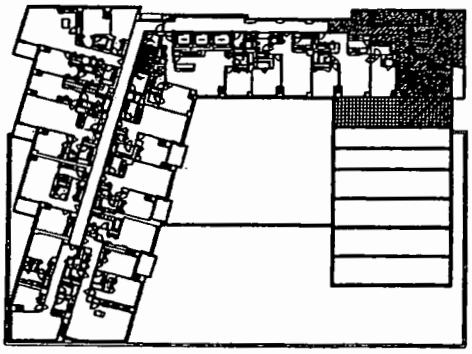


46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07





KEY PLAN

UNIT: 811

FLOOR 8
1459 SQ. FT. (135.54 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 310 SQ. FT. (28.79 SQ.M.)

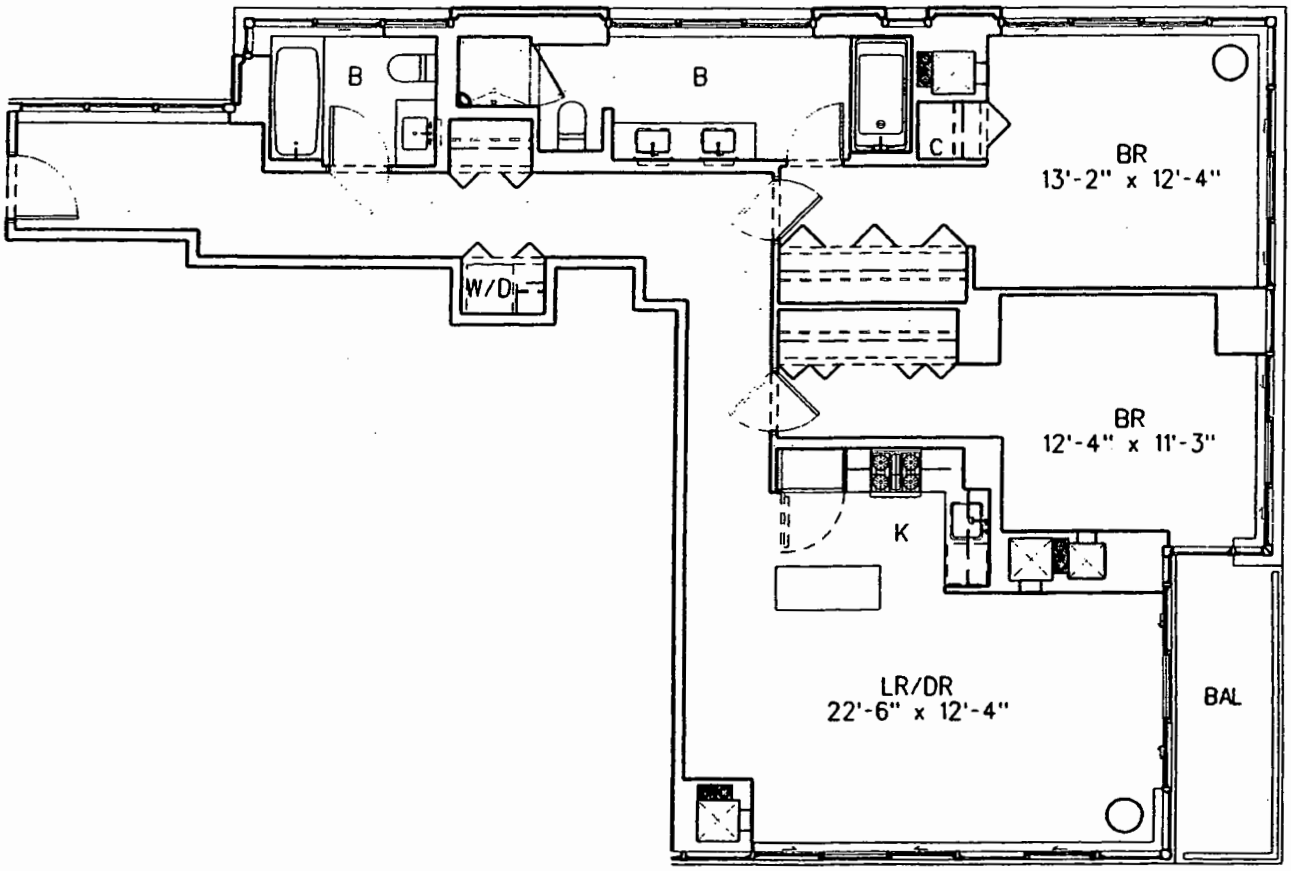
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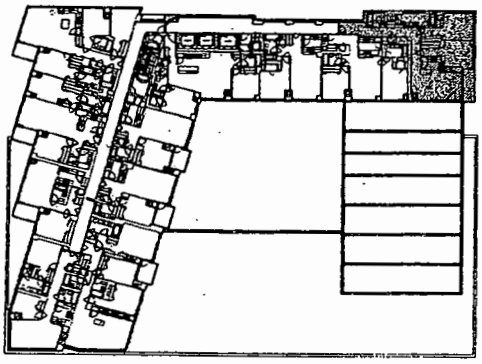
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04.17.07





KEY PLAN

UNITS: 911, 1011, 1111, 1211, 1411, & 1511

FLOOR 9 THROUGH 15
1459 SQ. FT. (135.54 SQ.M.)
2 BEDROOM, 2 BATH
BALCONY AREA: 74 SQ. FT. (6.87 SQ.M.)

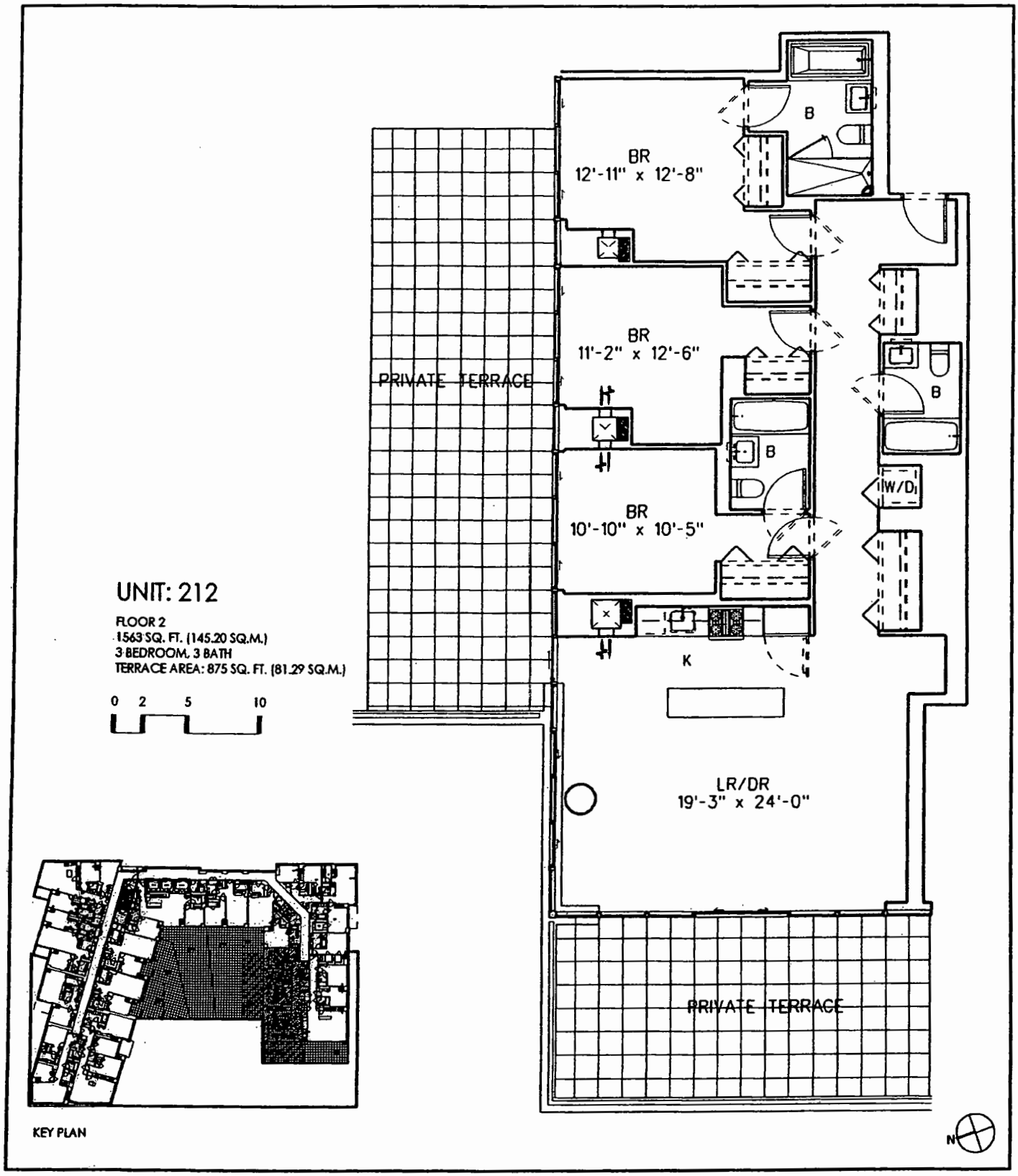
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04.17.07



UNIT: 212

FLOOR 2
1563 SQ. FT. (145.20 SQ.M.)
3 BEDROOM, 3 BATH
TERRACE AREA: 875 SQ. FT. (81.29 SQ.M.)

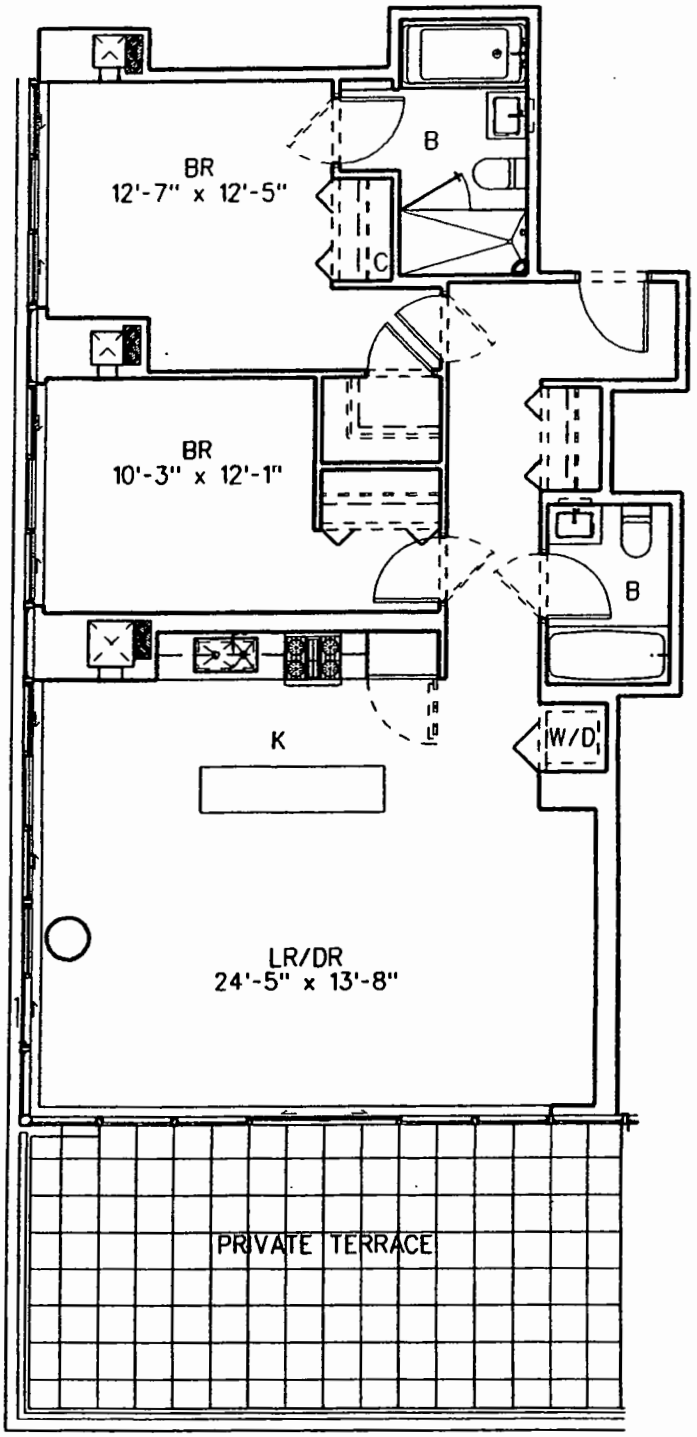
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KEY PLAN

46-30 CENTER BOULEVARD CONDOMINIUM

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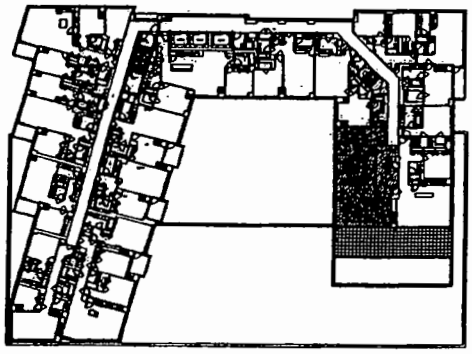
04.17.07



UNIT: 312

FLOOR 3
1272 SQ. FT. (118.17 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 357 SQ. FT. (33.16 SQ.M.)

0 2 5 10



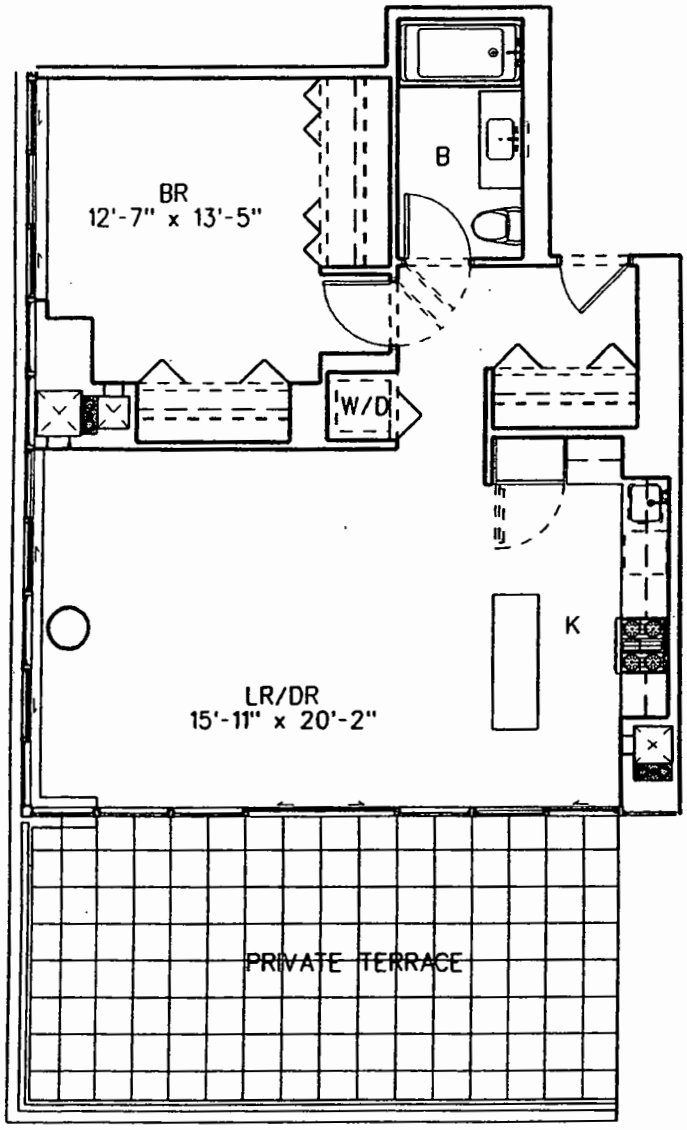
KEY PLAN

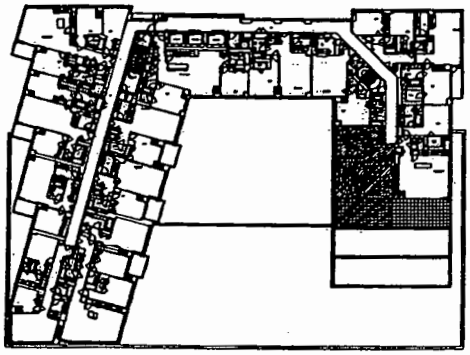
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46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07





KEY PLAN

UNIT: 412

FLOOR 4
930 SQ. FT. (86.39 SQ.M.)
1 BEDROOM, 1 BATH
TERRACE AREA: 357 SQ. FT. (33.16 SQ.M.)

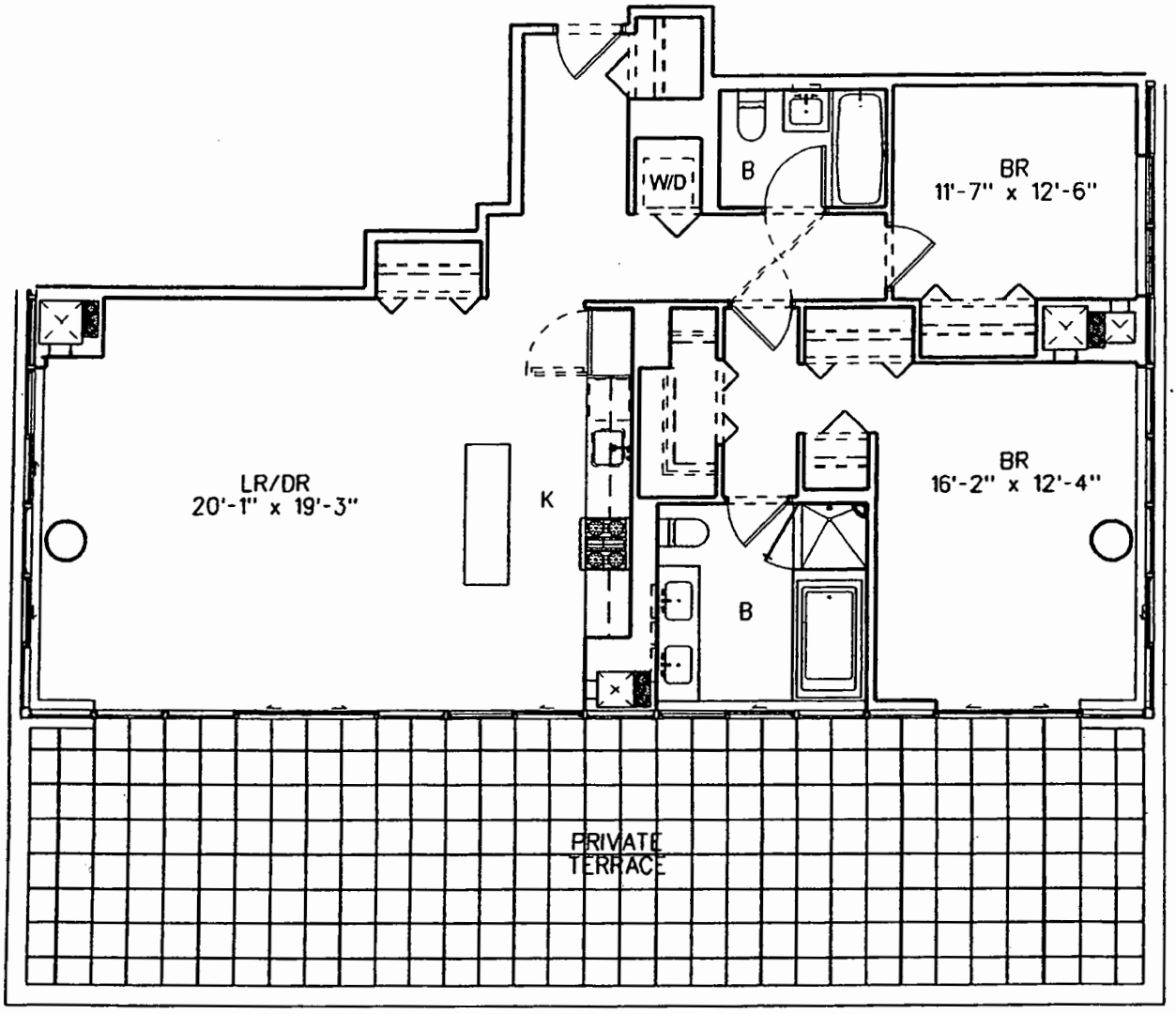
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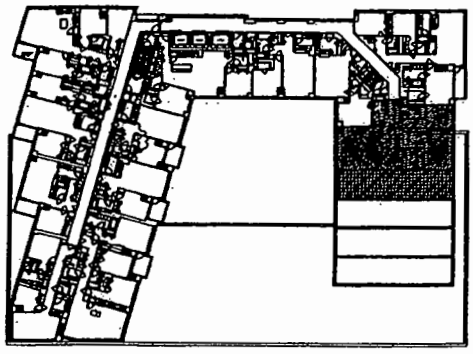
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04.17.07





KEY PLAN

UNIT: 512

FLOOR 5
1443 SQ. FT. (134.06 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 715 SQ. FT. (66.42 SQ.M.)

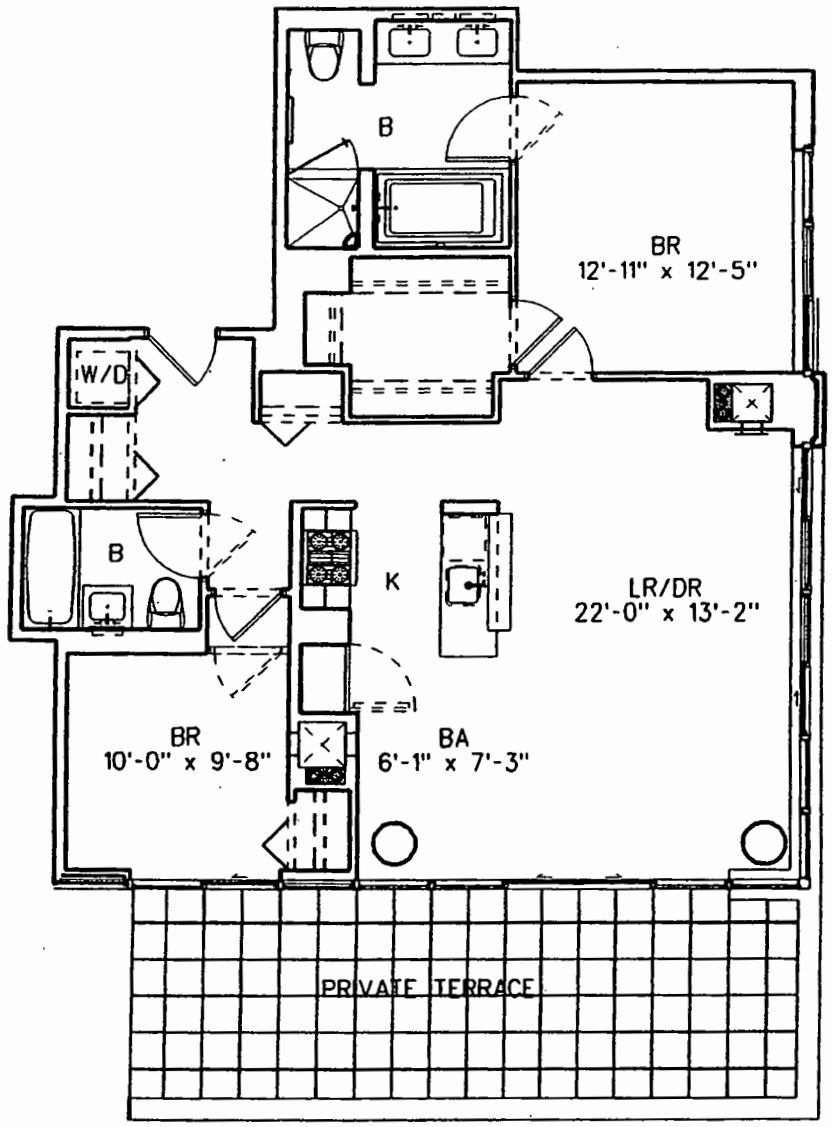
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N

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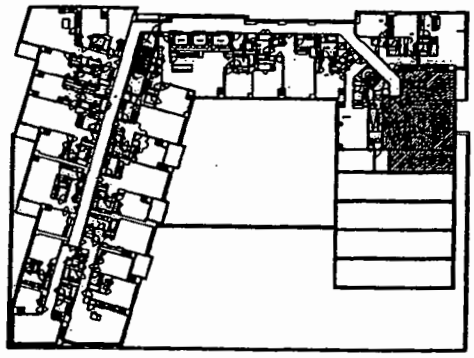
04.17.07



UNIT: 612

FLOOR 6
1142 SQ. FT. (106.1 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 307 SQ. FT. (28.52 SQ.M.)

0 2 5 10



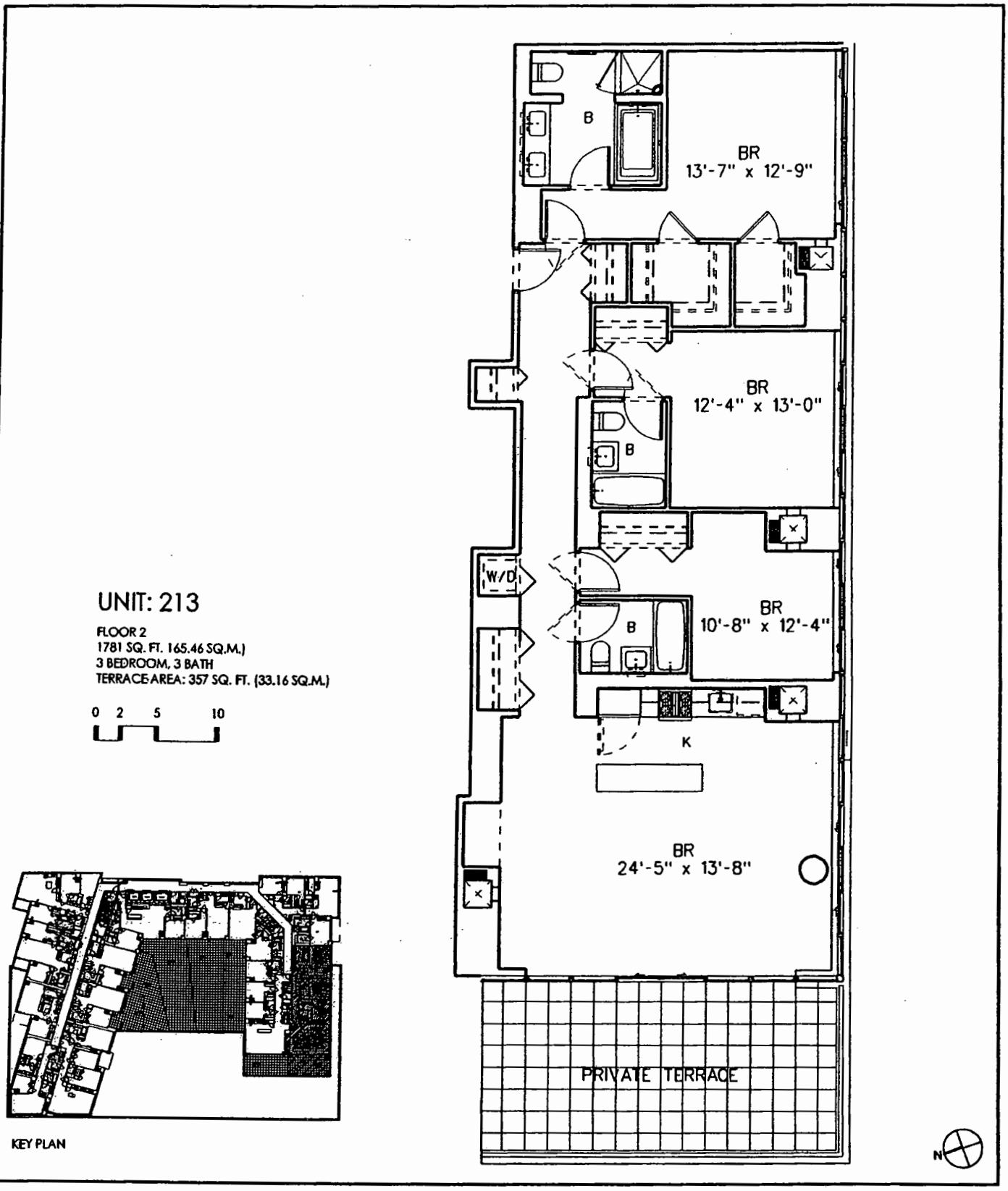
KEY PLAN

N

46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07



UNIT: 213

FLOOR 2
1781 SQ. FT. 165.46 SQ.M.)
3 BEDROOM, 3 BATH
TERRACE AREA: 357 SQ. FT. (33.16 SQ.M.)

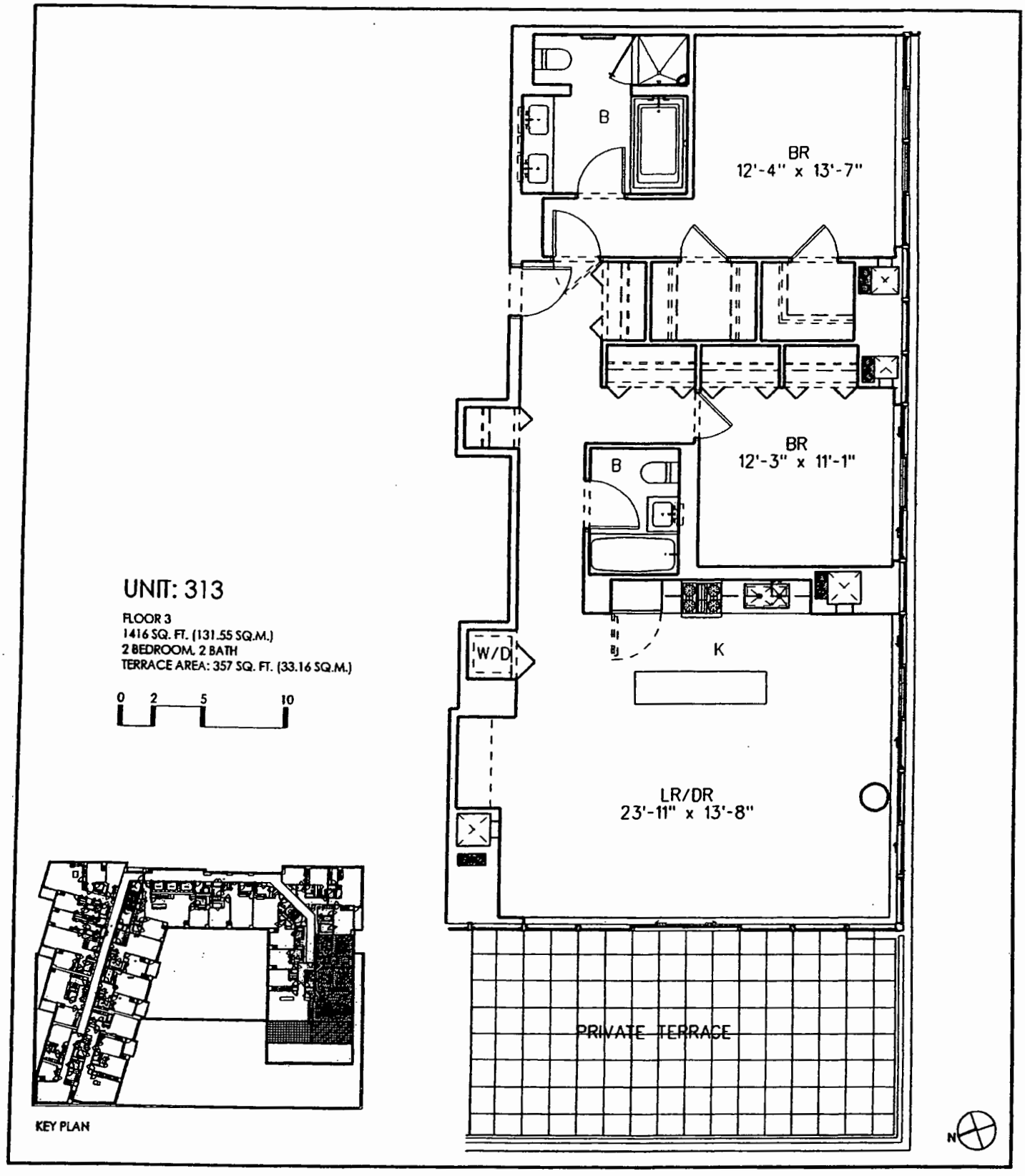
0 2 5 10

KEY PLAN

46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07



UNIT: 313

FLOOR 3
1416 SQ. FT. (131.55 SQ.M.)
2 BEDROOM, 2 BATH
TERRACE AREA: 357 SQ. FT. (33.16 SQ.M.)

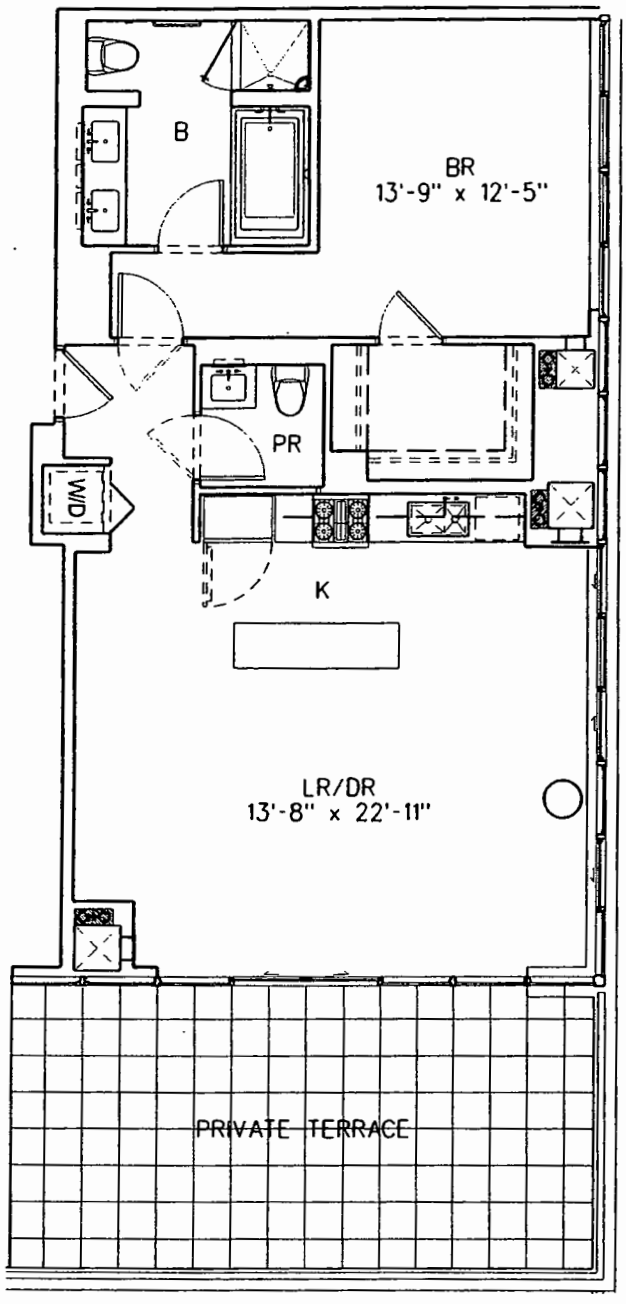
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KEY PLAN

46-30 CENTER BOULEVARD CONDOMINIUM

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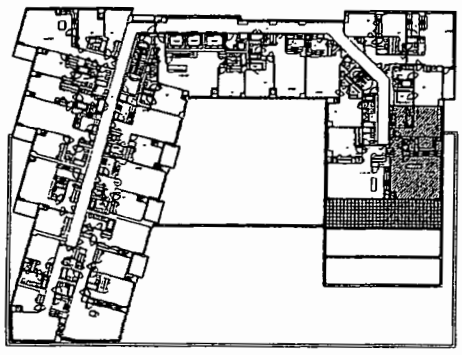
04.17.07



UNIT: 413

FLOOR 4
1056 SQ. FT. (98.0 SQ.M.)
1 BEDROOM, 1 1/2 BATH
TERRACE AREA: 357 SQ. FT. (33.16 SQ.M.)

0 2 5 10



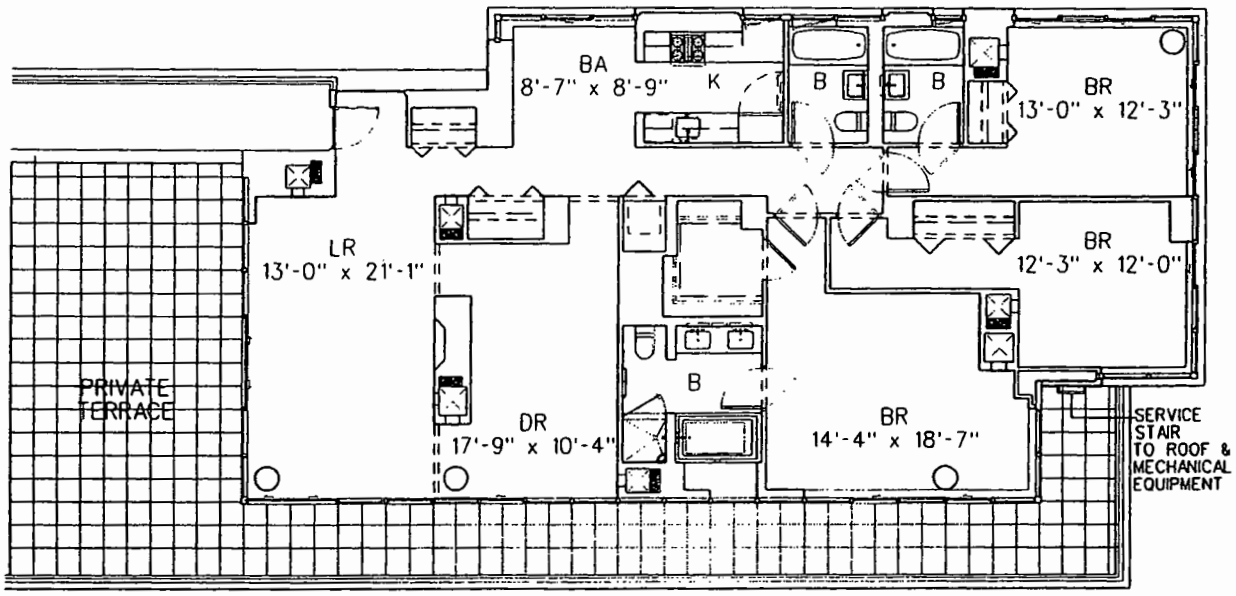
KEY PLAN

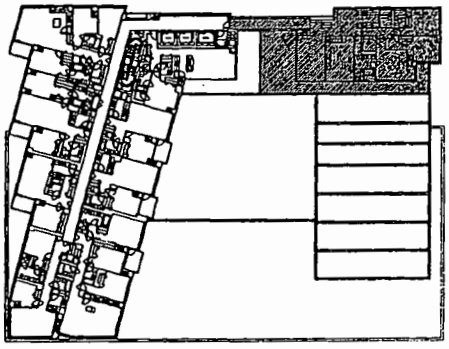
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46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07





KEY PLAN

UNIT PH-A

FLOOR 16
2107 SQ. FT. (195.74 SQ.M.)
3 BEDROOM, 3 BATH
TERRACE AREA: 1147 SQ. FT. (106.55 SQ.M.)

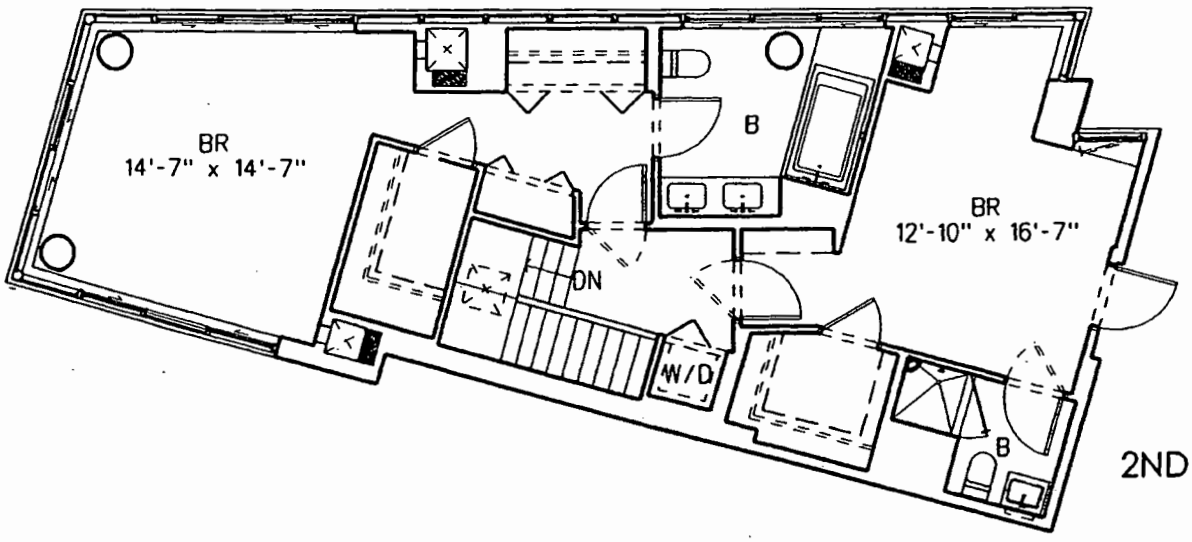
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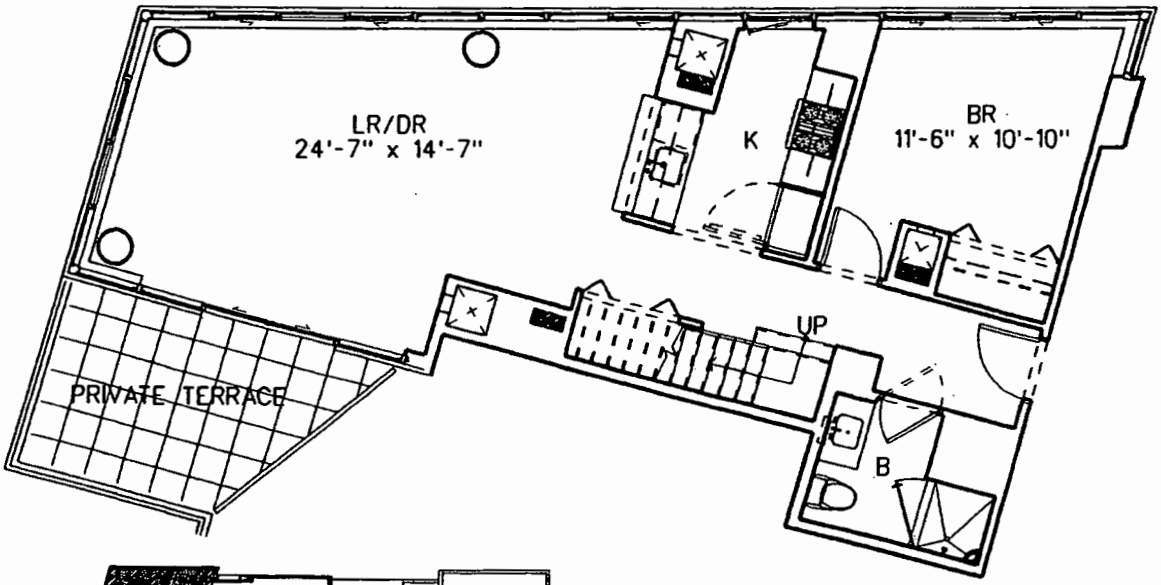
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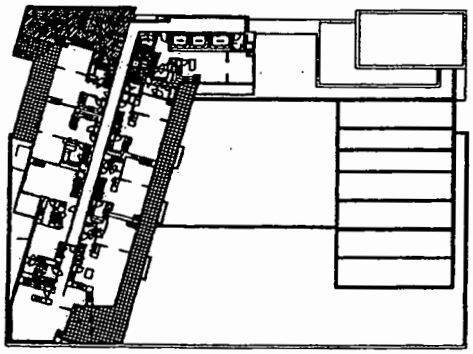
06.15.07



2ND FL.



1ST. FL.



KEY PLAN

UNIT PH-1

FLOOR 18 & FLOOR 19
1879 SQ. FT. (174.56 SQ.M.)
3 BEDROOM, 3 BATH
TERRACE AREA: 131 SQ. FT. (12.17 SQ.M.)

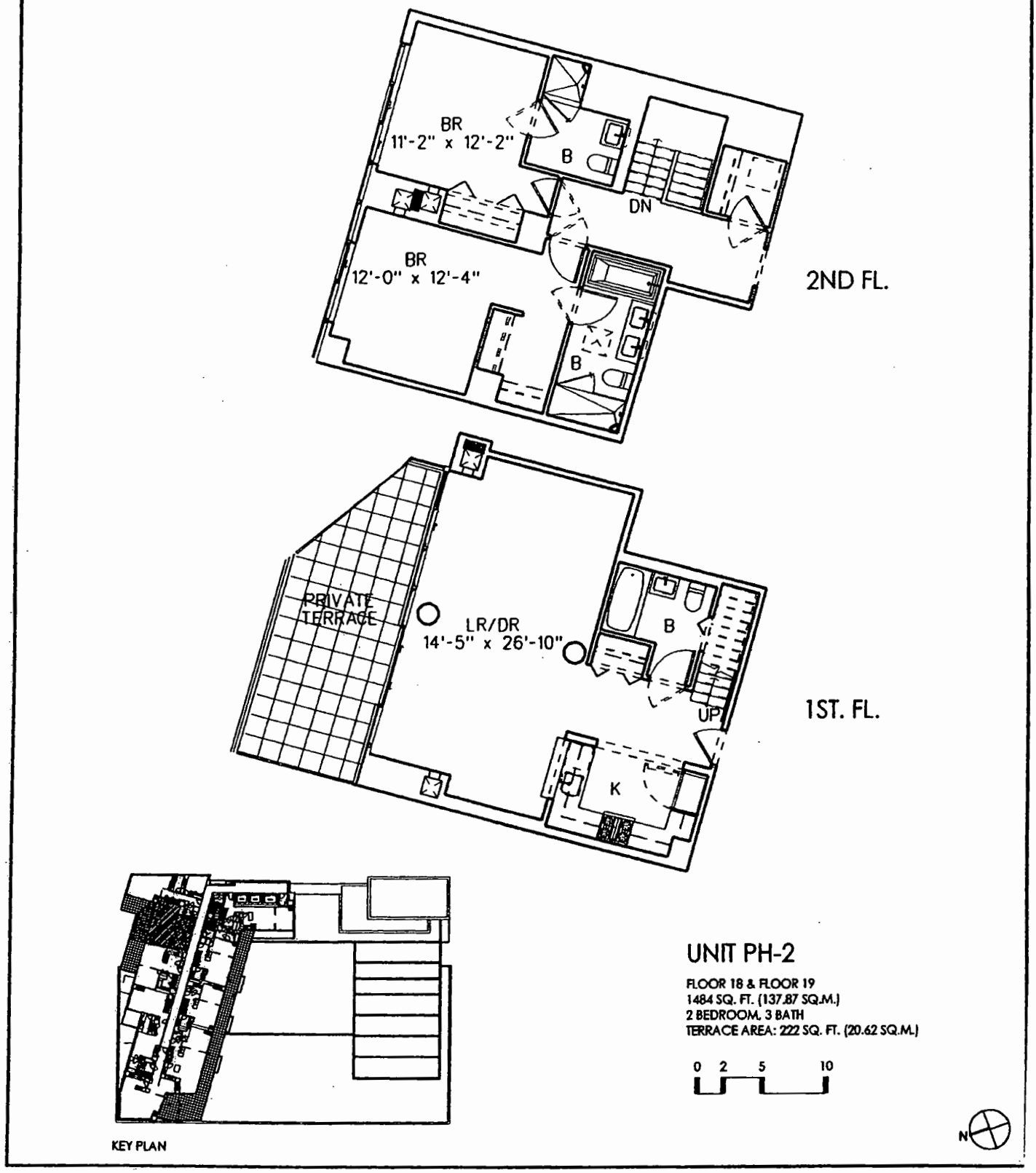
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N

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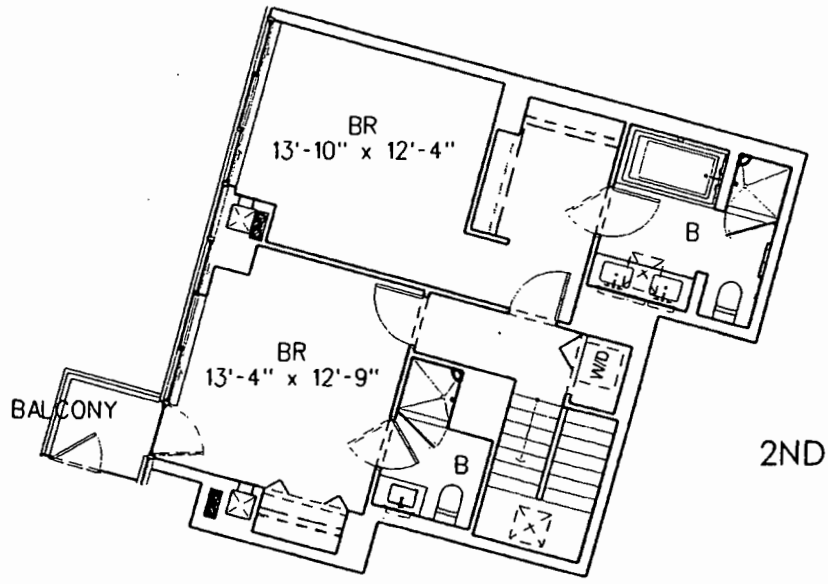
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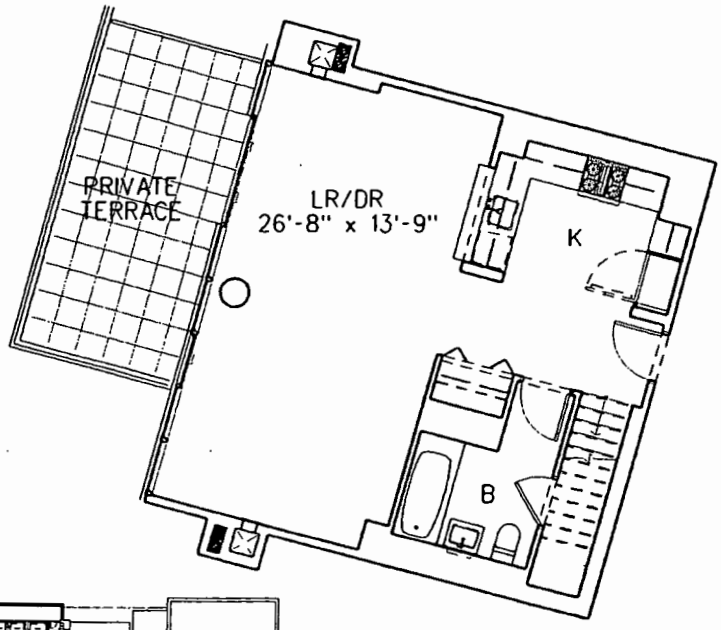
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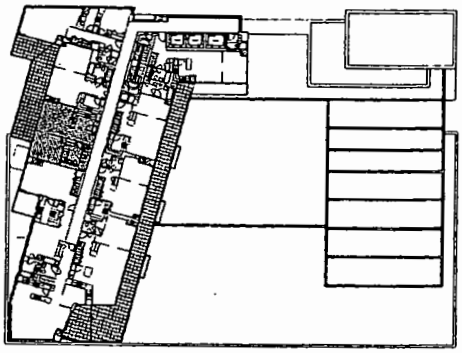
04.16.07



2ND FL.



1ST. FL.



KEY PLAN

UNIT PH-3

FLOOR 18 & FLOOR 19
1499 SQ. FT. (139.26 SQ.M.)
2 BEDROOM, 3 BATH
OUTDOOR AREA: 197(T) + 31(B) = 228 SQ. FT. (21.18 SQ.M.)

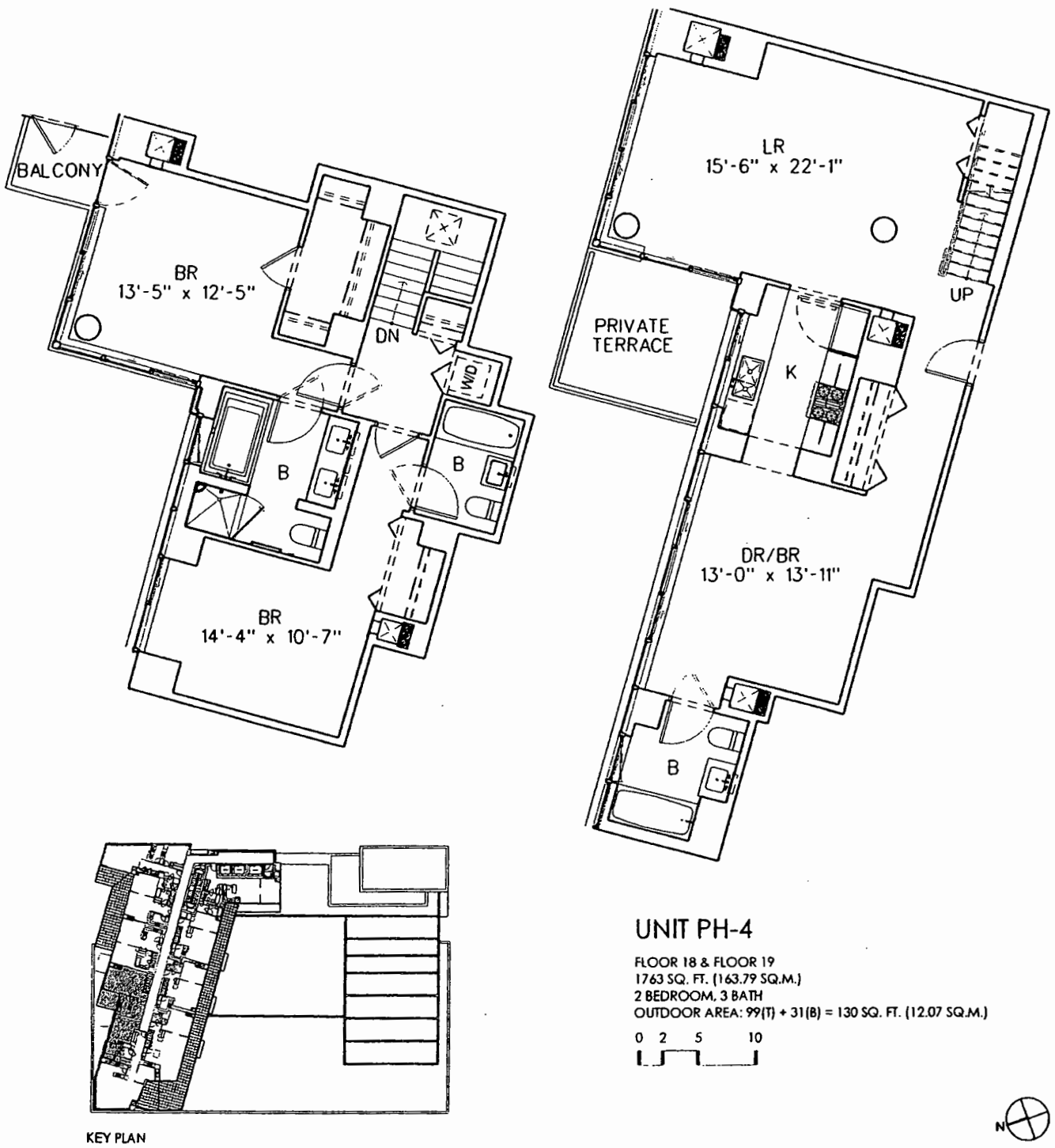
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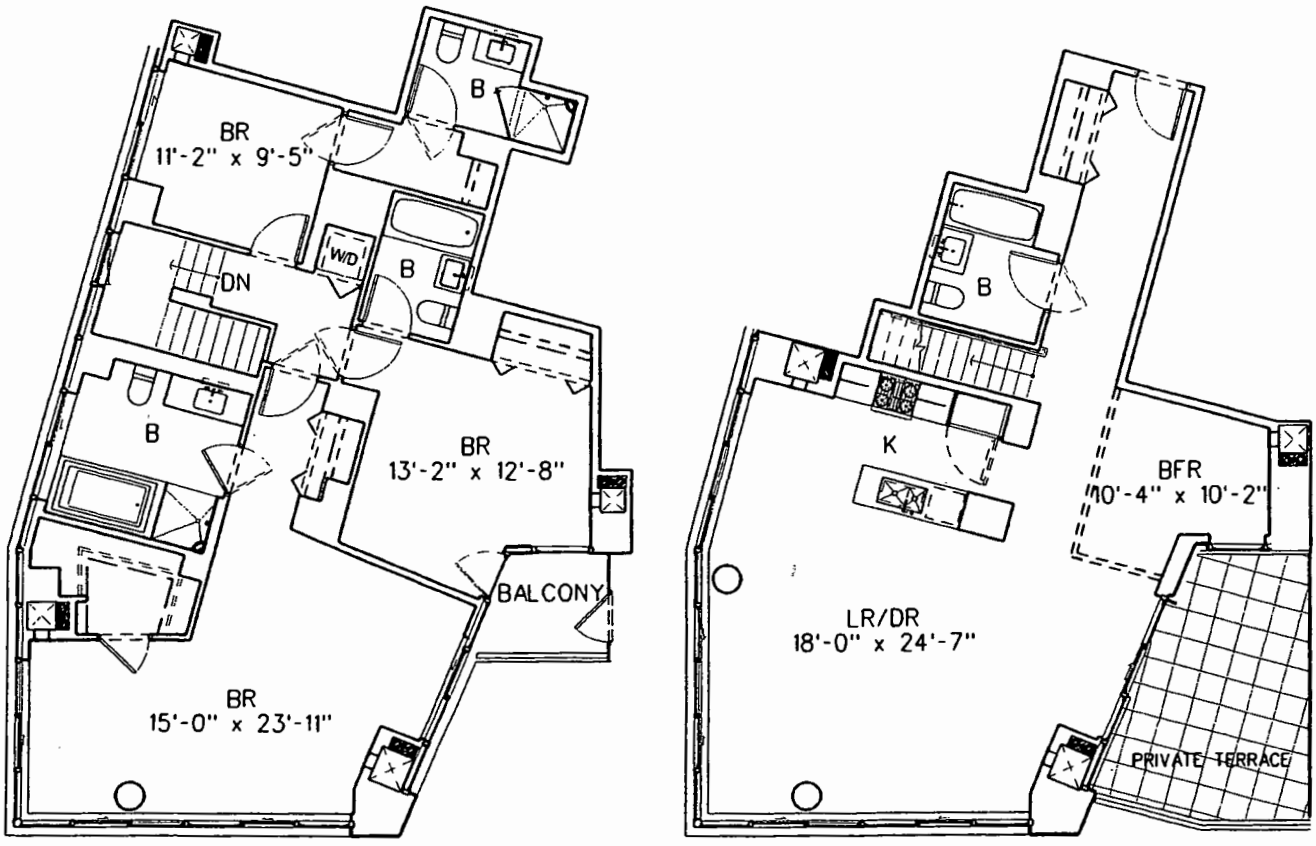
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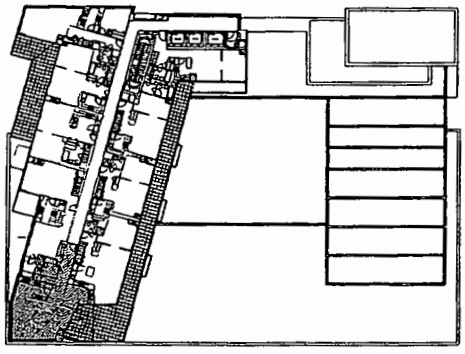


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04.17.07





KEY PLAN

UNIT PH-5

FLOOR 18 & FLOOR 19
2260 SQ. FT. (209.96 SQ.M.)
3 BEDROOM, 4 BATH
OUTDOOR AREA: 169(T) + 41(B) = 210 SQ. FT. (19.50 SQ.M.)

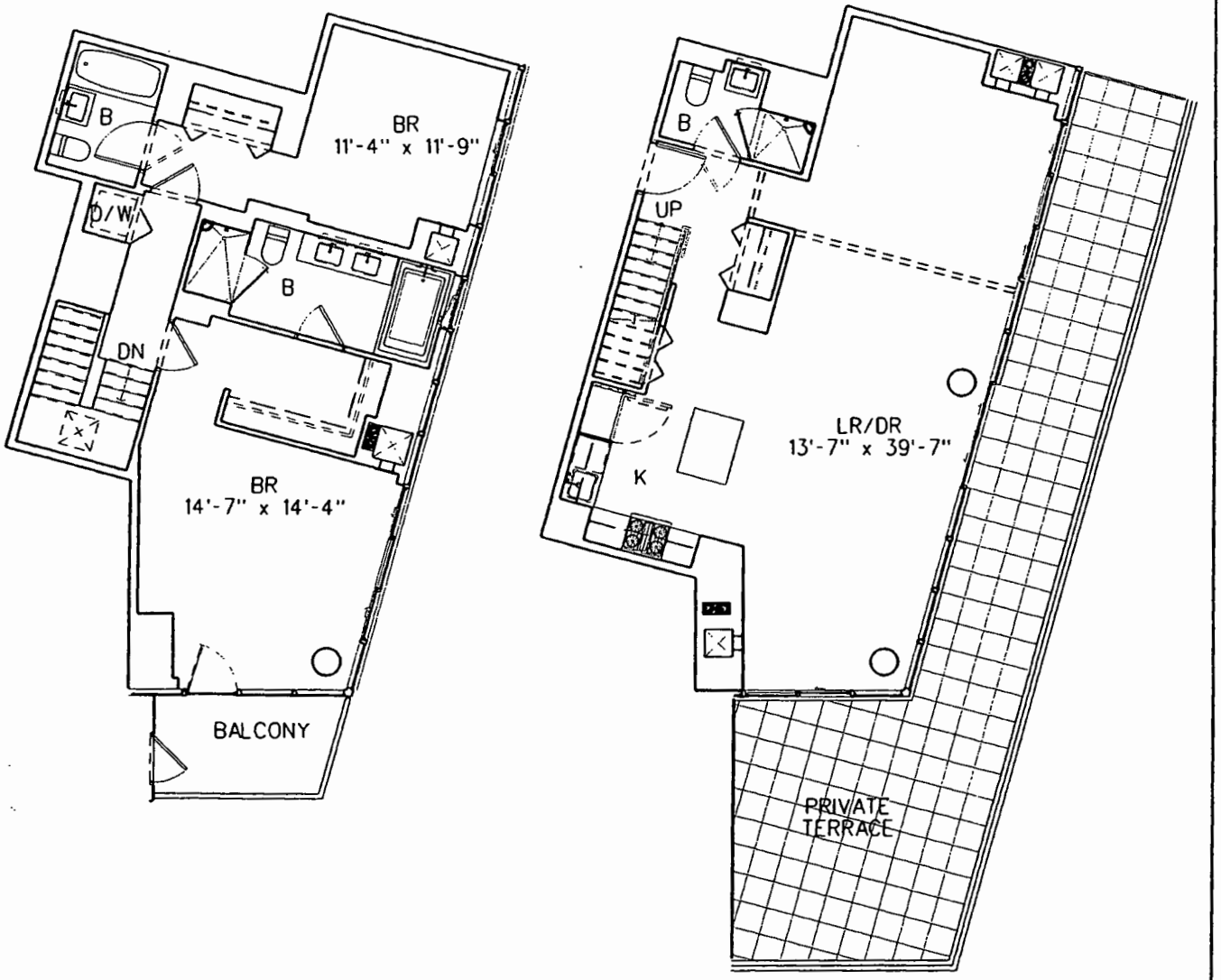
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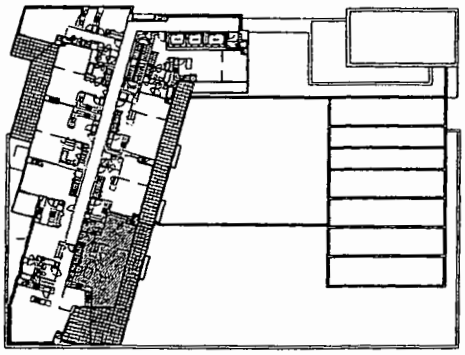
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46-30 CENTER BOULEVARD CONDOMINIUM

ALL DIMENSIONS ARE APPROXIMATE AND SUBJECT TO CONSTRUCTION VARIANCES, PLANS AND DIMENSIONS MAY CONTAIN MINOR VARIATIONS FROM FLOOR TO FLOOR. SPONSOR RESERVES RIGHT TO MAKE CHANGES DUE TO CONDITIONS IN ACCORDANCE WITH THE OFFERING PLAN.

04.17.07





KEY PLAN

UNIT PH-6

FLOOR 18 & FLOOR 19
1679 SQ. FT. (155.98 SQ.M.)
2 BEDROOM, 3 BATH
OUTDOOR AREA: 543(T) + 71(B) = 614 SQ. FT. (57.04 SQ.M.)

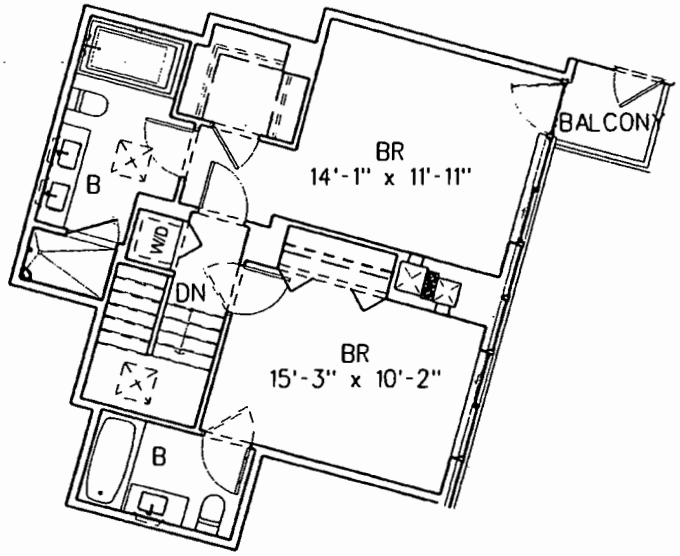
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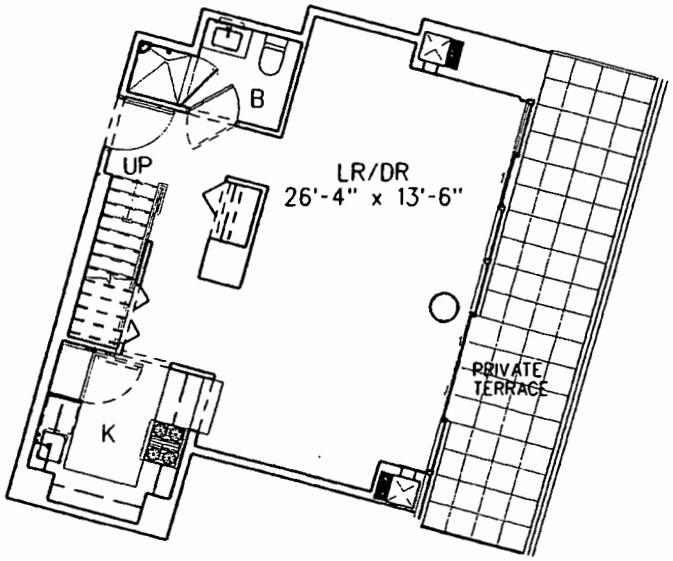
46-30 CENTER BOULEVARD CONDOMINIUM

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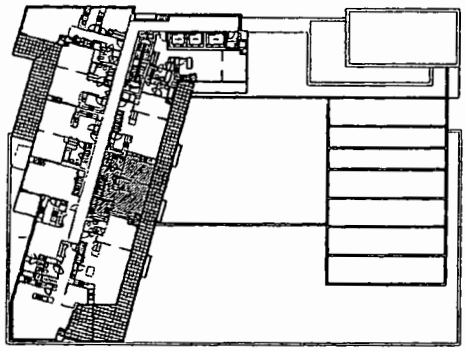
04.17.07



2ND FL.



1ST. FL.



KEY PLAN

UNIT PH-7

FLOOR 18 & FLOOR 19
1432 SQ. FT. (133.03 SQ.M.)
2 BEDROOM, 3 BATH
OUTDOOR AREA: 214(T) + 31(B) = 245 SQ. FT. (22.76 SQ.M.)

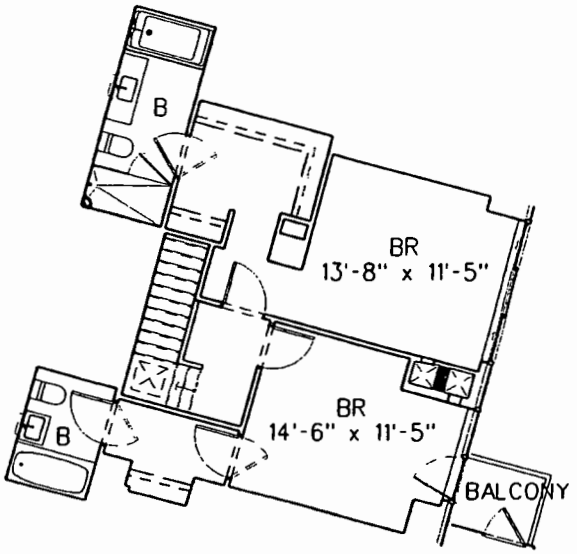
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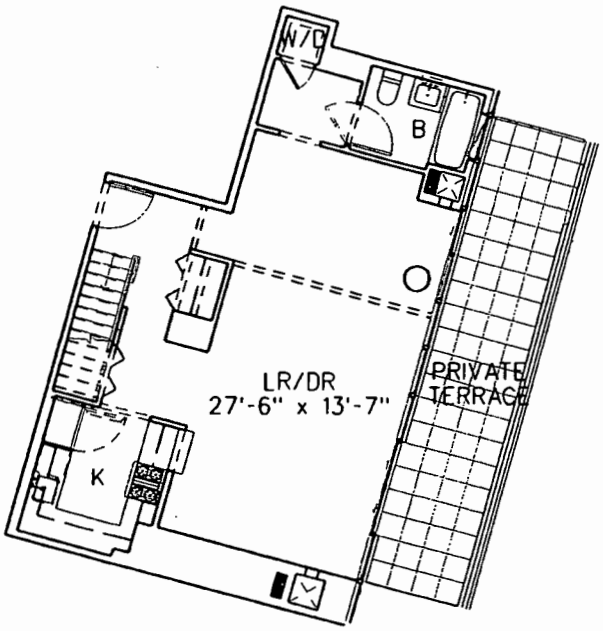
46-30 CENTER BOULEVARD CONDOMINIUM

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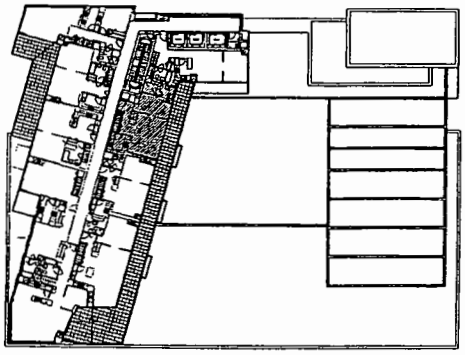
04.17.07



2ND FL.



1ST. FL.



KEY PLAN

UNIT PH-8

FLOOR 18 & FLOOR 19
1495 SQ. FT. (138.89 SQ.M.)
2 BEDROOM, 3 BATH
OUTDOOR AREA: 237(T) + 31(B) = 268 SQ. FT. (24.89 SQ.M.)

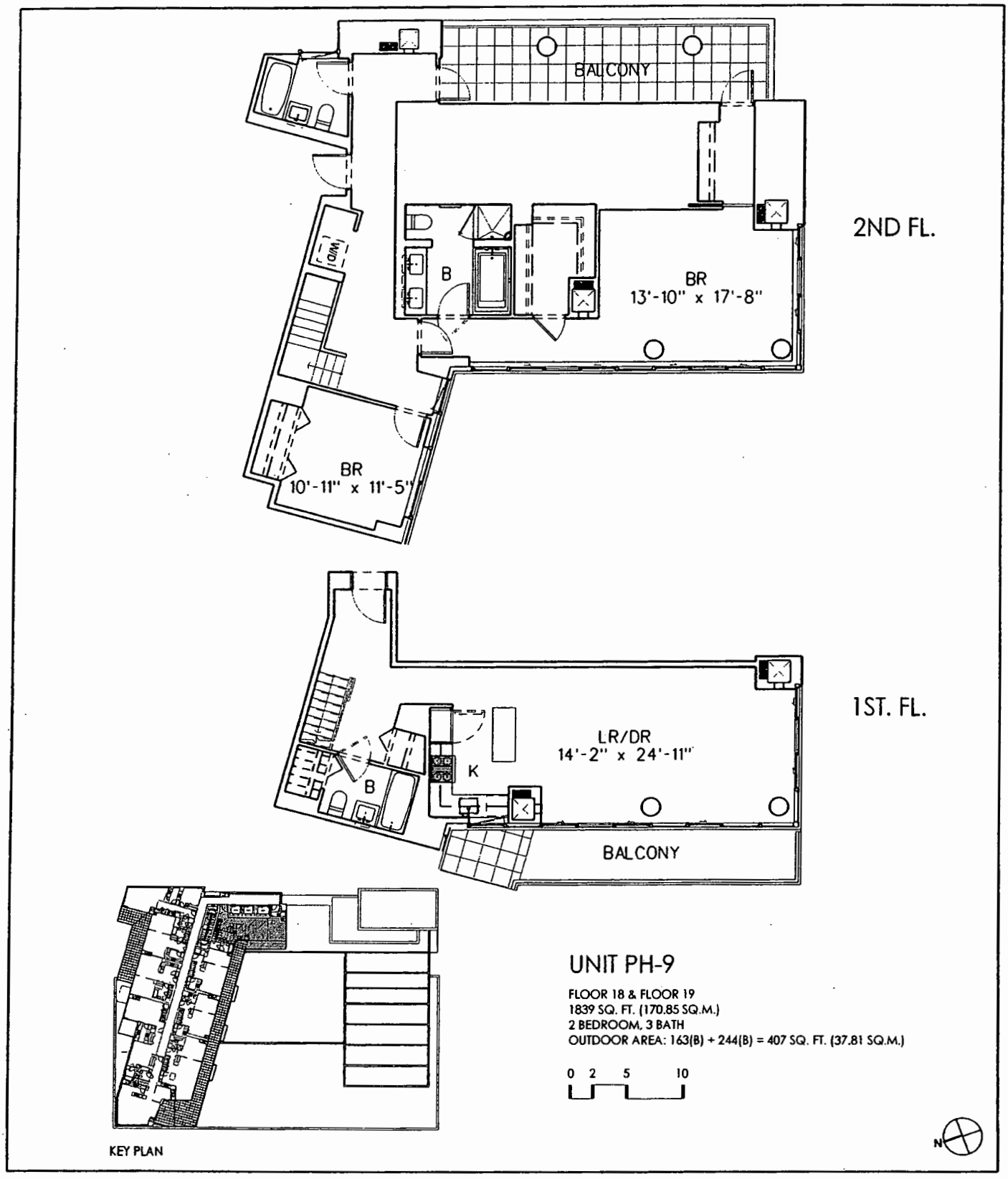
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46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07



46-30 CENTER BOULEVARD CONDOMINIUM

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04.17.07

ALTERATION AGREEMENT

ALTERATION AGREEMENT

THIS AGREEMENT made as of this _____ day of _____, _____ by and between the Board of Managers of 46-30 Center Boulevard Condominium (the "Board") having an address of c/o Rockrose Development Corp., 290 Park Avenue South, New York, New York 10010 and _____ (the "Unit Owner") having an address of 46-30 Center Boulevard, Long Island City, New York, 11109 (the "Property").

WITNESSETH:

WHEREAS, pursuant to a declaration dated _____ (the "Declaration") East Coast 5 L.L.C. (the "Sponsor") submitted the Property to a condominium regime known as 46-30 Center Boulevard Condominium (the "Condominium").

WHEREAS, pursuant to the Declaration and the Bylaws of the Condominium (the "Bylaws"), the Unit Owner has requested permission to install equipment and/or make alterations in Unit ____ (the "Unit") the building situated on the Property (the "Building"); and

WHEREAS, the Declaration and Bylaws provide that no equipment shall be installed and no alterations shall be made in the Unit without the consent of the Board; and

WHEREAS, the Unit Owner desires to obtain such consent;

NOW, THEREFORE, the parties agree as follows:

1. **Unit Owner's Submissions.** Together with this Agreement, Unit Owner is delivering to the Board:

   a. detailed plans, drawings and specifications for the equipment proposed to be installed and/or the alterations proposed to be made which, if so required by the Board, have been prepared by a licensed architect or engineer. Such plans, drawings and specifications include a room by room list of the equipment to be installed and the alterations to be made.

   b. a check in the sum of $_____ [five percent (5%) of the cost of the alterations] payable to the Board for the security deposit required to be posted by the Unit Owner as provided for in Section 13 of this Agreement, if required by the Board.

   c. a check in the sum of $ $500.00 payable to Rockrose Development Corp., managing agent for the Building (the "Managing Agent"), as a processing fee in connection with this Agreement.

2. **Review of Plans, Drawings and Specification**. The plans, drawings and specifications submitted by the Unit Owner shall be subject to review and approval by the Board and may be subject to review and approval by the Board's architect or engineer (the "Board's

Designated Engineer") in the Board's discretion, and the Unit Owner shall make such changes in and to such plans, drawings and specifications as the Board or the Board's Designated Engineer shall require in order to obtain such approval. The term "Plans" as used in this Agreement shall refer to the plans, drawings and specifications as approved in writing by the Board and the Board's Designated Engineer and the term 'Work" shall refer to the work called for by the Plans or any other work performed by or on behalf of the Unit Owner. After approval by the Board and the Board's Designated Engineer, the Plans shall not be modified without the approval of the Board and the Board's Designated Engineer. Notwithstanding any approval of the Plans by the Board or the Board's Designated Engineer, the Unit Owner shall be solely responsible for the Plans, for insuring compatibility with the systems and facilities of the Building and for compliance with applicable laws and codes.

The Board's execution of this Agreement does not constitute consent to the work called for by the plans, drawings and specifications submitted by the Unit Owner, and the Board retains all of its rights under the Bylaws to withhold consent. Only written approval of such plans, drawings and specifications as provided for above shall constitute the Board's consent to the Work called for by the Plans, and any such consent shall be subject to the terms of this Agreement.

3. **Pre-Conditions to Commencement of Work by Unit Owner.** The Unit Owner shall not commence the Work unless and until all of the following has occurred:

a. The Board and the Board's Designated Engineer, as same may be required, shall have approved in writing the plans, drawings and specifications submitted by the Unit Owner, and the Unit Owner shall have received a copy of such approvals.

b. The Unit Owner shall have submitted to the Board (i) a list of all contractors, subcontractors and suppliers who will perform or provide materials for the Work and (ii) complete copies of all agreements entered into with such contractors, subcontractors and suppliers pertaining to the Work.

c. The Unit Owner shall have made all required filings with, and received all required permits, approvals, licenses and consents from, all governmental agencies having jurisdiction over the Work including, but not limited to, the New York City Buildings Department, and the New York City Fire Department, and the Unit Owner shall have furnished copies of all such filings, permits, approvals, licenses and consents to the Board. The determination of the Board's Designated Engineer as to the need for any such filing, permit, approval, license or consent shall be conclusive.

d. The Unit Owner shall have caused each of its contractors to furnish to the Board the insurance policies described on Exhibit A attached hereto or certificates thereof. Such policies (i) shall name the Condominium, the Board, the Board's officers and directors, the Board's Designated Engineer, the Managing Agent, the Sponsor and the other Unit Owners, as parties insured, (ii) shall be issued by companies reasonably acceptable to the Board and (iii) shall provide that they may not be cancelled or terminated without at least ten (10) days prior written notice to the Board. The Unit Owner shall cause all such insurance policies to be kept in full force and effect until the completion of the Work.

4. **Unit Owner to Give Notice Prior to Commencement of Work.** Prior to commencing the Work, the Unit Owner shall give at least five (5) days' prior written notice to the Board's Designated Engineer, the superintendent of the Building and the Managing Agent of the date on which the Work will commence and the estimated duration of the Work.

5. **Performance of the Work.**

a. **In General.** The Unit Owner shall perform the Work strictly in accordance with the Plans and shall not perform any Work not called for by the Plans. In performing the Work, the Unit Owner shall comply with (i) all applicable laws and codes, (ii) the requirements of all insurance policies covering the Work, the Unit or the Building, (iii) this Agreement, (iv) the Bylaws, (v) the Rules and Regulations of the Condominium, (vi) the requirements of the Board and (vii) any directions given by the Managing Agent, the Board's Designated Engineer and/or the superintendent of the Building. The Work will not compromise the energy efficiency or increase the energy consumption of the Building.

b. **Work Hours and Noise.** The Unit Owner shall perform the Work diligently and in a manner so as not to disturb other residents of the Building. The Work shall be performed only on Mondays through Fridays (excluding holidays) between the hours of 8 a.m. and 5 p.m. The Board shall be the sole arbiter should there be any doubt as to noise levels which may be disturbing.

c. **Licensing and Labor Harmony.** The Unit Owner's contractors and subcontractors, if any, shall be duly licensed to the extent required by applicable law and the Unit Owner shall cause its contractors and subcontractors to employ only such laborers as shall not conflict with any of the trade unions employed in the Building or otherwise cause disharmony with any Building service union.

d. **Required Completion Date.** The Unit Owner shall cause the Work (other than decorative work such as painting, wallpapering and carpeting) to be completed on or before the date (the "Required Completion Date") which is ___ days (excluding weekends and holidays) after the commencement of the Work. If the Work (other than decorative work as aforesaid) shall not be completed on or before the Required Completion Date, the Unit Owner shall pay to the Board, as liquidated damages on account of late completion, the sum of $200 per day (excluding weekends and holidays) until the Work is completed. In no event shall the Work period extend beyond 180 days from the commencement of the Work. The determination of whether the Work is completed shall be made by the Board, and the Board's determination shall be conclusive. The Work shall diligently proceed to completion in compliance with all plans and specifications and in conformity with all permits and licenses of any governmental authority.

e. **Evidence of Completion.** Upon completion of the Work, the Unit Owner shall obtain and deliver to the Board (i) a certificate from the architect or engineer who prepared the Plans certifying that the Work has been completed in accordance with all applicable laws and codes and the Plans, and (ii) all required final governmental signoffs and approvals, including if the Board shall require, an amended certificate of occupancy and a certificate from the Board of Fire Underwriters. The determination of the Board as to the need for an amended certificate of occupancy

and/or any other applicable governmental signoffs and approvals shall be conclusive.

6. **Inspection and Correction of the Work.** The Board shall have the right from time to time to inspect or observe the Work, and for this purpose the Unit Owner shall provide access to the Unit to Board's Designated Engineer, the Managing Agent, the superintendent of the Building, or any other person the Board may authorize. The Unit Owner shall promptly make all corrections required by the Board in order to conform to the Plans and the other requirements of this Agreement. If the Board so requires, such corrections shall include the removal and replacement of non-conforming work. The Board's failure to inspect shall not be considered a waiver of the Unit Owner 's obligation to comply with this Agreement.

7. **Damage or Adverse Effect Caused by the Work.** The Unit Owner shall be responsible for any damage to or any other adverse effect upon the Unit or the Building (including the structure, shell, systems, equipment, fixtures and finishes of the Building) caused by or resulting from the Work, regardless of when such damage or adverse effect becomes apparent. If any such damage or adverse effect shall occur or arise, the Board may (a) require the Unit Owner, at its expense, promptly to repair the damage or remedy the condition giving rise to such adverse effect and/or (b) repair such damage or remedy such condition at the Unit Owner's expense.

Without limiting the generality of the foregoing the Unit Owner specifically acknowledges that this Section 7 shall be applicable to any damage to the carpeting, wall coverings or other finishes in the Building's hallways, elevators and other common areas (including without limitation, the cost of cleaning, shampooing, painting or repairing the same if soiled or otherwise damaged).

If the Managing Agent advises the Unit Owner of any damage which, in the Managing Agent's opinion, was caused by the Work, the Unit Owner shall promptly submit a claim to the Unit Owner's insurance carrier and to Unit Owner's contractor for submission to its insurance carrier, and the Unit Owner agrees to use all reasonable efforts, and to cause its contractor to use all reasonable efforts, to cause such insurance carriers to expeditiously review and settle all such claims for which they are responsible. The provisions of this paragraph shall not limit the Unit Owner's liability under this Section 7.

8. **Indemnification and Release by Unit Owner.** The Unit Owner shall indemnify and hold harmless the Sponsor, Board, the Board's officers, directors and Unit Owners, the Board's Designated Engineer, the Managing Agent, and the other Unit Owners and residents of the Building (the "Indemnified Persons") against any loss, cost, claim, damage (including damage to persons or property) or expense arising out of or related to the Work or any act or omission of the Unit Owner or any of its contractors, subcontractors, architects, engineers or consultants, including reasonable attorneys fees and disbursements incurred by any of the Indemnified Persons in the defense of any such claim or any suit, action or proceeding based thereon. Unit Owner shall also be responsible to deliver to the Board a written agreement in the form of Exhibit B hereto in which Unit Owner's contractors agree that they will not make claims for damage within the perils of the insurance referred to in this Agreement and will defend, indemnify and hold harmless the Board, the Board's officers, directors, the Sponsor, unit owners, agents, partners, servants, employees, tenants, guests, licensees, invitees and their respective agents, servants, employees, tenants, guests, licensees, invitees, officers, directors, shareholders and partners (collectively, the "Indemnitees"), against any and all liability, including legal costs and expenses on account of loss of life or injury to any

person or damage to property, happening in or arising out of or in any way relating to the performance of the Work unless such injury or loss of life or loss or damage to property was caused by the willful misconduct or gross negligence of the Indemnitee.

Unit Owner hereby acknowledges that Unit Owner has accepted the Unit from Sponsor in its "as is" condition. Upon commencement of the Work, Unit Owner releases Sponsor from any and all obligation to perform any additional work in the Unit, including, without limitation, work of a "punch list" nature. In furtherance thereof, Purchaser expressly agrees to release and forever discharge Seller and its successor and/or assigns, from all manner of actions, causes of action, suits, debts, dues, sums of money, damages, claims and demands whatsoever in law or equity, which Purchaser, its successors and assigns ever had, now have, or may have, now or hereafter upon or by reason of any matter arising from or out of any alterations or repairs to the Unit.

9. **Unit Owner to Bear All Costs Associated with Work.** The Unit Owner shall be responsible for all costs incurred by the Unit Owner or the Board in connection with the Work or this Agreement, including the fees and disbursements of any attorney, architect, engineer or consultant retained by the Board in connection with the Work or this Agreement. Without limiting the generality of the foregoing, the Unit Owner specifically agrees to reimburse the Board for all charges of the Board's Designated Engineer for the review of the plans, drawings and specifications submitted by the Unit Owner, for inspection of the Work or otherwise related to the Work or this Agreement. Waivers of the right to lien or otherwise encumber the Building shall be obtained from all contractors, suppliers and subcontractors. However, if for any reason whatsoever, any lien is filed for work done, or material alleged to have been furnished in connection with the Work, the Unit Owner shall at its sole cost and expense cause such lien to be bonded or otherwise discharged within twenty (20) days after learning of the existence of such lien. If the Unit Owner fails to do so or otherwise defaults hereunder, the Board may pay or bond such lien and otherwise exercise all rights and remedies reserved to it in this Agreement and the Bylaws as and for a default thereunder.

10. **Additional Requirements.**

a. **No Change in Building Heating or Air-Conditioning.** The Unit Owner recognizes that there will be no change in the operation of the Building's heating system or air-conditioning system to facilitate the functioning of any heating or air-conditioning units which the Unit Owner may be installing other than stoppages approved by the Board in order to facilitate and enable the Unit Owner to hook-up to the Building's heating and air conditioning systems.

b. **Prohibited Construction Methods.** The Unit Owner shall not interfere with the Building's intercom, gas, electric, heating, air-conditioning or plumbing system or any other Building system or service. The Unit Owner shall not penetrate any exterior Building wall.

c. **Accessibility of Valves.** The Unit Owner shall insure that all water, steam, gas and other valves remain accessible during the performance of and after the completion of the Work. If any valve is enclosed in violation of this Agreement, then the Board may *(i)* require the Unit Owner, at its expense, promptly to remove such enclosure and/or (ii) remove such enclosure at the Unit Owner's expense.

d. **Use of Public and Common Areas During Work.** The Unit Owner shall not allow the halls, sidewalks, courtyards and other public areas to be used for the storage of building materials or debris. The Unit Owner shall cause its contractor to cover with construction paper the floor of any back hall to be used in connection with the Work and shall also cause its contractor to take all precautions necessary to prevent damage to the carpeting, wallcoverings or other finishes in the Building's hallways, elevators and other common areas.

e. **Unit Owner to Maintain Certain Safety Precautions.** Unit Owner shall maintain functioning fire extinguishers and smoke alarms and carbon monoxide alarms in the Unit throughout the prosecution of the Work. Unit Owner shall insure that the Work does not block access to any fire exits in the Building. Unit Owner shall install smoke detectors within 15 feet of every sleeping area on the ceiling or wall pursuant to Local Law 62 of 1981 of the City of New York.

f. **Unit Owner to Control Refuse, Dirt, Dust.** Unit Owner shall take all precautions to prevent dirt and dust from permeating other parts of the Building during the progress of the Work, and shall place all materials and rubbish in barrels or bags before removing the same from the Unit. All such barrels and bags and all rubbish, rubble, discarded equipment, empty packing cartons and other materials shall be removed from the Unit and taken out of the Building at Unit Owner's expense. Unit Owner recognizes that only the service elevator may be used for such removal and only at such times as the superintendent of the Building may direct. Unit Owner shall not permit any dumpster or garbage container to be left overnight in front of the Building. Notwithstanding the foregoing, the placement of any dumpsters shall comply with all governmental regulations, including without limitation, obtaining any necessary permits.

g. **Installations by Unit Owner.** Unit Owner agrees that any air conditioning units, terrace plantings and/or structures, wherever located in the Building, may be removed by the Board for the purpose of repairs, upkeep or maintenance of the Building, at the sole expense of the Unit Owner.

11. **Unit Owner to Comply with Laws, etc.** The Unit Owner shall not do or permit any act or thing to be done contrary to law, or which will invalidate or be in conflict with any provision of any liability, casualty or other insurance policies carried by Unit Owner or for Unit Owner's benefit. The Unit Owner shall comply with all federal, state and local laws, rules and regulations pertaining to the Work, including any such laws, rules and regulations pertaining to lead-based paint, asbestos and other hazardous material.

12. **Maintenance and Repair of the Work.** Notwithstanding anything to the contrary contained in the Bylaws, the Unit Owner shall be responsible for the maintenance, repair and replacement of the Work and any portions of the Unit affected by the Work, and for all costs incurred by the Board or the Unit Owner in connection therewith. Furthermore, the Unit Owner releases the Board, the Managing Agent, the Sponsor, the Board's agents and employees from any liability for damage to the Work or any portion of the Unit affected by the Work however arising.

13. **Unit Owner's Security Deposit.** As security for the faithful performance and observance by Unit Owner of the terms and conditions of this Agreement, the Unit Owner has deposited the

sum indicated in Section 1(b) with the Board. The Unit Owner agrees that the Board may use, apply or retain the whole or any part of the security so deposited and the interest earned thereon, if any, to the extent required for the payment of any sums due to the Board under this Agreement as determined in the discretion of the Board. If the deposit is diminished by one-half of the original amount, the Unit Owner shall replenish it to the full amount within (3) days after written demand. The Unit Owner's failure to so replenish the security deposit shall be a material breach of this Agreement and shall entitle the Board to stop the Work, and/or exercise any remedies it has hereunder. If the Unit Owner shall comply with all of the terms and conditions of this Agreement, the security deposit and interest or remaining balance thereof, if any, shall be returned to the Unit Owner after completion of the Work. The Board's release of the security deposit shall not constitute acceptance of the Work by the Board or a waiver of any of the Board's rights under this Agreement. Any sums due to the Board under this Agreement and not recovered by application of the security deposit shall be deemed obligations chargeable and collectable as additional common charges to Unit due by Unit Owner to the Board pursuant to the Bylaws.

14. **Miscellaneous.** This Agreement represents the only agreements between the Board and the Unit Owner relative to the subject matter hereto. This Agreement may not be changed orally. This Agreement shall be binding on legal representatives, successors and authorized assigns. Captions are for the purposes of convenience of reference only and are not to be considered in interpreting this Agreement. THE BOARD AND UNIT OWNER WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER THIS AGREEMENT.

15. **Amendment to Condominium Documents.** If the Work involves the combination or subdivision of a Unit or Units, upon completion of the Work and upon receipt of all applicable certifications and approvals, the Board agrees to amend the Declaration of the Condominium ("Declaration") and the Condominium Floor Plans ("Floor Plans") to reflect the modifications to the Unit. The Unit Owner agrees to provide the Board with all information and execute all documentation required to amend the aforesaid documents and to pay all costs incurred by the Board or otherwise associated with the amendment of the Declaration and Floor Plans.

16. **Unit Owner's Breach and Board's Remedies.** Any breach by the Unit Owner of any of the provisions of this Agreement shall constitute a breach of the Bylaws and shall entitle the Board to exercise all of the rights and remedies therein provided. In addition, the Board shall also have the right (a) to suspend the Work and prevent workers from entering the Unit for any purpose other than to remove their tools, and/or (b) to revoke its consent to the Work, and/or (c) to complete or remove all or any part of such Work and restore the Unit to its condition prior to the commencement of the Work at the Unit Owner's sole cost and expense, and/or (d) to exercise any of the rights and remedies provided for herein. The remedies provided for herein and in the Bylaws shall not be exclusive and the Board shall also be entitled to exercise any of the remedies provided by applicable law.

IN WITNESS WHEREOF, Unit Owner and the Board have executed this Agreement.

THE BOARD OF MANAGERS
OF 46-30 CENTER BOULEVARD CONDOMINIUM

By: _____

_____

Name:
Title:

UNIT OWNER

_____
Name:

EXHIBIT A

Each of Unit Owner's contractors shall provide insurance of the types and in not less than the limits set forth below with a company or companies satisfactory to the Board, licensed to do business in the State of New York, and all such policies shall name the Board, the Board's officers, directors and Unit Owners, the Board's Designated Engineer, the Sponsor and the Managing Agent as additional named insureds. No diminution of limits of insurance will be permitted.

(i) **WORKER'S COMPENSATION** as required by law together with Employer's Liability Insurance and Disability Benefits Insurance as required by the State of New York.

(ii) **COMMERCIAL GENERAL LIABILITY** including Contractor's Liability and Blanket Contractual Liability (oral or written), all on an occurrence basis with Personal Injury Coverage, which shall include mental anguish as well as standard conditions, and Broad Form Property Damage, without any exclusion relating to Explosion, Collapse and Underground Property Damage.

The policy will contain the "Broad Form Comprehensive General Liability" endorsement in Section 1 in such form; the exclusion pertaining to liability assumed by the Contractor under any contract or agreement (Section II Section B(l)) is to be deleted. The Completed Operations Coverage is to extend for a period of one year following termination of the Work and Contractual Indemnity Coverage is also to extend for one year following termination of the Work. The policy is also to include (a) Owners Protective Liability Coverage, (b) Knowledge of Occurrence and Notice of Occurrence endorsements and (c) Unintentional Errors and Omissions clause. The policy shall also include coverage with respect to asbestos exposure if the Work involves any asbestos-containing material, and shall not include a sunset clause without the Board's consent.

$1,000,000 BODILY INJURY & PROPERTY DAMAGE* (combined single limit)

(iii) **COMPREHENSIVE AUTOMOBILE LIABILITY**, including non-ownership and hired car coverage, as well as owned vehicles:

$1,000,000 BODILY INJURY & PROPERTY DAMAGE (combined single limit)

(iv) UMBRELLA LIABILITY, BODILY INJURY, PERSONAL INJURY AND PROPERTY DAMAGE If umbrellas are written in more than one company any layers above the first one shall follow the form of the primary umbrella.

$3,000,000 COMBINED*
(combined single limit)

Prior to the commencement of any work hereunder, detailed certificates of insurance shall be furnished to the Board showing that such insurance is in full force and the premiums due thereunder have been paid. Such certificates shall provide that the said insurance may not be canceled, terminated or modified without ten (10) days written advance notice thereof to the Board. The Contractor shall promptly furnish the Board with copies of any endorsements subsequently issued amending insurance coverage or limits.

In the event of the failure of the Contractor to furnish and maintain such insurance, the Board shall have the right, at its option, at any time:

(a) to revoke permission to perform the work and to deny entry into the Building of all workers, except that if such workers are escorted by a member of the Building's staff, they shall be permitted to remove their tools and supplies, or

(b) to take out and maintain the said insurance for and in the name of the Board, the Contractor or the Unit Owner and, in such a case, the Unit Owner agrees to pay the cost thereof and to furnish all information and consents necessary to permit the Board to take out and maintain such insurance for and in the name of the Board, the Contractor or the Unit Owner.

Compliance with the foregoing requirements to carry insurance and furnish certificates shall not relieve the Unit Owner from liability assumed under any provisions of this Agreement.

The Contractor's insurance policy shall also contain in substance the following endorsement:

> This insurance shall not be invalidated should the insured waive, in writing, prior to a loss, any or all right of recovery against any party for the loss occurring to the property described herein.

Nothing in this Exhibit A shall constitute a waiver of or limitation of any other rights or remedies the Board may have for consequential damages or otherwise. Amounts of insurance required may be higher for major renovations as designated by the Board of Directors.

*Amounts of insurance required may be higher for major renovations as designated by the Board of Directors.

EXHIBIT B

Date

The Board of Managers
46-30 Center Boulevard Condominium
c/o Rockrose Development Corp.
290 Park Avenue South
New York, New York 10010

RE: Units

Gentlemen:

The undersigned agrees that it will not make any claim against, or seek to recover from The Board of Managers of 46-30 Center Boulevard Condominium (the "Board"), the Board's officers, directors, the Sponsor, unit owners, servants, agents, partners, guests, licensees, invitees, tenants or employees or any of their respective agents, servants, employees, tenants, guests, licensees, invitees, officers, directors, shareholders and partners (collectively, the "Indemnitees") for any damage to persons or property by the perils within the scope of the policies described in that certain alteration agreement between the Board and _____ dated _____, _____ (the "Alteration Agreement"), unless the loss or damage is due to the gross negligence or willful misconduct of the Indemnitees. The undersigned further agrees to defend, indemnify and hold harmless the Indemnitees against any and all liability, including legal costs and expenses on account of loss of life or injury to any person or damage to property, happening in or arising out of or in anyway relating to the performance of the Work (as such term is defined in the Alteration Agreement) unless such injury or loss of life or loss or damage to property is caused by the gross negligence or willful misconduct of the Indemnitees.

Sincerely,

(Name of Contractor)

By:
Name:
Title:

ALTERATION AGREEMENT
(PLANS AND ALTERATION PERMITS NOT REQUIRED)

ALTERATION AGREEMENT

THIS AGREEMENT made as of this _____ day of _____, _____ by and between the Board of Managers of 46-30 Center Boulevard Condominium (the "Board") having an address of c/o Rockrose Development Corp., 290 Park Avenue South, New York, New York 10010 and _____ (the "Unit Owner") having an address of 46-30 Center Boulevard, Long Island City, New York, 11109 (the "Property").

WITNESSETH:

WHEREAS, pursuant to a declaration dated _____ (the "Declaration") East Coast 5 L.L.C. (the "Sponsor") submitted the Property to a condominium regime known as 46-30 Center Boulevard Condominium (the "Condominium").

WHEREAS, pursuant to the Declaration and the Bylaws of the Condominium (the "Bylaws"), the Unit Owner has requested permission to install equipment and/or make alterations in Unit ____ (the "Unit") the building situated on the Property (the "Building"); and

WHEREAS, the Declaration and Bylaws provide that no equipment shall be installed and no non-structural alterations shall be made in the Unit without the completion of an alteration agreement; and

WHEREAS, the Unit Owner desires to obtain such consent;

NOW, THEREFORE, the parties agree as follows:

1. **Unit Owner's Submissions.** Together with this Agreement, Unit Owner is delivering to the Board:

   a. a check in the sum of $_____ [five percent (5%) of the cost of the alterations] payable to the Board for the security deposit required to be posted by the Unit Owner as provided for in Section 12 of this Agreement, if required by the Board.

   b. a check in the sum of $350.00 payable to Rockrose Development Corp., managing agent for the Building (the "Managing Agent"), as a processing fee in connection with this Agreement.

2. **Pre-Conditions to Commencement of Work by Unit Owner.** The term 'Work" shall refer to the work performed by or on behalf of the Unit Owner. The Unit Owner shall not commence the Work unless and until all of the following has occurred:

   a. The Unit Owner shall have submitted to the Board (i) a list of all contractors,

subcontractors and suppliers who will perform or provide materials for the Work and (ii) complete copies of all agreements entered into with such contractors, subcontractors and suppliers pertaining to the Work.

b. The Unit Owner shall have caused each of its contractors to furnish to the Board the insurance policies described on Exhibit A attached hereto or certificates thereof. Such policies (i) shall name the Condominium, the Board, the Board's officers and directors, the Managing Agent, the Sponsor and the other Unit Owners, as parties insured, (ii) shall be issued by companies reasonably acceptable to the Board and (iii) shall provide that they may not be cancelled or terminated without at least ten (10) days prior written notice to the Board. The Unit Owner shall cause all such insurance policies to be kept in full force and effect until the completion of the Work.

3. **Unit Owner to Give Notice Prior to Commencement of Work.** Prior to commencing the Work, the Unit Owner shall give at least five (5) days' prior written notice to the Board, the superintendent of the Building and the Managing Agent of the date on which the Work will commence and the estimated duration of the Work.

4. **Performance of the Work.**

a. **In General.** In performing the Work, the Unit Owner shall comply with (i) all applicable laws and codes, (ii) the requirements of all insurance policies covering the Work, the Unit or the Building, (iii) this Agreement, (iv) the Bylaws, (v) the Rules and Regulations of the Condominium, (vi) the requirements of the Board and (vii) any directions given by the Managing Agent and/or the superintendent of the Building. The Work will not compromise the energy efficiency or increase the energy consumption of the Building.

b. **Work Hours and Noise.** The Unit Owner shall perform the Work diligently and in a manner so as not to disturb other residents of the Building. The Work shall be performed only on Mondays through Fridays (excluding holidays) between the hours of 9 a.m. and 5 p.m. The Board shall be the sole arbiter should there be any doubt as to noise levels which may be disturbing.

c. **Licensing and Labor Harmony.** The Unit Owner's contractors and subcontractors, if any, shall be duly licensed to the extent required by applicable law and the Unit Owner shall cause its contractors and subcontractors to employ only such laborers as shall not conflict with any of the trade unions employed in the Building or otherwise cause disharmony with any Building service union.

d. **Required Completion Date.** The Unit Owner shall cause the Work (other than decorative work such as painting, wallpapering and carpeting) to be completed on or before the date (the "Required Completion Date") which is ___ days (excluding weekends and holidays) after the commencement of the Work. If the Work (other than decorative work as aforesaid) shall not be completed on or before the Required Completion Date, the Unit Owner shall pay to the Board, as liquidated damages on account of late completion, the sum of $200 per day (excluding weekends and holidays) until the Work is completed. In no event shall the Work period extend beyond 180 days from the commencement of the Work. The determination of

whether the Work is completed shall be made by the Board, and the Board's determination shall be conclusive.

5. **Inspection and Correction of the Work.** The Board shall have the right from time to time to inspect or observe the Work, and for this purpose the Unit Owner shall provide access to the Unit to the superintendent of the Building, or any other person the Board may authorize. If the Board so requires, such corrections shall include the removal and replacement of non-conforming work. The Board's failure to inspect shall not be considered a waiver of the Unit Owner 's obligation to comply with this Agreement.

6. **Damage or Adverse Effect Caused by the Work.** The Unit Owner shall be responsible for any damage to or any other adverse effect upon the Unit or the Building (including the structure, shell, systems, equipment, fixtures and finishes of the Building) caused by or resulting from the Work, regardless of when such damage or adverse effect becomes apparent. If any such damage or adverse effect shall occur or arise, the Board may (a) require the Unit Owner, at its expense, promptly to repair the damage or remedy the condition giving rise to such adverse effect and/or (b) repair such damage or remedy such condition at the Unit Owner's expense.

Without limiting the generality of the foregoing the Unit Owner specifically acknowledges that this Section 6 shall be applicable to any damage to the carpeting, wall coverings or other finishes in the Building's hallways, elevators and other common areas (including without limitation, the cost of cleaning, shampooing, painting or repairing the same if soiled or otherwise damaged).

If the Managing Agent advises the Unit Owner of any damage which, in the Managing Agent's opinion, was caused by the Work, the Unit Owner shall promptly submit a claim to the Unit Owner's insurance carrier and to Unit Owner's contractor for submission to its insurance carrier, and the Unit Owner agrees to use all reasonable efforts, and to cause its contractor to use all reasonable efforts, to cause such insurance carriers to expeditiously review and settle all such claims for which they are responsible. The provisions of this paragraph shall not limit the Unit Owner's liability under this Section 6.

7. **Indemnification and Release by Unit Owner.** The Unit Owner shall indemnify and hold harmless the Sponsor, Board, the Board's officers, directors and Unit Owners, the Managing Agent, and the other Unit Owners and residents of the Building (the "Indemnified Persons") against any loss, cost, claim, damage (including damage to persons or property) or expense arising out of or related to the Work or any act or omission of the Unit Owner or any of its contractors, subcontractors, architects, engineers or consultants, including reasonable attorneys fees and disbursements incurred by any of the Indemnified Persons in the defense of any such claim or any suit, action or proceeding based thereon. Unit Owner shall also be responsible to deliver to the Board a written agreement in the form of Exhibit B hereto in which Unit Owner's contractors agree that they will not make claims for damage within the perils of the insurance referred to in this Agreement and will defend, indemnify and hold harmless the Board, the Board's officers, directors, the Sponsor, unit owners, agents, partners, servants, employees, tenants, guests, licensees, invitees and their respective agents, servants, employees, tenants, guests, licensees, invitees, officers, directors, shareholders and partners (collectively, the "Indemnitees"), against any and all liability, including legal costs and expenses on account of loss of life or injury to any person or damage to property,

happening in or arising out of or in any way relating to the performance of the Work unless such injury or loss of life or loss or damage to property was caused by the willful misconduct or gross negligence of the Indemnitee.

Unit Owner hereby acknowledges that Unit Owner has accepted the Unit from Sponsor in its "as is" condition. Upon commencement of the Work, Unit Owner releases Sponsor from any and all obligation to perform any additional work in the Unit, including, without limitation, work of a "punch list" nature. In furtherance thereof, Purchaser expressly agrees to release and forever discharge Seller and its successor and/or assigns, from all manner of actions, causes of action, suits, debts, dues, sums of money, damages, claims and demands whatsoever in law or equity, which Purchaser, its successors and assigns ever had, now have, or may have, now or hereafter upon or by reason of any matter arising from or out of any alterations or repairs to the Unit.

8. **Unit Owner to Bear All Costs Associated with Work.** The Unit Owner shall be responsible for all costs incurred by the Unit Owner or the Board in connection with the Work or this Agreement, including the fees and disbursements of any attorney, architect, engineer or consultant retained by the Board in connection with the Work or this Agreement. Without limiting the generality of the foregoing, the Unit Owner specifically agrees to reimburse the Board for inspection of the Work. Waivers of the right to lien or otherwise encumber the Building shall be obtained from all contractors, suppliers and subcontractors. However, if for any reason whatsoever, any lien is filed for work done, or material alleged to have been furnished in connection with the Work, the Unit Owner shall at its sole cost and expense cause such lien to be bonded or otherwise discharged within twenty (20) days after learning of the existence of such lien. If the Unit Owner fails to do so or otherwise defaults hereunder, the Board may pay or bond such lien and otherwise exercise all rights and remedies reserved to it in this Agreement and the Bylaws as and for a default thereunder.

9. **Additional Requirements.**

a. **No Change in Building Heating or Air-Conditioning.** The Unit Owner recognizes that there will be no change in the operation of the Building's heating system or air-conditioning system to facilitate the functioning of any heating or air-conditioning units which the Unit Owner may be installing other than stoppages approved by the Board in order to facilitate and enable the Unit Owner to hook-up to the Building's heating and air conditioning systems.

b. **Prohibited Construction Methods.** The Unit Owner shall not interfere with the Building's intercom, gas, electric, heating, air-conditioning or plumbing system or any other Building system or service. The Unit Owner shall not penetrate any exterior Building wall.

c. **Accessibility of Valves.** The Unit Owner shall insure that all water, steam, gas and other valves remain accessible during the performance of and after the completion of the Work. If any valve is enclosed in violation of this Agreement, then the Board may (i) require the Unit Owner, at its expense, promptly to remove such enclosure and/or (ii) remove such enclosure at the Unit Owner's expense.

d. **Use of Public and Common Areas During Work.** The Unit Owner shall not allow the halls, sidewalks, courtyards and other public areas to be used for the storage of

building materials or debris. The Unit Owner shall cause its contractor to cover with construction paper the floor of any back hall to be used in connection with the Work and shall also cause its contractor to take all precautions necessary to prevent damage to the carpeting, wallcoverings or other finishes in the Building's hallways, elevators and other common areas.

e. **Unit Owner to Maintain Certain Safety Precautions.** Unit Owner shall maintain functioning fire extinguishers and smoke alarms and carbon monoxide alarms in the Unit throughout the prosecution of the Work. Unit Owner shall insure that the Work does not block access to any fire exits in the Building. Unit Owner shall install smoke detectors within 15 feet of every sleeping area on the ceiling or wall pursuant to Local Law 62 of 1981 of the City of New York.

f. **Unit Owner to Control Refuse, Dirt, Dust.** Unit Owner shall take all precautions to prevent dirt and dust from permeating other parts of the Building during the progress of the Work, and shall place all materials and rubbish in barrels or bags before removing the same from the Unit. All such barrels and bags and all rubbish, rubble, discarded equipment, empty packing cartons and other materials shall be removed from the Unit and taken out of the Building at Unit Owner's expense. Unit Owner recognizes that only the service elevator may be used for such removal and only at such times as the superintendent of the Building may direct. Unit Owner shall not permit any dumpster or garbage container to be left overnight in front of the Building. Notwithstanding the foregoing, the placement of any dumpsters shall comply with all governmental regulations, including without limitation, obtaining any necessary permits.

g. **Installations by Unit Owner.** Unit Owner agrees that any air conditioning units, terrace plantings and/or structures, wherever located in the Building, may be removed by the Board for the purpose of repairs, upkeep or maintenance of the Building, at the sole expense of the Unit Owner.

10. **Unit Owner to Comply with Laws, etc.** The Unit Owner shall not do or permit any act or thing to be done contrary to law, or which will invalidate or be in conflict with any provision of any liability, casualty or other insurance policies carried by Unit Owner or for Unit Owner's benefit. The Unit Owner shall comply with all federal, state and local laws, rules and regulations pertaining to the Work, including any such laws, rules and regulations pertaining to lead-based paint, asbestos and other hazardous material.

11. **Maintenance and Repair of the Work.** Notwithstanding anything to the contrary contained in the Bylaws, the Unit Owner shall be responsible for the maintenance, repair and replacement of the Work and any portions of the Unit affected by the Work, and for all costs incurred by the Board or the Unit Owner in connection therewith. Furthermore, the Unit Owner releases the Board, the Managing Agent, the Sponsor, the Board's agents and employees from any liability for damage to the Work or any portion of the Unit affected by the Work however arising.

12. **Unit Owner's Security Deposit.** As security for the faithful performance and observance by Unit Owner of the terms and conditions of this Agreement, the Unit Owner has deposited the sum indicated in Section 1(a) with the Board. The Unit Owner agrees that the Board may use, apply or retain the whole or any part of the security so deposited and the interest earned

thereon, if any, to the extent required for the payment of any sums due to the Board under this Agreement as determined in the discretion of the Board. If the deposit is diminished by one-half of the original amount, the Unit Owner shall replenish it to the full amount within (3) days after written demand. The Unit Owner's failure to so replenish the security deposit shall be a material breach of this Agreement and shall entitle the Board to stop the Work, and/or exercise any remedies it has hereunder. If the Unit Owner shall comply with all of the terms and conditions of this Agreement, the security deposit and interest or remaining balance thereof, if any, shall be returned to the Unit Owner after completion of the Work. The Board's release of the security deposit shall not constitute acceptance of the Work by the Board or a waiver of any of the Board's rights under this Agreement. Any sums due to the Board under this Agreement and not recovered by application of the security deposit shall be deemed obligations chargeable and collectable as additional common charges to Unit due by Unit Owner to the Board pursuant to the Bylaws.

13. **Miscellaneous.** This Agreement represents the only agreements between the Board and the Unit Owner relative to the subject matter hereto. This Agreement may not be changed orally. This Agreement shall be binding on legal representatives, successors and authorized assigns. Captions are for the purposes of convenience of reference only and are not to be considered in interpreting this Agreement. THE BOARD AND UNIT OWNER WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER THIS AGREEMENT.

14. **Unit Owner's Breach and Board's Remedies.** Any breach by the Unit Owner of any of the provisions of this Agreement shall constitute a breach of the Bylaws and shall entitle the Board to exercise all of the rights and remedies therein provided. In addition, the Board shall also have the right (a) to suspend the Work and prevent workers from entering the Unit for any purpose other than to remove their tools, and/or (b) to revoke its consent to the Work, and/or (c) to complete or remove all or any part of such Work and restore the Unit to its condition prior to the commencement of the Work at the Unit Owner's sole cost and expense, and/or (d) to exercise any of the rights and remedies provided for herein. The remedies provided for herein and in the Bylaws shall not be exclusive and the Board shall also be entitled to exercise any of the remedies provided by applicable law.

IN WITNESS WHEREOF, Unit Owner and the Board have executed this Agreement.

THE BOARD OF MANAGERS
OF 46-30 CENTER BOULEVARD CONDOMINIUM

By: _____

_____

Name:
Title:

UNIT OWNER

_____

Name:

EXHIBIT A

Each of Unit Owner's contractors shall provide insurance of the types and in not less than the limits set forth below with a company or companies satisfactory to the Board, licensed to do business in the State of New York, and all such policies shall name the Board, the Board's officers, directors and Unit Owners, the Sponsor and the Managing Agent as additional named insureds. No diminution of limits of insurance will be permitted.

(i) **WORKER'S COMPENSATION** as required by law together with Employer's Liability Insurance and Disability Benefits Insurance as required by the State of New York.

(ii) **COMMERCIAL GENERAL LIABILITY** including Contractor's Liability and Blanket Contractual Liability (oral or written), all on an occurrence basis with Personal Injury Coverage, which shall include mental anguish as well as standard conditions, and Broad Form Property Damage, without any exclusion relating to Explosion, Collapse and Underground Property Damage.

The policy will contain the "Broad Form Comprehensive General Liability" endorsement in Section 1 in such form; the exclusion pertaining to liability assumed by the Contractor under any contract or agreement (Section II Section B(l)) is to be deleted. The Completed Operations Coverage is to extend for a period of one year following termination of the Work and Contractual Indemnity Coverage is also to extend for one year following termination of the Work. The policy is also to include (a) Owners Protective Liability Coverage, (b) Knowledge of Occurrence and Notice of Occurrence endorsements and (c) Unintentional Errors and Omissions clause. The policy shall also include coverage with respect to asbestos exposure if the Work involves any asbestos-containing material, and shall not include a sunset clause without the Board's consent.

$1,000,000 BODILY INJURY & PROPERTY DAMAGE* (combined single limit)

(iii) **COMPREHENSIVE AUTOMOBILE LIABILITY**, including non-ownership and hired car coverage, as well as owned vehicles:

$1,000,000 BODILY INJURY & PROPERTY DAMAGE (combined single limit)

(iv) UMBRELLA LIABILITY, BODILY INJURY, PERSONAL INJURY AND PROPERTY DAMAGE If umbrellas are written in more than one company any layers above the first one shall follow the form of the primary umbrella.

$3,000,000 COMBINED*
(combined single limit)

Prior to the commencement of any work hereunder, detailed certificates of insurance shall be furnished to the Board showing that such insurance is in full force and the premiums due thereunder have been paid. Such certificates shall provide that the said insurance may not be canceled, terminated or modified without ten (10) days written advance notice thereof to the Board. The Contractor shall promptly furnish the Board with copies of any endorsements subsequently issued amending insurance coverage or limits.

In the event of the failure of the Contractor to furnish and maintain such insurance, the Board shall have the right, at its option, at any time:

(a) to revoke permission to perform the work and to deny entry into the Building of all workers, except that if such workers are escorted by a member of the Building's staff, they shall be permitted to remove their tools and supplies, or

(b) to take out and maintain the said insurance for and in the name of the Board, the Contractor or the Unit Owner and, in such a case, the Unit Owner agrees to pay the cost thereof and to furnish all information and consents necessary to permit the Board to take out and maintain such insurance for and in the name of the Board, the Contractor or the Unit Owner.

Compliance with the foregoing requirements to carry insurance and furnish certificates shall not relieve the Unit Owner from liability assumed under any provisions of this Agreement.

The Contractor's insurance policy shall also contain in substance the following endorsement:

> This insurance shall not be invalidated should the insured waive, in writing, prior to a loss, any or all right of recovery against any party for the loss occurring to the property described herein.

Nothing in this Exhibit A shall constitute a waiver of or limitation of any other rights or remedies the Board may have for consequential damages or otherwise. Amounts of insurance required may be higher for major renovations as designated by the Board of Directors.

*Amounts of insurance required may be higher for major renovations as designated by the Board of Directors.

EXHIBIT B

Date

The Board of Managers
46-30 Center Boulevard Condominium
c/o Rockrose Development Corp.
290 Park Avenue South
New York, New York 10010

RE: Units

Gentlemen:

The undersigned agrees that it will not make any claim against, or seek to recover from The Board of Managers of 46-30 Center Boulevard Condominium (the "Board"), the Board's officers, directors, the Sponsor, unit owners, servants, agents, partners, guests, licensees, invitees, tenants or employees or any of their respective agents, servants, employees, tenants, guests, licensees, invitees, officers, directors, shareholders and partners (collectively, the "Indemnitees") for any damage to persons or property by the perils within the scope of the policies described in that certain alteration agreement between the Board and _____ dated _____, _____ (the "Alteration Agreement"), unless the loss or damage is due to the gross negligence or willful misconduct of the Indemnitees. The undersigned further agrees to defend, indemnify and hold harmless the Indemnitees against any and all liability, including legal costs and expenses on account of loss of life or injury to any person or damage to property, happening in or arising out of or in anyway relating to the performance of the Work (as such term is defined in the Alteration Agreement) unless such injury or loss of life or loss or damage to property is caused by the gross negligence or willful misconduct of the Indemnitees.

Sincerely,

(Name of Contractor)

By:
Name:
Title:

AGREEMENT OF LEASE

between

QUEENS WEST DEVELOPMENT CORPORATION,

Landlord,

and

EAST COAST 5 L.L.C.,

Tenant,

Premises

Queens West Waterfront Development
Land Use Improvement Project
Parcel 5
Long Island City, New York

September 19, 2003

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AGREEMENT OF LEASE made as of the 19th day of September, 2003 between QUEENS WEST DEVELOPMENT CORPORATION ("Landlord"), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York, constituting a public benefit corporation and a political subdivision thereof, having an office at 633 Third Avenue, 36th floor, New York, New York 10017, and EAST COAST 5 L.L.C. ("Tenant"), a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

W I T N E S S E T H:

It is hereby mutually covenanted and agreed by and between the parties hereto that this Lease (hereinafter defined) is made upon the agreements, terms, covenants and conditions hereinafter set forth.

ARTICLE 1

DEFINITIONS

The terms defined in this Article 1 shall, for all purposes of this Lease and all agreements supplemental hereto, have the meanings herein specified.

"Accelerated Amount" shall have the meaning provided in Section 24.03.

"Actual Taxes Date" shall mean September 19, 2027.

"Actual Construction Costs" shall mean the sum of (I) the product of (A) the sum of (i) the actual Hard Costs (hereinafter defined) as set forth on the Hard Costs Certificate (hereinafter defined), (ii) the Certified Demolition Costs (hereinafter defined) and (iii) the Certified Remediation Costs (hereinafter defined) and (B) the Hard Cost Multiplier (hereinafter

defined), (II) the Allocated Land Cost (hereinafter defined) and (III) the Allocated Infrastructure Costs (hereinafter defined).

"Additional Charges" shall mean, collectively, payments of PILOT, Public Maintenance Amount, Impositions, and all other sums (other than Base Rent) as shall become due and payable by Tenant to or on behalf of Landlord pursuant to this Lease.

"Adjacent Streets" shall mean the streets immediately adjacent to the Building as depicted on Exhibit S attached hereto.

"Adjusted for Inflation" shall mean adjusted by the percentage increase, if any, in the Consumer Price Index (hereinafter defined) for an adjustment period commencing on the date of this Lease (hereinafter defined) and ending on the date of the particular event or for such other period as may be provided herein.

"Advertising Campaign" shall have the meaning provided in Section 41.15(a).

"Affiliate" shall mean any Person (hereinafter defined) which, directly or indirectly, Controls (hereinafter defined), is Controlled by or is under common Control with any other Person.

"Affiliate Lender" shall have the meaning provided in Section 10.10(a).

"Agency Inaction" shall have the meaning set forth in the Infrastructure Agreement.

"Agreement to Cure" shall have the meaning provided in Section 10.10(b).

"AIG Policy" shall have the meaning provided in Section 38.01.

"Allocated Infrastructure Costs" shall mean the product of (i) $42,172,372 and (ii) the Floor Area Ratio; provided, however, in no event shall the aggregate Allocated Infrastructure Costs under all Stage II Ground Leases exceed $42,172,372.

"Allocated Land Cost" shall mean the product of (i) $28,900,000 and (ii) the Floor Area Ratio; provided, however, in no event shall the aggregate Allocated Land Costs under all Stage II Ground Leases exceed $28,900,000.

"Appliance Sales Tax Exemption" shall have the meaning provided in Section 11.04(d).

"Appliance Sales Tax Letter" shall have the meaning provided in Section 11.04(d).

"Arbitration Association" shall have the meaning provided in Section 35.03.

"Architect" shall mean the architectural firm of Arquitectonica, SLCE Architects and/or any other architectural firm selected by Tenant and approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that in no event may the Architect be a Prohibited Party (hereinafter defined).

"Asbestos and Demolition Work" shall mean the Asbestos and Demolition Work as such term is defined in the Infrastructure Agreement (hereinafter defined).

"As-of-Right Tax Benefits" shall have the meaning provided in Section 3.03(a).

"Assignor" shall have the meaning provided in Section 41.13(b).

"Authorized Representative" shall mean any one or more of the Elghanayans (hereinafter defined) or such other representative of Tenant approved by Landlord in its sole discretion.

"Base Rent" shall have the meaning provided in Section 3.02(a).

"Block Residential Subtenant" shall mean a Person (which term, for the purposes of this definition, shall include any Affiliate of such Person) who is a Subtenant under (i) more than one Residential Sublease or (ii) a Residential Sublease which covers more than one (1) residential apartment.

"Block Subtenant Restriction" shall have the meaning provided in Section 10.04(a).

"Building" shall mean the initial building and other initial improvements to be hereafter erected, constructed, or placed upon the Land (hereinafter defined), pursuant to and in accordance with the Plans and Specifications (hereinafter defined).

"Building Permit Date" shall mean the first date upon which a building permit shall be issued for the construction of the Building by the New York City Department of Buildings.

"Business Days" shall mean any day which is not a Saturday, Sunday or a day observed as a holiday by either the State of New York or the Federal government.

"Capital Improvement" shall have the meaning provided in Section 13.01.

"Certificate of Occupancy" shall mean a temporary or permanent certificate of occupancy issued by the New York City Department of Buildings pursuant to Chapter 26, Section 645 of the New York City Charter or other similar certificate issued by a department or agency of the City.

"Certified Costs" shall have the meaning provided in Section 11.04(e).

"Certified Demolition Costs" shall mean the product of (i) the Floor Area Ratio and (ii) the actual certified costs incurred by Tenant or an Affiliate of Tenant for the demolition work performed with respect to the Stage II Project Area as certified to be true and accurate by an officer of Tenant, provided, however, that if the actual costs for such demolition work for the Stage II Project Area cannot be determined because the demolition work has not been completed, then a reasonable estimate of such costs as determined by Landlord and Tenant shall be used, provided, further, however, to the extent that Landlord and Tenant are unable to agree on such reasonable estimate at the point in time that Tenant is closing on its financing in connection with the Premises, then such costs shall temporarily be deemed to be equal to the amount for such costs set forth in the budget approved by the Institutional Lender providing such financing (provided such Institutional Lender is not an Affiliate of Tenant).

"Certified Remediation Costs" shall mean the product of (i) Floor Area Ratio and (ii) the actual certified costs incurred by Tenant or an Affiliate of Tenant for the environmental remediation work on the Stage II Project Area as certified as true and accurate by an officer of Tenant, provided, however, that if the actual costs for such remediation work cannot be determined because the remediation work has not been completed, then a reasonable estimate of such costs as determined by Landlord and Tenant shall be used, provided, further, however, to the extent that Landlord and Tenant are unable to agree on such reasonable estimate at the point in time that Tenant is closing on its financing in connection with the Premises, then such costs shall temporarily be deemed to be equal to the amount for such costs set forth in the budget approved by the Institutional Lender providing such financing (provided such Institutional Lender is not an Affiliate of Tenant).

"Certified Public Accountant" or "CPA" shall mean Margold Ersken & Wang, L.L.P., Ernst & Young LLP, Deloitte & Touche, KPMG LLP, PricewaterhouseCoopers or any other public accounting firm with recognized expertise in real estate matters selected by Tenant and approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that in no event may the Certified Public Accountant or CPA be a Prohibited Party.

"City" shall mean The City of New York, a municipal corporation of the State of New York.

"Closing" shall have the meaning provided in Section 34.05.

"Closing Date" shall have the meaning provided in Section 34.05.

"Closure" shall mean (i) the date "Closure" (as such term is defined in the TRC Contract) is achieved, (ii) the date of a determination by an arbitrator pursuant to the TRC Contract that TRC has completed all of the Remediation Work required to be performed under the TRC Contract and is excused from achieving "Closure" as a result of Agency Inaction, or (iii) if TRC is no longer performing the work under the TRC Contract, the date that all of the Remediation Work required to be performed under the TRC Contract has been completed and that an arbitrator has determined pursuant to the Management Agreement that there has been Agency Inaction.

"Commencement of Construction" shall mean the date upon which on-site construction of any part of the Building shall commence, including excavation and pile driving with respect to such work (other than work with respect to the Asbestos and Demolition Work or the Remediation Work (hereinafter defined)).

"Commencement Date" shall mean the date of this Lease.

"Commercial Subleases" shall have the meaning provided in Section 10.04(b).

"Commercial Subtenants" shall have the meaning provided in Section 10.04(b).

"Communications" shall have the meaning provided in Section 38.15.

"Completion Guaranty" shall have the meaning provided in Section 27.01.

"Contaminants" shall have the meaning provided in Section 38.01.

"Construction Agreements" shall mean all written agreements between Tenant or any Affiliate of Tenant and a third party for the construction, Restoration (hereinafter defined), Capital Improvement, rehabilitation, alteration, repair or demolition of all or any part of the Premises (hereinafter defined), including, without limitation, the Construction Contract, performed pursuant to this Lease and all modifications thereof and supplements thereto made in accordance with the terms of this Lease, other than agreements for work done or to be done pursuant to the Infrastructure Agreement.

"Construction Contract" shall mean that certain construction contract to be entered into between Tenant and the General Contractor (hereinafter defined) covering the construction of the Building.

"Construction Documents" shall mean, collectively, the Plans and Specifications, and the Construction Agreements, all of which shall be assignable to, and assigned to, Landlord as security subject to the prior rights of any Mortgagee (hereinafter defined).

"Construction Guaranty" shall have the meaning provided in Section 27.01.

"Construction Period" shall mean the period beginning on the date of Commence-

ment of Construction and ending upon Substantial Completion of the Building (hereinafter defined).

"Construction Site" shall mean all or any portion of the Premises under construction at any time throughout the Term (hereinafter defined).

"Consumer Price Index" shall mean the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor, New York, New York - Northeastern New Jersey - Long Island Area, All Items (1982-1984 = 100), or any successor index thereto, appropriately adjusted; provided that if there shall be no successor index and if the parties shall fail to agree upon a substitute index within thirty (30) days of the date either party requests such substitute index in connection with the implementation of any provision of this Lease, or if the parties shall fail to agree upon the appropriate adjustment of such successor index within thirty (30) days of the date either party requests an adjustment of such successor index in connection with the implementation of any provision of this Lease, a substitute index or the appropriate adjustment of such successor or substitute index, as the case may be, shall be determined by arbitration pursuant to Article 35.

"Contaminants" shall have the meaning provided in Section 38.01.

"Contractor" shall mean any contractor, subcontractor, laborer or materialman who shall supply goods, services, labor or materials in connection with the development, construction, Restoration, Capital Improvement, rehabilitation, alteration, repair, demolition, management, maintenance or operation of any part of the Premises (other than a Contractor who is providing such services solely in connection with the work being performed pursuant to the

Infrastructure Agreement), provided, however, that the Managing Agent shall not be deemed a Contractor.

"Control" of a Person (the "Controlled Party") shall be deemed vested in another Person when such other Person has either (i) ownership of more than fifty percent (50%) of all of the voting stock of the Controlled Party if it is a corporation or more than fifty percent (50%) of all of the legal or equitable interests in the Controlled Party if it is any other business entity, in each case taking into account direct ownership and indirect beneficial ownership (i.e. through ownership of one or more tiers of entities) or (ii) the possession of the power, directly or indirectly, to cause the direction of management and policy of the Controlled Party, whether through voting securities, by contract or common directors, officers or trustees or otherwise.

"Covered Person" shall have the meaning provided in Section 14.01.

"Cross Default Requirements" shall have the meaning provided in Section 24.01(m).

"DEC" shall mean the New York State Department of Environmental Conservation and any successor thereto.

"DEC Covenant Not-to-Sue" shall mean any covenant not-to-sue issued in connection with a Voluntary Cleanup Agreement.

"Default" shall mean any condition or event which constitutes or would, after notice or lapse of time, or both, constitute an Event of Default (hereinafter defined).

"Deficiency" shall have the meaning provided in Section 24.03(d).

"Depositary" shall mean (i) any Mortgagee which would qualify as an Institutional Lender (hereinafter defined), or (ii) any other institution (other than an Affiliate Lender) which

would qualify as an Institutional Lender, designated by Tenant and approved by Landlord, which approval shall not be unreasonably withheld, conditioned or delayed to serve as Depositary pursuant to this Lease; provided that the Depositary shall have a branch in the City and all amounts held by such Depositary pursuant to this Lease shall be held in interest bearing accounts in the City such that Landlord is able to receive and disburse funds in the City. In the event Tenant shall have failed to designate a Depositary within ten (10) days after request of Landlord, the Depositary shall be the Mortgagee holding the Mortgage having the highest priority, provided that such Mortgagee may designate another Institutional Lender as the Depositary, but if there shall be no such Mortgagee, Landlord shall have the right to designate such Depositary if Tenant or a Mortgagee shall fail to timely do so. In no event may the Depositary be a Prohibited Party or an Affiliate of Tenant.

"Design Controls" shall mean, collectively, (i) Hunters Point (Queens West) Waterfront Development Land Use Improvement Project Modified General Project Plan attached hereto as Exhibit K (the "GPP"), prepared by ESDC with the cooperation of EDC and the Port Authority and (ii) the Design Guidelines promulgated by Landlord attached hereto as Exhibit L (the "Design Guidelines"), as either of the foregoing may have been or may hereafter be amended or supplemented from time to time; provided, however, that no such amendment or supplement occurring after Landlord's review and approval of the Plans and Specifications shall be enforced against Tenant to the extent that such enforcement would (1) increase Tenant's costs or obligations or decrease Tenant's rights under this Lease, unless (y) such amendment or supplement is required in order to comply with a Law (hereinafter defined) or (z) Landlord shall have obtained Tenant's consent thereto, which consent shall not be unreasonably withheld, conditioned or

delayed, or (2) violate any Law. To the extent that Landlord shall have modified or waived in writing any provision of the Design Controls in accordance with Section 11.01(c), the term "Design Controls" shall mean the Design Controls as modified by any such modification or waiver, but only with respect to the specific portion of the Plans and Specifications dealt with in such written modification or waiver. Landlord acknowledges that as of the Commencement Date, the Design Guidelines are inconsistent in certain respects with (I) the GPP as a result of certain modifications to the GPP which were heretofore made as a result of discussions between Landlord and Tenant's Affiliate and (II) the schematic design for the Building that has heretofore been approved by Landlord. Landlord agrees that the Design Guidelines shall be modified to be consistent with the GPP in the reasonable discretion of Landlord. Whenever this document requires compliance with the Design Controls, such compliance with the Design Controls shall include compliance with the intent of the Design Controls which intent Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls.

"Design Development Submissions" shall have the meaning provided in Section 11.01(c).

"Design Development Submissions Receipt" shall have the meaning provided in Section 11.01(c).

"Developer" shall mean Rockrose GC QW Sitework LLC, its permitted successors or permitted assigns under the Infrastructure Agreement.

"Developer's Infrastructure Contribution" shall mean the Developer's Infrastructure Contribution as such term is defined in the Infrastructure Agreement.

"DOTF" shall have the meaning provided in Section 11.04(c).

"Due Date" shall mean, (i) with respect to any Taxes (hereinafter defined) or Imposition (hereinafter defined), the last date on which such Taxes or Imposition can be paid without any fine, penalty, interest or cost being added thereto or imposed by law for the non-payment thereof (or if such Taxes or Impositions are not required to be paid due to Landlord's ownership of the Premises or involvement with the Queens West Project Area (hereinafter defined), the last date on which such Taxes or Impositions would have been payable without any fine, penalty, interest or cost being added thereto or imposed by law for the non-payment thereof) and (ii) with respect to Base Rent or any Additional Charges, the date on which such payments are required to be made under this Lease without taking into account any grace periods, provided, however, with respect to the payment of PILOT, the Due Date for each semi-annual payment due for any Tax Year shall be (a) for the first half of such Tax Year, the first day of such Tax Year (the "Tax Year Commencement Date") and (b) for the second half of such Tax Year, the date that is six (6) months after the Tax Year Commencement Date for such Tax Year..

"EDC" shall mean the New York City Economic Development Corporation or any successor thereto.

"Engineer" shall mean the engineering firm of Rosenwasser-Grossman Consulting Engineers PC, I.M. Robbins P.C. and/or any other engineering firm selected by Tenant and approved by Landlord, such approval not to be unreasonably withheld, conditioned or delayed; provided, however, that in no event may the Engineer be a Prohibited Party.

"Environment" shall have the meaning provided in Section 38.01.

"Environmental Complaint" shall have the meaning provided in Section 38.07.

"Environmental Condition" shall have the meaning provided in Section 38.01.

"Environmental Damages" shall have the meaning provided in Section 38.01.

"Environmental Exchange Date" shall mean the earliest to occur of (i) the date Closure has been achieved with respect to the Operable Unit (as defined in the Infrastructure Agreement) of which the Premises are a part, (ii) Commencement of Construction and (iii) the date upon which Tenant begins utilizing the Premises for any purpose whatsover; provided, however, that the performance of the Remediation Work and use of the Premises in connection therewith by Developer or entities with which Developer has contracted for the performance of the Remediation Work shall not be deemed Tenant's utilization of the Premises.

"Environmental Laws" shall have the meaning provided in Section 38.01.

"Equipment" shall mean all fixtures incorporated in the Premises, including, without limitation, all (i) machinery, dynamos, boilers, heating and lighting equipment, pumps, tanks, motors, air conditioning compressors, pipes, conduits, fittings, ventilating and communications apparatus, elevators, escalators, incinerators, garbage compactors, antennas, computers and sensors and (ii) laundry equipment and refrigerators, stoves, dishwashers and other major kitchen appliances, except to the extent any of the foregoing shall be owned by Subtenants, concessionaires or Contractors engaged in maintaining the same or shall be located in the retail or commercial space. "Equipment" shall not include any fixture or utilities owned by any utility company.

"ESDC" shall mean the New York State Urban Development Corporation d/b/a Empire State Development Corporation, or any successor thereto.

"Estimated Construction Costs" shall mean the sum of (I) the product of (A) the sum of (i) a reasonable estimate of the Hard Costs to be incurred in connection with the initial

construction of the Building, as determined by Landlord and Tenant, (ii) the Certified Demolition Costs and (iii) the Certified Remediation Costs and (B) the Hard Cost Multiplier, (II) the Allocated Land Cost and (III) the Allocated Infrastructure Costs. If Landlord and Tenant are unable to agree upon such Estimated Construction Costs, the matter shall be submitted to arbitration in accordance with Article 35.

"Event of Default" shall have the meaning provided in Section 24.01.

"Excluded Contaminants" shall mean those Contaminants Landlord is required to abate and dispose of as part of the Asbestos and Demolition Work to be performed pursuant to the Infrastructure Agreement including, without limitation, any Contaminants that Landlord is required to abate and dispose of as part of the Asbestos and Demolition Work which are released into the Environment as a result of the Asbestos and Demolition Work.

"Exercise Date" shall have the meaning provided in Section 34.05.

"Expiration Date" shall mean the Scheduled Expiration Date (hereinafter defined) or such earlier date upon which this Lease may be terminated as provided herein.

"First Public Maintenance Amount Payment Date" shall mean the date upon which the first temporary Certificate of Occupancy for the residential portion of the Building is issued.

"Floor Area Ratio" shall mean a fraction, the numerator of which is the total number of square feet of the Building which has been approved to be built pursuant to this Lease in accordance with the Design Controls and the denominator of which is the total number of square feet of all of the buildings to be built under all Stage II Ground Leases in accordance with the Design Controls.

"General Contractor" shall have the meaning provided in Section 11.01(h).

"Governmental Authority (Authorities)" shall mean the United States of America, the State of New York, the City and any agency, department, corporation, commission, board, bureau, instrumentality or political subdivision of any of the foregoing, now existing or hereafter created, having or exercising jurisdiction over the Premises or any portion thereof including, without limitation, jurisdiction over the administration or enforcement of any Environmental Law, to the extent that such entity is acting in its capacity as a governmental authority rather than in its capacity as Landlord or a principal in Landlord or as owner under the Infrastructure Agreement (hereinafter defined).

"Hard Cost Certificate" shall have the meaning provided in Section 26.01(b).

"Hard Cost Differential" shall have the meaning provided in Section 44.02.

"Hard Cost Installment" shall have the meaning provided in Section 8.03(a).

"Hard Cost Multiplier" shall mean 1.35.

"Hard Costs" shall mean the actual, out-of-pocket costs of construction which are usually and customarily considered to be "hard costs" by the high-rise construction industry in the City, as set forth in the Construction Contract or the Project Budget (hereinafter defined), whether paid by the General Contractor, Tenant or an Affiliate of Tenant, including, without limitation, (i) general conditions (including bonding costs) and (ii) the cost of furniture, fixtures and equipment for common areas, model apartments, kitchens and bathrooms, but specifically excluding all fees for architects, engineers, consultants or other similar advisors. Costs paid to an Affiliate of Tenant shall only be included as a "Hard Cost" to the extent such payment shall not exceed the customary and reasonable costs which would have otherwise been paid to a third-

party non-Affiliate of Tenant and such costs paid to an Affiliate of Tenant shall be considered out-of-pocket costs even if payments are only made by journal entry.

"Impermissible Uses" shall have the meaning provided in Section 23.02.

"Imposition" or "Impositions" shall have the meaning provided in Section 4.01.

"Improvement Approvals" shall have the meaning provided in Section 13.0 1(a).

"Improvements" shall mean all the buildings (including footings and foundations), Equipment, sidewalks, landscaping, utilities, vaults (other than utilities outside the Improvements and vaults which are maintained by a utility company), and all other improvements and appurtenances of every kind and description to be hereafter erected, constructed, or placed upon the Land and any and all alterations and replacements thereof, additions thereto and substitutions therefor, including, without limitation, the Building.

"Improvements Sales Tax Exemption" shall have the meaning provided in Section 11.04(c).

"Improvements Sales Tax Letter" shall have the meaning provided in Section 11.04(c).

"Indemnitees" shall have the meaning provided in Section 19.01.

"Infrastructure Agreement" shall mean that certain Project Infrastructure Agreement, dated as of the date hereof, by and among Landlord and GC QW Sitework L.L.C.

"Infrastructure Agreement Cross Default" shall have the meaning provided in Section 24.01(m).

"Infrastructure Compliance Date" shall mean the first date on which each of the following has occurred: (i) the Developer's Infrastructure Contribution has been paid in full to

Landlord or applied towards the cost of the Project Infrastructure (as defined in the Infrastructure Agreement), provided, however, that the delivery of a letter of credit to Landlord for the full amount of the Developer's Infrastructure Contribution shall be deemed, for the purposes of this definition, to constitute payment of the Developer's Infrastructure Contribution in full and (ii) the Tenant Infrastructure Agreement Work (hereinafter defined) has been completed pursuant to and in accordance with the Infrastructure Agreement.

"Initial Appliances" shall have the meaning provided in Section 11.04(e).

"Initial Retail Fit-Out Materials" shall have the meaning provided in Section 11.04(e).

"Institutional Lender" shall mean a savings bank, a savings and loan association, a commercial bank or trust company (whether acting individually or in a fiduciary capacity), an insurance or annuity company organized and existing under the laws of the United States or any state thereof, a real estate investment trust, a religious, educational or eleemosynary institution, a governmental agency, body or entity, an employee, benefit, pension or retirement plan, trust or fund, a commercial credit corporation, an investment or mortgage bank, a commercial bank or trust company acting as trustee or fiduciary of various pension funds, tax-exempt funds or collateralized mortgage securities, or a corporation or other entity which is owned wholly by any other Institutional Lender (a "Parent Institutional Lender"), or a sub-trustee of any commercial bank or trust company acting as such trustee, or an investment company or business development company (as defined in the Investment Act of 1940, as amended), a small business investment company licensed under the Small Business Investment Act of 1958, as amended, any broker or dealer registered under the Security Exchange Act of 1934, as amended, or any investment

advisors registered under the Investment Advisors Act of 1940, as amended, or any combination of the foregoing; provided, that each of the above entities, or any combination of such entities, shall qualify as an Institutional Lender for purposes of this Lease only if (a) each such entity shall be subject to the jurisdiction of the courts of the State of New York in any actions and (b) each such entity or combination of such entities, together with any applicable Parent Institutional Lender, shall have individual or combined assets, as the case may be, of not less than One Billion Dollars ($1,000,000,000) (and for purposes of any loans originated by a lender for sale to the Federal Home Loan Mortgage Corporation or Fannie Mae, the assets of the Federal Home Loan Mortgage Corporation or Fannie Mae, as the case may be, shall be combined with such lender's assets for purposes of this clause (b)) and (c) each such entity is not a Prohibited Party.

"Involuntary Rate" shall mean the lesser of (i) the Prime Rate (hereinafter defined) plus four percent (4%) per annum, and (ii) the maximum applicable permissible interest rate then in effect in the State of New York.

"Land" shall mean the parcel of land described in Exhibit A and all easements and other rights pertaining thereto, whether presently existing or hereafter created.

"Landlord" shall mean Queens West Development Corporation, subject to Section 41.13(a).

"Landlord's Reasonable Determination" shall have the meaning provided in Section 7.02(a).

"Laws" shall have the meaning provided in Section 14.01.

"Lease" shall mean this Agreement of Lease including all Exhibits hereto and all amendments, modifications and supplements hereof.

"Lease Obligation Insurance" shall have the meaning provided in Section 7.01(b).

"Lease Year" shall mean (i) if the Commencement Date shall occur on the first day of a calendar month, the twelve-month period beginning on the Commencement Date or (ii) if the Commencement Date shall not occur on the first day of a calendar month, the period from the Commencement Date through the end of the calendar month in which the Commencement Date shall have occurred and the next succeeding twelve-month period and, in either case (i) or (ii), each succeeding twelve-month period until the Expiration Date.

"Low Credit Subleases" shall mean Residential Subleases demising apartments in the Building which, when taken together, do not demise more than three percent (3%) of the apartments in the Building.

"Major Sublessee" shall mean a Person who is entering into a sublease of all or any portion of the Premises pursuant to which such Person is subletting such portion of the Premises with the primary expectation of controlling, managing or operating the Premises or such portion thereof rather than occupying the same. For the purpose of the foregoing definition, occupancy by the employees or guests of a Person shall be considered occupancy by such Person.

"Management Agreement" shall mean Management Agreement as defined in the Infrastructure Agreement.

"Managing Agent" shall mean (x) Rockrose Development Corp. or an Affiliate of Rockrose Development Corp. or (y) a managing agent selected by Tenant who (i) performs all of the management functions that managing agents of first class multi-tenanted residential apartment buildings located in the City of a size, age and quality comparable to the Improvements

customarily perform, (ii) has received all requisite authorizations, licenses, permits and consents required by all Requirements to manage the Premises and (iii) has been approved by Landlord. Landlord shall not unreasonably withhold, condition or delay its approval of such managing agent as long as such managing agent shall not be a Prohibited Party and shall have at least ten (10) years of experience in the City managing multi-tenanted residential apartment buildings of a comparable size, age and quality to the Improvements and who has received and has in good standing all requisite authorizations, licenses, permits and consents referred to above in this paragraph. In no event may the Managing Agent be a Prohibited Party.

"Material Changes" shall mean any changes which (A) affect the exterior facade of the Improvements (other than to a de minimis extent), (B) affect any POS, (C) change the height, bulk or setback of the Improvements, (D) affect the location, access to, or visible appearance of the ground floor lobby of the Building or (E) affect the energy conservation system for the Improvements (other than to a de minimis extent).

"Material Restoration" shall mean any Restoration (a) the estimated cost of which (determined as provided in Section 8.03) shall equal or exceed the Retention Threshold or (b) which involves a change to the exterior of the Improvements or a change in the height, bulk or setback of the Improvements from the height, bulk or setback immediately prior to the Restoration or any other change of a matter relating to or affected by the Design Controls.

"Minimum PILOST Amount" shall mean the amount of New York State and City sales and compensating use taxes which would have been due and payable on (i) the materials purchased by Tenant for incorporation into the Building in connection with the initial construction of the Building which become an integral component part of the Building and (ii) the

materials purchased by Tenant or a Subtenant for incorporation into the retail portion of the Building as part of initial Retail Fit-Out of the Building (specifically excluding Retail Fit-Out after any initial Retail Fit-Out), which materials become an integral component part of the Building and (iii) to the extent owned by Landlord, the appliances purchased by Tenant, as agent of Landlord, for the initial Residential Fit-Out of the Building (specifically excluding Residential Fit-Out after any initial Residential Fit-Out), but for Landlord's ownership of the Land, Improvements and/or materials and appliances purchased to be incorporated therein.

"Mortgage" shall mean any mortgage which constitutes a lien on Tenant's interest in this Lease and the leasehold estate created hereby, provided that such mortgage does not encumber Landlord's interest in the Premises and this Lease.

"Mortgagee" shall mean the holder of any Mortgage that is neither a Prohibited Party nor an Affiliate of Tenant and is an Institutional Lender.

"Mortgagee Access" shall have the meaning provided in Section 10.10(b).

"MRT Cap" shall have the meaning provided in Section 44.02.

"MRT Savings" shall have the meaning provided in Section 44.01.

"New Contaminant" shall have the meaning provided in Section 38.12.

"Notice" shall have the meaning provided in Section 25.01.

"Option" shall have the meaning provided in Section 34.01.

"Outside PILOT Conversion Date" shall mean (i) September 19, 2007, or (ii) in the event Commencement of Construction shall occur on or prior to September 19, 2007, the earlier to occur of (x) the first date upon which Tenant receives a Certificate of Occupancy for any portion of the Building and (y) September 19, 2009.

"Paid MRT" shall have the meaning provided in Section 44.03.

"PAPPS" shall mean the publicly accessible private pedestrian spaces on the Premises as described in the Design Controls and as shown on Exhibit C attached hereto and made a part hereof.

"Parent Institutional Lender" shall have the meaning provided for in the definition of "Institutional Lender".

"Payments in Lieu of Taxes" and "PILOT" shall have the meaning provided in Section 3.03(c).

"Permits" shall have the meaning provided in Section 11.01(b).

"Permitted Exceptions" shall mean, collectively, Title Matters (hereinafter defined), all violations against the Premises, all Environmental Conditions as of the Exercise Date, all liens and encumbrances, violations and conditions arising after the date hereof that are not created by Landlord or suffered to exist as a result of Landlord's actions, the provisions and requirements contained in the Voluntary Cleanup Agreement and that certain Easement, Covenant and Restriction Agreement, dated as of the date hereof, by and between PepsiCo, Inc. and Landlord.

"Person" shall mean and include an individual, corporation, partnership, joint venture, estate, trust, unincorporated association, limited liability company, limited liability partnership, any Federal, State, County or municipal government, any bureau, department or agency thereof, and any other entity.

"PILOST Amount" shall have the meaning provided in Section 11.04(e).

"PILOST Savings" shall have the meaning provided in Section 11.04(d).

"PILOT Commencement Date" shall mean the date hereof.

"PILOT Conversion Notice" shall have the meaning provided in Section 3.04.

"PILOT Schedule" shall have the meaning provided in Section 3.03.

"Plan and Specification Submissions" shall have the meaning provided in Section 11.01(c).

"Plan and Specification Submissions Receipt" shall have the meaning provided in Section 11.01(c).

"Plans and Specifications" shall mean the plans, specifications and construction documents for the construction of the Building sealed by the Architect and the Engineer and certified in writing by the Architect to Landlord to substantially comply with all Laws and the Design Controls and which shall have been reviewed and, to the extent required, approved by Landlord and Tenant in accordance with Section 11.01(c), and all modifications thereof and supplements thereto made in accordance with Section 11.01(c).

"Port Authority" means The Port Authority of New York and New Jersey or any successor thereto.

"POS" shall mean private open spaces on the Premises as described in the Design Controls.

"Premises" shall mean the Land and Improvements; provided, however, that solely for the purpose of Article 34 and the Option, the term Premises shall exclude the PAPPS.

"Prime Rate" shall mean the rate announced from time to time by Citibank, N.A. or any successor thereto at its principal office as its "base rate." If Citibank, N.A. no longer announces a "base rate," the Prime Rate shall mean a comparable rate announced from time to

time by a comparable institution selected in writing by Landlord and Tenant. If Landlord and Tenant are unable to agree upon such substituted institution and rate, the matter shall be submitted to arbitration in accordance with Article 35. Any interest payable under this Lease with respect to the Prime Rate shall be adjusted on a daily basis, based upon the Prime Rate in effect at the time in question, and shall be calculated on the basis of a 360-day year of twelve thirty-day months.

"Prohibited Party" means a Person who is either (1) a Person who (a) has been convicted of, or pled guilty or nolo contendere to, a felony or any crime involving moral turpitude, (b) is an organized crime figure or has substantial business or substantial other affiliations with an organized crime figure, (c) is controlled by a government the activities of which are controlled or regulated pursuant to Executive Orders issued by the President of the United States pursuant to the Trading with the Enemy Act of 1917, (d) is in monetary default or material non-monetary default, beyond any applicable notice and cure period, under any Contract excluding (i) any default that is then being disputed or contested pursuant to the terms of the underlying instrument or applicable law or that has been waived in writing and (ii) any default which is subject to an express liquidated damages remedy if such liquidated damages have been paid or (e) has failed to complete and deliver a satisfactory VENDEX Clearance Questionnaire to Landlord (as used in this definition, the term "Contract" shall mean any debt, contract or obligation (including any tax obligation) to or with Landlord, ESDC, the State of New York, the City, EDC, and/or the Port Authority or any of their respective agencies, departments or instrumentalities) under or pursuant to which payments aggregating, or services valued at, more

than One Thousand Dollars ($1,000) are to be made or rendered or (2) a Person who is an Affiliate of a Prohibited Party.

"Project Budget" shall mean the budget of Hard Costs and actual soft costs for construction of the Building prepared by Tenant, and all modifications thereof and supplements thereto.

"Proposed Determination" shall have the meaning provided in Section 35.04(b).

"Proposed Substitute PILOT Schedule" shall have the meaning provided in Section 3.04.

"Public Maintenance Amount" shall have the meaning provided in Section 3.09(a).

"Public Maintenance Amount Lease Year" shall mean (i) if the First Public Maintenance Amount Payment Date shall occur on the first day of a calendar month, the twelve-month period beginning on the First Public Maintenance Amount Payment Date or (ii) if the First Public Maintenance Amount Payment Date shall not occur on the first day of a calendar month, the period commencing on the First Public Maintenance Amount Payment Date and ending on the last day of the month in which the first anniversary of the First Public Maintenance Amount Payment Date occurs, and, in either case (i) or (ii), each succeeding twelve-month period; provided, however that the last Public Maintenance Amount Lease Year shall be deemed to end on the Expiration Date.

"Purchase Price" shall have the meaning provided in Section 34.04(a).

"Queens West Project Area" shall mean the Project Area (as such term is defined in the GPP) including, without limitation, the Stage II Project Area.

"Release" shall have the meaning provided in Section 38.01.

"Remediation Work" shall mean the Remediation Work as such term is defined in the Infrastructure Agreement.

"Repairs" shall have the meaning provided in Section 12.01(b).

"Replacement Guarantor" shall have the meaning provided in Section 27.01.

"Replacement Guaranty" shall have the meaning provided in Section 27.01.

"Requirements" shall have the meaning provided in Section 14.01.

"Residential Fit-Out" shall have the meaning provided in Section 11.04(d).

"Residential Subleases" shall have the meaning provided in Section 10.04(a).

"Residential Subtenants" shall have the meaning provided in Section 10.04(a).

"Restoration" shall have the meaning provided in Section 8.01.

"Restoration Funds" shall have the meaning provided in Section 8.03.

"Restore" shall have the meaning provided in Section 8.02.

"Retail Fit-Out" shall have the meaning provided in Section 11.04(e).

"Retention Threshold" shall have the meaning provided in Section 7.02(a).

"Revised Design Drawing Submissions" shall have the meaning provided in Section 11.01(c).

"Revised Design Drawing Submissions Receipt" shall have the meaning provided in Section 11.01(c).

"Revised Plan and Specification Submissions" shall have the meaning provided in Section 11.01(c).

"Revised Plan and Specification Submissions Receipt" shall have the meaning provided in Section 11.01(c).

"Revised Restoration Submissions" shall have the meaning provided in Section 8.02.

"Revised Restoration Submissions Receipt" shall have the meaning provided in Section 8.02.

"Revised Schematic Submissions" shall have the meaning provided in Section 11.01(c).

"Revised Schematic Submissions Receipt" shall have the meaning provided in Section 11.01(c).

"Rules and Regulations" shall mean the rules and regulations, from time to time in effect, issued by Landlord or Landlord's agents in compliance with the terms of this Lease.

"Sales Tax Deficiency" shall have the meaning provided in Section 11.04(f).

"Sales Tax Exemption" shall mean, collectively, the Appliance Sales Tax Exemption and the Improvements Sales Tax Exemption.

"Samples Receipt" shall have the meaning provided in Section 11.01(f).

"Scheduled Completion Date" shall have the meaning provided in Section 11.03(a).

"Scheduled Expiration Date" shall mean (i) if the Commencement Date is the first day of a calendar month, the ninety-ninth (99th) anniversary of the day preceding the Commencement Date, otherwise (ii) the last day of the calendar month in which occurs the ninety-ninth (99th) anniversary of the Commencement Date.

"Schematic Drawing Submissions" shall have the meaning provided in Section 11.01(c).

"Schematic Drawing Submissions Receipt" shall have the meaning provided in Section 11.01(c).

"Second Approval Notice" shall have the meaning provided in Section 10.02(d).

"Second Mortgagee" shall have the meaning provided in Section 10.11(d).

"Second Design Development Submissions" shall have the meaning provided in Section 11.01(c).

"Second Plan and Specification Submissions" shall have the meaning provided in Section 11.01(c).

"Second Revised Design Drawing Submissions" shall have the meaning provided in Section 11.01(c).

"Second Revised Plan and Specification Submissions" shall have the meaning provided in Section 11.01(c).

"Second Revised Schematic Submissions" shall have the meaning provided in Section 11.01(c).

"Second Revised Restoration Submissions" shall have the meaning provided in Section 8.02.

"Second Sample Submissions" shall have the meaning provided in Section 11.01(f).

"Second Schematic Drawing Submissions" shall have the meaning provided in Section 11.01(c).

"SNDA Agreement" shall have the meaning provided in Section 10.09.

"Soft Cost Installment" shall have the meaning provided in Section 8.03(a).

"Stabilized Occupancy Date" shall mean the date which shall be the later to occur of (y) Substantial Completion of the Building and (z) the date on which at least ninety percent (90%) of the residential apartments in the Building shall have been leased to Residential Subtenants (including, without limitation, subleases to Block Residential Subtenants) pursuant to Residential Subleases.

"Stabilized Sublease" shall have the meaning provided in Section 43.01.

"Stage II Ground Lease" shall mean each lease demising portions of the Stage II Project Area (hereinafter defined) initially between Landlord, as landlord, and Tenant or an Affiliate of Tenant, as tenant, as more particularly described on Schedule 1 hereto and made a part hereof, or all such leases, as applicable.

"Stage II Project Area" shall mean the premises to be leased under each Stage II Ground Lease and the public streets, sidewalks and other public areas adjacent thereto.

"Stop Order" shall have the meaning provided in Section 11.06.

"Streets" shall mean the roadways constructed within the Stage II Project Area.

"Subdivision Date" shall have the meaning provided in Section 34.04.

"Subleases" shall have the meaning provided in Section 10.04(b).

"Subletting Request Receipt" shall have the meaning provided in Section 10.02(d).

"Substantial Completion" shall mean that all of the following have occurred: (i) substantial completion of the construction of the Building in accordance with the Plans and

Specifications except for de minimis deviations and (ii) Tenant has delivered all items required pursuant to Section 11.03(a) (other than final lien waivers which shall be delivered as set forth in Section 11.03(a)) including, without limitation, a temporary Certificate of Occupancy.

"Substantially all of the Premises" shall have the meaning provided in Section 9.01(b).

"Subtenants" shall have the meaning provided in Section 10.04(b).

"Surrender Date" shall have the meaning provided in Section 38.14.

"Tax Year" shall have the meaning provided in Section 3.03(a).

"Taxable Property" shall have the meaning provided in Section 11.04(d).

"Taxes" shall have the meaning provided in Section 3.03(a).

"Technical Administrative Oversight" shall have the meaning provided in Section 24.01(i).

"Tenant" shall mean East Coast 5 L.L.C. and any successor to its interest hereunder in accordance with the terms of this Lease.

"Tenant Infrastructure Agreement Work" shall mean the Remediation Work.

"Term" shall mean the term of this Lease as set forth in Article 2.

"Threatened Release" shall have the meaning provided in Section 38.01.

"Title Matters" shall mean those matters affecting title to the Land set forth in Exhibit D hereto and any defects of title or other encumbrances, disturbances or rights of third parties which may arise as a result of any portion of the Premises lying in a mapped street.

"Total Floor Area" shall mean all floor area above grade, excluding parking and mechanical space, of the Improvements.

"TRC" shall mean TRC Companies, Inc. and TRC Engineers, Inc. and/or any other Person approved by Landlord in its reasonable discretion and hired by Developer to perform the Remediation Work as set forth in the Infrastructure Agreement.

"TRC Contract" shall have the meaning provided in Section 38.01.

"Unavoidable Delays" shall mean delays incurred due to (a) strikes, lockouts and work stoppages due to labor jurisdictional disputes, acts of God, inability to obtain labor or materials due to governmental restrictions, enemy action, terrorism, civil commotion, condemnation, fire, casualty or other similar causes beyond the control of Landlord or Tenant, as the case may be, (b) the failure of any utility company to provide and maintain utilities, services, water and sewer lines and power transmission lines to the Stage II Project Area which are required for the construction or occupancy of the Improvements or for other obligations of Landlord or Tenant, as the case may be, (c) any subsurface condition which is not reasonably foreseeable and which shall require a material redesign or material change in the construction of the Building to be constructed or caused to be constructed by Tenant, or (d) the failure of any Contractor to furnish labor, services, materials or equipment on the dates agreed to, but only to the extent such failure is caused by an Unavoidable Delay and Landlord or Tenant, as the case may be, is not reasonably able to obtain substitute labor, services, materials or equipment on the agreed-upon dates or (e) a work stoppage or unforeseen work procedures ordered by Landlord pursuant to the last sentence in Section 11.06 or the DEC in connection with the Voluntary Cleanup Agreement, or (f) in the case of Landlord, Tenant's failure to comply with its obligations under this Lease by the dates set forth for such compliance in this Lease or Developer's failure to comply with its obligations under the Infrastructure Agreement by the dates set forth for such compliance in the

Infrastructure Agreement (provided such non-compliance is not the result of Landlord's acts or failure to act), and in the case of Tenant, Landlord's failure to comply with its obligations under this Lease within the time periods set forth for such compliance or Landlord's failure to comply with its obligations under the Infrastructure Agreement by the dates set forth for such compliance in the Infrastructure Agreement (provided such non-compliance is not the result of Tenant's or Developer's acts or failure to act), and in the case of Tenant or Landlord, any unreasonable delay or interference in the construction activities of the party claiming Unavoidable Delay by the construction activities in the Queens West Project Area, of any Person (other than the party or an Affiliate of the party claiming Unavoidable Delay); in each case provided that (x) such delay is not due to the wrongful act, omission, negligence or default (under any agreement to or by which the party claiming Unavoidable Delay is a party or is bound or under any Requirement) of the party claiming Unavoidable Delay or any agent or employee of such party, or such party's insolvency or financial condition, (y) such party shall have notified the other party not later than five (5) Business Days after such party knows of the occurrence of such delay, which notice shall not be effective unless it specifies in reasonable detail the nature and extent of the delay and (z) such Unavoidable Delay is the actual cause of the delay in its performance of any covenant or obligation set forth in this Lease. Notwithstanding the foregoing, an Unavoidable Delay shall be deemed to have occurred only to the extent that, despite the reasonable efforts of the party whose performance is affected by such Unavoidable Delay, such party has been unable to mitigate such Unavoidable Delay. The failure of Tenant or Landlord to obtain financing shall not be deemed to be an Unavoidable Delay.

"Unrestricted Premises" shall mean the premises demised pursuant to any Stage II Ground Lease which has been designated by the tenant thereunder as "Unrestricted Premises" pursuant to a certificate signed by such tenant and delivered to Landlord stating that such premises are designated as "Unrestricted Premises"; provided, however that (i) at all times, the premises demised pursuant to at least one of the Stage II Ground Leases on which a building has been substantially completed must not be designated as "Unrestricted Premises", (ii) at no time may more than two (2) of the premises demised pursuant to Stage II Ground Leases be designated as "Unrestricted Premises" and (iii) for the period commencing on the date hereof and ending upon the later of (A) the substantial completion of three buildings in the Stage II Project Area and (B) the date a tenant under a Stage II Ground Lease delivers appropriate notices in accordance with this definition, the premises referred to as "Site 6" under the Stage II Ground Leases shall not be permitted to be the "Unrestricted Premises" (the foregoing clauses (i), (ii) and (iii) being referred to as the "Designation Conditions"). Any tenant under a Stage II Ground Lease shall have the right to deliver a notice designating its premises as "Unrestricted Premises" or removing such designation from its premises, provided, however, that no such notice shall be effective if the result thereof would be a violation of the Designation Conditions.

"Voluntary Cleanup Agreement" shall mean each agreement entered into pursuant to the voluntary cleanup program administered by the DEC with respect to the Premises, or any portion thereof, referenced on Exhibit A to the TRC Contract.

"Work Area" shall mean the Land and all other parcels in the Queens West Project Area which are, at the time of construction of the Building, the site of construction activities.

"Zoning Resolution" shall mean the Zoning Resolution of the City of New York, or any successor statute or regulation in effect at the time in question.

ARTICLE 2

PREMISES AND TERM OF LEASE

Landlord hereby demises and leases to Tenant, and Tenant hereby hires and takes from Landlord the Premises, subject only to the Title Matters.

TO HAVE AND TO HOLD unto Tenant, its successors and assigns, for a term (the "Term") which shall commence on the Commencement Date and shall expire on the Expiration Date.

ARTICLE 3

BASE RENT; ADDITIONAL CHARGES

Section 3.01. The amounts payable by Tenant to Landlord pursuant to this Lease shall consist of (a) Base Rent and (b) Additional Charges. Landlord shall have the same rights and remedies with respect to any failure by Tenant to pay Additional Charges as Landlord would have for any failure by Tenant to pay Base Rent.

Section 3.02.

(a) For the period beginning on the Commencement Date and continuing thereafter throughout the Term, Tenant shall pay to Landlord the annual sum of $1.00 (collectively, "Base Rent").

(b) Base Rent for the first Lease Year shall be payable on the Commencement Date and thereafter the Base Rent shall be payable in advance on the first day of each and every Lease Year. If the Commencement Date does not occur on the first day of a calendar month or

the Expiration Date occurs on a day other than the last day of a calendar month, the Base Rent for such partial calendar month shall not be prorated.

Section 3.03.

(a) For the purposes of this Lease, the following terms shall have the following meanings:

"Tax Year" shall mean (i) for the period commencing on the date hereof and ending on the day immediately preceding the Actual Taxes Date, each successive twelve (12) month period commencing on the date hereof and (ii) from and after the Actual Taxes Date, each tax fiscal year of the City thereafter occurring during the Term; provided, however, the first tax year under this clause (ii) shall commence on the Actual Taxes Date and end on the date upon which the tax fiscal year within which the Actual Taxes Date occurs ends.

"Taxes" shall mean the general ad valorem real estate taxes assessed and levied by the City against the Premises or any part thereof by authority of Chapter 58 of the New York City Charter, as the same may now or hereafter be amended, or any statute or ordinance in addition thereto or in lieu thereof in whole or in part and which would otherwise be payable if the Premises or any part thereof or the owner thereof were not exempt therefrom; subject, in any event, to any abatement of, or deferral or exemption from such Taxes for which Tenant and the Premises would actually qualify based on all the existing circumstances in the event Tenant were the fee owner thereof (the "As-of-Right Tax Benefits").

(b) Unless previously separated, Tenant promptly shall apply to the appropriate authorities to obtain a separate tax lot designation for the Premises. Landlord shall cooperate with Tenant in connection therewith; provided that such participation does not impose any

liability or obligation on Landlord and Landlord's participation is not greater than it would be if Landlord were not a Governmental Authority.

(c) Commencing on the PILOT Commencement Date, for each Tax Year or portion thereof within the Term until the Actual Taxes Date, Tenant shall pay to Landlord an annual sum (each such sum being hereinafter referred to as a "Payment in Lieu of Taxes" or "PILOT") equal to the amount set forth for the applicable Tax Year on Schedule 2 attached hereto (the "PILOT Schedule"), in equal semi-annual installments during such Tax Year (or in such other installments as may then be required for the payment of Taxes by the City), in advance, on or prior to the Due Date therefor. Notwithstanding the foregoing, from and after the Actual Taxes Date, Tenant shall pay PILOT in an amount equal to Taxes for the applicable Tax Year, in equal semi-annual installments during such Tax Year (or in such other installments as may then be required for the payment of Taxes by the City), in advance, on or prior to the Due Date therefor. If, during the Term, the Premises shall become subject to Taxes (i.e., the Premises or any part thereof or the owner thereof are no longer exempt from Taxes) other than as a result of the acts or omissions of Tenant, then Landlord shall pay such Taxes on or prior to the date the same are due, provided, however, that Tenant shall continue to make PILOT payments to Landlord pursuant to this Section 3.03(c). For purposes of the foregoing, Tenant's acts shall include, without limitation, Tenant's (or Tenant's Affiliate's or designee's) purchase of the fee interest in the Premises or any purchase of the fee interest pursuant to any purchase option contained in this Lease.

(d) If Tenant shall fail to make any such PILOT payment on or prior to the Due Date therefor (without regard to any grace period provided by this Lease), such late payment shall

bear interest at the rate charged by the City for late payments of Taxes from the applicable Due Date until paid with such interest, and such interest shall be deemed to be Additional Charges.

Section 3.04. At any time prior to the Outside PILOT Conversion Date, Tenant may elect to replace the PILOT payments to become due hereunder pursuant to the PILOT Schedule with PILOT payments equal to Taxes which would become due based upon then available As-of-Right Tax Benefits by delivering written notice of such election to Landlord (the "PILOT Conversion Notice"). The PILOT Conversion Notice shall set forth the details of the As-of-Right Tax Benefits, shall be delivered with all documentation that would be necessary for such As-of-Right Tax Benefits to be obtained and shall be delivered with a proposed revised PILOT Schedule reflecting such As-of-Right Tax Benefits and, to the extent applicable, the proposed Actual Taxes Date (collectively, the "Proposed Substitute PILOT Schedule"). Within sixty (60) days after receipt of the Proposed Substitute PILOT Schedule, Landlord and Tenant shall meet to discuss the same and to the extent either (i) the Proposed Substitute PILOT Schedule is agreed upon, or (ii) Landlord and Tenant agree upon a revised Proposed Substitute PILOT Schedule, such agreed upon Proposed Substitute PILOT Schedule shall be substituted for the PILOT Schedule for the period commencing from and after the date of such agreement and the Actual Taxes Date shall be modified to be the date upon which such As-of-Right Tax Benefits would cease. To the extent Landlord and Tenant can not agree upon the Proposed Substitute PILOT Schedule, Tenant shall have the right to submit such dispute to arbitration pursuant to Article 35.

Section 3.05. Tenant shall continue to pay the full amount of PILOT which would otherwise be required under Section 3.03, notwithstanding that Tenant may have instituted tax assessment reduction or other actions or proceedings pursuant to Section 4.06 to reduce the assessed valuation of the Premises or any portion thereof and notwithstanding any such tax assessment reduction or other action or proceeding resulting in a final determination in Tenant's favor.

Section 3.06. Tenant covenants and agrees to pay all Base Rent and Additional Charges promptly when due without notice or demand therefor, and without any abatement, deduction or set off for any reason whatsoever, except as expressly provided in this Lease. All such payments shall be paid to Landlord in lawful money of the United States by good and sufficient check (subject to collection) drawn on a bank which is a bank organized and existing under the laws of the United States or any state thereof and delivered to Landlord at its office, or such other place as Landlord shall designate by notice to Tenant.

Section 3.07. In the event any Tax Year ends after the Term, the PILOT due for such Tax Year shall be pro-rated on a per diem basis based upon the number of days in such Tax Year that fall within the Term. Any prorations of Additional Charges to be made under this Lease shall be computed on the basis of a 365-day year.

Section 3.08. No payment by Tenant or receipt or acceptance by Landlord of a lesser amount than the correct Base Rent and Additional Charges shall be deemed to be other than a payment on account, nor shall any endorsement or statement on any check or any letter accompanying any check or payment be deemed an accord and satisfaction, and Landlord may

accept such check or payment without prejudice to Landlord's right to recover the balance or pursue any other remedy provided in this Lease or at law or in equity.

Section 3.09. If any Base Rent or Additional Charges payable under the terms and provisions of this Lease shall be or become uncollectible, reduced or required to be refunded because of any act or law enacted by a Governmental Authority, Tenant shall enter into such agreement(s) and take such other steps (without expense to Tenant other than such Base Rent and Additional Charges) as Landlord may reasonably request and as may be legally permissible to permit Landlord to collect the maximum amounts which from time to time during the continuance of such legal rent restriction may be legally permissible (provided that such amounts are not in excess of the amounts reserved therefor under this Lease). Upon the termination of such legal rent restriction, (a) Base Rent and Additional Charges shall become and thereafter be payable in accordance with the amounts reserved herein for the periods following such termination, and (b) Tenant shall pay to Landlord, to the maximum extent legally permissible, an amount equal to (i) the Base Rent and Additional Charges that would have been paid pursuant to this Lease but for such legal rent restriction less (ii) the amounts paid by Tenant during or in respect of the period such legal rent restriction was in effect.

Section 3.10.

(a) For each Public Maintenance Amount Lease Year, during the period beginning on the First Public Maintenance Amount Payment Date and continuing thereafter throughout the Term, Tenant shall pay to Landlord, as Additional Charges, the annual sum equal to the product of (i) thirty-five cents ($.35) Adjusted for Inflation and (ii) the Total Floor Area (the "Public Maintenance Amount").

(b) The Public Maintenance Amount shall be paid to Landlord, in equal quarterly installments, in advance, on the first (1st) day of each three 3-month period occurring during each Public Maintenance Amount Lease Year. Notwithstanding the foregoing, if the first (1st) day of the first Public Maintenance Amount Lease Year does not occur on the first day of a calendar month or the Expiration Date occurs on a day other than the last day of a calendar month, the Additional Charges pursuant to this Section 3.09 for any such partial calendar month shall be pro-rated on a per diem basis.

(c) On or after the First Public Maintenance Amount Payment Date, Landlord, at its election, may require Tenant to participate with Landlord, and such other owners and/or lessees of buildings in the Queens West Project Area as may be designated by Landlord in an association (the "Association") of such parties for the purpose of maintaining and/or providing security for all or any portion(s) of the areas in the Queens West Project Area that are open and accessible to the public. If such Association is formed, Landlord may require Tenant to pay annual dues to such Association, in an amount not to exceed the annual Public Maintenance Amount due under Section 3.09(a). Any portion of the Public Maintenance Amount so paid to the Association at Landlord's direction shall be deemed to be payment by Tenant to Landlord of such portion of the Public Maintenance Amount due under Section 3.09(a). Tenant shall be obligated to pay the Public Maintenance Amount as set forth in this Section 3.09 whether or not an Association is formed.

ARTICLE 4

IMPOSITIONS

Section 4.01. Except as otherwise expressly provided in this Lease (including pursuant to Section 11.04), Tenant shall pay to Landlord, as hereinafter provided, all of the following items (collectively, "Impositions") imposed by any Governmental Authority (other than Landlord): (a) real property assessments (other than Taxes), (b) personal property taxes, (c) occupancy and rent taxes, (d) water, water meter and sewer rents, rates and charges, (e) excises, (f) license and permit fees, (g) service charges with respect to police protection, fire protection, street and highway construction, maintenance and lighting, sanitation and water supply, if any, (h) fines, penalties and other similar or like governmental charges applicable to the foregoing and any interest or costs with respect thereto and (i) except for Taxes, any and all other governmental levies, fees, transfer taxes, rents, assessments or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, and any interest or costs with respect thereto, which at any time during the Term are, or, if the Premises or any part thereof or the owner thereof were not exempt therefrom as a result of Landlord's tax exempt status, would have been (in which case such amounts shall be paid to Landlord as Additional Charges) (A) assessed, levied, confirmed, imposed upon or would have become due and payable out of or in respect of, or would have been charged with respect to, the Premises or any document to which Tenant is a party creating or transferring an interest or estate in the Premises, or the use and occupancy thereof by Tenant and (B) encumbrances or liens on (i) the Premises, (ii) the sidewalks or streets in front of or adjoining the Premises, (iii) any vault (other than a vault in respect of which a utility company is obligated to pay any charge specified above or which is

exempt from any such charge by reason of use thereof by any such utility company), passageway or space in, over or under such sidewalk or street, (iv) any other appurtenances of the Premises, (v) any personal property (except personal property which is not owned by or leased to Tenant), Equipment or other facility used in the operation thereof, or (vi) the Base Rent and Additional Charges (or any portion thereof) payable by Tenant hereunder. Impositions shall not, however, include the Base Rent or Additional Charges or any income tax that would be imposed upon Landlord if Landlord were not exempt from the payment of Taxes unless after the date hereof the methods of taxation prevailing at the date hereof shall be altered so that in lieu of, or as a substitute for, the whole or any part of or any increase in the Impositions now assessed, levied or imposed upon all or any part of the Premises, there shall be assessed, levied or imposed a tax, assessment, levy, imposition, charge or fee based on the income or rents received therefrom, in which event all such taxes, assessments, levies, impositions, charges and fees shall be deemed to be Impositions. Each such Imposition, or installment thereof, during the Term shall be paid on or prior to the Due Date therefor. However, if, by law, any Imposition may at the option of the taxpayer be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the same in such installments and shall be responsible for the payment of such installments only, together with applicable interest, if any, provided that all such installment payments together with applicable interest, if any, relating to periods prior to the Expiration Date shall be made prior to the Expiration Date. Notwithstanding the foregoing, Tenant shall pay New York City mortgage recording tax subject to and in accordance with Article 44 and New York State and City sales and compensating use taxes subject to and in accordance with Article 11.

Section 4.02. Tenant, from time to time upon request of Landlord, shall promptly furnish to Landlord official receipts of the appropriate imposing authority, or other evidence reasonably satisfactory to Landlord, evidencing the payment of all Impositions.

Section 4.03. Any Imposition relating to a period a part of which is included within the Term and a part of which is included in a period of time before the Commencement Date or after the Expiration Date (whether or not such Imposition shall be assessed, levied, confined, imposed upon or in respect of or become a lien upon the Premises, or shall become payable, during the Term) shall be apportioned between Landlord and Tenant as of the Commencement Date or Expiration Date so that Tenant shall pay only that portion of such Imposition for that part of such fiscal period included in the period of time after the Commencement Date and before the Expiration Date, as applicable, and Landlord shall pay the remainder thereof.

Section 4.04. Intentionally Deleted.

Section 4.05.

(a) Tenant shall have the right to contest the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event, notwithstanding the provisions of Section 4.01, payment of such Imposition shall be postponed if, and only as long as:

(i) Landlord would not by reason thereof be subject to any civil or criminal liability;

(ii) neither the Premises nor any part thereof, or interest therein or any income therefrom (except to the extent covered by security deposited in accordance with this Section 4.05) or any other assets of or funds appropriated to Landlord would, by

reason of such postponement or deferment, be, in the reasonable judgment of Landlord, in imminent danger of being forfeited or lost or subject to any lien, encumbrance or charge; and

(iii) except if Impositions are being escrowed with a Mortgagee or under Article 5 with Depositary and Tenant is not in default under such provisions, Tenant shall have deposited with Depositary cash or other security reasonably satisfactory to Landlord in the amount so contested and unpaid, together with all interest, penalties and charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings if the amount so contested and unpaid, together with such interest, penalties and charges, is reasonably anticipated to be in excess of $250,000, Adjusted for Inflation.

(b) Upon the termination of such proceedings, it shall be the obligation of Tenant to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including attorneys' fees and disbursements), interest, penalties and other liabilities in connection therewith, and upon such payment, Depositary shall return, with interest, if any, any amount deposited with it as aforesaid; provided, however, that Depositary at Tenant's request or upon Tenant's failure to do so in a timely manner, at Landlord's request, shall disburse the monies on deposit with it directly to the Governmental Authority to whom such Imposition is payable and any remaining monies, with interest, if any, shall be returned promptly to Tenant. If, at any time during the continuance of such proceedings, Landlord shall, in its reasonable opinion, deem insufficient the amount deposited as aforesaid, Tenant, within fifteen

(15) days after demand, shall make an additional deposit of such additional sums or other acceptable security as Landlord may reasonably request, and upon failure of Tenant to do so, the amount theretofore deposited may be applied at the request of Landlord to the payment, removal and discharge of such Imposition and the interest, penalties and charges in connection therewith and any costs, fees (including attorneys' fees and disbursements) and other liabilities accruing in any such proceedings, and the balance, if any, with any interest earned thereon, shall be returned to Tenant or the deficiency advanced by Landlord pursuant to Article 21 hereof, if any, shall be paid by Tenant to Landlord within ten (10) days after demand.

Section 4.06. Tenant shall have the right to seek a reduction in the valuation of the Premises assessed for Taxes and to prosecute any action or proceeding in connection therewith, provided that no such action or proceeding shall postpone Tenant's obligation to pay any Imposition except in accordance with the provisions of Section 4.05. No such action or proceeding shall affect Tenant's obligation to pay any installment of PILOT for as long as PILOT is based upon Schedule 2 pursuant to Section 3.03(c). Such action or proceeding may operate to reduce PILOT (i) from and after the effective date of Tenant's entitlement to As-of-Right Tax Benefits pursuant to Section 3.04, to the extent the same are calculated based upon the real estate tax assessment and (ii) from and after the Actual Taxes Date.

Section 4.07. Landlord shall not be required to join in any proceedings referred to in Sections 4.05 or 4.06 unless the provisions of any Laws at the time in effect shall require that such proceedings be brought by or in the name of Landlord, in which event, Landlord shall join and cooperate in such proceedings or permit the same to be brought in its name, but shall not be liable for the payment of any costs or expenses in connection with any such proceedings and

Tenant shall pay Landlord, within fifteen (15) days after Landlord's demand therefor, for all reasonable costs or expenses which Landlord may sustain or incur in connection with any such proceedings, including, without limitation, reasonable attorneys' fees and disbursements. In the event Tenant shall institute a proceeding referred to in Sections 4.05 or 4.06 hereof and no Law in effect at the time requires that such proceeding be brought by and/or in the name of Landlord, Landlord, nevertheless, shall, at Tenant's cost and subject to the payment provisions herein above set forth, cooperate with Tenant in such proceeding.

Section 4.08. Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition asserting non-payment of such Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time or date of the making or issuance of such certificate, advice or bill.

ARTICLE 5

DEPOSITS FOR RESERVE OBLIGATIONS

Section 5.01.

(a) For the purposes of this Article 5, the term "Reserve Obligations" shall mean (i) insurance premiums on policies required to be carried by Tenant under Article 7 of this Lease (unless such insurance is maintained under blanket policies in which case Reserve Obligations shall include an amount equal to the insurance premiums on policies which Tenant would have been required to carry pursuant to Article 7 had Tenant obtained separate insurance for the Premises), and (ii) PILOT required to be paid by Tenant.

(b) In order to ensure the payment of all Reserve Obligations if an Event of Default shall have occurred and be continuing, Tenant, upon demand of Landlord and only to the

extent Reserve Obligations are not being escrowed with a Mortgagee, shall deposit with Depositary on the first day of each month thereafter for so long as such Event of Default is continuing an amount equal to one-twelfth (1/12th) of the annual Reserve Obligations then in effect.

(c) Depositary shall hold the deposited monies in a special interest-bearing account for the purpose of paying the Reserve Obligations for which such amounts have been deposited as they become due, and Depositary shall apply the deposited monies for such purposes not later than the date the same are due for such Reserve Obligations.

(d) If at any time, the amount of any Reserve Obligations is increased or Landlord receives information from the entity or entities imposing such Reserve Obligations that such Reserve Obligations will be increased or if for any other reason Landlord reasonably determines that the monthly deposits then being made by Tenant under this Section 5.01 would be insufficient to pay such Reserve Obligations ten (10) days prior to the date the same are due, the monthly deposits shall thereupon be increased and Tenant shall deposit immediately with Depositary sufficient monies for the payment of the increased Reserve Obligations. Thereafter, the monthly payments shall be adjusted so that Depositary shall receive from Tenant sufficient monies to pay each Reserve Obligation at least ten (10) days prior to the due date of such Reserve Obligation.

(e) For the purposes of determining whether Depositary has on hand sufficient monies to pay any particular Reserve Obligation at least ten (10) days prior to the date the same are due, deposits for each category of Reserve Obligation shall be treated separately. Depositary

shall not be obligated to use monies deposited for the payment of a Reserve Obligation not yet due and payable for the payment of a Reserve Obligation that is due and payable.

(f) Notwithstanding the foregoing, (i) deposited monies may be held by Depositary in a single bank account and (ii) Depositary shall, at Landlord's option and direction, use any monies deposited with it for the payment of any Base Rent or Additional Charges.

(g) If this Lease shall be terminated by reason of any Event of Default or if dispossession occurs pursuant to Section 24.02(b), all deposited monies then held by Depositary shall be paid to and applied by Landlord in payment of any and all sums due under this Lease and Tenant shall promptly pay any other amounts due in accordance with the terms of this Lease; provided, however, if monies have been deposited with Depositary as a result of an Event of Default and the Event of Default is cured and Landlord has not taken the deposited monies, the Depositary shall return the deposited monies to Tenant.

(h) Any interest paid on monies deposited pursuant to this Article 5 shall be applied to the amount thereafter becoming due and payable by Tenant under this Article 5.

ARTICLE 6

LATE CHARGES

In the event that any payment of Base Rent or any payment of Additional Charges shall remain unpaid for ten (10) days beyond the Due Date thereof (or if no such date is set forth in this Lease for such Additional Charges, then such Due Date for purposes of this Article 6 shall be deemed to be ten (10) days after the date upon which demand therefor is made by Landlord), such late payment shall bear interest at the Involuntary Rate for the period from the Due Date thereof (not taking into account such 10-day grace period for Additional Charges or any other

grace period) to the date of actual payment of such late payment and the interest accrued thereon to Landlord. Such interest shall constitute Additional Charges hereunder and shall be due and payable by Tenant on demand. No failure by Landlord to insist upon the strict performance by Tenant of its obligations to pay late charges shall constitute a waiver by Landlord of its right to enforce the provisions of this Article 6 in any instance thereafter occurring. The provisions of this Article 6 shall not be construed in any way to extend the grace period or notice period provided for in Article 24.

ARTICLE 7

INSURANCE

Section 7.01.

(a) Tenant, at its sole cost and expense, shall:

(i) from and after Substantial Completion of the Building, keep the Improvements insured against loss or damage by fire, windstorm, tornado and hail and all other hazards commonly included in Special Causes of Loss insurance policies with extended coverage endorsements, including, without limitation, coverage for loss or damage due to water, flood, sinkhole collapse, earthquake collapse, breakage of glass, vandalism and malicious mischief, in an amount not less than the full insurable value of the Improvements (i.e., actual replacement cost, without physical depreciation, including the cost of debris removal but excluding foundations and excavation), including an "agreed amount" endorsement and any increase in value from increased costs; provided, however, with respect to flood and earthquake coverage such policy may have sublimits of Fifty Million Dollars ($50,000,000) per building;

(ii) at all times during the Term, provide and keep in force Commercial General Liability insurance, written on a per occurrence basis, to afford protection against liability for bodily injury and death arising therefrom and broad form property damage (including a "personal injury" endorsement covering claims arising out of false arrest, false imprisonment, malicious prosecution, defamation, libel, slander, wrongful eviction, wrongful entry, discrimination and invasion of privacy without exclusion of coverage for claims of personal injury brought by employees (other than for bodily injury), agents or Contractors of an insured) arising out of any one occurrence in, upon, adjacent to, or in connection with the Premises or any part thereof (and shall include, specifically, the Premises and all areas, including sidewalks, streets and passageways, adjoining or appurtenant to the Premises), in amounts determined in accordance with Section 7.02(a), but not less than, Twenty Five Million Dollars ($25,000,000) combined single limit which may be achieved through a combination of primary and excess liability policies, it being agreed that, such Commercial General Liability insurance shall include coverage for contractual liability (including Tenant's obligation to indemnify the Indemnitees under Article 19, provided, however that such coverage need not include indemnities under Article 19 for which such coverage is not generally being made available by reputable insurance companies, if any), independent contractors' liability, completed operations liability, products liability and water damage legal liability. If any liability policy contains an aggregate limit on liability, the aggregate limit must apply separately to the Premises and be no less than Twenty Five Million Dollars ($25,000,000);

(iii) if not included in the above-mentioned policies, from and after Substantial Completion of the Building, provide and keep in force blanket, broad form boiler and machinery insurance (including business interruption coverage), in an amount determined in accordance with Section 7.02(a), but not less than Ten Million Dollars ($10,000,000) per accident on a combined basis, covering direct property loss and loss of income and covering all steam, mechanical and electrical equipment, including, without limitation, all boilers and other pressure vessels or systems, whether fired or unfired, air conditioning equipment, elevators, piping and wirings, with additional "joint loss" endorsement, which shall be issued by the boiler and machinery insurance carrier and the fire insurance carrier;

(iv) at all times during the Term, provide and keep in force Worker's Compensation insurance providing statutory New York State benefits including Employer's Liability for all Persons employed by Tenant at or in connection with the Premises, and if employees will be working on, near or over navigable waters, a U.S. Longshore and Harbor Workers Compensation Act endorsement must be included;

(v) at all times during the Term, provide and keep in force Business Automobile Liability insurance for any automobile, including all owned, non-owned and hired vehicles insuring against liability for bodily injury and death and for property damage, in an amount determined in accordance with Section 7.02(a) but not less than One Million Dollars ($1,000,000) and if the policy contains an aggregate limit, an aggregate limit of Two Million Dollars ($2,000,000);

(vi) from and after Substantial Completion of the Building, if Tenant is engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages (or sublets any part of the Premises for such purposes) provide or cause to be provided and keep in force liquor liability coverage; and

(vii) at all times during the Term, provide and keep in force such other insurance and endorsements in such amounts as may from time to time be required by Landlord's Reasonable Determination and are available at commercially reasonable rates (including terrorism insurance and acts of war insurance if commercially reasonable), and, if requested by Landlord, Railroad Protective Liability Policy insurance issued to and in the name of the railroad or authority for the limits specified for the operations of Landlord, Tenant, their contractors or their subcontractors in conjunction with this Lease (and if required by Landlord, cause any Contractor or other contractor to provide and keep in force such Railroad Protective Liability Policy insurance).

(b) From and after the Commencement Date, Tenant, at its sole cost and expense, at all times during the Term, shall provide and keep in force, on an "agreed amount" basis, rental value insurance in an amount equal to not less than the amount of one (1) year's then current Base Rent, PILOT, Public Maintenance Amount and insurance premiums on policies required to be maintained by Tenant under Article 7 of this Lease ("Lease Obligation Insurance").

(c) All insurance provided by Tenant, as required by this Article 7 and Article 11 (except for Worker's Compensation insurance), shall be issued in the name and for the benefit of Tenant and in the names of (as additional insureds) and for the benefit of Landlord and each Mortgagee as their interests may appear (and if the same is a liability policy, also in the names of,

as additional insureds, and for the benefit of the City, ESDC, EDC and the Port Authority), in order that each of Landlord, the City, ESDC, EDC and the Port Authority and each Mortgagee shall be covered under said policies for any loss or damages occasioned to it, its agents, employees, directors, commissioners, officials, shareholders, partners and principals (disclosed or undisclosed), including, without limitation, any loss or damage related to the Premises by reason of the negligence or tortious acts of Tenant, its servants, agents, employees and Contractors; provided, however, that any loss payable under such policies shall be payable as provided in this Lease.

(d) Each policy of liability insurance required under this Article 7 and Article 11 shall contain a provision that in any action or proceeding under or in connection with such policy, the insurance carrier shall not without obtaining express advance consent from the General Counsel of the Port Authority raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

Section 7.02.

(a) The amounts of insurance required to be carried hereunder pursuant to Section 7.01(a)(i) shall be for full replacement cost of the Improvements, with the replacement value of the Improvements to be determined from time to time, but not less frequently than required by the insurer and in any event at least once every three (3) years. Unless otherwise specified in this Lease, all policies referred to in this Lease shall be in such amounts as shall be reasonably required by Landlord from time to time based upon Landlord's reasonable determina-

tion from time to time of the amounts of coverage that would be carried by prudent owners of multi-tenanted residential apartment buildings situated in the City of comparable quality, size and age to the Improvements and having retail facilities and amenities comparable to the Improvements ("Landlord's Reasonable Determination") and may contain deductibles not to exceed $250,000 or such larger amounts as may be reasonably approved by Landlord based upon Landlord's Reasonable Determination (the "Reasonable Deductible Amount"). Any dispute as to the amounts of insurance to be carried or the additional kinds of hazards to be insured against shall be resolved by arbitration pursuant to Article 35. The amounts of insurance required under this Article 7 shall not be construed to limit the extent of Tenant's liability under this Lease. The loss under all policies required by any provision of this Lease insuring against damage to the Premises by fire or other casualty shall be paid to Tenant if under $1,000,000 Adjusted for Inflation (the "Retention Threshold") and to Depositary if equal to or greater than the Retention Threshold and, in either case, shall be applied to Restoration of the Premises. In the event that any Restoration is required hereunder the proceeds from all Lease Obligation Insurance required by any provision of this Lease shall be paid to Depositary and shall be applied to the Base Rent and Additional Charges payable by Tenant under this Lease.. All insurance required by any provision of this Lease shall be in such forms and shall be issued by such responsible companies licensed to do business in the State of New York and authorized to issue such policies as are reasonably acceptable to Landlord. Any insurance company so authorized and rated by Best's Insurance Reports (or any successor publication) as A- VIII or better (or the then equivalent of such rating) shall be acceptable to Landlord; provided however, such insurance company is not a Prohibited Party. Tenant shall not be permitted to self-insure any coverages required by this

Lease, except to the extent of the Reasonable Deductible Amount. All policies referred to in this Lease shall be procured by Tenant, at no expense to Landlord and for periods of not less than one (1) year and the insurance described in this Article 7 may be provided in whole or in part through a policy or policies covering other liabilities and properties of Tenant or its Affiliates, provided that such blanket policies (i) provide that the amount of insurance allocable to the liabilities hereunder shall at all times be not less than the amounts set forth above and that such amounts will not be reduced by any loss for any liability at any other property (provided, however, with respect to terrorism insurance, such amounts may be reduced by loss for terrorism liability at another property), and (ii) shall comply with the provisions of this Article 7. Copies of certificates and/or binders evidencing such policies shall be delivered to Landlord prior to the date such insurance is required to be in effect under this Lease, together with proof reasonably satisfactory to Landlord that the premiums then due have been paid unless such premiums are payable in installments in which case Tenant shall deliver to Landlord on or before such date evidence of the payment of all currently due premiums and thereafter at least ten (10) days prior to the due date therefor evidence of payment of each subsequent installment, provided, however, if the insurance carrier has agreed (and provided evidence to Landlord of such agreement) that the policies will not lapse or otherwise terminate for non-payment of premiums without at least ten (10) days prior written notice to Landlord of Tenant's failure to pay such premiums, then Tenant shall only be required to provide Landlord evidence of payment of each subsequent installment prior to the due date therefor. Copies of certificates and/or binders evidencing such new or renewal policies replacing any policies expiring during the Term shall be delivered to Landlord at

least thirty (30) days before the date of expiration of such policies, together with proof reasonably satisfactory to Landlord that the then current installment of premiums thereon have been paid.

(b) All casualty insurance and Lease Obligation Insurance policies as required by this Lease shall provide that all adjustments for claims with the insurers shall be made with Landlord and Tenant unless the claim is less than the Retention Threshold in which case the adjustment for such claim may be made by Tenant alone. Tenant and Landlord shall cooperate in a prompt manner in connection with the collection of any insurance monies that may be due in the event of loss and Tenant and Landlord shall promptly execute and deliver such proofs of loss and other instruments which may be required for the purpose of obtaining the recovery of any such insurance monies.

(c) Tenant shall not carry any separate or additional insurance concurrent in form or contributing in the event of loss or damage with any insurance required by this Lease to be furnished by Tenant unless Landlord is included therein as an additional insured and all policies of insurance procured by Tenant shall be written as primary policies not contributing with or in excess of coverage that Landlord or any other Person may carry.

(d) Tenant shall not violate or permit to be violated any of the conditions or provisions of any policy of insurance required by this Lease, and Tenant shall perform and satisfy or cause to be performed and satisfied the requirements of the companies writing such policies, subject to Tenant's right to contest such requirements in accordance with the terms of this Lease.

(e) Each policy of insurance required to be obtained by Tenant as provided in this Lease (excluding worker's compensation insurance) shall to the extent obtainable contain (i) a provision that no act or omission of Tenant shall affect or limit the obligation of the insurance

company to pay the amount of any loss sustained, (ii) an agreement by the insurer that such policy shall not be reduced, cancelled (including for non-payment of premium) or allowed to lapse or be materially modified without at least thirty (30) days' (ten (10) days' in the case of non-payment of premiums) prior written notice to Landlord, (iii) an agreement by the insurer that Tenant shall be solely responsible for the payment of premiums therefor notwithstanding that Landlord or any other party is or may be named as an additional insured and (iv) an agreement by the insurer that such insurance with respect to all named insureds and additional named insureds shall be primary for all purposes with respect to all matters arising under this Lease.

Section 7.03. Each policy of property insurance described in this Lease shall expressly include a waiver of all rights of subrogation and permission to release liability against Landlord, Tenant and any Mortgagee (except with respect to worker's compensation insurance); provided that if an insurer will not include such a provision in such policy or if the inclusion of such a provision would involve an additional premium, Tenant shall promptly so advise Landlord. If Landlord desires the provision to be included in the policy, Tenant shall use all reasonable efforts to cause such a provision to be so included provided that Landlord shall promptly pay or, at Landlord's election, credit against the next installment(s) of Base Rent and Additional Charges due hereunder any such additional premium. Tenant hereby releases Landlord and each Mortgagee with respect to any claim (including a claim for negligence) which it might otherwise have against Landlord and/or any such Mortgagee for loss, damage or destruction with respect to the Premises (including rental value and business interruption) occurring during the Term to the extent Tenant is or is required to be insured under a policy or policies containing a waiver of subrogation or permission to release liability under this Article 7.

If Tenant shall fail to maintain insurance in effect as required by this Article 7, the waiver of subrogation and releases of liability by Tenant set forth in this Article 7 shall be in full force and effect to the same extent as if such required insurance (containing a waiver of subrogation) were in effect.

Section 7.04. Any dispute between the parties as to the insurance coverages or increased amounts hereunder shall be settled by arbitration under Article 35.

ARTICLE 8

CASUALTY; USE OF INSURANCE PROCEEDS; RESTORATION

Section 8.01. If all or any part of any of the Improvements shall be destroyed or damaged in whole or in part (including any property loss for which insurance was not obtained or obtainable), Tenant shall give to Landlord prompt written notice thereof, except that no notice shall be required if the estimated cost of repairs, alterations, restorations, replacements and rebuilding (collectively, "Restoration") shall be (i) on or prior to the Actual Taxes Date, less than $1,000,000 or (ii) after the Actual Taxes Date, less than $1,000,000 Adjusted for Inflation.

Section 8.02. Tenant, at its sole cost and expense, whether or not the damage or destruction referred to in Section 8.01 shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the Restoration, shall proceed diligently to repair, alter, restore, replace and rebuild (collectively, "Restore") the same, so as to make the Improvements as nearly as possible equal to the condition, quality, character and class of the Improvements existing immediately ~~prior to such occurrence with such changes~~ or alterations as Tenant shall elect to make, provided, however no such changes or alterations shall be made unless and until (i) Tenant delivers to Landlord revised plans and specifications and construction documents with

the proposed changes or alterations marked and a written certification from the Architect that the proposed changes or alterations comply with the Design Controls (other than with respect to the intent of the Design Controls) and all Laws (collectively, the "Revised Restoration Submissions") and (ii) Landlord shall have approved such proposed changes or alterations. Landlord's approval of the Revised Restoration Submissions shall (A) not be unreasonably withheld if the proposed changes or alterations comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws and do not involve Material Changes and (B) be in Landlord's sole discretion if such proposed changes or alterations do not comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws or involve Material Changes. Tenant, at its option, may deliver the Revised Restoration Submissions by hand and obtain a signed and dated receipt executed by Landlord, which receipt shall specify the items submitted to Landlord as part of such Revised Restoration Submission and acknowledges receipt of such items by Landlord (the "Revised Restoration Submissions Receipt"). In the event that Landlord shall fail to approve or disapprove of such Revised Restoration Submissions within ten (10) Business Days after Landlord's receipt of such Revised Restoration Submissions, Tenant may send a Notice to Landlord as set forth in Section 11.01(c)(iv) requesting approval of the Revised Restoration Submissions together with either (x) a copy of the Revised Restoration Submissions Receipt or (y) if Tenant did not obtain a Revised Restoration Submissions Receipt, a resubmission of the Revised Restoration Submission (collectively, the "Second Revised Restoration Submissions") and if Landlord fails to approve or

disapprove of such Second Revised Restoration Submissions within ten (10) Business Days after such Second Revised Restoration Submissions are delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved such Second Revised Restoration Submissions, provided such changes or alterations comply with the Design Controls and all Laws. All Restorations shall be performed by Tenant in accordance with the Design Controls, the Requirements and the applicable provisions of this Lease, including, without limitation, Article 11. Notwithstanding anything to the contrary contained in this Lease, if the Design Controls shall be modified at any time so that, as modified, they would prohibit Tenant from re-building substantially the same Improvements as existed prior to a fire or other casualty, Tenant shall, nevertheless, be allowed to re-build substantially the same Improvements as existed prior to such fire or other casualty, subject to compliance with all Requirements. In no event shall Landlord be called upon to Restore the Improvements, whether now or hereafter existing, or any portion thereof, or to pay any of the costs or expenses thereof. If Tenant shall fail or neglect to diligently (subject to Unavoidable Delays) Restore the Improvements or any portion thereof so damaged or destroyed, or having so commenced such Restoration shall fail to diligently (subject to Unavoidable Delays) complete the same in accordance with the terms of this Lease, or if prior to the completion of any such Restoration by Tenant, this Lease shall be terminated by reason of an Event of Default, Landlord may, but shall not be required to, complete such Restoration in accordance with the approved Plans and Specifications at Tenant's expense. In any case where this Lease shall expire or be terminated prior to the completion of the Restoration, Tenant shall account to Landlord for all amounts spent in connection with any Restoration which was undertaken and shall direct Depositary to pay over to Landlord, within ten (10) days after demand, the remainder, if any, of

the Restoration Funds previously received by it, subject to the rights of any Mortgagee hereunder. Tenant's obligations under this Section 8.02 shall survive the expiration or termination of this Lease.

Section 8.03.

(a) Subject to the satisfaction by Tenant of all of the terms and conditions of this Article 8, Depositary shall pay over to Tenant from time to time, any monies which may be received by Depositary from insurance provided by Tenant (other than Lease Obligation Insurance) or cash deposited with Depositary pursuant to Section 8.06 (collectively, the "Restoration Funds"), but in no event to any extent or in any sum exceeding the amount actually collected by Depositary upon the loss (plus any interest that has accrued thereon) after reimbursing itself therefrom, as well as Landlord, to the extent, if any, of the commercially reasonable expenses paid or incurred by Depositary and Landlord in the collection of such monies, to be utilized by Tenant solely for the purpose of the Restoration, such payments to be made in accordance with the following provisions of this Section 8.03(a):

(i) Prior to commencing any Restoration, Tenant shall furnish Landlord with an estimate of the total cost of such Restoration (which total cost shall be further broken down by Tenant into an estimate of hard costs and soft costs), prepared by Tenant or Tenant's Contractor. Landlord, at Landlord's expense, may engage a licensed professional engineer or registered architect to prepare its own estimate of the cost of such Restoration. If there is any dispute as to the estimated cost of the Restoration, such dispute shall be resolved by arbitration in accordance with the provisions of Article 35.

(ii) The Restoration Funds shall be paid to Tenant in installments as the Restoration progresses, subject to Section 8.03(a)(iii), based upon requisitions to be submitted by Tenant to Depositary and Landlord showing the cost of labor and materials purchased and delivered to the Premises or stored off-site, subject to Section 8.04(e), for incorporation in the Restoration, or incorporated therein since the last previous requisition, plus all soft costs attributable thereto, and both due and payable or paid by Tenant. If any vendor's, mechanic's, laborer's, or materialman's lien is filed against the Premises or any part thereof, or if any public improvement lien relating to the Restoration of the Premises is created or permitted to be created by Tenant and is filed against Landlord, or any assets of, or funds appropriated to, Landlord, Tenant shall not be entitled to receive any further installment until such lien is satisfied or discharged (by bonding or otherwise). Notwithstanding the foregoing, but subject to the provisions of Section 8.03(a)(iii), the existence of any such lien shall not preclude Tenant from receiving any installment of Restoration Funds, provided (A) such lien will be discharged with funds from such installment and at the time Tenant receives such installment Tenant delivers to Depositary a release of such lien executed by the lienor and in recordable form; or (B) if Tenant is contesting such lien in accordance with the provisions of Section 16.02(a), (x) Depositary certifies that it is retaining, in addition to the amounts required to be retained hereunder, an amount equal to the funds required to satisfy or discharge such lien, and (y) the failure to pay or discharge such lien will not result in the imminent loss or forfeiture of the Premises.

(iii) The amount of any installment to be paid to Tenant shall be the sum of (I) the positive difference, if any between (i) the product of (x) the total Restoration Funds and (y) a fraction, the numerator of which is the hard costs associated with the materials theretofore incorporated (or delivered to the Premises or stored off-site, subject to Section 8.04(e), to be incorporated) by Tenant in the Restoration and the denominator of which is the total estimated hard costs of the Restoration, such estimated cost determined in accordance with Section 8.03(a)(i) (such product being the "Partial Payment Amount"), less (ii) the sum of (A) all payments theretofore made to Tenant out of the Restoration Funds and (B) five percent (5%) of the Partial Payment Amount, provided however, such five percent (5%) reduction in this clause (B) shall not apply after substantial completion of such Restoration (the "Hard Cost Installment") and (II) the applicable Soft Cost Installment; provided, however, at no time shall the total of all such Hard Cost Installments exceed 95% of the actual cost of labor and materials then incurred to date by Tenant in connection with such Restoration until substantial completion of such Restoration. As used herein, the "Soft Cost Installment" shall mean an amount equal to the product of (i) the applicable Hard Cost Installment divided by the total estimated hard costs of the Restoration, such estimated cost determined in accordance with Section 8.03(a)(i) and (ii) the total estimated soft costs of the Restoration, such estimated cost determined in accordance with Section 8.03(a)(i). There shall be no retention on the soft costs.

(iv) Tenant shall deliver to Landlord a copy of any requisition for payment at the time such requisition is delivered to the Depositary.

(v) Upon completion of and payment for the Restoration by Tenant, subject to the rights of any Mortgagee, Depositary shall pay the balance of the Restoration Funds, if any, to Tenant. If the insurance proceeds are insufficient for the purpose of paying for the Restoration (or if there shall be no insurance proceeds), Tenant shall nevertheless be required to make the Restoration and provide the deficiency in funds necessary to complete the Restoration as provided in Section 8.06.

(b) Notwithstanding the foregoing, if prior to the Scheduled Expiration Date Landlord makes any or all of the Restoration at Tenant's expense, as provided in Section 8.02, Depositary shall pay over the Restoration Funds to Landlord to the extent required to pay for the Restoration performed by Landlord, upon request, to the extent not previously paid to Tenant pursuant to this Section 8.03, and Tenant shall pay to Landlord, within ten (10) days after demand, any sums in excess of the portion of the Restoration Funds received by Landlord necessary to complete the Restoration and to reimburse Landlord for its commercially reasonable costs and expenses in connection therewith (including in-house staff expenses in connection with such Restoration). Upon Landlord's demand for payment or reimbursement as contemplated by the preceding sentence, Landlord shall deliver to Tenant a certificate, in reasonable detail, setting forth the expenditures made by Landlord in connection with such Restoration for which Landlord demands payment or reimbursement.

(c) It is expressly understood that the requirements of this Article 8 are for the benefit only of Landlord and Tenant, and no Contractor or other person shall have or acquire any claim against Landlord or Tenant as a result of any failure of Landlord or Tenant actually to

undertake or complete any Restoration as provided in Section 8.02 or to obtain or deliver the evidence, certifications and other documentation provided for herein.

(d) In the event that a Mortgagee shall require Tenant to deposit insurance proceeds with the Mortgagee or a Depositary approved by such Mortgagee, for the purpose of a Restoration, any amount so deposited by Tenant shall be credited against the amount of insurance proceeds, if any, which Tenant would otherwise be required to deposit under this Lease for the purposes of a Restoration, provided that the amounts so deposited are required by the terms of the Mortgage to be held in trust and applied first to the cost of the Restoration.

Section 8.04. The following shall be conditions precedent to each payment made to Tenant as provided in Section 8.03:

(a) At the time of making such payment, there shall be no Event of Default on the part of Tenant.

(b) There shall be submitted to Depositary and Landlord the certificate of Tenant or Tenant's Contractor stating that (i) the sum then requested to be withdrawn either has been paid by Tenant or is due and payable to Contractors, engineers, architects or other Persons (whose names and addresses shall be stated), who have rendered or furnished services or materials for the work and giving a brief description of such services and materials and the principal subdivisions or categories thereof and the several amounts so paid or due to each of such Persons in respect thereof, and stating in reasonable detail the progress of the work up to the date of such certificate; (ii) no part of such expenditures has been or is being made the basis, in any previous or then pending requisition, for the withdrawal of Restoration Funds or has been made out of the Restoration Funds received by Tenant; (iii) the sum then requested does not

exceed the value of the services and materials described in the certificate; (iv) the work relating to such requisition has been performed in accordance with the Design Controls and all Permits and other Requirements and substantially in accordance with the approved plans and specifications for such Restoration; (v) to its knowledge, the balance of the Restoration Funds held by Depositary will be sufficient upon completion of the Restoration to pay for the same in full, and stating in reasonable detail an estimate of the cost of such completion; and (vi) in the case of the final payment to Tenant, the Restoration has been completed in accordance with the Design Controls and all Permits and other Requirements and substantially in accordance with the approved plans and specifications.

(c) There shall be furnished to Landlord an official search, and a certificate of a title insurance company reasonably satisfactory to Landlord, showing that there has not been filed any vendor's, mechanic's, laborer's, or materialman's statutory or other similar lien affecting the Premises, or any part thereof, or any public improvement lien with respect to the Premises or the Restoration created or permitted to be created by Tenant affecting Landlord, or the assets of or funds appropriated to Landlord, which had not been discharged of record (by bonding or otherwise), except as otherwise provided in Section 8.03(a)(ii).

(d) At the time of the final payment to Tenant, there shall be furnished to Landlord an amended Certificate of Occupancy including the Restoration if required by any Governmental Authority and lien waivers, in form reasonably satisfactory to Landlord, issued by each contractor who shall have performed services or provided materials for the Restoration, except as otherwise provided in Section 8.03(a)(ii)(B).

(e) Payments by Depositary for the cost of the Restoration shall be made on the basis of the cost of the work in place. Payments for materials stored or in fabrication at any location, whether on the Premises or otherwise, shall be made, in the amount of the documented cost to Tenant of such materials, as the case may be, each such payment to be made strictly in accordance with the terms and conditions of this Article 8, including the following terms and conditions:

(i) Tenant shall deliver to Depositary bills of sale or other evidence reasonably satisfactory to Depositary of the cost of and Tenant's title in and to such materials;

(ii) Tenant shall deliver evidence reasonably satisfactory to Depositary specifying (A) what security measures have been taken to protect such materials from theft, casualty or deterioration and (B) what steps have been taken to identify and to segregate such materials so as adequately to give notice to all third parties of Tenant's title in and to such materials, and such measures and such steps shall be reasonably satisfactory to Depositary in all respects;

(iii) Tenant shall provide evidence reasonably satisfactory to Depositary that such materials are insured against all risk of loss for their full replacement cost or in such lesser amount as may be satisfactory to Depositary; and

(iv) without Landlord's prior written consent, the aggregate cost of materials so stored ~~off-Premises at any one time in respect~~ of which Restoration Funds are sought from Depositary shall not exceed twenty-five percent (25%) of the total cost of the Restoration.

Section 8.05. Intentionally Deleted.

Section 8.06. If the estimated cost (determined as provided in Section 8.03) of any proposed or required Restoration shall equal or exceed the Retention Threshold and such estimated cost exceeds the net insurance proceeds actually deposited with Depositary therefor, then prior to the commencement of such Restoration, or at any time after commencement of such Restoration if it is reasonably determined that the cost to complete such Restoration exceeds the unapplied portion of the funds held by Depositary, Tenant shall, at Tenant's election (i) pay such excess as the Restoration progresses prior to utilizing the funds then on deposit with Depositary, (ii) within ten (10) days after Landlord's request, deposit with Depositary cash in the amount of such excess to be held and applied by Depositary in accordance with the provisions of Section 8.03 or (iii) within ten (10) days after Landlord's request, provide other security to Landlord or Depositary as shall be reasonably acceptable to Depositary.

Section 8.07.

(a) This Lease shall not terminate or be forfeited or be affected in any manner, and there shall be no reduction or abatement of the Base Rent or Additional Charges payable hereunder, by reason of damage to or total, substantial or partial destruction of any of the Improvements or any part thereof or by reason of the untenantability of the same or any part thereof or by reason of lack or loss of access to the Premises, for or due to any reason or cause whatsoever, other than by reason of Landlord's voluntary acts, and Tenant, notwithstanding any law or statute present or future, waives any and all rights to quit or surrender any part of the Premises. Tenant expressly agrees that its obligations hereunder, including, without limitation, the payment of Base Rent and Additional Charges, shall continue as though the Improvements

had not been damaged or destroyed and without abatement, suspension, diminution or reduction of any kind. The existence of any present or future law notwithstanding, Tenant waives all rights to quit or surrender all or any part of the Premises by reason of any casualty whatsoever to the Premises. It is the intention of Landlord and Tenant that the foregoing is an "express agreement to the contrary" as provided in Section 227 of the Real Property Law of the State of New York.

(b) Notwithstanding anything to the contrary set forth in Article 8, if during the ten (10) year period prior to the Scheduled Expiration Date, the Premises shall be damaged by fire or other casualty so that the estimate of the cost of the Restoration exceeds twenty percent (20%) of the replacement cost of the Improvements (the "Estimate"), Tenant may, by written notice ("Tenant's Notice") given to Landlord within ninety (90) days after the fire or other casualty, terminate this Lease; provided that at the time of such notice and on the Early Termination Date (as hereinafter defined) no curable monetary or non-monetary Events of Default shall exist; provided further, however, that Landlord shall have a right to dispute the estimate by commencing an arbitration proceeding pursuant to Article 35 within sixty (60) days after Landlord receives Tenant's Notice, in which case this Lease shall not be terminated pending the result of the arbitration. If Landlord does not so dispute the Estimate and the Estimate exceeds, or if Landlord does dispute the Estimate but it is determined in the arbitration that the cost of the Restoration exceeds, twenty percent (20%) of the replacement cost of the Improvements, this Lease shall be terminated on the date (the "Early Termination Date") which shall be ninety (90) days after the date of Tenant's Notice or thirty (30) days after the date of the determination of the arbitration proceeding, as the case may be; provided that Landlord shall have received an assignment of all insurance proceeds payable to Tenant together with an amount equal to all

insurance proceeds theretofore paid to Tenant and not already delivered to Landlord on account of such fire or other casualty and the amount of any deductibles plus all insurance proceeds which would have been payable to Tenant if Tenant was carrying all insurance required under this Lease, less any sums reasonably expended by Tenant for emergency repairs which, notwithstanding anything in this Lease to the contrary, shall be the sole amount payable by Tenant to Landlord in respect of such Restoration. The rights and obligations of the parties with respect to such termination shall be the same as if the Early Termination Date were the Scheduled Expiration Date.

(c) Tenant's Notice shall not be deemed to be effective for the purpose of terminating this Lease unless accompanied by a written consent to such termination from each Mortgagee and Affiliate Lender who holds a Mortgage and as to whom notice shall have been given to Landlord pursuant to Section 10.10 hereof prior to the date of Tenant's Notice.

Section 8.08. Tenant's obligations under this Article 8 arising prior to the expiration or termination of this Lease shall survive such expiration or termination of this Lease.

Section 8.09. Subject to Unavoidable Delays, Tenant's obligations under Article 11 shall not be altered or in any way diminished by reason of any fire, other casualty, or any other event described in this Article 8, except that to the extent the same constitutes an Unavoidable Delay, the time frames set forth in Article 11 for Tenant to perform shall be extended as set forth in this Lease.

ARTICLE 9

CONDEMNATION

Section 9.01. (a) If the whole or Substantially all of the Premises shall be taken (excluding a taking of the fee interest in the Premises, if after such taking, Tenant's rights and obligations under this Lease are not affected) for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement among Landlord, Tenant and those authorized to exercise such right, this Lease and the Term shall terminate and expire on the date of such taking and the Base Rent and Additional Charges payable by Tenant hereunder shall be equitably apportioned as of the date of such taking. In the event of a taking which is less than the whole or Substantially all of the Premises, this Lease and the Term shall continue without abatement of the Base Rent and Additional Charges or diminution of any of Tenant's obligations hereunder, subject, however, to the terms and provisions of the first sentence of Section 9.03.

(b) The term "Substantially all of the Premises" shall mean such portion of the Premises as, when so taken, would leave remaining a balance of the Premises which, due either to the area so taken or the location of the part so taken in relation to the part not so taken, would not under then existing economic conditions and applicable Requirements or the Design Controls, and after performance by Tenant of all covenants, agreements, terms and provisions contained herein required to be observed or performed by Tenant, permit the Restoration of the Improvements so as to constitute a complete, rentable building or buildings capable of producing a fair and reasonable net annual income proportional to the number of square feet not so taken. If

there be any dispute as to whether or not "Substantially all of the Premises" has been taken, such dispute shall be resolved by arbitration in accordance with the provisions of Article 35.

(c) If the whole or Substantially all of the Premises shall be taken or condemned as provided in Section 9.01(a), the award, awards or damages in respect thereof shall be apportioned as follows: (i) there shall first be paid to Landlord so much of the portion of the award attributable to the Improvements as shall be required to pay any PILOT due and payable to Landlord hereunder as of such date, (ii) there shall then be paid to any Mortgagee who shall have complied with the first sentence of Section 10.10(a), so much of the portion of the award attributable to the Improvements as shall be required to pay the unpaid principal balance of such Mortgage and any other amounts that such Mortgagee has advanced on behalf of Tenant for which such Mortgagee is entitled to reimbursement under its Mortgage, plus interest accrued thereon to the date of payment to such Mortgagee at the rate specified in the Mortgage, (iii) there shall then be paid to Tenant so much of the balance, if any, of the award that is for or attributable to the value of Land plus the value of Tenant's leasehold interest in the Improvements above the amount of the then unpaid principal balance of any Mortgage, (iv) there shall then be paid to Landlord so much of the balance, if any, of the award that is for or attributable to the value of Landlord's interest in this Lease and, subject to Article 34, Landlord's reversionary interest in the Improvements and (v) there shall next be paid to Tenant, subject to the rights of any Mortgagees or Affiliate Lenders, as applicable, the balance, if any, of such award. Nothing in any Mortgage shall be deemed to relieve Tenant of its obligations to restore the Premises as required by Article 8 or this Article 9 or any other provision of this Lease.

Section 9.02. For purposes of this Article 9, the date on which an applicable taking shall occur shall be deemed to be the earlier of (i) the date on which actual possession of the whole or Substantially all of the Premises, or a part thereof, as the case may be, is acquired by any lawful power or authority pursuant to the provisions of the applicable federal or New York State law or (ii) the date on which title to the Premises or the aforesaid portion thereof shall have vested in any lawful power or authority pursuant to the provisions of the applicable federal or New York State law.

Section 9.03. If less than Substantially all of the Premises shall be so taken, this Lease and the Term shall continue as to the portion of the Premises remaining without abatement of the Base Rent or Additional Charges or diminution of any of Tenant's obligations hereunder, provided, however, there shall be an equitable adjustment for PILOT thereafter due by Tenant to Landlord. Tenant, whether or not the award or awards, if any, shall be sufficient for the purpose shall proceed diligently (subject to Unavoidable Delays) to Restore any remaining part of the Improvements not so taken so that the latter shall be complete, operable, self-contained architectural unit in good condition and repair in conformity with the requirements of Article 8 of this Lease. In the event of any taking pursuant to this Section 9.03, the award for or attributable to any portion of the Land and the Improvements so taken shall be paid to Tenant if under the Retention Threshold and to Depositary if equal to or greater than the Retention Threshold and, in either case, shall be applied to the cost of Restoration of the part of the Land and Improvements not so taken. Subject to the provisions and limitations in this Article 9, Depositary shall make available to Tenant as much of that portion of the award as is actually received and held by Depositary, if any, less all commercially reasonable expenses paid or incurred by Depositary,

Landlord and any Mortgagee in the condemnation proceedings, as may be necessary to pay the cost of Restoration of the part of the Improvements remaining. Such Restoration shall be done in accordance with and subject to the provisions of Article 8. Payments to Tenant as aforesaid shall be disbursed in the manner and subject to the conditions set forth in Article 8. If the portion of the award made available to Tenant by Depositary is insufficient for the purposes of paying for the Restoration, Tenant shall be required, nevertheless, to make the Restoration and pay any additional sums required for the Restoration as set forth in Section 9.04. Any balance of the award held by Depositary and any cash deposited with Depositary pursuant to Section 9.04 remaining after completion of the Restoration shall be paid to Tenant.

Section 9.04. With respect to any Restoration required by the terms of Section 9.03 the cost of which, as determined in the manner set forth in Section 8.03(a)(i), shall equal or exceed the Retention Threshold and exceeds the balance of the condemnation award after payment of the expenses set forth in Section 9.03, then, prior to the commencement of such Restoration, Tenant shall, at Tenant's election (i) pay such excess as the Restoration progresses prior to utilizing the funds then on deposit with Depositary, (ii) deposit with Depositary cash in the amount of such excess to be held and applied by Depositary in accordance with the provisions of Section 9.03, or (iii) provide other security to Landlord or Depositary as shall be reasonably acceptable to Depositary, as security for the completion of the Restoration.

Section 9.05. If the temporary use of the whole or any part of the Premises shall be taken for any public or quasi-public purpose by any lawful power or authority by the exercise of the right of condemnation or eminent domain or by agreement between Tenant and those authorized to exercise such right, Tenant shall give prompt notice thereof to Landlord and the

Term shall not be reduced or affected in any way and Tenant shall continue to pay in full the Base Rent and Additional Charges payable by Tenant hereunder without reduction or abatement, and Tenant shall be entitled to receive for itself any award or payments for such use, provided, however, that:

(a) if the taking is for a period not extending beyond the Term, the same shall be paid to and held by Depositary as a fund which Depositary shall apply from time to time during the period of the temporary taking to the payment of Base Rent and Additional Charges then due except that, if such taking results in changes or alterations in any of the Improvements which would necessitate an expenditure to Restore such Improvements to its former condition, then, the portion of such award or payment considered by Landlord, in its reasonable opinion, as appropriate to cover the expenses of the Restoration shall be retained by Depositary, if in excess of the Retention Threshold otherwise to be paid to Tenant, without application as aforesaid, and applied and paid over to Tenant toward the Restoration of such Improvements to its former condition, substantially in the same manner and subject to the same conditions as provided in Section 9.03 and any portion of such award or payment which shall not be required pursuant to this Section 9.05(a) to be applied to the Restoration of the Improvements or to the payment of Base Rent and Additional Charges until the end of the Term (or, if the taking is for a period terminating prior to the end of the Term, until the end of such period), shall be paid to Tenant; or

(b) if the taking is for a period extending beyond the Term, such award or payment shall be apportioned between Landlord and Tenant as of the Expiration Date, Landlord's share thereof shall be paid to Landlord and Tenant's share thereof shall be paid to Depositary and applied in accordance with the provisions of Section 9.05(a); provided, however, that the amount

of any award or payment allowed or retained for the Restoration of the Improvements and not previously applied for such purpose shall remain the property of Landlord if this Lease shall expire prior to such Restoration.

Section 9.06. In case of any governmental action, not resulting in the taking or condemnation of any portion of the Premises but creating a right to compensation therefor, such as the changing of the grade of any street upon which the Premises abut, this Lease shall continue in full force and effect without reduction or abatement of Base Rent and Additional Charges and the award shall be paid to Tenant.

Section 9.07. In the event of a negotiated sale of all or a portion of the Premises in lieu of condemnation, the proceeds shall be distributed as provided as in cases of condemnation.

Section 9.08. Landlord, Tenant and any Mortgagee or Affiliate Lender shall be entitled to file any claim permitted to such party pursuant to this Article 9 and otherwise participate in any condemnation or similar proceeding and all hearings, trials and appeals in respect thereof.

Section 9.09. Notwithstanding anything to the contrary contained in this Article 9, in the event of any permanent or temporary taking of all or any part of the Premises, Tenant and its Subtenants shall have the exclusive right to assert claims for any trade fixtures and personal property so taken which were the property of Tenant or its Subtenants (but not including any Equipment other than appliances purchased by Tenant, in its capacity as agent of Landlord, to the extent permitted during the initial fit-out of each apartment) and for relocation expenses of

Tenant or its Subtenants, and all awards and damages in respect thereof shall belong to Tenant and its Subtenants, and Landlord hereby waives any and all claims to any part thereof.

Section 9.10. Each of the parties shall execute all documents that may be required in order to facilitate collection of such awards. If there is any dispute as to the allocation of the awards hereunder, such dispute shall be resolved by arbitration in accordance with the provisions of Article 35.

Section 9.11. Subject to Unavoidable Delays, Tenant's obligations under Article 11 shall not be altered or in any way diminished by reason of any condemnation or any other event described in this Article 9, except that (I) the awards shall be claimed and paid in accordance with this Article 9, (II) if the whole or Substantially all of the Premises shall be taken as set forth in Section 9.01, the provisions of Section 9.01 shall govern and (III) to the extent the same constitutes an Unavoidable Delay, the time frames set forth in Article 11 for Tenant to perform shall be extended as set forth in this Lease.

ARTICLE 10

ASSIGNMENT, SUBLETTING, MORTGAGES, ETC.

Section 10.01.

(a) Except as expressly otherwise provided in Sections 10.01(c), 10.01(d), 10.04(a), 10.04(b), 10.06, 10.10(a), 10.11(c), 10.11(e) and 10.11(f), neither all nor any part of this Lease or the interest of Tenant in this Lease shall, by operation of law or otherwise, be assigned, mortgaged, pledged, encumbered or otherwise transferred and neither the Premises, nor any part thereof, nor any Equipment therein shall, by operation of law or otherwise, be sold, assigned or otherwise transferred, or be sublet (which term shall be deemed to include franchises,

concessions and licenses) or be used or occupied for any purposes other than as permitted by this Lease, without the prior written consent of Landlord in each instance. Except as expressly otherwise provided herein, Landlord may withhold such consent in its sole and absolute discretion. Any assignment, sublease, mortgage, pledge, encumbrance, or transfer by Tenant in contravention of this Article 10 shall be void.

(i) For the purposes of this Lease, an amendment, modification, supplement, extension, renewal or replacement of any sublease or mortgage shall be deemed to be a new sublease or mortgage, as the case may be, if a material change to such sublease or mortgage is effected thereby.

(ii) For purposes of this Article 10, (A) a change in Control of Tenant shall be deemed to be an assignment of this Lease requiring consent (except as expressly provided in Section 10.01(c) and (d)) and (B) any Person to whom Tenant's interest under this Lease passes by operation of law or otherwise shall be bound by the provisions of this Article 10; provided, however, that nothing contained in this clause (B) shall permit, or be construed so as to permit, any assignment or subletting which otherwise requires Landlord's consent under this Article 10 unless and until Landlord grants its consent thereto. For the purposes of clause (A) above, a "change in Control" shall be deemed to occur if any of the following occur through any one or more transactions or events: (w) a change in the ownership existing as of the date hereof of fifty percent (50%) or more of (i) any class ~~of voting stock of Tenant, if~~ Tenant is a corporation, or any class of voting stock of any entity that is a corporation that Controls Tenant or (ii) the legal and/or beneficial interests in Tenant, if Tenant is a limited liability company, a partnership, or

any other entity, or any legal and/or beneficial interest in any entity that is a limited liability company, a partnership, or any other type of entity that Controls Tenant, (x) a change in the ownership existing as of the date hereof of eighty percent (80%) or more of the equity, economic or beneficial interest of Tenant or of any entity that Controls Tenant, (including, without limitation, the right to profits and distributions from Tenant), (y) a change in the possession of the power directly or indirectly to direct or cause the direction of management and policy of a corporation, partnership, trust or other business entity which is Tenant, whether through ownership of voting securities, by contract or common directors, officers or trustees or otherwise, whether in a single transaction or in a series of related or unrelated transactions which results in any Person other than one or more of the Elghanayans (as defined in Section 10.01(d)) having the power (directly or indirectly) to direct or cause the direction of management and policy of Tenant or (z) any event which results in any Person other than one or more of the Elghanayans, having day to day operational and managerial control of Tenant. Notwithstanding anything to the contrary set forth herein, in no event, at any time, may any direct or indirect interest in Tenant be held by a Prohibited Party.

(b) Intentionally Deleted.

(c) Tenant may assign this Lease or any portion of its interest hereunder or sublet all or any portion of the Premises without consent of Landlord, provided Tenant has otherwise complied with the provisions of this Article 10 and provided that:

(i) on the date of such transfer there is no Event of Default which remains uncured;

(ii) on the date of such transfer there is no uncured material default by Developer under the Infrastructure Agreement with respect to which Developer has received a default notice;

(iii) Tenant has given Landlord not less than thirty (30) days prior written notice of such transfer, which notice shall be given together with (1) a VENDEX Clearance Questionnaire duly completed by the proposed assignee or sublessee and (2) a certification from Tenant that all conditions to such transfer contained in this Article 10 shall have been satisfied prior to the date of such transfer, provided, however, (X) in connection with a transfer to an Affiliate of Tenant, Tenant shall not be required to provide Landlord with the VENDEX Clearance Questionnaire as set forth in clause (1) above and Tenant shall be allowed to provide Landlord with the certification set forth in clause (2) above within ten (10) Business Days after such transfer and (Y) in connection with a Sublease to a Residential Subtenant or Commercial Subtenant (other than a Major Sublessee), such Subtenant shall not be required to provide Landlord with a VENDEX Clearance Questionnaire except as set forth in Section 10.09; or

(iv) if the proposed assignee or Major Sublessee shall lack the requisite experience and expertise to operate the Improvements as reasonably determined by Landlord within thirty (30) days of the notice provided to Landlord pursuant to Section 10.01(c)(iii) above (it being agreed that, without limiting the generality of the foregoing, (1) an assignee or sublessee who does not satisfy the criteria for a Managing Agent, as reasonably determined by Landlord, shall be deemed to lack the requisite experience and expertise and (2) if Landlord fails to respond to Tenant within such thirty (30) day period,

then the assignee or sublessee shall neither be deemed to have, or lack, the requisite experience and expertise, until such time as Landlord notifies Tenant in writing (a "Subsequent Determination Notice") that such assignee or sublessee has or lacks the requisite experience and expertise), then unless Tenant delivers to Landlord evidence reasonably satisfactory to Landlord that Tenant will be responsible for managing, maintaining and otherwise operating the Premises or applicable portion thereof, Tenant shall have delivered to Landlord prior to the effective date of such transfer, an executed management agreement with a Managing Agent that is binding on such assignee or such Major Sublessee and an agreement pursuant to which the assignee or Major Sublessee agrees to keep such agreement in effect with such Managing Agent or a similar agreement in effect with a successor Managing Agent until such time as such assignee or Major Sublessee has the requisite experience and expertise to operate the Improvements (collectively, "Qualified Management Documentation"). In the event Landlord delivers a Subsequent Determination Notice in which Landlord states that the Major Sublessee lacks the requisite experience and expertise, Tenant shall deliver Qualified Management Documentation to Landlord within a reasonable time period after Tenant's receipt of such Subsequent Determination Notice, which reasonable time period shall not exceed ninety (90) days. Any management agreement referred to above must require the Managing Agent to perform all management functions that managing agents of first class multi-tenanted residential apartment buildings of comparable size, age and quality to the Improvements in the City normally perform. If the Managing Agent is not performing such functions or is otherwise in default under such management agreement beyond any

applicable notice and cure period, Tenant shall promptly take all commercially reasonable steps to assure such performance which may include the removal of such defaulting Managing Agent and appointment of a successor managing agent who satisfies the requirements for a "Managing Agent";

(v) any such assignment, or sublease to a Major Sublessee, is not to a Prohibited Party;

(vi) Tenant shall not mortgage or otherwise encumber its interest in the Lease, except to a Mortgagee or an Affiliate Lender; and

(vii) any such assignment and subletting shall (x) only be effective from and after the later to occur of the Substantial Completion of the Building and the Infrastructure Compliance Date, and (y) provide that a termination of this Lease prior to the permitted effective date of such assignment or subletting shall render such assignment and subletting void ab initio.

(d) Notwithstanding anything in Section 10.01(a) to the contrary, but subject to compliance with the other provisions of this Article 10, including, without limitation, the provisions of Section 10.01(c)(i) to (vi) and Section 10.01(e), without Landlord's consent,

(i) Tenant may at any time assign its interest in this Lease or interests in Tenant may be transferred to an Affiliate of Tenant, and for purposes of Section 10.01(a)(ii), such transfer of interests in Tenant shall not be deemed a "change in Control" (and for purposes of the foregoing, Affiliate shall include H. Henry Elghanayan, Frederick Elghanayan and/or Kamran T. Elghanayan (the "Elghanayans") and/or an entity Controlled by any one or more of the Elghanayans, immediate family members of the

Elghanayans or trusts for immediate family members of the Elghanayans which are Controlled by any one or more of the Elghanayans); provided that Landlord is given notice of such assignment promptly after the occurrence thereof and all information with respect to such Affiliate status as Landlord reasonably requires not later than ten (10) days after Landlord's request therefor,

(ii) Tenant may at any time merge or consolidate with another business entity; provided that the surviving entity is Controlled by any one or more of the Elghanayans and provided that Landlord is given written notice of such merger or consolidation promptly after the occurrence thereof and all information with respect to such transaction and the entities included in such transaction as Landlord may reasonably request not later than ten (10) days after Landlord's request for such information, and

(iii) Tenant may at any time encumber its interest in this Lease with a Mortgage to a Mortgagee or an Affiliate Lender in accordance with Section 10.10(a) hereof; provided that Landlord is given ten (10) days' prior written notice of such financing and, not later than ten (10) days after requested by Landlord, all loan documents that Landlord may reasonably request.

(e) Each transaction entered into without Landlord consent shall only be permitted provided such transaction (v) is for a valid business purpose, (w) is not performed in order to circumvent the other provisions of this Article 10, (x) does not involve a Prohibited Party, (y) results in the Elghanayans, at all times, (I) Controlling Tenant, (II) managing the construction of the Building and (III) retaining (directly or indirectly) at least twenty percent (20%) of the equity, economic and beneficial interests in Tenant (including, without limitation,

the right to profits and distributions from Tenant) and (z) includes the delivery of an assumption agreement whereby the assignee or transferee assumes (1) all of the obligations of Tenant hereunder which first arise from and after the date of such assignment or transfer and (2) the obligation to cure all then existing and continuing curable defaults of Tenant.

Section 10.02.

(a) If this Lease shall be assigned, whether or not in violation of the terms of this Lease, Landlord may collect Base Rent and Additional Charges due under this Lease from the assignee. If the Premises or any part thereof shall be sublet or used or occupied by any Person other than Tenant, whether or not in violation of this Lease, Landlord may, during the continuance of an Event of Default by Tenant, collect rent and other sums due under the sublease from the subtenant or other occupants. Landlord shall apply the net amounts collected to the Base Rent and Additional Charges in such order as Landlord may determine. The consent by Landlord to an assignment, transfer, encumbering or subletting pursuant to any provision of this Lease shall not in any way be considered to relieve Tenant from obtaining the express prior written consent of Landlord when required hereunder, to any other or further assignment, transfer, encumbering or subletting. References in this Lease to use or occupancy by any Person other than Tenant shall not be construed as limited to subtenants and those claiming under or through subtenants, but as including also franchisees, concessionaires, licensees and others claiming under Tenant, immediately or remotely. Tenant shall reimburse Landlord for all reasonable actual out-of-pocket costs which may be incurred by Landlord in connection with any proposed assignment of this Lease or any proposed subletting of the Premises or any part thereof (other than a subletting pursuant to Section 10.04(a)), including reasonable attorneys' fees and disburse-

ments and, if applicable, the reasonable cost of making investigations as to the acceptability of a proposed subtenant or assignee. Neither any subletting, occupancy or use of the Premises or any part thereof by any Person other than Tenant, nor any collection of rent by Landlord from any Person other than Tenant, nor any application of any such rent as provided in this Article 10, nor any direct dealing by Landlord with any subtenant, occupant or assignee, shall under any circumstances be deemed a waiver of any of the provisions of Section 10.01(a) or relieve, impair, release or discharge Tenant of its obligations fully to perform the terms of this Lease on Tenant's part to be performed and Tenant shall remain fully and primarily liable therefor, provided, however, that if Tenant assigns this Lease to a third party in accordance with the terms of this Lease, Tenant shall be released of its obligations which first arise from and after the date of such assignment.

(b) In each instance wherein Tenant desires to effect an assignment of this Lease or sublease of all or any portion of the Premises (other than pursuant to Section 10.01(d)(i) to (iii) or leases to individuals pursuant to Section 10.04(a)), Tenant shall, prior to the effective date of such transaction, and as a condition to the effectiveness thereof, notify Landlord of the proposed transaction and submit to Landlord the following documents and information:

(i) in the case of an assignment, (A) a photostatic copy of the proposed instrument(s) of assignment, containing, inter alia, the name, address and telephone number of the assignee and the effective date thereof which is not earlier than thirty (30) days after, ~~nor later than one hundred eighty (180) days~~ after, the date of such notice to Landlord, (B) a photostatic copy of the proposed instrument(s) of assumption pursuant to which such assignee assumes (1) all of the obligations of Tenant hereunder which first

arise from and after the date of such assignment or transfer and (2) the obligation to cure all then existing and continuing curable defaults of Tenant, (C) an original affidavit of the assignee or an authorized officer, general partner, or managing member thereof, setting forth (x) in the case of a partnership or limited liability company, the names and addresses of all partners or members thereof having a five percent (5%) or greater economic or actual ownership interest therein and the names and addresses of every partner or member that Controls the partnership or limited liability company and (y) in the case of a corporation (other than a corporation whose common stock is traded over the New York Stock Exchange or the American Stock Exchange or the Nasdaq National Market or which is an Institutional Lender), the names and addresses of all persons having a record ownership of more than five percent (5%) of the stock in, and all directors and officers of, the assignee, and (D) a completed VENDEX Clearance Questionnaire;

(ii) in the case of a subletting of all or any portion of the Premises (other than pursuant to leases to individuals pursuant to Section 10.04(a)), (A) a photostatic copy of the proposed sublease, containing, inter alia, the name, address, and telephone number of the Subtenant (or simultaneously shall provide such information to Landlord) and the effective date thereof which is not earlier than thirty (30) days nor later than one hundred eighty (180) days after the date of such notice to Landlord, (B) an original affidavit of the Subtenant or an authorized officer, general partner, or managing member thereof, setting forth the same information with respect to the partners, members, shareholders, officers and directors of the Subtenant as is required with respect to

assignees under Section 10.02(b)(i)(C), and (C) with respect to a Major Sublessee, a completed VENDEX Clearance Questionnaire.

In addition, Tenant, within ten (10) Business Days after Landlord's request therefor, shall deliver to Landlord such other documents and financial and other information as Landlord may reasonably request to permit the evaluation of compliance of such assignment or sublease with the terms of this Lease.

(c) If consent for any assignment or sublet is required hereunder, after the submission of all requested documentation to Landlord and provided that Tenant shall have complied with all other applicable provisions of this Lease with respect to any assignment or subletting, as the case may be, Tenant may assign its interest in this Lease or sublet the Premises, as the case may be, only if Tenant receives written consent for such assignment or subletting within thirty (30) days after the submission of all requested documentation to Landlord. If Landlord shall fail to respond to a request for consent to an assignment or subletting within thirty (30) days of the submission of such request, subject to Tenant's right to send a Second Approval Notice (hereinafter defined), Landlord shall be deemed to have disapproved of such assignment or subletting. If Landlord denies the request to such assignment or subletting in writing, Landlord shall set forth in reasonable detail its objections to such assignment or subletting.

(d) Tenant, at its option, may deliver the items submitted to Landlord as part of the request for consent to such assignment or subletting by hand and obtain a signed and dated receipt executed by Landlord which receipt shall specify the items submitted to Landlord as part of such request for consent to such assignment or subletting and acknowledge receipt of such items by Landlord (the "Subletting Request Receipt"). In the event that Landlord shall fail to

respond to a request for consent to an assignment or subletting within thirty (30) days after the submission of such request together with all documentation required hereunder, Tenant shall have the right to send to Landlord an additional Notice in accordance with the terms of this Section requesting consent for such assignment or subletting together with either (x) if Tenant did not obtain a Subletting Request Receipt, a resubmission of all other documentation required hereunder for such consent or (y) a copy of the Subletting Request Receipt (collectively, the "Second Approval Notice"). In the event that Landlord fails to respond to the Second Approval Notice within twenty (20) days after the Second Approval Notice is delivered to Landlord, subject to Unavoidable Delay, Tenant shall be granted a grace period to cure a default arising from such assignment or subletting pursuant to Section 24.01(i) if such assignment or subletting is a default under this Lease and Tenant entered into such assignment or subletting based upon Landlord's failure to respond to the applicable Second Approval Notice; provided however, in no event shall Landlord be deemed to have granted consent to such assignment or subletting. In order for the grace period to be granted hereunder, in connection with the delivery of the Second Approval Notice, Tenant must (1) comply with all relevant notice and submission provisions, if applicable, of this Lease, including, without limitation, the provisions of Article 25 and (2) include in the Second Approval Notice requesting such consent the following capitalized and boldfaced language, **"THIS NOTICE CONTAINS A REQUEST FOR LANDLORD'S CONSENT PURSUANT TO SECTION 10.02 OF THE SITE 5 LEASE. IF LANDLORD DOES NOT RESPOND HERETO WITHIN TWENTY DAYS, TENANT WILL HAVE A GRACE PERIOD TO CURE A TRANSFER DEFAULT, IF ANY, RESULTING FROM THE PROPOSED TRANSFER REFERENCED HEREIN."**

(e) Any assignment or subletting shall be conditioned upon (i) compliance with all of the applicable provisions of this Lease and the documents to be delivered to Landlord, (ii) delivery to Landlord, within ten (10) Business Days after any such assignment or subletting of copies of originals of the documents referred to in Section 10.02(b)(i), or Section 10.02(b)(ii), as the case may be, and (iii) the effective date of the subletting or assignment being not earlier than the effective date set forth in the instruments of assignment and assumption or subletting, as the case may be, irrespective of whether Landlord's approval shall have been given in a timely notice.

(f) No assignment or mortgaging of this Lease or any interest herein or subletting of all or any portion of the Premises shall have any validity except upon compliance with the applicable provisions of this Lease, including, without limitation, this Article 10.

Section 10.03.

Intentionally Deleted.

Section 10.04.

(a) Provided no Event of Default has occurred which is then continuing, Tenant may, without Landlord's consent, but subject to the provisions of this Section 10.04, enter into subleases for the rental of individual residential apartments and individual parking spaces (but not a sublease or subleases of all or a substantial portion or portions of any parking facility), in each case for periods shorter than the remainder of the Term at the time of such subleases (all of such subleases, together with subleases to Block Residential Subtenants, and any amendments, renewals and extensions to either thereof being herein referred to collectively as "Residential Subleases," and the occupants pursuant to the Residential Subleases being herein referred to

collectively as "Residential Subtenants"). Each Residential Sublease shall cover only one residential apartment (it being agreed that if two or more residential apartments are physically combined they shall be deemed to be one residential apartment for the purpose of this Section 10.04). No Person (which term, for the purposes of this Section 10.04(a), shall include any Affiliate of such Person) shall be the Subtenant under more than one Residential Sublease or for more than one (1) residential apartment (such restriction, the "Block Subtenant Restriction") and Tenant shall not enter into any Sublease in violation of the Block Subtenant Restriction. Notwithstanding the foregoing, (I) the Block Subtenant Restriction shall not apply to fifteen (15%) percent of the apartments located within the Building which fifteen (15%) percent shall be designated by Tenant from time to time and (II) the Block Subtenant Restriction shall not apply to any apartments located within the Building if the Premises are properly designated by Tenant as Unrestricted Premises. Each Residential Sublease shall comply with the provisions of Article 43 hereof.

(b) Tenant may, at any time, without Landlord's prior written consent, but subject to the provisions of this Section 10.04, enter into subleases, licenses or concessions for non-residential purposes (including, without limitation, for all or a substantial portion or portions of any parking facility but excluding subleases of individual parking spaces to separate individuals) (all such agreements being collectively referred to herein, together with any amendments, renewals and extensions thereof, as the "Commercial Subleases"; the subtenants and other occupants thereunder being collectively referred to herein as the "Commercial Subtenants"; each Commercial Sublease and Residential Sublease being referred to herein as a "Sublease"; and the Commercial Subtenants and the Residential Subtenants being collectively referred to herein as

the "Subtenants"), provided that (1) Tenant complies with all of the applicable requirements of this Article 10 (including, but not limited to the provisions of Sections 10.01(c)(i) and 10.01(c)(v), but excluding the provisions of Sections 10.01(c)(ii), (iii), (iv) and (vi), (2) no Commercial Sublease shall be entered into with a Subtenant that anticipates operating, or would reasonably be expected to operate, its business within the Premises on a seasonal basis only, and (3) such Commercial Sublease requires the Subtenant to do all of the following:

(i) comply with the Requirements, the Design Controls and the applicable provisions of this Lease;

(ii) maintain tasteful display windows, if any;

(iii) maintain the appearance of the subleased premises in keeping with the general standard maintained for the Improvements;

(iv) not install, place or permit any exterior grille or closure of store-front entrances or any awning, canopy, banner, flag, pennant, aerial, antennae, sign or the like on the outside of the subleased premises unless the same complies with the Design Controls and (i) the size and placement of the same (but not necessarily the precise content, color or appearance thereof) is shown on the Plans and Specifications, or (ii) Landlord consents thereto (such consent not to be unreasonably withheld, conditioned or delayed) and each such item shall, to the reasonable satisfaction of Landlord, be kept clean and in good order and state of repair and appearance by and at the expense of Subtenant;

(v) not conduct any wholesale operation or fictitious "going-out-of business," auction, distress, fire, bankruptcy or similar sale (but nothing contained herein

shall preclude periodic seasonal, promotional or clearance sales), and not conduct any catalogue, mail order or telephone order sales in or from the subleased premises except as may be incidental to the primary use of such subleased premises;

(vi) not utilize the premises for manufacturing or mass distribution of merchandise to the general public;

(vii) not utilize the premises for any illegal purposes or purposes not appropriate for a first class building in the City; and

(viii) comply with such other commercially reasonable rules and regulations as Landlord shall require, provided, however, such rules and regulations (x) shall not be enforced against any Subtenants in a discriminatory manner and (y) shall not be more onerous than similar rules and regulations imposed on other portions of the Queens West Project Area.

(c) Tenant shall promptly and diligently enforce all of its rights as the landlord under all Commercial Subleases in accordance with the terms thereof to the extent necessary for the use and occupancy of the premises demised by such Subleases to be in compliance with the terms of this Lease, the Design Controls and the Requirements.

Section 10.05. The fact that a violation or breach of any of the terms, provisions or conditions of this Lease results from or is caused by an act or omission by any Subtenant, or subtenant of a Subtenant or any other occupant of the Improvements shall not relieve Tenant of Tenant's obligation to cure the same. Tenant shall take any and all reasonable steps necessary to prevent any such violation or breach.

Section 10.06. To secure the prompt and full payment by Tenant of the Base Rent and Additional Charges and the faithful performance by Tenant of all the other terms and conditions herein contained on its part to be kept and performed, Tenant hereby assigns, transfers and sets over unto Landlord, subject to an assignment of the Subleases and/or rents to Mortgagees in connection with Mortgages, all of Tenant's right, title and interest in and to all of the Subleases and hereby confers upon Landlord, its agents and representatives, a right of entry in, and sufficient possession of, the Premises to permit and insure the preservation of the Premises and the collection by Landlord of the rentals and other sums payable under the Subleases. The exercise of the right of entry and possession by Landlord shall not constitute an eviction of Tenant from the Premises or any portion thereof and should said right of entry and possession be denied Landlord, its agents or representatives, Landlord, in the exercise of said right, may use all legally permitted requisite force to gain and enjoy the same without responsibility or liability to Tenant, its servants, employees, guests, or invitees, or any Person whomsoever; provided, however, that such assignment shall be subject to the license hereby granted to Tenant to exercise all rights of the sublandlord under such subleases and to collect the rentals and other sums as they become due thereunder as long as (a) no Event of Default shall have occurred and remain uncured, (b) this Lease and the Term shall not have been cancelled or terminated pursuant to the terms, covenants and conditions hereof and (c) no repossession occurs under a dispossess warrant or other re-entry or repossession by Landlord under the provisions hereof or applicable law.

Section 10.07. Intentionally Deleted.

Section 10.08. Each Sublease of all or any portion of the Premises shall provide that (i) it is subject and subordinate to this Lease and the Title Matters, (ii) the Subtenant thereunder will not pay rent or other sums under such Sublease for more than one (1) month in advance (excluding security and other deposits required under such Sublease), provided, however, that Low Credit Subleases may allow for payment of rent for up to three (3) months in advance to the extent such prepayment of rent is collected as a means of supporting the credit-worthiness of the applicable Residential Subtenant, (iii) Landlord may take action and proceed directly against the Subtenant if such Subtenant shall use or occupy, or permit or suffer the Premises or any part thereof to be used or occupied for any Impermissible Uses and (iv) except as specified in Section 10.09 at Landlord's option, on the termination of this Lease pursuant to Article 24, the Subtenant thereunder will attorn to, or enter into a direct lease on the terms of such Subtenant's Sublease with, Landlord. Each Commercial Sublease shall also provide that (and no Residential Sublease shall contain any language to the contrary that), with respect to each such Sublease, neither Landlord, nor anyone claiming by, through or under Landlord, shall be:

(A) liable for any act, omission or negligence of any prior sublandlord (including, without limitation, any then defaulting sublandlord),

(B) subject to any offsets, defenses or counterclaims that the Subtenant thereunder may have against any prior sublandlord (including, without limitation, any then defaulting sublandlord),

(C) bound by any payment that the Subtenant thereunder might have paid to any prior sublandlord (including, without limitation, any then defaulting

sublandlord), or any other Person of (i) rent or any other charge payable under such Subtenant's Sublease for more than the current month (except prepayment of semi-annual PILOT payments) or (ii) any security deposit or other monies owing by or on deposit with Tenant to the credit of such Subtenant which shall not have been delivered to Landlord,

(D) bound by any covenant to undertake or complete any construction of the Improvements or any portion thereof demised by such Sublease or any capital improvements therein,

(E) bound by any obligation to make any payment or contribution to the Subtenant thereunder or liable for any brokerage commissions or costs, expenses or liabilities in connection with such Sublease, or

(F) bound by any Sublease or amendment to such Sublease or modification thereof which reduces the basic rent, additional rent, supplemental rent or other charges payable under such Sublease (except to the extent equitably reflecting a reduction in the space covered by such sublease or an abatement of any rent, following a casualty or condemnation), or shortens the term thereof, or increases the obligations of the sublandlord thereunder, made without the written consent of Landlord.

Section 10.09.

(a) Landlord shall enter into an agreement (each an "SNDA Agreement") with a Commercial Subtenant who (i) is not a Prohibited Party and who has completed and submitted to Landlord at least thirty (30) days prior to the execution of the SNDA Agreement by Landlord a

satisfactory VENDEX Clearance Questionnaire, (ii) whose Commercial Sublease has been entered into in accordance with Section 10.04(b) hereof, (iii) whose Commercial Sublease (1) is on bona-fide arm's-length commercially reasonable terms, including but not limited to, fair market rent, (2) is for a term of at least five (5) years with no right of cancellation (other than those customarily provided in the event of casualty, condemnation or failure to provide services) prior to the expiration of such minimum term or, if the remaining term of this Lease is less than five (5) years, is for a term expiring on the day prior to the Scheduled Expiration Date of this Lease, (3) provides that the fixed rental and any additional rental payments or escalations at the time of attornment to Landlord shall, if necessary, be increased to equal such Subtenant's allocable share of such expenses (i.e., on a rentable square foot basis) due by Tenant to Landlord under this Lease, (4) does not impose any obligation on Landlord to do any construction or perform any improvements (other than is otherwise required to be done by Landlord hereunder) or provide any work allowance to such Commercial Subtenant, which in each instance, would be binding on Landlord if it succeeded to the interest of Tenant, and (5) is not with an Affiliate of Tenant, and (iv) whose Commercial Sublease confers no greater rights on such Commercial Subtenant with respect to the subleased premises than conferred on Tenant with respect to such subleased premises under this Lease and imposes no obligations on Landlord with respect to such subleased premises other than imposed on Landlord with respect to such subleased premises under this Lease (except for basic services customarily provided to commercial tenants). Each SNDA Agreement shall provide that (I) such Commercial Subtenant will not be named as a party defendant (unless deemed a necessary party under any Laws) in any suit, action or proceeding to terminate this Lease by reason of Tenant's Default hereunder nor shall its possession of its

subleased premises be disturbed by reason thereof as long as (A) there shall be no default beyond all applicable grace and cure periods, if any, by such Commercial Subtenant under the terms of its Commercial Sublease and (B) such Commercial Subtenant is not a Prohibited Party, and (II) upon the termination of this Lease by reason of Tenant's Default hereunder, Landlord and such Commercial Subtenant shall enter into a direct lease upon all of the then executory terms and conditions of the applicable Commercial Sublease subject to the provisions of Section 10.08(A) through (F), provided (A) that such Commercial Subtenant is not in default under the terms and conditions of its Commercial Sublease beyond all applicable grace and cure periods, if any, and (B) such Commercial Subtenant is not a Prohibited Party at the time of entering into such direct lease. Such Commercial Subtenant shall attorn to Landlord as its direct landlord under the terms and conditions of such direct lease and the agreement shall provide that the Commercial Subtenant shall attorn to Landlord as its direct landlord under the terms and conditions of such direct lease. Tenant will pay the actual, out-of-pocket, reasonable costs and expenses incurred by Landlord in connection with any SNDA Agreement within ten (10) days after the incurrence thereof.

(b) Landlord shall enter into an SNDA Agreement with a Block Residential Subtenant (i) who is not a Prohibited Party and who has completed and submitted to Landlord at least thirty (30) days prior to the execution of the SNDA Agreement by Landlord a satisfactory VENDEX Clearance Questionnaire, (ii) whose Residential Sublease has been entered into in accordance with Section 10.04(a) hereof, (iii) whose Residential Sublease (1) is on bona-fide arm's-length commercially reasonable terms, including but not limited to, fair market rent, (2) is for a term of at least five (5) years with no right of cancellation (other than those customarily

provided in the event of casualty, condemnation or failure to provide services) prior to the expiration of such minimum term (the "Five Year Condition") or, if the remaining term of this Lease is less than five (5) years, is for a term expiring on the day prior to the Scheduled Expiration Date of this Lease, (3) provides that the fixed rental and any additional rental payments or escalations at the time of attornment to Landlord shall, if necessary, be increased to equal such Subtenant's allocable share of such expenses (i.e., on a rentable square foot basis) due by Tenant to Landlord under this Lease, (4) does not impose any obligation on Landlord to do any construction or perform any improvements (other than is otherwise required to be done by Landlord hereunder) or provide any work allowance to such Residential Subtenant, which in each instance, would be binding on Landlord if it succeeded to the interest of Tenant, and (5) is not with an Affiliate of Tenant, and (iv) whose Residential Sublease confers no greater rights on such Residential Subtenant with respect to the subleased premises than conferred on Tenant with respect to such subleased premises under this Lease and imposes no obligations on Landlord with respect to such subleased premises other than imposed on Landlord with respect to such subleased premises under this Lease (except for basic services customarily provided to residential tenants). The Five Year Condition shall not apply to subleases to educational institutions which demise at least 50% of the residential apartments in the Building. Each SNDA Agreement shall provide that (I) such Residential Subtenant will not be named as a party defendant (unless deemed a necessary party under any Laws) in any suit, action or proceeding to terminate this Lease by reason of Tenant's Default hereunder nor shall its possession of its subleased premises be disturbed by reason thereof as long as (A) there shall be no default beyond all applicable grace and cure periods, if any, by such Residential Subtenant under the terms of its Residential

Sublease and (B) such Residential Subtenant is not a Prohibited Party, and (II) upon the termination of this Lease by reason of Tenant's Default hereunder, Landlord and such Residential Subtenant shall enter into a direct lease upon all of the then executory terms and conditions of the applicable Residential Sublease subject to the provisions of Section 10.08(A) through (F), provided (A) that such Residential Subtenant is not in default under the terms and conditions of its Residential Sublease beyond all applicable grace and cure periods, if any, and (B) such Residential Subtenant is not a Prohibited Party at the time of entering into such direct lease. Such Residential Subtenant shall attorn to Landlord as its direct landlord under the terms and conditions of such direct lease and the agreement shall provide that the Residential Subtenant shall attorn to Landlord as its direct landlord under the terms and conditions of such direct lease. Tenant will pay the actual, out-of-pocket, reasonable costs and expenses incurred by Landlord in connection with any such SNDA Agreement within ten (10) days after the incurrence thereof.

Section 10.10.

(a) Notwithstanding the first sentence of Section 10.01(a), provided that Tenant complies with all other applicable provisions of this Article 10, without Landlord's prior written consent, Tenant may mortgage, pledge or encumber Tenant's interest in this Lease at any time (i) pursuant to one or more Mortgages, each granted to a Mortgagee, or (ii) pursuant to a Mortgage granted to an Affiliate of Tenant (an "Affiliate Lender"), provided, however, such Affiliate Lender (X) shall in no event be a Prohibited Party, and (Y) shall in no event be deemed a Mortgagee hereunder and shall not have any of the rights of a Mortgagee hereunder unless otherwise specifically stated herein. If Tenant shall mortgage Tenant's interest in this Lease to a Mortgagee or to an Affiliate Lender, (I) Tenant or such Mortgagee or Affiliate Lender shall give

Landlord prompt notice of such Mortgage and furnish Landlord with a complete and correct copy of each such Mortgage, certified as such by Tenant, such Mortgagee or such Affiliate Lender, together with the name and address of such Mortgagee or such Affiliate Lender and (II) if requested by Tenant, Landlord shall enter into an amendment of Article 25 of this Lease to provide that a copy of all notices sent to Tenant shall also be provided to such Mortgagee or Affiliate Mortgagee at the address specified in the notice to Landlord pursuant to clause (I) above. If more than one Mortgage of Tenant's interest in this Lease exists at any time, Tenant shall also deliver to Landlord a statement indicating the priority of each then existing Mortgagee and any Affiliate Lenders certified as true and accurate by an officer of Tenant. After receipt of the foregoing, (i) Landlord shall not accept a voluntary surrender of this Lease without such Mortgagee's consent and (ii) Landlord shall give to such Mortgagee, at the address of such Mortgagee set forth in such notice, and otherwise in the manner provided by Article 25, a copy of each notice of Default (and a copy of any notice appointing an arbitrator as provided in Article 35) concurrently with the giving of any such notice of Default (or notice appointing an arbitrator) thereafter given by Landlord to Tenant and no such notice of Default (or notice appointing an arbitrator) by Landlord shall be deemed to have been duly given to Tenant unless and until a copy thereof shall have been so given to each such Mortgagee. Each such Mortgagee (i) shall thereupon have a period of ten (10) days more than that given to Tenant in each instance in the case of a Default in the payment of Base Rent or Additional Charges and thirty (30) days (subject to Unavoidable Delays) more than that given to Tenant in each instance in the case of any other Default, for remedying the Default, or causing the same to be remedied or causing action to remedy a Default mentioned in Sections 24.01(b) or (c) to be commenced, and (ii) shall, within

such periods and otherwise as herein provided, have the right to remedy such Default or cause the same to be remedied or causing action to remedy a Default mentioned in Sections 24.01(b) or (c) to be commenced, and during such period Landlord shall not terminate the Lease nor shall it resort to any of its remedies on account of such default. Landlord shall accept performance by any such Mortgagee of any covenant, condition or agreement on Tenant's part to be performed hereunder with the same force and effect as though performed by Tenant.

(b) Notwithstanding the provisions of Sections 10.10(a) and 24.01, if a non-monetary Default cannot reasonably be cured by such Mortgagee within the thirty (30) day period set forth in Section 10.10(a), such Mortgagee shall have as long as is reasonably required in order to cure such Default provided that within such thirty (30) day period such Mortgagee shall have delivered to Landlord its written agreement to take the action described in clause (i) or (ii) below (the "Agreement to Cure") and thereafter, in good faith, shall have commenced promptly either (i) to cure the Default and to prosecute the same with diligence to completion, or (ii) if possession of the Premises is required in order to cure the Default and Landlord shall provide Mortgagee Access, to cure the Default and to prosecute the same to completion with diligence; provided, however, if Mortgagee Access is not granted and if possession of the Premises is required in order to cure the Default, Mortgagee may institute foreclosure proceedings and obtain possession directly or through a receiver, provided that Mortgagee prosecutes such proceedings with diligence and, upon obtaining such possession, commences promptly to cure the Default and to prosecute the same to completion with diligence. Provided that during the period in which such action as set forth in clauses (i) or (ii) of the preceding sentence is being taken (and any foreclosure proceedings are pending, if applicable), all of the other obligations of Tenant under

this Lease, to the extent they are reasonably susceptible to being performed by such Mortgagee, are being performed, then during such period Landlord shall not terminate the Lease. Mortgagee shall have no obligation to cure Defaults which are not susceptible of cure by Mortgagee (i.e., the bankruptcy of Tenant or other Default personal to Tenant). At any time after delivery of the Agreement to Cure by Mortgagee, such Mortgagee may notify Landlord that it has relinquished possession of the Premises or that it will not institute foreclosure proceedings or, if such proceedings have been commenced, that it has discontinued or will discontinue such proceedings, and in such event, the Mortgagee shall have no further liability under the Agreement to Cure (except for any Base Rent or Additional Charges accruing prior thereto) and, thereupon, Landlord shall have the right to terminate this Lease. Notwithstanding anything to the contrary contained herein, Tenant's rights to the Premises shall be subject to Landlord's right, and Landlord hereby expressly reserves the right and Tenant expressly acknowledges Landlord's right, to grant access to the Premises to a Mortgagee to cure a Default in accordance with the provisions of this Section 10.10(b) ("Mortgagee Access").

(c) In the event that a Mortgagee shall become the owner of the leasehold estate under this Lease, such Mortgagee shall not be bound by any modification or amendment of this Lease made subsequent to the date of the Mortgage and delivery to Landlord of the notice provided in Section 10.10(a) and prior to its acquisition of such interest unless such Mortgagee shall have consented to such modification or amendment. Such Mortgagee shall have ten (10) Business Days to consent or deny consent to any such modification or amendment after its receipt of a request therefor and such Mortgagee's failure to consent or deny consent in writing to

Landlord within such period shall be deemed to mean that such Mortgagee has not consented to the amendment or modification in question.

Section 10.11.

(a) In the case of termination of this Lease by reason of any Event of Default, Landlord shall give prompt notice thereof to each Mortgagee whose name and address Landlord has received pursuant to notice made in compliance with the provisions of Section 10.10(a), at the address of such Mortgagee set forth in such notice, and otherwise in the manner provided by Article 25. Subject to the provisions of Section 10.11(d), Landlord, on written request of Mortgagee made any time within thirty (30) days after the giving of such notice by Landlord, shall promptly execute and deliver a new lease of the Premises to such Mortgagee, or any designee or nominee who is not a Prohibited Party, for the remainder of the Term upon all the covenants, conditions, limitations and agreements herein contained, provided that such Mortgagee (i) shall pay to Landlord, simultaneously with the delivery of such new lease, all unpaid Base Rent and Additional Charges due and payable under this Lease up to (but not including) the date of the commencement of the term of such new lease and all expenses, including, without limitation, reasonable attorneys' fees and disbursements and court costs, incurred by Landlord in connection with the Default by Tenant, the termination of this Lease and the preparation of the new lease, (ii) shall cure all Defaults existing under this Lease which are then susceptible to being cured by such Mortgagee and (iii) shall, subject to the second sentence of Section 10.11(b), pay to Landlord, simultaneously with the delivery of such new lease, an amount equal to all costs incurred by Landlord, if any, in connection with the continued operation and maintenance of the Premises from the date of termination of this Lease up to and including the date of the commencement of the term of such new lease.

(b) Any such new lease and the leasehold estate thereby created shall, subject to the same conditions contained in this Lease, continue to maintain the same priority as this Lease with regard to any mortgage on the Premises or any part thereof and any other lien, charge or encumbrance. Concurrently with the execution and delivery of such new lease, Landlord shall assign to the tenant named therein all of its right, title and interest in and to moneys (including insurance and condemnation proceeds), if any, then paid or payable to Landlord or Depositary which Tenant would have been entitled to receive but for termination of this Lease, and any sums then held by or payable to Depositary shall be deemed to be held by or payable to Depositary as Depositary under the new lease.

(c) Upon the execution and delivery of a new lease under this Section 10.11, all Subleases which theretofore have been assigned to, or made by, Landlord shall be assigned and transferred, without recourse, by Landlord to the tenant named in such new lease together with all rents collected by Landlord subject to the collateral assignment back by such new tenant to Landlord in accordance with Section 10.06 of the new lease. Landlord will not voluntarily surrender any Sublease other than in the ordinary course of business during the period commencing on the date Landlord receives an Agreement to Cure from a Mortgagee and ending on the date that is (I) in the event such Mortgagee cures the underlying default which is the subject of the Agreement to Cure, the date on which such underlying default is cured, (II) in the event such Mortgagee fails to cure the underlying default which is the subject of the Agreement to Cure but such Mortgagee elects to enter into a new lease pursuant to Section 10.11, the date of such election to enter into such new lease, or (III) in the event such Mortgagee fails to cure the underlying default which is the subject of the Agreement to Cure, the date Mortgagee's right to enter into a new lease pursuant to Section 10.11 ceases.

(d) If there is more than one Mortgagee, Landlord shall first recognize only the Mortgagee whose Mortgage is the most senior in lien of the Mortgagees that have requested a new lease of the Premises within the time period set forth in Section 10.11(a) as the Mortgagee entitled to the rights afforded by this Section 10.11, provided that either Tenant or such Mortgagee shall have given Landlord notice of such Mortgage in compliance with the provisions of Section 10.10(a). If such Mortgagee fails to enter into a new lease with Landlord, Landlord shall then recognize the Mortgagee whose Mortgage is the next most senior in lien of the Mortgagees (the "Second Mortgagee") that have requested a new lease of the Premises within the time period set forth in Section 10.11(a) as the Mortgagee entitled to the rights afforded by this Section 10.11. Notwithstanding the foregoing, Landlord shall not be required to afford the rights set forth in this Section 10.11 to more than two (2) Mortgagees and Landlord's obligation to enter into a new lease with a Second Mortgagee shall cease upon the first anniversary of the date this Lease is terminated.

(e) Subject to compliance by a Mortgagee with the provisions of Sections 10.10 and 10.11 hereof, the foregoing requirement of consent by Landlord in Section 10.01(a) shall not apply to the acquisition of Tenant's leasehold interest in the Premises by a Mortgagee (its nominee or designee) through the foreclosure of its Mortgage or through an assignment or instrument of transfer delivered in lieu of such foreclosure, so long as such Mortgagee or its nominee or designee shall, in the instrument transferring to such Mortgagee the interest of Tenant hereunder, (i) assume and agree to perform all of the terms, covenants and conditions of this Lease thereafter to be observed or performed by Tenant for so long as such Mortgagee shall hold the Tenant's interests under this Lease and (ii) agree to cure all Defaults continuing at the time of such acquisition of Tenant's leasehold interest in the Premises which are susceptible of cure by

Mortgagee. Each reference in this Section 10.11(e) to "Mortgagee" shall be deemed to include any entity that is Controlled (directly or indirectly) by such Mortgagee or under common Control (directly or indirectly) therewith or its direct parent, provided such Mortgagee has delivered to Landlord a written notice advising that such entity should be so deemed and certifying that such entity (i) is Controlled or under common Control (directly or indirectly) by or with such Mortgagee or its direct parent, (ii) is authorized to act in the place and stead of such Mortgagee and (iii) is not a Prohibited Party. In no event shall any nominee or designee of a Mortgagee be a Prohibited Party.

(f) Subject to compliance by a Mortgagee with the provisions of Sections 10.10 and 10.11, the foregoing requirement of consent by Landlord in Section 10.01(a) shall not apply to the acquisition of Tenant's leasehold interest in the Premises by any purchaser who purchases Tenant's leasehold interest in the Premises at a foreclosure sale or through an instrument of transfer delivered in lieu of such foreclosure or through an assignment made by such Mortgagee to such purchaser after foreclosure of the Mortgage or after a Mortgagee has taken an assignment of this Lease in lieu of foreclosure, so long as (i) such purchaser shall, in the instrument transferring to such purchaser the interest of Tenant hereunder (y) assume and agree to perform all of the terms, covenants and conditions of this Lease thereafter to be observed or performed by Tenant (for so long as such purchaser shall hold the Tenant's interest hereunder) and (z) agree to cure all Defaults continuing at the time of such assignment of this Lease which are susceptible of cure by such purchaser, and (ii) such purchaser is not a Prohibited Party.

ARTICLE 11

CONSTRUCTION OBLIGATIONS; TITLE TO THE MATERIALS; PAYMENTS IN LIEU OF SALES AND COMPENSATING USE TAXES

Section 11.01. (a) Tenant covenants and agrees, at its sole cost and expense, to construct the Building, in accordance with the necessary Permits, the Construction Documents, the Design Controls, the Requirements and the applicable provisions of this Lease.

(b) Prior to Commencement of Construction, Tenant shall obtain from the City and all other Governmental Authorities all permits, licenses, consents, certificates and approvals (collectively, "Permits") required to commence construction of the Building (but Tenant's failure to obtain any of the Permits shall not operate to extend any dates for the performance of Tenant's obligations under this Lease, unless the delay in obtaining any Permits is due to the wrongful acts of Landlord, the nonconformance of the Design Controls with any applicable Requirements necessitating a revision of the Plans and Specifications or Landlord's failure to perform its obligations under the Infrastructure Agreement in accordance with the time frames set forth in the Infrastructure Agreement, if any, provided that Landlord's delay was not the result of Developer's acts or failure to act). At the request of Tenant, Landlord, at no cost, expense or liability to Landlord, shall, within five (5) Business Days of Tenant's request, execute and deliver any documents or instruments reasonably required to obtain such Permits, provided that such documents or instruments do not impose any liability or obligation on Landlord and Landlord's participation is not greater than it would be if Landlord were not a governmental entity. Tenant shall not undertake Commencement of Construction unless and until Tenant shall have (i) obtained and delivered to Landlord copies of the building permit necessary for such construction issued by the Department of Buildings of the City which is required to have been obtained prior

to Commencement of Construction and (ii) delivered to Landlord the certificates of insurance then required pursuant to Section 11.02. Tenant shall obtain such other Permits, as may be required from time to time to continue and complete the construction of the Building. Tenant shall deliver to Landlord within fifteen (15) Business Days after the Commencement of Construction, its certification setting forth the date of such commencement of construction and if Landlord agrees with such date of commencement of construction, Landlord shall execute such certification and return the same to Tenant within ten (10) Business Days after its receipt thereof. If Landlord disagrees with Tenant's certification, Landlord shall deliver to Tenant within ten (10) Business Days after Landlord's receipt of Tenant's certification, a certificate setting forth the date of such commencement of construction as well as the reasons for such disagreement, and if the parties shall be unable to agree on such date within thirty (30) days after Tenant first delivers to Landlord Tenant's certification, such dispute shall be resolved by arbitration pursuant to Article 35. Notwithstanding the foregoing, the failure by Landlord to deliver to Tenant any such certificate with respect to the date of commencement of construction will be deemed a denial of such date of the commencement of construction.

(c) (i) Tenant shall submit to Landlord for Landlord's review and approval, detailed and complete schematic drawings for the construction of the Building, accompanied by a letter from the Architect and the Engineer certifying to Landlord that to their knowledge the proposed schematic drawings comply with the Design Controls (other than with respect to the intent of the Design Controls) and all Laws (collectively, the "Schematic Drawing Submissions"). Tenant, at its option, may deliver the Schematic Drawing Submissions by hand and obtain a signed and dated receipt executed by Landlord, which receipt shall specify the items submitted to Landlord as part of such Schematic Drawing Submissions and acknowledge receipt

of such items by Landlord (the "Schematic Drawing Submissions Receipt"). Landlord's approval of the Schematic Drawing Submissions shall (A) not be unreasonably withheld, delayed or conditioned if such schematic drawings comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws and (B) be in Landlord's sole discretion if such schematic drawings do not comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws. In the event that Landlord shall fail to respond to Tenant's request for approval of the Schematic Drawing Submissions within fifteen (15) Business Days after receipt of the Schematic Drawing Submissions, Tenant may send a Notice to Landlord in accordance with the terms of Section 11.01(c)(iv) requesting approval of the Schematic Drawing Submissions together with either (x) if Tenant did not obtain a Schematic Drawing Submissions Receipt, a resubmission of the Schematic Drawing Submissions or (y) a copy of the Schematic Drawing Submissions Receipt (collectively, the "Second Schematic Drawing Submissions"). In the event that Landlord fails to approve or disapprove such Second Schematic Drawing Submissions within ten (10) Business Days after such Second Schematic Drawing Submissions are delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved such Second Schematic Drawing Submissions to the extent that such schematic drawings comply with the Design Controls and all Laws. No changes shall be made to the approved schematic drawings unless and until (1) Tenant delivers to Landlord revised schematic drawings with the proposed changes marked and a written certification from the Architect that to its knowledge the proposed changes comply with the Design Controls (other than with respect to the intent of the Design Controls) and all Laws

(collectively, the "Revised Schematic Submissions") and (2) Landlord shall have approved such proposed changes. Landlord's approval of the Revised Schematic Submissions shall (A) not be unreasonably withheld, delayed or conditioned if the proposed changes comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws and do not involve Material Changes and (B) be in Landlord's sole discretion if such proposed changes do not comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws or involve Material Changes. Tenant, at its option, may deliver the Revised Schematic Submissions by hand and obtain a signed and dated receipt executed by Landlord which receipt shall specify the items submitted to Landlord as part of such Revised Schematic Submission and acknowledge receipt of such items by Landlord (the "Revised Schematic Submissions Receipt"). In the event that Landlord shall fail to approve or disapprove such Revised Schematic Submissions within ten (10) Business Days after Landlord's receipt of such Revised Schematic Submissions, Tenant may send a Notice to Landlord as set forth in Section 11.01(c)(iv) requesting approval of the Revised Schematic Submissions together with either (1) if Tenant did not obtain a Revised Schematic Submissions Receipt, a resubmission of the Revised Schematic Submissions or (2) a copy of the Revised Schematic Submissions Receipt (collectively, the "Second Revised Schematic Submissions") and if Landlord fails to approve or disapprove of such Second Revised Schematic Submissions within ten (10) Business Days after such Second Revised Schematic Submissions is delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved of such Second Revised Schematic Submissions to the extent that such schematic drawings comply with

the Design Controls and all Requirements. Any disapproval by Landlord of any such proposed schematic drawings or proposed changes, as the case may be, shall be in writing and shall include Landlord's reasons therefor. Landlord agrees that in its review of any such proposed schematic drawings or changes thereto, as the case may be, Landlord will approve such variations from the Design Controls as Landlord, in its reasonable discretion, deems to be variations that are not material. In the event such variations require a modification to the GPP, ESDC's approval shall be required and, in the event such variations are acceptable to Landlord, Landlord shall submit such variations to ESDC with a recommendation for ESDC's approval thereof. If the schematic drawings or any changes thereto will require ESDC approval, Landlord will notify Tenant thereof and in any such case, notwithstanding any other provision of this Lease, Landlord's approval shall not be deemed to be given unless and until ESDC shall have given its approval to such schematic drawings or changes thereto, as the case may be.

(ii) Tenant shall submit to Landlord for Landlord's review and approval, detailed and complete design development drawings for the construction of the Building, accompanied by a letter from the Architect and the Engineer certifying to Landlord that to their knowledge the proposed design development drawings comply with the Design Controls (other than with respect to the intent of the Design Controls) and all Laws (collectively, the "Design Development Submissions"). Tenant, at its option, may deliver the Design Development Submissions by hand and obtain a signed and dated receipt executed by Landlord which receipt shall specify the items submitted to Landlord as part of such Design Development Submissions and acknowledge receipt of such items by Landlord (the "Design Development Submissions Receipt"). Landlord's approval of Design Development Submissions shall (A) not be unreasonably withheld, delayed or conditioned if such design development drawings are (i)

consistent in all material respects with the schematic drawings for the Building previously approved by Landlord pursuant to the terms of this Lease, and (ii) comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws and (B) be in Landlord's sole discretion if such design development drawings do not comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws. In the event that Landlord shall fail to respond to Tenant's request for approval of the Design Development Submissions within fifteen (15) Business Days after receipt of the Design Development Submissions, Tenant may send a Notice to Landlord in accordance with the terms of Section 11.01(c)(iv) requesting approval of the Design Development Submissions together with either (x) if Tenant did not obtain a Design Development Submissions Receipt, a resubmission of the Design Development Submissions or (y) a copy of the Design Development Submissions Receipt (collectively, the "Second Design Development Submissions"). In the event Landlord fails to approve or disapprove such Second Design Development Submissions within ten (10) Business Days after such Second Design Development Submissions are delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved such Second Design Development Submissions to the extent that such design development drawings comply with the Design Controls and all Requirements. No changes shall be made to the approved design development drawings unless and until (1) Tenant delivers to Landlord revised design development drawings with the proposed changes marked and a written certification from the Architect that to its knowledge the proposed changes comply with the Design Controls (other than with respect to the intent of the Design Controls) and all Laws

(collectively, the "Revised Design Drawing Submissions") and (2) Landlord shall have approved such proposed changes. Landlord's approval of the Revised Design Drawing Submissions (A) shall not be unreasonably withheld, conditioned or delayed if the proposed changes comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws and do not involve Material Changes and (B) shall be in Landlord's sole discretion if such proposed changes do not comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws or involve Material Changes. Tenant, at its option, may deliver the Revised Design Drawing Submissions by hand obtain a signed and dated receipt executed by Landlord which receipt shall specify the items submitted to Landlord as part of such Revised Design Drawing Submissions and acknowledge receipt of such items by Landlord (the "Revised Design Drawing Submissions Receipt"). In the event that Landlord shall fail to approve or disapprove of such Revised Design Drawing Submissions within ten (10) Business Days after Landlord's receipt of such Revised Design Drawing Submissions, Tenant may send a Notice to Landlord as set forth in Section 11.01(c)(iv) requesting approval of the Revised Design Drawing Submissions together with either (x) if Tenant did not obtain a Revised Design Drawing Submissions Receipt, a resubmission of the Revised Design Drawing Submissions or (y) a copy of the Revised Design Drawing Submissions Receipt (collectively, the "Second Revised Design Development Submissions") and if Landlord fails to approve or disapprove of such Second Revised Design Drawing Submissions within ten (10) Business Days after such Second Revised Design Development Submissions are delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved of such Second Revised

Design Development Submissions to the extent such design development drawings comply with the Design Controls and all Laws. Any disapproval by Landlord of any such proposed design development drawings or proposed changes, as the case may be, shall be in writing and shall include Landlord's reasons therefor. Landlord agrees that in its review of any such proposed design development drawings or changes thereto, as the case may be, Landlord will approve such variations from the Design Controls as Landlord, in its reasonable discretion, deems to be variations that are not material. In the event such variations require a modification to the GPP, ESDC's approval shall be required and, in the event such variations are acceptable to Landlord, Landlord shall submit such variations to ESDC with a recommendation for ESDC's approval thereof. If design development drawings or any changes thereto will require ESDC approval, Landlord will notify Tenant thereof and in any such case, notwithstanding any other provision of this Lease, Landlord's approval shall not be deemed to be given unless and until ESDC shall have given its approval to such design development drawings or changes thereto, as the case may be.

(iii) Tenant shall submit to Landlord for Landlord's review and approval, detailed and complete construction documents (which construction documents shall include detailed and complete plans and specifications and construction drawings) for the construction of the Building, accompanied by a letter from the Architect and the Engineer certifying to Landlord that to their knowledge the proposed construction documents comply with the Design Controls (other than with respect to the intent of the Design Controls) and all Laws (collectively, the "Plan and Specification Submissions"). Tenant, at its option, may deliver the Plan and Specification Submissions by hand and obtain a signed and dated receipt executed by Landlord which receipt shall specify the items submitted to Landlord as part of such Plan and Specification Submissions and acknowledge receipt of such items by Landlord (the "Plan and

Specification Submissions Receipt"). Landlord's approval of the Plan and Specification Submissions shall (A) not be unreasonably withheld, delayed or conditioned if such construction documents are (i) consistent in all material respects with the schematic and design development drawings for the Building previously approved by Landlord pursuant to the terms of this Lease, and (ii) comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws and (B) be in Landlord's sole discretion if such construction documents do not comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws. In the event that Landlord shall fail to respond to Tenant's request for approval of the Plan and Specification Submissions within fifteen (15) Business Days after receipt of the Plan and Specification Submissions, Tenant may send to Landlord a Notice in accordance with the terms of Section 11.01(c)(iv) requesting approval of the Plan and Specification Submissions together with either (x) if Tenant did not obtain a Plan and Specification Submissions Receipt, a resubmission of the Plan and Specification Submissions or (y) a copy of the Plan and Specification Submissions Receipt (collectively the "Second Plan and Specification Submissions"). In the event that Landlord fails to approve or disapprove such Second Plan and Specification Submissions within ten (10) Business Days after such Second Plan and Specification Submissions are delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved such Second Plan and Specification Submissions to the extent such construction documents comply with the Design Controls and all Laws. Prior to the Commencement of Construction, Tenant shall apply to the New York City Department of Buildings for a building permit for the construction of the Building and other improve-

ments on the Land in accordance with the Plans and Specifications and thereupon Landlord will promptly inform the New York City Department of Buildings in writing that the Plans and Specifications conform with the Design Controls except as expressly waived by Landlord. No changes shall be made to the approved Plans and Specifications unless and until (1) Tenant delivers to Landlord revised construction documents with the proposed changes marked and a written certification from the Architect that to its knowledge the proposed changes comply with the Design Controls (other than with respect to the intent of the Design Controls) and all Laws (collectively, the "Revised Plan and Specification Submissions") and (2) Landlord shall have approved such proposed changes. Landlord's approval of the Revised Plan and Specification Submissions shall (A) not be unreasonably withheld, conditioned or delayed if the proposed changes comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws and do not involve Material Changes and (B) be in Landlord's sole discretion if such proposed changes do not comply with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and all Laws or involve Material Changes. Tenant, at its option, may deliver the Revised Plan and Specification Submissions by hand and obtain a signed and dated receipt executed by Landlord which receipt shall specify the items submitted to Landlord as part of such Revised Plan and Specification Submissions and acknowledge receipt of such items by Landlord (the "Revised Plan and Specification Submissions Receipt"). In the event that Landlord shall fail to approve or disapprove of such Revised Plan and Specification Submissions within ten (10) Business Days after Landlord's receipt of such Revised Plan and Specification Submissions, Tenant may send to Landlord a Notice as set

forth in Section 11.01(c)(iv) requesting approval of the Revised Plan and Specification Submissions together with either (x) if Tenant did not obtain a Revised Plan and Specification Submissions Receipt, a resubmission of the Revised Plan and Specification Submissions or (y) a copy of the Revised Plan and Specification Submissions Receipt (collectively, the "Second Revised Plan and Specification Submissions") and if Landlord fails to approve or disapprove of such Second Revised Plan and Specification Submissions within ten (10) Business Days after such Second Revised Plan and Specification Submissions are delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved of such Second Revised Plan and Specification Submissions to the extent such construction documents comply with the Design Controls and all Laws. Any disapproval by Landlord of any such proposed plans and specifications or proposed changes, as the case may be, shall be in writing and shall include Landlord's reasons therefor. Landlord agrees that in its review of any such proposed construction documents or changes thereto, as the case may be, Landlord will approve such variations from the Design Controls as Landlord, in its reasonable discretion, deems to be variations that are not material. In the event such variations require a modification to the GPP, ESDC's approval shall be required and, in the event such variations are acceptable to Landlord, Landlord shall submit such variations to ESDC with a recommendation for ESDC's approval thereof. If construction documents or any changes thereto will require ESDC approval, Landlord will notify Tenant thereof and in any such case, notwithstanding any other provision of this Lease, Landlord's approval shall not be deemed to be given unless and until ESDC shall have given its approval to such construction documents or changes thereto, as the case may be.

(iv) If Tenant delivers a second Notice to Landlord requesting approval of the schematic drawings, the design development drawings or the plans and specifications or

changes to any of the same or any matters relating to Restorations, Landlord's failure to timely respond shall only be deemed an approval if (a) the first and second applicable submissions were delivered in accordance with the requirements set forth in Article 25, (b) each of the first and second applicable submissions were delivered to Landlord and (c) the notice accompanying the applicable second submission contains the following capitalized and boldfaced language, "**THIS NOTICE CONTAINS A REQUEST FOR LANDLORD'S CONSENT PURSUANT TO SECTION 11.01 OF THE SITE 5 LEASE. IF LANDLORD DOES NOT RESPOND WITHIN TEN BUSINESS DAYS, CONSENT WILL BE DEEMED GRANTED.**"

(d) All Construction Agreements shall require the Contractor that is a party thereto to perform the work and/or supply the materials covered by such Construction Agreement substantially in accordance with the Plans and Specifications and comply with the provisions of Articles 11 and 40 relevant thereto. Tenant hereby covenants that no party under a Construction Agreement shall be a Prohibited Party, provided, however that in determining whether such parties are a Prohibited Party, clause (1)(e) of the definition of Prohibited Party shall not apply.

(e) The Plans and Specifications shall comply with the necessary Permits, the Design Controls, the Laws, and the applicable provisions of this Lease. The responsibility to assure such compliance shall be Tenant's, and Landlord's review of the Plans and Specifications shall not be, nor shall it be construed to be or relied upon as, a determination that the Plans and Specifications comply with the necessary Permits, the Design Controls, the Requirements, or the applicable provisions of this Lease. In the event that there shall be a conflict between the Requirements and the Design Controls, the Requirements shall prevail.

(f) (i) Tenant shall, at least twenty (20) Business Days prior to ordering the same for incorporation into the Building, submit to Landlord samples of all materials to be used on the

exterior of the Building, including windows, and such samples shall be subject to Landlord's approval for conformity to the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls) and the Construction Documents. Landlord's approval of the samples (A) shall not be unreasonably withheld if the samples conform to the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls), all Laws and the Construction Documents and (B) shall be in Landlord's sole discretion if the samples do not conform with the Design Controls (including the intent of the Design Controls which Landlord shall determine in its reasonable discretion, taking into account the nature and scope of the Design Controls), all Laws and the Construction Documents. Tenant, at its option, may deliver the samples by hand and obtain a signed and dated receipt executed by Landlord which receipt shall specify the items submitted to Landlord as part of the request for approval of samples and acknowledge receipt of such items by Landlord (the "Samples Receipt"). If Landlord shall fail to approve or disapprove of such samples within ten (10) Business Days after receipt of the samples, Tenant may send to Landlord a Notice in accordance with the terms of this Section requesting approval of such samples together with either (x) if Tenant did not obtain a Samples Receipt, a resubmission of the samples or (y) a copy of the Samples Receipt (collectively, the "Second Sample Submissions"). In the event that Landlord fails to approve or disapprove of such Second Sample Submission within ten (10) Business Days after the Second Sample Submissions are delivered to Landlord, subject to Unavoidable Delay, Landlord shall be deemed to have approved such Second Sample Submissions provided (1) Tenant complies with all relevant notice and submission provisions of this Lease, including, without limitation, the

provisions of Article 25 and (2) such materials comply with the Design Controls and all Requirements. In addition to the requirements set forth in Article 25, Landlord's failure to timely respond shall only be deemed approval of the Second Sample Submissions if the Notice requesting such consent contains the following capitalized and boldfaced language, **"THIS NOTICE CONTAINS A REQUEST FOR LANDLORD'S CONSENT PURSUANT TO SECTION 11.01 OF THE SITE 5 LEASE. IF LANDLORD DOES NOT RESPOND WITHIN TEN BUSINESS DAYS, LANDLORD'S CONSENT WILL BE DEEMED GRANTED."** Any disapproval shall be in writing and state the reasons for such disapproval.

(ii) Landlord reserves the right, at its sole cost and expense, to maintain its field personnel and other designees at the Premises to observe Tenant's construction and related activities provided such field personnel or their designees shall not be permitted to interfere with or delay any construction or related activities while conducting such field observations. Landlord shall be given advance notice of the time and place of (A) all regularly scheduled job and/or safety meetings and (B) all non-regularly scheduled job and/or safety meetings, and Landlord shall have the right, but shall not be obligated, to have its field personnel and other designees attend Tenant's job and/or safety meetings, provided, however that (1) Tenant shall not be required to reschedule any job and/or safety meeting in order to accommodate Landlord's availability and (2) Landlord's field personnel or other designees attending such meeting shall be entitled to discuss any relevant issues at the beginning of such meeting and shall thereafter be required to leave such meeting. Copies of all change orders relating to a material change shall be delivered to Landlord before they are implemented, provided, however, that the foregoing requirement to deliver such change orders shall not impose any additional obligations on Tenant to obtain the consent of Landlord beyond those consent requirements otherwise set forth in the

applicable sections of this Lease (any change order relating to changes governed by the Design Controls or changes which would reasonably be expected to cost more than one million dollars ($1,000,000), in the aggregate, shall be considered material changes for the purposes of this subsection). Copies of all shop drawings and change orders shall be kept available for inspection by Landlord at the field office of the General Contractor. Landlord's field personnel and other designees shall be at the Construction Site at Landlord's risk; provided that no such observation or attendance by Landlord's personnel and designees or failure to so observe or attend shall impose upon Landlord any responsibility for any failure by Tenant to observe applicable Requirements or safety practices in connection with such construction, or constitute an acceptance of any work which does not comply in all respects with the necessary Permits, the Design Controls, the Requirements, and the provisions of this Lease.

(g) No architect may be engaged or substituted for the Architect, except with the prior approval of Landlord which shall not be unreasonably withheld, conditioned or delayed.

(h) Tenant shall engage as the general contractor(s) or construction manager(s) for any construction or restoration of the Building such firm or firms (each, a "General Contractor") as may be proposed by Tenant and approved by Landlord, whose approval shall not be unreasonably withheld, conditioned or delayed provided that such firm is not a Prohibited Party, provided Rockrose GC QW Five L.L.C. is approved so long as Rockrose GC QW Five L.L.C. is not a Prohibited Party. If Landlord shall fail to approve or disapprove a General Contractor within ten (10) Business Days after written request therefor, Landlord shall be deemed to disapprove such General Contractor. No general contractor or construction manager shall be engaged or substituted except in accordance with this Section 11.01(h).

(i) Within ten (10) Business Days after request by Landlord, Tenant shall furnish Landlord with copies of the latest version of all Construction Documents relating to the Premises and all manuals, warranties and guaranties covering all or any portion of the Equipment.

(j) All of the Construction Documents shall be assignable to, and assigned to, Landlord as security subject to the prior rights of any Mortgagees. Each agreement or contract in connection with the initial construction of the Building entered into prior to Substantial Completion of the Building, including, but not limited to the Construction Contract, shall provide that (A) no party to such contract shall be a Prohibited Party, provided, however, in determining whether such party is a Prohibited Party, clause (1)(e) of said definition shall not apply, (B) no Sales Tax Exemption will be claimed thereunder except in connection with the initial construction and fit-out of the Building and in accordance with the provisions of this Lease, (C) each party under such contract shall make the certifications of Certified Costs as required under this Lease and keep accurate backup and records related to such construction for a period of six years, (D) each party shall agree to provide Landlord access to all such records and backup upon reasonable notice from Landlord, and (E) subject to the prior rights of any Mortgagee, if an Event of Default occurs hereunder prior to completion of performance under such construction agreement or contract (i) such construction agreement or contract shall be terminable upon thirty (30) days notice from Landlord and (ii) at Landlord's option, the applicable contractor thereunder shall perform its obligations thereunder for the benefit of Landlord, provided that Landlord assumes Tenant's obligations thereunder. Tenant hereby assigns to Landlord, subject to the prior rights of any Mortgagees, all of Tenant's rights in and to (but not its obligations or liabilities under) all such agreements and contracts with any contractor, subcontractor, or other party and any bonds or other security provided thereunder, with Landlord's rights under the foregoing

current assignment to be effective at Landlord's option, upon an Event of Default. The foregoing assignment also includes the benefit of all payments made on account of said contract including payments made prior to the effective date of such assignment. In confirmation of the foregoing assignment, Tenant shall promptly execute, acknowledge and deliver to Landlord or its designee such instruments to evidence such assignment as Landlord may reasonably request.

Section 11.02.

(a) Prior to the Commencement of Construction (but without duplication of the requirements of Article 7), Tenant shall provide, or cause to be provided, and thereafter shall keep in full force and effect, or cause to be kept in full force and effect, during the Construction Period (unless otherwise specified) the following:

(i) Commercial General Liability insurance as required by Section 7.01(a), naming the general contractor or construction manager as named insured and, as additional insureds, all of the parties referred to in Section 7.01(c), such insurance to include operations-premises liability, contractor's protective liability on the operations of all subcontractors, completed operations (to be kept in force for not less than two (2) years after the Substantial Completion of the Building), broad form contractual liability (designating the indemnity provisions of the Construction Agreements and this Lease to the extent such insurance is obtainable at commercially reasonable rates), and, if the contractor is undertaking foundation, excavation or demolition work, an endorsement that such operations are covered and that the "XCU Exclusions" have been deleted;

(ii) Business Automobile Liability insurance for any automobile, including all owned, non-owned and hired vehicles, insuring against liability for bodily injury and death and for property damage, in an amount determined in accordance with

Section 7.02(a) but not less than One Million Dollars ($1,000,000) combined single limit with an aggregate limit of Two Million Dollars ($2,000,000);

(iii) Worker's Compensation insurance providing statutory New York State benefits for all persons employed in connection with the construction at the Premises, including Employer's Liability for all Persons employed at or in connection with the Premises and if employees will be working on, near or over navigable waters, a U.S. Longshore and Harbor Workers Compensation Act endorsement must be included; and

(iv) Special Causes of Loss Builder's Risk insurance written on a one hundred percent (100%) of completed value (non-reporting) basis, naming, to the extent of their respective insurable interests in the Premises, Tenant as named insured, and, as additional insureds, any Contractor or General Contractor engaged by Tenant and all of the parties referred to in Section 7.01(c) provided any loss payable thereunder shall be payable as provided in this Lease. In addition, such insurance (A) shall contain an acknowledgment by the insurance company that its rights of subrogation have been waived with respect to all of the insureds named in the policy and an endorsement stating that "permission is granted to complete and occupy," and (B) if any storage location situated off the Premises is used, shall include coverage for the full insurable value of all materials and equipment on or about any such storage location intended for use with respect to the Premises.

(b) Proceeds received pursuant to the insurance coverage required under Section 11.02(a)(iv) shall be paid, if required by Section 7.02(a), to Depositary and distributed in accordance with the provisions of Article 8.

(c) To the extent applicable, Tenant shall comply with the provisions of Section 7.02 including, without limitation, the provisions for deductibles and amounts of coverage, with respect to the policies required by this Section 11.02.

(d) The insurance required pursuant to this Section 11.02 is in addition to, and not in lieu of the insurance coverages required by Article 7 (but is not intended as a duplication thereof). To the extent that the insurance coverages required pursuant to this Section 11.02 duplicate those required by Article 7, Tenant shall not be required to maintain such coverages in duplicate, but in each instance the more extensive coverage shall be maintained.

Section 11.03.

(a) Tenant shall cause Developer to perform the Tenant Infrastructure Agreement Work applicable to the Premises to the extent necessary to comply with good construction practice prior to the date on which the Commencement of Construction occurs (the "Construction Commencement Date"). Subject to Unavoidable Delays, construction of the Building shall be completed by Tenant in a good, workerlike and timely manner and Tenant shall pursue the completion of the construction of the Building with all due diligence in accordance with good construction practices. The failure of Tenant to pursue the completion of the construction of the Building with all reasonable diligence necessary to cause Substantial Completion of construction of the Building within thirty (30) months after the Construction Commencement Date, subject to Unavoidable Delays, shall constitute a Default hereunder. Subject to Unavoidable Delays, Tenant shall Substantially Complete construction of the Building not later than thirty (30) months after the Construction Commencement Date (such date for completion of the Building, as the same may be extended pursuant to the terms hereof, being referred to herein as the "Scheduled Completion Date"). Subject to Section 11.03(b), Substantial Completion shall be deemed to

occur when Tenant furnishes to Landlord all of the following: (i) true copies of the temporary or permanent Certificate(s) of Occupancy for the Building, (ii) a certificate of the Architect in the form attached as Exhibit R, certifying to Landlord that the construction of the Building has been substantially completed substantially in accordance with the Plans and Specifications as the same may have been modified in a manner as permitted hereunder and that construction of the Building has been substantially completed in accordance with the Permits required to be obtained for the construction and completion of the Building and all Laws and the Design Controls and (iii) lien waivers, in form reasonably satisfactory to Landlord, issued by each Contractor and General Contractor with respect to services performed and materials provided in connection with the construction of the Building (it being agreed that if there is a dispute with a Contractor and Tenant shall have complied with the provisions of Section 4.05, delivery of the applicable lien waiver may be postponed until the dispute is resolved and the failure to deliver the same shall not be deemed to delay the Scheduled Completion Date or the date of Substantial Completion) for all work which was paid for prior to Substantial Completion of the construction of the Building (it being agreed that all final lien waivers shall be delivered to Landlord within six (6) months of Substantial Completion).

(b) Notwithstanding the foregoing provisions of Section 11.03(a), if all of the conditions of Section 11.03(a) are met except that (I) no more than four (4) of the apartments in the Building remain unfinished due to the fact that such apartments are being used as sales offices or model apartments for the Building and/or (II) a temporary or permanent Certificate of Occupancy for the Building is not available only because the interior portions or the Building designated as retail space shall not have been completed, then Substantial Completion of the Building shall, nevertheless, be deemed to have occurred provided that with respect to such retail

space, Tenant shall have completed construction of the retail storefronts and Building facade. To the extent Substantial Completion of the Building has been deemed to have occurred, Tenant shall be required to (i) maintain at all times a valid temporary Certificate of Occupancy for the residential portions of the Building, (ii) cause the fit-out of each retail space to be diligently prosecuted and completed from and after the date a lease is entered into with respect thereto, and promptly obtain a temporary Certificate of Occupancy for the Building that covers such retail space upon completion thereof, (iii) obtain a permanent Certificate of Occupancy covering all portions of the Building as soon as reasonably practicable after the Substantial Completion of the Building and completion of the tenant fit-out of all of the retail space and (iv) cause any apartment being used as a sales office or model apartment to be fully completed as residential apartments within a reasonable time period after such deemed Substantial Completion of the Building.

(c) Within one hundred twenty (120) days after Substantial Completion of the construction of the Building, Tenant shall furnish to Landlord (i) a complete set of as built plans for the first floor of the Building below the dropped ceiling (provided such plans shall not be required to include any mechanical installations such as piping and wiring located above the dropped ceiling), in a medium reasonably determined by Landlord stamped and signed by the Architect, (ii) a complete set of the latest issue of shop drawings for the mechanical installations such as piping and wiring located above the dropped ceiling, but below the second floor slab, in a medium reasonably determined by Landlord, stamped and signed by the Architect and (iii) a complete set of the latest issue of architectural and engineering construction drawings for the entire Building, in a medium reasonably determined by Landlord, stamped and signed by the Architect ((i), (ii) and (iii) shall collectively be referred to herein as "As Built" plans), which "As

Built" plans Landlord, without the involvement or consent of Tenant or Architect, shall have a right to use solely in connection with the Premises, provided that if Substantial Completion of construction of the Building has been deemed to occur pursuant to Section 11.03(b), Tenant shall provide a complete set of "As Built" plans as required in this clause excluding such "As Built" plans with respect to such incomplete retail space or model apartments/sales office, as applicable; provided further, that upon completion of construction of such retail space or model apartments/sales office, Tenant will provide a complete set of "As Built" plans as required in this clause with respect to such retail space or model apartments/sales office, as applicable. As of the date hereof, Landlord confirms that each set of "As Built" plans, should be delivered on CD ROM pursuant to the then most recent release of Autocad, currently Autocad 2000, together with a hard copy. Landlord shall have the right to designate a different medium with respect to plans not previously prepared by or on behalf of Tenant. Within one hundred twenty (120) days after Substantial Completion of the construction of the Building, Tenant shall furnish to Landlord a survey prepared and sealed by a licensed surveyor showing the Building, and all easements and other matters of record relating to the Premises, certified by such surveyor to Tenant, Landlord, each Mortgagee, and to any title company which shall have insured or committed to insure the Premises, and bearing the certification of such surveyor substantially in the form attached as Exhibit I and certifying that all of the Building is within the property lines of the Land and does not encroach upon any easement or violate any restriction of record.

Section 11.04.

(a) The materials to be incorporated in the Improvements at any time during the Term shall, upon purchase of such materials and at all times thereafter, constitute the property of Landlord, and upon construction of the Improvements or the incorporation of such materials

therein, title thereto shall vest in Landlord; provided, however, that (i) Landlord shall not be liable in any manner for payment or otherwise to any contractor, or other Person, in connection with the purchase of any such materials, (ii) Landlord shall have no obligation to pay any compensation to Tenant by reason of its acquisition of title to such materials of the Improvements, (iii) Landlord shall have no obligation with respect to the storage or care of such materials or the Improvements, (iv) any refunds, credits or other proceeds which may be obtained in respect of such materials shall be the property of Tenant and (v) all materials to be incorporated into the Improvements shall, immediately upon purchase of same, be deemed to be leased to Tenant pursuant to this Lease.

(b) All Construction Agreements shall include the following provision: "**[Contractor]** hereby agrees that immediately upon the **[purchase by] [installation by] [payment to]** [whichever the applicable agreement so provides] **[Contractor]** of any building materials to be incorporated in the Improvements (as such term is defined in the lease pursuant to which **[Tenant]** acquired a leasehold interest in the property), or of any building materials to be incorporated in improvements made thereto, such materials shall become the sole property of Queens West Development Corporation, notwithstanding that such materials have not been incorporated in, or made a part of, such Improvements at the time of such purchase; provided, however, that Queens West Development Corporation shall not be liable in any manner for payment or otherwise to **[Contractor]** in connection with the purchase of any such materials and Queens West Development Corporation shall have no obligation to pay any compensation to **[Contractor]** by reason of such materials becoming the sole property of Queens West Development Corporation."

(c) Landlord and Tenant acknowledge that by reason of Landlord's ownership of the Land and Improvements, New York State and City Sales and Compensating Use Taxes will not be imposed upon the purchase of materials to be incorporated into, and which become an integral component part of, the Improvements. Upon Tenant's certification to Landlord that Tenant is ready to commence construction of the Building, Landlord shall furnish a letter in the form attached as Exhibit J (the "Improvements Sales Tax Letter") to Tenant which Tenant's Contractors may rely upon to realize the sales tax exemption referred to in this Section 11.04(c) (the "Improvements Sales Tax Exemption"). Provided no default is then existing beyond any applicable notice and grace period, and subject to all applicable Laws, the Improvements Sales Tax Letter shall be reconfirmed every year by Landlord at the request of Tenant, which request shall be delivered by Tenant together with the original Improvements Sales Tax Letter and a certification by Tenant as to the amount of sales tax savings realized during the prior year as a result of Landlord's ownership of the Land and Improvements. Such certification may be qualified "to the best of Tenant's knowledge" with respect to savings realized by or through Tenant's Contractors and Subtenants. Except as otherwise set forth in Section 11.04(g), if Tenant shall be required to pay sales or compensating use tax on some or all of the items purchased in connection with the construction of the Improvements and which become an integral component part of the Improvements because the New York State Department of Taxation and Finance or the New York City Department of Finance (collectively, "DOTF") makes a final determination that the Improvements Sales Tax Exemption is not available with respect to a particular transaction, (i) Landlord shall have no liability to Tenant therefor and, (ii) Tenant shall pay all such amounts to the extent due together with all interest and penalty charges imposed thereon by DOTF.

(d) Landlord has also agreed to facilitate the purchase by Tenant of appliances for the initial fit-out of the residential apartments. Accordingly, upon certification to Landlord that Tenant is ready to commence purchasing such appliances, Landlord shall designate Tenant as its agent to purchase such appliances pursuant to a letter in the form attached hereto as Exhibit P (the "Appliance Sales Tax Letter"). Tenant shall have the right to utilize the Appliance Sales Tax Letter provided such use is in accordance with Exhibit G hereto to realize the sales tax exemption referred to in this Section 11.04(d) (the "Appliance Sales Tax Exemption"). Provided no default is then existing beyond any applicable notice and grace period, and subject to all applicable Laws, the Appliance Sales Tax Letter shall be reconfirmed every year by Landlord for use by Tenant in connection with the initial fit-out of apartments until the initial fit-out of each residential apartment is completed. By no later than March 15th of each year Tenant shall deliver to Landlord a list of appliances purchased by Tenant in its capacity as agent of Landlord during the prior calendar year, the cost of the same, the sales tax savings realized by Tenant in connection with such purchases and a certification by Tenant that such appliances have been, or will be, installed within the Building and will not be removed unless (i) replaced by appliances of comparable quality or value, (ii) the removed appliances will be reinstalled within the Building within three (3) months of such removal, or (iii) the same are obsolete or worthless. All appliances purchased with the Appliance Sales Tax Letter shall be deemed (x) leased to Tenant pursuant to this Lease immediately upon the purchase of the same, and (y) part of the Building for the purpose of all indemnities contained herein. Tenant shall not have the right to utilize the Appliance Sales Tax Letter in connection with the refurbishment or renovation of an apartment after the initial fit-out of such apartment has occurred.

(e) Except as set forth in Section 24.18 (pursuant to which all PILOST Savings realized by Tenant during the continuation of an Event of Default must be paid to Landlord as additional PILOST Amount), Tenant shall not be required to pay the PILOST Amount (the "PILOST Savings") to Landlord with respect to Certified Costs incurred in connection with the initial construction of the Building, materials purchased which become an integral component part of the Building and are used to prepare the commercial spaces contained within the Building (the "Retail Fit-Out") for the first tenant to occupy each of such commercial spaces (the "Initial Retail Fit-Out Materials") and, provided Tenant utilizes the appropriate procedures therefor, appliances installed by Tenant in connection with the initial fit-out of each residential apartment (the "Initial Appliances") contained within the Building (the "Residential Fit-Out"). In no event shall Tenant be entitled to any PILOST Savings on (a) any materials purchased or leased for Retail Fit-Out, other than the Initial Retail Fit-Out Materials, (b) appliances, except the Initial Appliances, and (c) any materials, Equipment or other property purchased, or leased, in connection with any construction, maintenance, alteration, or other work performed at, in, on or under the Premises, after Substantial Completion of the Building, other than the Initial Retail Fit-Out Materials and the Initial Appliances (the items covered by the foregoing clauses (a), (b) and (c) for which Tenant is not entitled to PILOST Savings are hereinafter collectively referred to as the "Taxable Property").

(f) Tenant shall pay to Landlord, as Additional Charges quarterly, payments in lieu of sales and compensating use taxes, in arrears by the 30th day after the end of each calendar quarter, equal to the amount (the "PILOST Amount") of any New York State and City sales and compensating use taxes which would have been due and payable during such quarter by Tenant, any Subtenant or occupant of the Building, or any other party, on all Taxable Property, but for

Landlord's ownership of the Land, Improvements and/or materials purchased to be incorporated therein. The cost of all materials and property purchased or leased in connection with any construction, maintenance, alteration, or other work performed at, in, on or under the Premises, whether paid or incurred by Tenant, any Subtenant or other occupant of the Building, or any other party (the "Certified Costs"), and the amount of the Sales Tax Exemption realized, shall be set forth and certified as being true and accurate to the best knowledge of an Authorized Representative of Tenant in a notice to be delivered by Tenant to Landlord together with reasonably detailed supporting evidence and documentation. Such notice shall be delivered monthly prior to Substantial Completion of the Building and thereafter quarterly.

(g) In the event that the aggregate Sales Tax Exemption realized by Tenant in connection with the initial construction and fit-out of the Building and the initial construction and fit-out of the buildings under each other Stage II Ground Lease, as determined as of the time of completion of the last building in the Stage II Project Area, is less than the Minimum PILOST Amount (such shortfall, the "Sales Tax Deficiency") solely as a result of either (a) Landlord not making the Improvements Sales Tax Letter or Appliance Sales Tax Letter available to Tenant other than as a result of Tenant's default hereunder, and/or (b) a determination by DOTF that the Sales Tax Exemption is not available in connection with the initial construction and fit-out of the Building other than as a result of Tenant's failure to comply with procedures therefor outlined in Exhibit G attached hereto and made a part hereof, Tenant shall be entitled to receive the Sales Tax Deficiency as additional MRT Savings pursuant to Article 44 hereof, without duplication with respect to similar deficiencies under any other Stage II Ground Lease.

(h) Tenant shall include provisions in each Commercial Sublease requiring the subtenant thereunder to make the certifications of Certified Costs required herein, and pay to

Tenant an amount equal to the PILOST Amount due hereunder attributable to all work performed in such commercial space after Substantial Completion of the Building and during the term of the applicable sublease. Each such sublease shall also provide for (a) the subtenant to keep accurate backup and records related to the Retail Fit-Out for a period of six years and allow Landlord access to such backup and records upon reasonable notice, and (b) Tenant to have a right to terminate the sublease for subtenant's failure to timely make such payments and certifications. In the event any subtenant fails to make such certifications or pay such amounts timely, Tenant's obligation to make payment of the applicable portion of any PILOST Amount due hereunder related to such failure shall be excused provided (1) Tenant takes all action necessary to promptly terminate the applicable sublease, and (2) the applicable Retail Fit-Out is not utilized by Tenant (provided, however, the release of such space by Tenant to a third party non-Affiliate of Tenant shall not be considered use of space by Tenant) or the terminated subtenant or an Affiliate of either Tenant or the terminated subtenant until the PILOST Amount attributable thereto is paid to Landlord.

Section 11.05. Upon request of Landlord, Tenant, at its sole cost and expense, shall furnish and install Tenant's temporary project sign, of a size and design and with such text as shall be reasonably satisfactory to Landlord. Such project sign shall also include such text and design reasonably requested by Landlord and reasonably acceptable to Tenant and shall be displayed at a location on the Premises reasonably satisfactory to Landlord and Tenant. Tenant also shall extend to Landlord and any of its designee(s) the privilege of being featured participants in ground-breaking and opening ceremonies to be held at such time and in such manner as Landlord and Tenant shall reasonably agree.

Section 11.06. Tenant acknowledges that construction activities of other developers and of or on behalf of Landlord are contemplated within the Work Area, including, without limitation, the construction activities contemplated under the Infrastructure Agreement. Tenant shall cooperate with Landlord with respect to, and coordinate Tenant's construction activities at the Premises with such other construction activities taking place in the Queens West Project Area so as not to unreasonably interfere with, delay or impede the activities of Landlord, its contractors or other contractors or developers within the Work Area. If, in Landlord's reasonable judgment, Tenant shall fail to comply with its obligations under this Section 11.06, Landlord may, upon forty eight (48) hours prior written notice to Tenant, in addition to any other remedies it may have hereunder, order Tenant, and Tenant shall then order Tenant's Contractors and other Persons connected with Tenant's construction within the Work Area, to promptly suspend or cease (each, a "Stop Order") those activities which Landlord reasonably believes unreasonably interfere with, delay or impede Landlord or such other Contractors or developers. No delay or other loss or hindrance of Tenant arising from any such order by Landlord shall form the basis for any claim by Tenant against Landlord. If, notwithstanding Tenant's compliance with the provisions of this Lease, including without limitation, this Section 11.06, Landlord shall require Tenant to cease its construction activities due to other work being performed in the Work Area other than work being performed by or on behalf of Tenant or Tenant's Affiliates, then the period of such cessation shall be deemed to be an Unavoidable Delay. Landlord shall cooperate with Tenant with respect to, and coordinate Landlord's construction activities within the Queens West Project Area with, such other construction activities taking place at the Premises so as not to unreasonably interfere with, delay or impede the activities of Tenant, its Contractors or other Contractors or developers within the Premises and shall not exercise its right to give a Stop Order

arbitrarily and in a discriminatory manner against Tenant; it being agreed that neither Tenant nor any other developer in the Queens West Project Area shall have priority over the other and Landlord shall issue Stop Orders using its reasonable discretion.

Section 11.07. Tenant shall promptly repair or, if required by Landlord, replace any portion of the Project Infrastructure (as defined in the Infrastructure Agreement) or Public Portion (as such capitalized terms are defined in the Infrastructure Agreement), including, without limitation, any Streets or roads, damaged or impaired by the act or omission (where Tenant had a duty to act) of Tenant, or any agent, Contractor or employee of Tenant. All such repairs and replacements shall be performed (a) using materials identical to those initially used, or, if Tenant, despite its best efforts, is unable to procure such materials, using materials in quality and appearance similar to those initially used subject to Landlord's reasonable approval thereof, and (b) in accordance, in all material respects, with the applicable plans and specifications used by Landlord. Tenant shall indemnify Landlord for any such damage caused by Tenant or its Affiliates, employees, contractors or agents.

Section 11.08. Prior to Commencement of Construction, Tenant shall erect an eight-foot (8') high chain-mesh perimeter fence or other type of barrier required by the New York City Department of Buildings or applicable Laws enclosing the Premises, provided that such fence or barrier may have entrances so as to permit construction access to the Premises in accordance with applicable Laws. Tenant shall maintain such fence or barrier in good condition and shall remove same upon Substantial Completion of the Building or when authorized by the New York City Department of Buildings and all other applicable Laws.

Section 11.09. Landlord and Tenant shall cause their respective Contractors and all other workers at the Premises to work harmoniously with each other, and with the other Contractors and workers in the Work Area, and shall not engage in, permit or suffer, any conduct which may disrupt such harmonious relationship.

Section 11.10. Throughout the course of construction at the Premises, Tenant shall undertake its construction activities in accordance with good construction practice and shall comply with all Requirements, the Design Controls and the Rules and Regulations, including, without limitation, the following:

(a) maintain a reasonably clean, securely enclosed Construction Site with fencing;

(b) store all construction materials and equipment and park all vehicles within the Construction Site or other sites leased by Tenant's Affiliates;

(c) keep the Streets reasonably free from dirt and debris resulting from the construction, and take all reasonable action to limit airborne dirt and dust in accordance with standard City construction standards and applicable laws, rules, regulations and orders;

(d) except as permitted by any permit issued by the City, prohibit construction equipment, trailers, trucks, automobiles, construction vehicles, delivery trucks, employee automobiles and other equipment and vehicles from standing or parking, except in compliance with any applicable laws, on any Streets that have been dedicated to the City;

(e) provide competent watchmen for the Construction Site to the extent required by and in accordance with all Requirements during all hours when construction operations are not in progress;

(f) conduct or permit blasting only between the hours of 8 a.m. and 5 p.m., Mondays through Fridays, except holidays, or during times for which a special permit may be,

and is, obtained from the City and in strict compliance with applicable codes and regulations with respect to the size of charges;

(g) remove from the Premises all fill excavated from the land and dispose of such fill in accordance with all Requirements, except that fill currently being used by Tenant in connection with the construction of the Building may be (i) left on the Premises, (ii) moved to other areas of the Work Area designated by Landlord in Landlord's sole and absolute discretion or (iii) moved to the premises under another Stage II Ground Lease, provided that Tenant or an Affiliate of Tenant shall be the tenant under such other Stage II Ground Lease during the entirety of the time such fill is present on such premises, provided, however, that all such removal, movement or storage of fill must comply with all Requirements and shall not interfere with the infrastructure or remediation work of Landlord, its contractors, agents or employees within the Queens West Project Area in Landlord's reasonable discretion; and

(h) comply with any other Rules and Regulations hereafter promulgated by Landlord provided the same are reasonable and will not be enforced discriminately against Tenant.

ARTICLE 12

REPAIRS; MAINTENANCE OF PREMISES AND PUBLIC AREAS

Section 12.01. (a) The management and operation of the Premises shall be performed by Tenant or an Affiliate of Tenant unless Tenant enters into a management agreement with a Managing Agent that complies with the criteria for a management agreement set forth in Section 10.01(c).

(b) Tenant shall take good care of the Premises, and shall keep and maintain the Premises in a first class condition for buildings of a similar age in a similar location and shall

make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary or appropriate to keep the same in a first class condition for buildings of a similar age in a similar location, and whether or not necessitated by wear, tear, obsolescence or defects, latent or otherwise, provided, however, that Tenant's obligations with respect to a Restoration resulting from a casualty or condemnation shall be as provided in Articles 8 and 9. Tenant shall not commit or suffer, and shall use all reasonable precautions to prevent physical waste, damage or injury to the Premises. When used in this Section 12.01, the term "repairs" shall include all necessary replacements, alterations and additions. All repairs made by Tenant shall be equal in quality and class to the original work and shall be made in compliance with all Laws, the Design Controls, and the provisions of this Lease.

Section 12.02. Tenant shall keep or cause to be kept clean and free from dirt, snow, ice, rubbish, obstructions and encumbrances, the sidewalks, landscaped areas, chutes and sidewalk hoists comprising, in front of, or adjacent to, the Premises and any parking facilities on the Land.

Section 12.03. Except as expressly set forth in the Infrastructure Agreement, Landlord shall not be required to furnish any services, utilities or facilities whatsoever to the Premises, nor shall Landlord have any duty or obligation to make any alteration, change, improvement, replacement, Restoration or repair to, nor to demolish, any Improvements. Tenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, maintenance and management of the Premises. Tenant shall not clean nor require, permit, suffer nor allow any window in the Improvements to be cleaned from the outside in violation of Section 202 of the Labor Law or any other applicable Law or the rules of any state, county or municipal department, board or body having jurisdiction.

Section 12.04. Tenant shall construct, maintain, repair, replace and restore the POS in accordance with the Design Controls, the Requirements and the provisions of this Lease. Tenant shall provide non-discriminatory access to and use of the POS by all residents of the Improvements during such hours and days as Tenant shall designate subject to compliance with the Design Controls. Tenant may promulgate reasonable rules and regulations for the conduct of persons utilizing the POS; provided that such rules and regulations are consistent with the provisions of this Lease and either Landlord shall have approved of the same, such approval not to be unreasonably withheld or delayed, or the same comply with the Design Controls. No amounts may be charged by Tenant for the use of the POS.

Section 12.05. Landlord shall construct, maintain, repair, replace and restore the PAPPS in accordance with a design developed by Landlord, the Design Controls, the Requirements and the provisions of this Lease. Tenant shall have no rights or obligations with respect to the PAPPS except the obligation to pay the Public Maintenance Amount in accordance with Section 3.09.

ARTICLE 13

CHANGES, ALTERATIONS AND ADDITIONS

Section 13.01. From and after the Substantial Completion of the Building, Tenant shall not demolish, replace or materially alter the Improvements, or any part thereof (except as provided to the contrary with respect to Equipment pursuant to Article 15), or make any addition thereto, whether voluntarily or in connection with repairs required by this Lease (collectively, "Capital Improvement"), unless Tenant shall comply with the following requirements and, in addition, if such Capital Improvement would qualify as a Material Restoration if made as a result of a casualty, the provisions set forth in Article 11:

(a) No Capital Improvement shall be undertaken unless and until Tenant shall have obtained and delivered to Landlord copies of all Permits for the proposed Capital Improvement which may be required to be obtained prior to the commencement of the proposed Capital Improvement (collectively, "Improvement Approvals"). Upon not less than fifteen (15) Business Days' prior written notice from Tenant, provided that Landlord shall have approved the proposed Capital Improvement if required pursuant to the terms of this Lease, Landlord shall send written notice to any Governmental Authority that issues any such Improvement Approval whose name and address is set forth in such notice, stating that Landlord has exercised its power to override the Zoning Resolution with respect to the Premises. Landlord shall join and otherwise cooperate in the application for any Improvement Approvals, provided such application is made without cost, expense or liability to Landlord and Landlord's participation is not greater than it would be if Landlord were not a governmental entity. True copies of all such Improvement Approvals shall be delivered by Tenant to Landlord prior to the commencement of the proposed Capital Improvement.

(b) All Capital Improvements, when completed, shall be of such a character as not to reduce the value of the Premises below its value immediately before construction of such Capital Improvement.

(c) All Capital Improvements shall be made with reasonable diligence and continuity (subject to Unavoidable Delays) and in a good and workerlike manner and in compliance with (i) all Improvement Approvals, (ii) the Design Controls, (iii) to the extent plans and specifications for such Capital Improvement are required to be approved in accordance with the provisions of this Lease, the plans and specifications for such Capital Improvement as approved by Landlord in the manner set forth in Section 11.01(c) with respect to the initial plans

and specifications, (iv) the Requirements, and (v) the applicable provisions of this Lease, including, without limitation, the applicable provisions of Article 11.

(d) No construction of any Capital Improvement shall be commenced until Tenant shall have delivered to Landlord certificates with respect to the insurance policies (provided, however if such insurance is already in place and Landlord has received certificates of such insurance, Tenant shall not be required to redeliver such certificates to Landlord) and, if Landlord requests, copies of such insurance policies promptly after receipt thereof by Tenant from the insurer issued by responsible insurers, bearing notations evidencing the payment of premiums then due or accompanied by other evidence reasonably satisfactory to Landlord of such payments, for the insurance required by Section 11.02 unless Landlord shall reasonably determine that the Capital Improvement does not warrant the insurance required by Section 11.02 in which case Landlord shall specify such lesser types and levels of insurance appropriate for such Capital Improvement. If, under the provisions of any casualty, liability or other insurance policy or policies then covering the Premises or any part thereof, any consent to such Capital Improvement by the insurance company or companies issuing such policy or policies shall be required to continue and keep such policy or policies in full force and effect, Tenant, prior to the commencement of construction of such Capital Improvement, shall obtain such consents and pay any additional premiums or charges therefor that may be imposed by said insurance company or companies.

Section 13.02. Intentionally Deleted.

Section 13.03. With respect to Capital Improvements which require the filing of plans with the New York City Department of Buildings, upon completion of any such Capital Improvement, Tenant shall furnish to Landlord (a) a complete set of "As Built" plans for such Capital Improvement, which plans Landlord, without the involvement or consent of Tenant or the Architect, shall have a right to use solely in connection with the Premises, (b) where applicable, an updated survey meeting the requirements of Section 11.03, (c) where applicable, a permanent Certificate of Occupancy therefor issued by the New York City Department of Buildings, to the extent a modification thereof was required, and (d) to the extent the cost exceeds (1) prior to the thirty-fifth anniversary of the Commencement Date, $250,000 or (2) on or after the thirty-fifth anniversary of the Commencement Date, $250,000 Adjusted for Inflation, lien waivers, in form reasonably satisfactory to Landlord, issued by each Contractor, with respect to services performed and materials provided in connection with the Capital Improvement.

Section 13.04. Title to all additions, alterations, improvements and replacements made to the Improvements, including, without limitation, the Capital Improvements, shall forthwith vest in Landlord as provided in Section 11.04(a), without any obligation by Landlord to pay any compensation therefor to Tenant, and Landlord shall automatically be deemed to have leased the same to Tenant pursuant to (and in accordance with) the terms of this Lease.

ARTICLE 14

REQUIREMENTS OF PUBLIC AUTHORITIES AND OF INSURANCE UNDERWRITERS AND POLICIES

Section 14.01. Tenant promptly shall comply with (a) any and all then applicable present and future, foreseen and unforeseen, laws, rules, orders, ordinances, regulations, statutes, requirements, permits, consents, certificates, approvals, codes and executive orders of all

Governmental Authorities now existing or hereafter created, and of any and all of their departments and bureaus (including, without limitation, the New York City Department of Buildings), including, without limitation, all Environmental Laws, of any applicable Fire Rating Bureau or other body exercising similar functions, affecting or applicable to Tenant, the Premises or any sidewalk comprising a part or in front thereof or any vault in or under the same, or requiring the removal of any encroachment, or affecting the construction, maintenance, use, operation, management or occupancy of the Premises or any portion(s) thereof (collectively, the "Laws"), and (b) any and all present and future, foreseen and unforeseen, provisions and requirements of any casualty, liability or other insurance policy required to be carried by Tenant under the provisions of this Lease and shall not violate any restrictions or requirements set forth in the Title Matters (all of the foregoing collectively, the "Requirements"), without regard to the nature or cost of the work required to be done, extraordinary as well as ordinary, and whether or not the same involve or require any structural changes or additions in or to the Premises, without regard to whether or not such changes or additions are required on account of any particular use to which the Premises, or any part thereof, may be put and without regard to the fact that Tenant is not the fee owner of the Premises. Such required compliance shall not extend to requirements relating to the cleanup or disposal of Excluded Contaminants or the performance of the Asbestos and Demolition Work which is the responsibility of Landlord under the Infrastructure Agreement. Tenant shall not do, or knowingly permit any Subtenant, or any employee, agent, Contractor or invitee of Tenant or of any Subtenant (each, a "Covered Person"), to do any act or thing upon the Premises which is reasonably likely to subject Landlord to any liability or responsibility for injury or damage to persons or property, or to any liability by reason of any violation of any Requirements, and shall use commercially reasonable efforts to exercise such

control over the Premises so as to fully protect Landlord against any such liability. To the extent compliance with the Design Controls would result in a violation of any Laws, and if such violation is the only practical means of achieving such compliance with the Design Controls, then the failure to comply with the Design Controls shall not effect a Default or Event of Default hereunder.

Section 14.02. Tenant shall have the right to contest the validity of any Requirements or the application thereof. During such contest, compliance with any such contested Requirements may be deferred by Tenant upon condition that (a) such deferral, in Landlord's reasonable judgment, shall not adversely affect all or any portion of the Queens West Project Area or pose a hazard or danger to any Persons or property, (b) if the cost of compliance may exceed two-hundred and fifty thousand dollars ($250,000) Adjusted for Inflation, Tenant shall furnish to Landlord a bond, cash or other security reasonably satisfactory to Landlord, securing compliance with the contested Requirements and payment of all interest, penalties, fines, fees and expenses in connection therewith, (c) at no time shall the Premises, or any part thereof, be in danger of being forfeited or lost, and (d) at no time may Landlord be subject to civil and/or criminal liability or penalty by reason of noncompliance therewith. Any such proceeding instituted by Tenant shall be commenced as soon as is reasonably practicable after the issuance of any such contested Requirements, or after actual notice to Tenant of the applicability of such matters to the Premises and shall be diligently prosecuted to final adjudication. Tenant shall keep Landlord informed as to the status of any such contest. Landlord shall cooperate with Tenant, at Tenant's sole cost and expense, in any such contest provided that (i) Landlord's cooperation is necessary for Tenant to contest the validity of the applicable Requirement and (ii)

such cooperation does not impose any liability or obligation on Landlord and Landlord's participation is not greater than it would be if Landlord were not a governmental entity.

ARTICLE 15

EQUIPMENT

Section 15.01. All Equipment installed in connection with the initial construction of the Building shall be and shall remain the property of Landlord. Tenant shall not have the right, power or authority to, and shall not, remove any Equipment from the Premises without the consent of Landlord, which consent shall not be unreasonably withheld or delayed; provided, however, that such consent shall not be required in connection with repairs, cleaning or other servicing, or if (subject to Unavoidable Delays) the same is promptly replaced by Equipment which is at least equal in utility and value to the Equipment being removed. Notwithstanding any provision of this Article 15, Tenant shall not be required to replace any Equipment which performed a function which has become obsolete or otherwise is no longer necessary or desirable in connection with the use or operation of the Premises, unless such failure to replace would reduce the value of the Premises or would result in a reduced level of maintenance of the Premises, in which case Tenant shall be required to install such Equipment as may be necessary to prevent such reduction in the value of the Premises or in the level of maintenance. Landlord shall have no obligation or liability of any kind with respect to the Equipment, including, without limitation, repair, replacement or maintenance of the Equipment.

Section 15.01. Tenant shall keep all Equipment in good order and repair and shall replace the same when necessary with items at least equal in utility and value to the Equipment being replaced.

ARTICLE 16

DISCHARGE OF LIENS; BONDS

Section 16.01. Subject to the provisions of Section 16.02, except as otherwise expressly provided in this Lease, Tenant shall not create or (to the extent reasonably within Tenant's control) permit to be created any lien, encumbrance or charge upon the Premises or any part thereof or any interest therein, or the Stage II Project Area or any part thereof, the income therefrom or any assets of, or funds appropriated to, Landlord, and Tenant shall not suffer any other matter or thing whereby the estate, right and interest of Landlord in the Premises or any part thereof might be impaired.

Section 16.02.

(a) If any mechanic's, laborer's or materialman's lien (other than a lien arising out of work performed by Landlord, except to the extent such work is to cure a default by Tenant) at any time shall be filed in violation of the obligations of Tenant pursuant to Section 16.01 against the Premises or any part thereof or any interest therein, or the Stage II Project Area or any part thereof, or, if any public improvement lien created or permitted to be created by Tenant shall be filed against any assets of, or funds appropriated to, Landlord, then Tenant, within thirty (30) Business Days after notice of the filing thereof, shall cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien to be discharged of record within the period aforesaid, then, unless an order for such discharge shall then be pending, in addition to any other right or remedy, Landlord may, upon ten (10) additional days' notice to Tenant, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event, Landlord shall be entitled, if Landlord

so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor with interest, costs and allowances. Any amount so paid by Landlord, including all costs and expenses incurred by Landlord in connection therewith, together with interest thereon at the Involuntary Rate, from the respective dates of Landlord's making of the payment or paying of the costs and expenses to the date repaid with such interest to Landlord, shall constitute Additional Charges and shall be paid by Tenant to Landlord within ten (10) days after demand. Notwithstanding the foregoing provisions of this Section 16.02, Tenant shall not be required to discharge any such lien if (i) Tenant is in good faith contesting the same, (ii) Tenant has furnished a cash deposit or a security bond or other such security reasonably satisfactory to Landlord in an amount sufficient to pay such lien with interest and penalties, (iii) neither the Premises, nor any part thereof, shall be in imminent danger of being forfeited or lost and (iv) Landlord is not in danger of being subjected to civil and/or criminal liability or penalty by reason thereof. Any cash or security shall be released to pay the lien to the extent of a determination unfavorable to Tenant or returned to Tenant promptly after, and to the extent of, a determination favorable to Tenant.

(b) In the event that a Mortgagee shall require Tenant to deposit cash or security as set forth in Section 16.02(a) to insure payment of liens, any amount so deposited by Tenant with such Mortgagee shall be credited against the amount, if any, which Tenant would otherwise be required to deposit under Section 16.02(a); provided that the amounts so deposited are required by the terms of the Mortgage to be held in trust and applied first to pay such liens and the interest and penalties thereon.

Section 16.03. Nothing contained in this Lease shall be deemed or construed in any way as constituting the consent or request of Landlord, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to or repair of the Premises or any part thereof or the Queens West Project Area or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of materials that would give rise to the filing of any lien against Landlord's interest in the Premises or any part thereof, the Queens West Project Area or any part thereof, or any assets of, or funds appropriated to, Landlord. Notice is hereby given, and Tenant shall cause all Construction Agreements to provide in substance, that Landlord shall not be liable for any work performed or to be performed at the Premises for Tenant or any Subtenant or for any materials furnished or to be furnished at the Premises for any of the foregoing, and that no mechanic's or other lien for such work or materials shall attach to or affect the estate or interest of Landlord in and to the Premises or any part thereof, the Queens West Project Area or any part thereof, or any assets of, or funds appropriated to, Landlord.

Section 16.04. Tenant shall have no power to do any act or make any contract which may create or be the foundation of any lien, mortgage or other encumbrance upon the estate or assets of, or funds appropriated to, Landlord or of any interest of Landlord in the Premises.

ARTICLE 17

REPRESENTATIONS; POSSESSION

Section 17.01. Except as set forth on Exhibit Z attached hereto, Landlord shall deliver vacant possession of the Premises to Tenant on the Commencement Date. Tenant acknowledges that Tenant is fully familiar with the Land, the Stage II Project Area, the physical condition thereof, the Title Matters and the Design Controls. Tenant accepts the Land in its existing condition and state of repair. Except as otherwise expressly set forth in this Lease, no representations, statements, or warranties, express or implied, have been made by or on behalf of Landlord in respect of the Land, the Stage II Project Area, the Queens West Project Area, the status of title thereof, the physical condition thereof, the zoning or other laws, regulations, rules and orders applicable thereto, taxes, or the use that may be made of the Land. Tenant acknowledges that Tenant has relied on no such representations, statements or warranties, and that Landlord shall in no event whatsoever be liable for any latent or patent defects in the Land or the Stage II Project Area or the Queens West Project Area. Nothing contained herein shall limit any representations, statements or warranties, if any, made by Landlord in the Infrastructure Agreement.

ARTICLE 18

LANDLORD NOT LIABLE FOR INJURY OR DAMAGE, ETC.

Section 18.01. Landlord shall not in any event whatsoever be liable for any injury or damage to Tenant or to any other Person happening on, in or about the Premises and its appurtenances, nor for any injury or damage to the Premises or to any property belonging to Tenant or to any other Person which may be caused by any fire or breakage, or by the use, misuse or abuse of any of the Improvements (including, but not limited to, any of the common areas within the Improvements, Equipment, elevators, hatches, openings, installations, stairways, hallways, or other common facilities), or the sidewalk area within the Premises or which may

arise from any other cause whatsoever, except in any such case to the extent caused by the negligence or willful misconduct of Landlord, its officers, agents, employees, licensees or contractors (except as otherwise set forth in Section 32.02); nor shall Landlord its officers, agents, employees, licensees or contractors in any event be liable for the acts or failure to act of any other tenant or owner of any other premises within the Queens West Project Area, or of any agent, representative, employee, Contractor or servant of such other tenant or owner.

Section 18.02. Landlord shall not be liable to Tenant or to any other Person claiming through or under Tenant for any failure of water supply, gas or electric current, nor for any injury or damage to any property of Tenant or of any other Person or to the Premises caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from the street, sewer, gas mains or subsurface area or from any part of the Premises, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein, or from any other place, nor for interference with light or other incorporeal hereditaments by anybody, or caused by any public or quasi-public work, except to the extent of any of the foregoing resulted from the negligence or willful misconduct of Landlord, its agents, officers, employees, licensees or contractors (except as otherwise set forth in Section 32.02).

Section 18.03. In addition to the provisions of Sections 18.01 and 18.02, in no event shall Landlord be liable to Tenant or to any other Person for any injury or damage to any property of Tenant or of any other Person or to the Premises, arising out of any sinking, shifting, movement, subsidence, failure in load-bearing capacity of, or other matter or difficulty related to, the soil, or other surface or subsurface materials, on the Premises or in the Stage II Project Area or the Queens West Project Area, (except to the extent any of the foregoing resulted from the

negligence or willful misconduct of Landlord, its officers, agents, licensees, employees or contractors (except as otherwise set forth in Section 32.02)), it being agreed that Tenant shall assume and bear all risk of loss with respect thereto.

ARTICLE 19

INDEMNIFICATION OF LANDLORD AND OTHERS

Section 19.01. Tenant, to the fullest extent permitted by law, shall indemnify and save Landlord, the City, the Port Authority, ESDC and EDC and their respective agents, affiliates, licensees, invitees, trustees, members, directors, commissioners, officials, shareholders, partners, officers, employees and disclosed and undisclosed principals (collectively, the "Indemnitees"), harmless from and against any and all actions, liabilities, suits, judgments, obligations, fines, damages, penalties, claims, costs, charges and expenses, including, without limitation, reasonable engineers', architects' and attorneys' fees and disbursements, which may be imposed upon or incurred by or asserted against any of the Indemnitees arising out of or in connection with the Premises including, without limitation, any of the following occurring during the Term, except as to the extent that matters arise from the negligence or willful misconduct of the Indemnitees or any of them:

(a) construction of the Improvements or any other work performed by Tenant or any Subtenant, or any employee, agent, Contractor, invitee of Tenant or any Subtenant in or on the Premises or any part thereof;

(b) any use, non-use, possession, occupation, alteration, replacement, repair, condition, operation, maintenance, or management of the Premises or any part thereof or of any sidewalk, curb or vault comprising a part of the Premises or adjacent thereto;

(c) any negligent or tortious act or failure to act (or act which is alleged to be negligent or tortious) within the Queens West Project Area on the part of Tenant or any agent, contractor or employee of Tenant;

(d) any accident, injury (including death at any time resulting therefrom) or damage to any Person or property occurring in or on the Premises or any part thereof or in, or about any sidewalk or vault adjacent to the Premises;

(e) any failure on the part of Tenant to perform or comply with any of the covenants, agreements, terms or conditions contained in this Lease on its part to be performed or complied with;

(f) any lien or claim which may have arisen out of any act of Tenant or any agent, Contractor, servant or employee of Tenant against or on the Premises or any other portion of the Queens West Project Area, or any lien or claim created by Tenant, its agents, Contractors, servants, employees or any of their Affiliates in respect of the Premises or any other portion of the Queens West Project Area against any assets of, or funds appropriated to any of the Indemnitees under the laws of any Governmental Authority or any liability which may be asserted against any of the Indemnitees with respect thereto;

(g) any failure on the part of Tenant to keep, observe and perform any of the terms, covenants, agreements, provisions, conditions or limitations contained in the Construction Agreements, Subleases, or other contracts and agreements affecting the Premises, on Tenant's part to be kept, observed or performed;

(h) any tax or recording charge attributable to the execution, delivery, transfer or recording of this Lease, any Sublease, the assignment of this Lease or any Mortgage (subject, with respect to any Mortgage, to the provisions of Article 44);

(i) any contest by Tenant permitted pursuant to the provisions of this Lease, including, without limitation, Articles 4, 14 and 28;

(j) any claim for brokerage commissions, fees or other compensation by any Person who alleges to have acted or dealt with Tenant in connection with this Lease or any Sublease;

(k) any work performed by or on behalf of Tenant (or by Landlord pursuant to Section 21.01);

(l) any claim, charge or other matter relating to damage to property or injury to (or death of) persons attributable to the ownership of the Premises, including, but not limited to Landlord's taking or holding of title of the Premises as Tenant's designee pursuant to that certain Agreement, dated as of the date hereof, between PepsiCo, Inc. and Rockrose Development Corp.;

(m) any claim, charge or other matter attributable to the leasing, operation, management, maintenance, repair, rebuilding, use or occupation of the Premises; and

(n) any other act or omission by, or on behalf of, Tenant or any other Person related to or in connection with the Premises.

Section 19.02. The obligations of Tenant under this Article 19 shall not be affected in any way by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises or the Stage II Project Area or the Queens West Project Area. All amounts owed to any Indemnitee under this Article 19 shall be paid within ten (10) days after demand by Landlord with interest at the Prime Rate plus two percent (2%) from the date of notice to Tenant of any indemnified amount paid by such Indemnitee until the date repaid with such interest and shall (together with such interest) constitute Additional Charges under this Lease.

Section 19.03.

(a) If any claim, action, or proceeding is made or brought against any of the Indemnitees, Tenant shall within ten (10) Business Days after Landlord's request, (i) confirm in writing that the indemnity by Tenant set forth herein shall cover such claim, action or proceeding or (ii) set forth in reasonable detail in writing the reason why Tenant believes such claim, action or proceeding is not covered by the indemnity set forth herein. If any claim, action, or proceeding is made or brought against any of the Indemnitees by reason of any event for which Tenant has agreed to indemnify the Indemnitees in Section 19.01, then, upon demand by Landlord, Tenant shall resist or defend such claim, action or proceeding (in such Indemnitee's name, if necessary) by the attorneys for Tenant's insurance carrier (if such claim, action or proceeding is covered by insurance maintained by Tenant) or (in all other instances) by such attorneys as Tenant shall select and Landlord shall approve, which approval shall not be unreasonably withheld, conditioned or delayed. In such event Tenant shall control the litigation provided any settlement shall be subject to Landlord's approval not to be unreasonably withheld, conditioned, or delayed unless Landlord is unconditionally released in which case its consent shall not be required. Landlord shall not enter into any settlement of such claims without the prior consent of Tenant, which consent shall not be unreasonably withheld if (1) such claim, action, or proceeding is made or brought against any of the Indemnitees but not Tenant, or (2) the continuance of such claim, action, or proceeding will be reasonably likely to impugn or otherwise tarnish the reputation of any Indemnitee. Notwithstanding the foregoing, Landlord may engage its own attorneys to assist in its defense and Landlord shall pay the fees and disbursements of such attorneys.

(b) In defending any such claim, action or proceeding, Tenant and its attorneys or its insurance carriers' attorneys shall not, without obtaining express advance permission from the General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the person of the Port Authority, the immunity of the Port Authority, its Commissioners, officers, agents or employees, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

Section 19.04. The provisions of this Article 19 and all other indemnity provisions contained elsewhere in this Lease shall survive the termination or expiration of this Lease with respect to acts and omissions occurring prior to the Expiration Date of this Lease, regardless of whether the claims relating to such acts or omissions are made before or after the Expiration Date of this Lease, but in any event subject to the applicable statute of limitations.

ARTICLE 20

RIGHT OF INSPECTION, ETC.

Section 20.01. Tenant shall permit Landlord and its agents or representatives to enter the Premises at all reasonable times and upon reasonable notice (except in cases of emergency, in which case no notice shall be necessary) for the purpose of (a) inspecting the same, (b) determining whether or not Tenant is in compliance with its obligations hereunder, (c) constructing, maintaining and inspecting any Project Infrastructure (as defined in the Infrastructure Agreement) and (d) making any necessary repairs to the Premises and performing any work therein which Landlord is permitted to perform pursuant to Article 21. Tenant shall also permit any Mortgagee and its agents or representatives to enter the Premises for the purpose of curing any Defaults in accordance with Section 10.10 or Article 21.

Section 20.02. Landlord, during the progress of any work referred to in Section 20.01, may keep and store at the Premises all necessary materials, tools, supplies and equipment. Landlord shall use reasonable efforts (without employing overtime labor) to minimize any inconvenience, annoyance, disturbance, loss of business or other damage to Tenant, any Subtenant or other occupant of the Improvements by reason of making such repairs or the performance of any such work, or on account of bringing materials, tools, supplies and equipment into the Premises during the course thereof and the obligations of Tenant under this Lease shall not be affected thereby.

ARTICLE 21

LANDLORD'S RIGHT TO PERFORM TENANT'S COVENANTS

Section 21.01. (a) If Tenant at any time shall be in Default and shall not have cured such Default within thirty (30) days after notice thereof or, provided Tenant is proceeding diligently to cure such Default, within such longer period as may be reasonably necessary to effect such cure (which notice and cure period shall not apply in an emergency), Landlord, without waiving or releasing Tenant from any obligation of Tenant contained in this Lease, may (but shall be under no obligation to) perform or allow a Mortgagee to perform such obligation on Tenant's behalf.

(b) Nothing in Article 20, this Article 21 or elsewhere in this Lease shall imply any duty upon the part of Landlord to do any work required to be performed by Tenant hereunder and performance of any such work by Landlord shall not constitute a waiver of Tenant's default in failing to perform the same.

Section 21.02. All sums reasonably paid by Landlord and all costs and expenses reasonably incurred by Landlord in connection with its performance of any obligation pursuant to Section 21.01, together with interest thereon at the Involuntary Rate from the respective dates of Landlord's making of each such payment or paying of each such sum, cost, expense, charge, payment or deposit until the date of actual repayment to Landlord with such interest, shall be paid by Tenant to Landlord within ten (10) days after Landlord shall have submitted to Tenant a statement in reasonable detail substantiating the amount demanded by Landlord and shall constitute Additional Charges under this Lease. Any payment or performance by Landlord pursuant to Section 21.01 shall not be nor be deemed to be a waiver or release of any Default of Tenant with respect thereto or of the right of Landlord to terminate this Lease, institute summary proceedings or take such other action as may be permissible hereunder if an Event of Default by Tenant shall have occurred.

ARTICLE 22

NET LEASE; NO ABATEMENT OF BASE RENT OR ADDITIONAL CHARGES

Section 22.01. (a) Except as expressly provided to the contrary in this Lease, this Lease is intended to be, and shall be construed as, an absolutely net lease, whereby under all circumstances and conditions (whether now or hereafter existing and whether or not within the contemplation of the parties) the Base Rent and Additional Charges shall be a completely net return to Landlord.

(b) Except as expressly provided herein, there shall be no abatement, off-set, diminution or reduction of Base Rent or Additional Charges payable by Tenant hereunder or of the other obligations of Tenant hereunder under any circumstances.

ARTICLE 23

PERMITTED USE; NO UNLAWFUL OCCUPANCY

Section 23.01. Subject to the Requirements and this Lease, Tenant shall occupy, and shall cause all Subtenants and other occupants of the Premises, to occupy the Premises for residential purposes and any other legally permitted related uses ancillary or incidental to such residential use, except that the ground floor of the Improvements may also be used for retail operations; provided, however, in any event, all such occupancy and use must be in accordance with the Certificate or Certificates of Occupancy for the Premises and the Design Controls and all applicable Requirements.

Section 23.02. Tenant shall not use or occupy, nor permit or suffer the Premises or any part thereof to be used or occupied for any unlawful, illegal or extra hazardous business, use or purpose, or in such manner as to constitute a nuisance of any kind (public or private) or that Landlord, in its reasonable judgment, deems offensive by reason of odors, fumes, dust, smoke, noise or other pollution, or for any purpose or in any way in violation of the Certificate(s) of Occupancy, the Design Controls, or of any Requirements, or which may make void or voidable any insurance then in force on the Premises (collectively, the "Impermissible Uses") or, without Landlord's consent, not to be unreasonably withheld, delayed or conditioned, for any use which requires a variance, waiver or special permit under any Law. Tenant shall take, immediately upon the discovery of any such Impermissible Uses, all necessary actions, legal and equitable, to compel the discontinuance of such Impermissible Uses. If for any reason Tenant shall fail to take such actions, and such failure shall continue for thirty (30) days after notice from Landlord to Tenant specifying such failure (except in an emergency, in which case no notice shall be necessary), Landlord is hereby irrevocably authorized, but not obligated, to take all such

actions directly against any Subtenant to compel the discontinuance of such Impermissible Uses and Landlord shall have no liability to Tenant for taking any such actions. All sums reasonably paid by Landlord and all costs and expenses incurred reasonably by Landlord acting pursuant to the immediately preceding sentence (including, but not limited to, reasonable attorneys' fees and disbursements), together with interest on the amounts so paid at the Involuntary Rate from the respective dates of Landlord's making of each such payment until the date of receipt of repayment by Landlord with such interest, shall be paid by Tenant to Landlord within ten (10) days after demand and shall constitute Additional Charges under this Lease.

Section 23.03. Tenant shall not knowingly suffer or permit the Premises or any portion thereof to be used by the public in such manner as might reasonably tend to impair title to the Premises or any portion thereof, or in such manner as might reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Premises or any portion thereof.

ARTICLE 24

EVENTS OF DEFAULT; CONDITIONAL LIMITATIONS, REMEDIES, ETC.

Section 24.01. Each of the following events shall be an "Event of Default" hereunder:

(a) (1) if Tenant shall fail to pay any installment of Base Rent or Additional Charges, or any part thereof, which are, in the aggregate, in excess of one hundred thousand dollars ($100,000) Adjusted for Inflation, when the same shall become due and payable and such failure shall continue for thirty (30) days after notice of such Default is given to Tenant by Landlord or (2) if Tenant shall fail to pay any installment of Base Rent or Additional Charges, or

any part thereof, which are, in the aggregate, less than or equal to one hundred thousand dollars ($100,000) Adjusted for Inflation, when the same shall become due and payable and such failure shall continue for thirty (30) days after notice of such Default is given to Tenant by Landlord;

(b) if, subject to Unavoidable Delays, Substantial Completion of the Building shall not have occurred by the Scheduled Completion Date and, subject to Unavoidable Delays, such failure shall continue for sixty (60) days after notice from Landlord to Tenant thereof;

(c) if Tenant shall fail to observe or perform one or more of the other terms, conditions, covenants or agreements contained in this Lease, and such failure shall continue for a period of thirty (30) days after notice thereof by Landlord to Tenant, specifying such failure (unless such failure requires work to be performed, acts to be done, or conditions to be removed which cannot by their nature reasonably be performed, done or removed, as the case may be, within such thirty (30) day period, in which case no Event of Default shall be deemed to exist as long as Tenant shall have commenced curing the same within such thirty (30) day period and shall, subject to Unavoidable Delays, diligently and continuously prosecute the same to completion);

(d) if Tenant shall admit, in writing, that it is unable to pay its debts as such become due;

(e) if Tenant shall make an assignment for the benefit of creditors;

(f) if Tenant shall file a voluntary petition under Title 11 of the United States Code or if such petition is filed against it, and an order for relief is entered, or if Tenant shall file any petition or answer seeking, consenting to or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other

statute or law, or shall seek or consent to or acquiesce in or suffer the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant, or of all or any substantial part of its properties or of the Premises or any interest therein of Tenant, or if Tenant shall take any corporate action in furtherance of any action described in Sections 24.01(d), (e) or (f);

(g) if within ninety (90) days after the commencement of any proceeding against Tenant seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, such proceeding shall not have been dismissed, or if, within ninety (90) days after the appointment, without the consent or acquiescence of Tenant, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Tenant or of all or any substantial part of its properties or of the Premises or any interest therein of Tenant, such appointment shall not have been vacated or stayed on appeal or otherwise, or if, within ninety (90) days after the expiration of any such stay, such appointment shall not have been vacated;

(h) if Tenant shall abandon the Premises;

(i) subject to Section16.02(a), if this Lease or the estate of Tenant hereunder shall be assigned, subleased, transferred, mortgaged or encumbered without Landlord's approval (unless Landlord's approval thereto is not required pursuant to the express terms of this Lease); provided, however, (A) with respect to (1) a monetary encumbrance or (2) an unintentional failure to comply with a technical administrative or procedural provision in connection with an assignment, sublease, transfer, mortgage or other encumbrance (such as the failure to timely deliver the phone number or address of an assignee as and when required) (a "Technical

Administrative Oversight"), such monetary encumbrance or Technical Administrative Oversight shall not constitute an Event of Default unless the same continues to exist for ten (10) days after notice of such default is given to Tenant or (B) in the event that Tenant has requested approval from Landlord for an assignment or subletting pursuant to a Second Approval Notice delivered in accordance with the provisions of Section 10.02(d) and Landlord has failed to respond to such Second Approval Notice within twenty (20) days of receipt of the Second Approval Notice as set forth in Section 10.02(d), such assignment or subletting shall not constitute an Event of Default unless the same continues to exist for thirty (30) days after notice of such default is given to Tenant;

(j) if a levy under execution or attachment shall be made against the Premises and such execution or attachment shall not be vacated or removed by court order, bonding or otherwise within a period of thirty (30) days;

(k) if Tenant shall at any time fail to maintain its corporate, partnership or other entity existence in good standing, or to pay any corporate franchise tax or other applicable tax when and as the same shall become due and payable and such failure shall continue for thirty (30) days after notice thereof from Landlord or any Governmental Authority to Tenant;

(l) the occurrence of any Events of Default described in Section 38.09;

(m) if Developer is in monetary or material non-monetary default under any provision of the Infrastructure Agreement, including, without limitation default under its obligations to commence construction in accordance with Exhibit O of the Infrastructure Agreement, provided that such default is not timely cured in accordance with the terms of the Infrastructure Agreement (an "Infrastructure Agreement Cross Default"); provided, however that if (i) the Commencement of Construction has occurred and (ii) Closure has occurred with respect

to the Stage II Project Area (the conditions contained in clauses (i) and (ii), collectively the "Cross Default Requirements"), then an Infrastructure Agreement Cross Default will be deemed not to have occurred;

(n) any Event of Default occurs under any other Stage II Ground Lease under which Tenant or an Affiliate of Tenant is the tenant, but only if and to the extent the foundations for the Building to be built pursuant to this Lease have not been completed;

(o) if Tenant is or becomes a Prohibited Party; and

(p) if any agent, contractor, subcontractor or employee of Tenant working in connection with the Premises (A) (i) discriminates against any person by reason of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status in violation of Section 40.01 or (ii) fails to carry out their obligations under the Non-discrimination and Affirmative Action Construction Contract Provisions annexed hereto as Exhibit F in violation of Section 40.03, and, in the case of an agent, contractor or subcontractor, it is determined that Tenant permitted such act or failure to act in violation of the preceding clauses (i) and/or (ii) and (B) such agent, contractor, subcontractor or employee of Tenant is not fired by Tenant within a period of thirty (30) days after notice to Tenant by Landlord of such violation and thereafter prohibited from working on any matter in connection with the Premises.

Section 24.02.

(a) If any Event of Default shall occur, other than a monetary default under Section 24.01(a)(2), Landlord at any time thereafter may, at its option, deliver a notice to Tenant stating that this Lease and the Term shall expire and terminate on the date specified in such notice (provided, however that in the case of an Event of Default under Section 24.01(a)(1), at least thirty (30) days prior to giving such a termination notice, Landlord shall deliver a notice (the

"Preliminary Notice") to Tenant indicating that a condition of limitation has occurred with respect to the payment of rent and Landlord shall not be permitted to deliver a termination notice unless such monetary default is not cured within thirty days of the giving of such Preliminary Notice), which date shall be not less than ten (10) days after the giving of such notice, and, if on the date specified in said notice Tenant shall have failed to cure the Default which is the basis for the Event of Default, the Term and all rights of Tenant under this Lease shall expire and terminate as of the date specified in such notice, as if such date were the date herein fixed for the expiration of the Term and Tenant immediately shall quit and surrender the Premises. The Preliminary Notice from Landlord delivered to Tenant pursuant to this Section 24.02(a) will only be valid if such Preliminary Notice contains the following capitalized and boldfaced language, **"THIS NOTICE INDICATES THAT A CONDITION OF LIMITATION HAS OCCURRED WITH RESPECT TO THE PAYMENT OF RENT AND IS BEING DELIVERED PURSUANT TO SECTION 24.02 OF THE SITE 5 LEASE. IF SUCH MONETARY DEFAULT IS NOT CURED WITHIN THIRTY (30) DAYS OF THE GIVING OF THIS NOTICE, LANDLORD WILL BE ABLE TO DELIVER A TERMINATION NOTICE."**

(b) If an Event of Default described in Section 24.01(a)(2) shall occur or if this Lease shall be terminated as provided in Section 24.02(a), Landlord, without notice, may re-enter and repossess the Premises and may dispossess Tenant by summary proceedings.

Section 24.03. If this Lease shall be terminated as provided in Section 24.02(a) or Tenant shall be dispossessed by summary proceedings as provided in Section 24.02(b):

(a) Tenant shall pay to Landlord all Base Rent and Additional Charges payable by Tenant under this Lease to the date upon which this Lease and the Term shall have expired and come to an end or to the date of re-entry upon the Premises by Landlord, as the case may be;

(b) Landlord may complete all construction required to be performed by Tenant hereunder and may repair and alter the Premises in such manner as Landlord may deem reasonably necessary or advisable (and may apply to the foregoing all funds, if any, then held by Depositary pursuant to this Lease or Landlord under any provision of this Lease) without relieving Tenant of any liability under this Lease or otherwise affecting any such liability, and/or let or relet the Premises or any parts thereof for the whole or any part of the remainder of the Term or for a longer period, in Landlord's name or as agent of Tenant, and out of any rent and other sums collected or received as a result of such reletting Landlord shall: (i) first, pay to itself the cost and expense of terminating this Lease, re-entering, retaking, repossessing, completing construction and repairing or altering the Premises, or any part thereof, and the cost and expense of removing all persons and property therefrom, including in such costs brokerage commissions, legal expenses and attorneys' fees and disbursements, (ii) second, pay to itself the reasonable costs and expense sustained in securing any new tenants and other occupants, including in such costs brokerage commissions, legal expenses and reasonable attorneys' fees and disbursements and other expenses of preparing the Premises for reletting, and the cost and expense of operating and maintaining the Premises, and (iii) third, any balance shall be credited for any liability of Tenant to Landlord. Landlord in no way shall be responsible or liable for any failure to relet the Premises or any part thereof, or for any failure to collect any rent due on any such reletting, and no such failure to relet or to collect rent shall operate to relieve Tenant of any liability under this

Lease or to otherwise affect any such liability (and in no event shall Tenant be entitled to receive any amounts on account of Landlord letting or reletting the Premises);

(c) If an Event of Default shall occur and the Lease shall be terminated, Landlord may elect to declare due and payable a sum equal to the amount by which the Base Rent and Additional Charges reserved in this Lease for the unexpired portion of the Term exceeds the fair and reasonable rental value of the Premises for the same period, both discounted to present value at the rate of five percent (5%) per annum, which sum shall be due and payable ten (10) days after notice by Landlord to Tenant of such election (the "Accelerated Amount"). However, a Mortgagee who receives a new lease pursuant to Section 10.11 shall not be required to pay the Accelerated Amount which is due as a result of a default on the part of Tenant provided such Mortgagee otherwise complies with the provisions of this Lease including, but not limited to the requirement in this Lease to cure any defaults on the part of Tenant susceptible to being cured by such Mortgagee. Landlord may also elect to proceed by appropriate judicial proceedings, either at law or in equity, to enforce performance or observance by Tenant of the applicable provisions of this Lease and/or to recover damages for breach thereof.

(d) If Landlord shall not have declared all Base Rent and Additional Charges due and payable pursuant to Section 24.03(c), Tenant shall be liable for and shall pay to Landlord, as damages, any deficiency (referred to as "Deficiency") between the Base Rent and Additional Charges reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Term and the net amount, if any, of rents collected under any reletting effected pursuant to the provisions of Section 24.03(b) for any part of such period and any Subtenant rents collected by Landlord (first deducting from the rents collected under any such reletting all of the payments to Landlord described in Section 24.03(b)). Any such Deficiency

shall be paid in installments by Tenant on the days specified in this Lease for payment of installments of Base Rent and Additional Charges, and Landlord shall be entitled to recover from Tenant each Deficiency installment as the same shall arise, and no suit to collect the amount of the Deficiency for any installment period shall prejudice Landlord's right to collect the Deficiency for any subsequent installment period by a similar proceeding; and

(e) If Landlord shall not have declared all Base Rent and Additional Charges due and payable pursuant to Section 24.03(c), and whether or not Landlord shall have collected any Deficiency installments as aforesaid, Landlord shall be entitled to recover from Tenant, and Tenant shall pay to Landlord, on demand, in lieu of any further Deficiencies, as and for liquidated and agreed final damages (it being agreed that it would be impracticable or extremely difficult to fix the actual damage), a sum equal to the amount by which the Base Rent and Additional Charges reserved in this Lease for the period which otherwise would have constituted the unexpired portion of the Term exceeds the then fair and reasonable rental value of the Premises for the same period, both discounted to present worth at the rate of five percent (5%) per annum less the aggregate amount of Deficiencies theretofore collected by Landlord pursuant to the provisions of Section 24.03(d) for the same period; it being agreed that before presentation of proof of such liquidated damages to any court, commission or tribunal, if the Premises, or any part thereof, shall have been relet by Landlord for the period which otherwise would have constituted the unexpired portion of the Term, or any part thereof, the amount of rent reserved upon such reletting shall be deemed, prima facie, to be the fair and reasonable rental value for the part or the whole of the Premises so relet during the term of the reletting. However, a Mortgagee who receives a new lease pursuant to Section 10.11 shall not be required to pay such amount which is due as a result of a default on the part of Tenant provided such Mortgagee otherwise

complies with the provisions of this Lease including, but not limited to the requirement in this Lease to cure any defaults on the part of Tenant susceptible to being cured by such Mortgagee.

Section 24.04. Intentionally Deleted.

Section 24.05. Intentionally Deleted.

Section 24.06. No termination of this Lease pursuant to this Article 24 or taking possession of or reletting the Premises, or any part thereof, pursuant to this Article 24, shall relieve Tenant of its liabilities and obligations hereunder, all of which shall survive such expiration, termination, repossession or reletting.

Section 24.07. To the extent not prohibited by law, Tenant hereby waives and releases all rights now or hereafter conferred by statute or otherwise which would have the effect of limiting or modifying any of the provisions of this Article 24. Tenant shall execute, acknowledge and deliver any instruments which Landlord may reasonably request, whether before or after the occurrence of an Event of Default, evidencing such waiver or release.

Section 24.08. Suit or suits for the recovery of damages, or for a sum equal to any installments or installments of Base Rent and Additional Charges payable hereunder or any Deficiencies or other sums payable by Tenant to Landlord pursuant to this Article 24, may be brought by Landlord from time to time at Landlord's election, and nothing herein contained shall be deemed to require Landlord to await the date whereon this Lease or the Term would have expired had there been no Event of Default by Tenant.

Section 24.09. Nothing contained in this Article 24 shall limit or prejudice the right of Landlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or dissolution proceeding an amount equal to the maximum allowed by statute or rule of law governing such proceeding and in effect at the time when such damages

are to be proved, whether or not such amount shall be greater than, equal to or less than the amount of the damages referred to in any of the preceding Sections of this Article 24.

Section 24.10. No receipt or acceptance of moneys by Landlord from Tenant after the termination of this Lease, or after the giving of any notice of the termination of this Lease, shall reinstate, continue or extend the Term or affect any notice theretofore given to Tenant, or operate as a waiver of the right of Landlord to enforce the payments of Base Rent and Additional Charges payable by Tenant hereunder or thereafter falling due, or operate as a waiver of the right of Landlord to recover possession of the Premises by proper remedy, it being agreed that after the service of notice to terminate this Lease and the commencement of any suit or summary proceedings, or after a final order or judgment for the possession of the Premises, Landlord may demand, receive and collect any moneys due or thereafter falling due without in any manner affecting such notice, proceeding, order, suit or judgment, all such moneys collected being deemed payments on account of the use and operation of the Premises or, at the election of Landlord, on account of Tenant's liability hereunder.

Section 24.11. Except as otherwise expressly provided herein or as prohibited by applicable law, Tenant hereby expressly waives the service of any notice of intention to re-enter provided for in any statute, or of the institution of legal proceedings to that end, and Tenant, for and on behalf of itself and all persons claiming through or under Tenant, also waives any and all right of redemption provided by any law or statute now in force or hereafter enacted or otherwise, or re-entry or repossession or to restore the operation of this Lease in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge or in case of re-entry or repossession by Landlord or in case of any expiration or termination of this Lease. Tenant and Landlord hereby waive and shall waive trial by jury in any action, proceeding or counterclaim brought by

Landlord or Tenant, as applicable, against the other, on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage. The terms "enter," "re-enter," "entry" or "re-entry," as used in this Lease are not restricted to their technical legal meaning.

Section 24.12.

(a) No failure by Landlord or any prior landlord to insist upon the strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof, and no acceptance of full or partial Base Rent or Additional Charges during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Lease to be performed or complied with by Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Landlord and Tenant. No waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term and condition of this Lease still continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(b) No failure by Tenant to insist upon the strict performance of any covenant, agreement, term or condition of this Lease or to exercise any right or remedy consequent upon a breach thereof and no payment of full or partial Base Rent or Additional Charges during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Lease to be performed or complied with by Landlord, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by Landlord and Tenant. No waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term and

condition of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

Section 24.13. In the event of any breach or threatened breach by Tenant or Landlord of any of the covenants, agreements, terms or conditions contained in this Lease, the non-defaulting party shall be entitled to enjoin such breach or threatened breach and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise as though re-entry, summary proceedings, and other remedies were not provided for in this Lease. To the extent permitted by law the parties waive any requirement for the posting of bonds or other security in any such action.

Section 24.14. Each right and remedy of Landlord or Tenant provided for in this Lease shall be cumulative and shall be in addition to every other right or remedy provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise, and the exercise or beginning of the exercise by Landlord or Tenant of any one or more of the rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by Landlord or Tenant, as applicable, of any or all other rights or remedies provided for in this Lease or now or hereafter existing at law or in equity or by statute or otherwise.

Section 24.15. (a) Tenant shall pay to Landlord all costs and expenses incurred by Landlord in any action or proceeding to which Landlord may be made a party by reason of any improper act or omission of Tenant and Tenant shall promptly and diligently defend such action or proceeding with counsel of its own choice, subject to Landlord's approval not to be unreasonably withheld or delayed; it being agreed that counsel to Tenant's insurance carrier shall be deemed to be approved by Landlord. Landlord may, at any time and from time to time, at its own

cost and expense, engage counsel of its choice to defend or participate in any such action or proceeding.

(b) Tenant shall reimburse Landlord for all costs and expenses incurred by Landlord to enforce this Lease after a Default by Tenant if, and only if, Landlord shall prevail in the applicable action to enforce this Lease. All of such costs and expenses, with interest at the Involuntary Rate, shall be paid by Tenant to Landlord within ten (10) days after demand by Landlord and shall constitute Additional Charges hereunder.

Section 24.16. If an order for relief is entered or if a stay of proceedings or other acts becomes effective in favor of Tenant or Tenant's interest in this Lease in any proceeding which is commenced by or against Tenant under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other statute or law, Landlord shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy code, statute, law or this Lease, including, without limitation, such rights and remedies as may be necessary to adequately protect and assure Landlord's right, title and interest in and to the Premises, and the complete and continuous future performance of Tenant's obligations under this Lease. Adequate protection and assurance of Landlord's right, title and interest in and to the Premises, and the complete and continuous future performance of Tenant's obligations under this Lease, shall include, without limitation, the following requirements:

(a) that Tenant shall comply with all of its obligations under this Lease;

(b) that Tenant shall pay to Landlord, on the first day of each month occurring subsequent to the entry of such order, or on the effective date of such stay, a sum equal to the amount by which the Premises diminished in value during the immediately preceding monthly

period, but, in no event, an amount which is less than the aggregate Base Rent and Additional Charges payable for such monthly period;

(c) that Tenant shall continue to use the Premises in the manner required by this Lease;

(d) that Landlord shall be permitted to supervise the performance of Tenant's obligations under this Lease;

(e) that Tenant shall hire, at its sole cost and expense, such security personnel as may be necessary to insure the adequate protection and security of the Premises;

(f) that Tenant shall pay to Landlord within thirty (30) days after entry of such order or the effective date of such stay, as partial adequate protection against future diminution in value of the Premises and partial adequate assurance of the complete and continuous future performance of Tenant's obligations under this Lease, a security deposit as may be required by law or ordered by the court;

(g) that Tenant has and will continue to have unencumbered assets after the payment of all secured obligations and administrative expenses to assure Landlord that sufficient funds will be available to fulfill the obligations of Tenant under this Lease;

(h) that if Tenant's trustee, Tenant or Tenant as debtor-in-possession assumes this Lease and proposes to assign the same (pursuant to Title 11 U.S.C. § 365, as the same may be amended) to any Person who shall have made a bona fide offer to accept an assignment of this Lease on terms acceptable to the trustee, Tenant or Tenant as debtor-in-possession, then notice of such proposed assignment, setting forth (i) the name and address of such person, (ii) all of the terms and conditions of such offer, and (iii) the adequate assurance to be provided Landlord to assure such Person's future performance under the Lease, including, without limitation, the

assurances referred to in Title 11 U.S.C. § 365(b)(3) (as the same may be amended), shall be given to Landlord by the trustee, Tenant or Tenant as debtor-in-possession no later than twenty (20) days after receipt by the trustee, Tenant or Tenant as debtor-in-possession of such offer, but in any event no later than ten (10) days prior to the date that the trustee, Tenant or Tenant as debtor-in-possession shall make application to a court of competent jurisdiction for authority and approval to enter into such assignment and assumption, and Landlord shall thereupon have the prior right and option, to be exercised by notice to the trustee given at any time prior to the effective date of such proposed assignment, to accept an assignment of this Lease upon the same terms and conditions and for the same consideration, if any, as the bona fide offer made by such Person, less any brokerage commissions which may be payable out of the consideration to be paid by such Person for the assignment of this Lease. In no event shall any proposed assignee referenced in this Section 24.16(h) be a Prohibited Party.

Section 24.17. Nothing contained in this Article 24 shall be deemed to modify the provisions of Sections 10.10 or 10.11 hereof.

Section 24.18. During the continuance of an Event of Default (i) no PILOST Savings will be available to Tenant or any other party in connection with the Premises (and Tenant shall pay to Landlord as Additional Charges the PILOST Amount on all property (including, but not limited to, materials, supplies, equipment and Equipment, to the extent such Equipment is owned by Landlord) purchased or leased, and all services performed, in connection with construction of the Improvements during the continuance of an Event of Default as if the same were purchased to be incorporated into the Building after Substantial Completion of the Building under Section 11.04(e)) and (ii) PILOT shall equal actual Taxes which would otherwise be payable if the Premises or any part thereof or the owner thereof were not exempt therefrom;

provided, however, that from and after the date that a receiver is appointed in connection with a Mortgagee's foreclosure proceedings with respect to the Premises and all monetary defaults and cureable non-monetary defaults are cured (excluding defaults which can only be cured after foreclosure), clause (i) and (ii) of this Section 24.18 shall cease to apply until the earlier to occur of (x) such Mortgagee succeeding to the interest of Tenant in this Lease or entering into a new Lease pursuant to Section 10.11, and (y) the occurrence of an additional Event of Default.

ARTICLE 25

NOTICES

Section 25.01. Whenever it is provided in this Lease that a notice, demand, request, consent, approval or other communication (a "Notice") shall or may be given to or served upon either of the parties by the other and whenever either of the parties shall desire to give or serve upon the other any Notice with respect hereto or the Premises, each such Notice shall be in writing (whether or not so stated elsewhere in this Lease) and, any law or statute to the contrary notwithstanding, shall be effective for any purpose only if given or served as follows:

(a) if by Landlord, by hand delivering or by mailing the same to Tenant by registered or certified mail, postage prepaid, return receipt requested, or by sending the same by nationally recognized overnight courier service,

(i) addressed to Tenant at:

290 Park Avenue South
New York, NY 10017
Attention: H. Henry Elghanayan

with a copy to: Kramer Levin Naftalis & Frankel LLP
919 Third Avenue
New York, NY 10022

Attention: Michael Paul Korotkin, Esq.

(ii) or to such other parties and address(es) as Tenant may from time to time designate by notice given as aforesaid; and

(b) if by Tenant, by hand delivering or by mailing the same to Landlord by registered or certified mail, postage prepaid, return receipt requested, or by sending the same by nationally recognized overnight courier service

addressed to Landlord at:

Queens West Development Corporation
633 Third Avenue
New York, New York 10017
Attention: President

with copies to:

New York State Urban Development Corporation
d/b/a Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attention: General Counsel

New York State Urban Development Corporation
d/b/a Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attention: Deputy General Counsel

Queens West Development Corporation
633 Third Avenue
New York, New York 10017
Attention: Director of Operations

and:

Skadden, Arps, Slate, Meagher & Flom, LLP
Four Times Square
New York, New York 10036
Attention: Neil L. Rock, Esq.

and if the subject of such notice relates to any construction or design related issues, a copy to:

New York State Urban Development Corporation
d/b/a Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attention: Senior Vice President of Design and Construction

or to such other parties and address(es) as Landlord may from time to time designate by notice given as aforesaid.

Section 25.02. Every Notice hereunder shall be deemed to have been given or served only when delivered against a signed receipt, or if mailed, on the earliest to occur of (a) the date of actual receipt thereof and (b) the date of refusal by the addressee to accept such mailing or delivery.

Section 25.03. Every Notice hereunder delivered by Tenant to Landlord shall be delivered together with a cover letter in the form of Exhibit M hereto. Any Notice which is delivered by Tenant to Landlord hereunder which does not comply with the requirements set forth herein will be deemed not delivered to Landlord.

ARTICLE 26

FINANCIAL REPORTS

Section 26.01.

(a) From and after the date upon which any portion of the Premises is subleased by Tenant, Tenant shall, at its own cost and expense, furnish to Landlord as soon as practicable after the end of each fiscal year of Tenant, but in any event within one hundred twenty (120) days thereafter, and at any other time after request by Landlord (provided, however that such request may not occur more frequently than one (1) time a year), a schedule in the form attached as

Exhibit Q certified by the chief financial officer or managing general partner of Tenant. Upon the reasonable request of Landlord at reasonable times Tenant shall permit Landlord and its agents and representatives to inspect all Subleases and, at Landlord's expense, to make and retain copies thereof.

(b) Within ninety (90) days after the earlier of (i) the receipt of a permanent certificate of occupancy for the Building and (ii) one (1) year after the receipt of a temporary certificate of occupancy for the residential portion of the Building, Tenant shall deliver to Landlord a statement of actual Hard Costs (the "Hard Cost Certificate") incurred to date certified by the chief financial officer or other representative of Tenant reasonably acceptable to Landlord to be true and correct; and

(c) Tenant shall promptly furnish Landlord with such other information respecting the business, property, condition and operations, financial or otherwise, of the Premises and Tenant as Landlord may reasonably request.

Section 26.02.

(a) Tenant shall keep and maintain at an office in the City complete and accurate books and records of accounts of the construction of the Improvements and the operations of the Premises, from which Landlord may determine for each fiscal year of Tenant (all or any portion of which falls within the Term) (i) the items to be shown or set forth on the statements to be delivered by Tenant to Landlord pursuant to Section 26.01, and (ii) other financial information required in accordance with any applicable provision of any Mortgage and shall preserve, for a period of at least six (6) years after the end of each applicable fiscal year, such books and records. However, if, at the expiration of such six (6) year period, Landlord is contesting any matter of which Tenant has knowledge relating to such records or any matter to which such records may be

relevant, Tenant shall preserve these until one (1) year after the final adjudication, settlement or other disposition of any such contest.

(b) Subject to the requirements of law, including the Freedom of Information Law (Article 6 of the New York State Public Officers Law), Landlord will use reasonable efforts to maintain the confidentiality of all of the information and other materials provided to Landlord pursuant to this Article 26 which are expressly and clearly marked as **"CONFIDENTIAL"** and which are not otherwise in the public domain or obtained from third party sources on a non-confidential basis; provided however that the foregoing shall not restrict Landlord from making any disclosure of such confidential information as Landlord deems necessary or desirable to its board of directors, the staff members of such directors, and/or to Landlord's employees, legal, financial and other professional advisors (provided such professional advisors are advised of this agreement to keep the same confidential and agree to do so) and/or to comply with law. In the event that Landlord is required by subpoena, court order or other similar process to disclose such confidential information, Landlord shall, prior to complying with such subpoena, court order or similar process, provide Tenant with prompt written notice so that Tenant may seek a protective order or other appropriate remedy. If Tenant fails to obtain a protective order or other appropriate remedy to preclude the disclosure of any of such confidential information, Tenant acknowledges that Landlord or its representatives may be required to disclose such confidential information, but shall comply with such subpoena, court order or similar process by providing the minimum of such confidential information being sought as advised by Landlord's legal counsel and the governmental or judicial authority requiring such compliance.

Section 26.03.

(a) Landlord or Landlord's agent or designee shall have the right from time to time, in the City, during regular business hours, upon five (5) Business Days' notice, to inspect, audit and, at its option, duplicate, at Landlord's expense, and retain copies of all of Tenant's books and records relating in any manner to the construction of the Improvements and/or the operation of the Premises or to matters covered by this Lease (including, without limitation, Certified Costs and the PILOST Amount).

(b) Should any audit performed by Landlord or Landlord's agent or designee disclose that any payment of Additional Charges was understated, Landlord shall notify Tenant of the amount of the underpayment by a statement showing in reasonable detail the reasons why such payment of Additional Charges was understated. Within thirty (30) days after Tenant has received notice of such underpayment from Landlord, Tenant shall either pay to Landlord the amount by which such payment was understated or deliver to Landlord a statement contesting Landlord's determination of underpayment and giving the reasons therefor in reasonable detail. If Landlord and Tenant shall fail to agree as to the existence or amount of an underpayment the matter shall be submitted to arbitration pursuant to Article 35 hereof. Within ten (10) days after it is determined by agreement between Landlord and Tenant or by arbitration that a payment of Base Rent and Additional Charges was understated, Tenant shall pay to Landlord the amount of the deficiency with interest at the rate of (i) the Involuntary Rate if the amount actually paid was less than or equal to ninety-two and one-half percent (92.5%) of the amount which was supposed to be paid or (ii) the Prime Rate if the amount actually paid was greater than ninety-two and one-half percent (92.5%) of the amount which was supposed to be paid, in either case, with such interest to be paid from the date of the underpayment to the date of payment of the deficiency,

which interest shall constitute Additional Charges hereunder. Should any audit performed by Landlord or Landlord's agent or designee disclose that any payment of Additional Charges was overstated, Landlord shall apply the amount of such overpayment towards the payment of any Additional Charges due from Tenant and shall rebate any remaining amount of such overpayment to Tenant.

Section 26.04. The obligations of Tenant and Landlord under this Article 26 shall survive the termination or expiration of this Lease for a period of six (6) years. However, if at the end of such six (6) year period, Landlord is contesting any matter of which Tenant has knowledge under this Article 26, the obligations of Tenant shall not terminate until final adjudication, settlement or other disposition of any such contest.

ARTICLE 27

COMPLETION GUARANTY

Section 27.01. Tenant shall, as of the date hereof, deliver a fully executed valid and binding original completion guaranty (the "Completion Guaranty") from Rockrose Equities L.L.C. in the form attached hereto as Exhibit B. In the event (i) Tenant obtains construction financing from an Institutional Lender to construct the Building and such Institutional Lender requires a construction and/or completion guaranty (the "Construction Guaranty") from a "Rockrose" entity and (ii) the guarantor (the "Replacement Guarantor") executing the Construction Guaranty is not Rockrose Equities L.L.C., then (1) Tenant shall cause the Replacement Guarantor to enter into a guaranty (the "Replacement Guaranty") substantially in the form attached hereto as Exhibit B and otherwise reasonably acceptable to Landlord and (2) if the Replacement Guarantor, at the time of entering into the Replacement Guaranty, has a net worth, as computed in accordance with GAAP (except that any real estate shall be valued according to

its fair market value) in excess of twenty-seven million five hundred thousand dollars ($27,500,000), QWDC, upon receipt of the Replacement Guaranty shall deliver a termination letter confirming that Rockrose Equities L.L.C. is released from its obligations under the Completion Guaranty.

ARTICLE 28

STREET WIDENING

If at any time during the Term, any proceedings are instituted or orders made by any Governmental Authority for the widening or other enlargement of any Street contiguous to the Premises requiring removal of any projection or encroachment on, under or above any such Street, or any changes or alterations upon the Premises, or in the sidewalks, vaults (other than vaults which are under the control of, or are maintained or repaired by, a utility company), gutters, curbs or appurtenances, Tenant, with reasonable diligence shall comply with such requirements, and on Tenant's failure to do so, Landlord may comply with the same in accordance with the provisions of Article 21. Tenant shall be permitted to contest in good faith any proceeding or order for street widening instituted or made by any Governmental Authority in accordance with Section 14.02. Any widening or other enlargement of any such Street and the award or damages in respect thereto shall be deemed a partial condemnation and be subject to the provisions of Article 9.

ARTICLE 29

SUBORDINATION

Section 29.01. Neither Landlord's interest in the Premises nor Landlord's interest in this Lease, as this Lease may be modified, amended or supplemented, or any part thereof, shall be subject or subordinate to (a) any mortgage now or hereafter placed upon Tenant's interest in this Lease or (b) any other liens or encumbrances hereafter affecting Tenant's interest in this Lease.

Section 29.02. All future ground leases, overriding leases and underlying leases of the Land and/or the Improvements hereafter existing and created by Landlord and all mortgages created by Landlord which may hereafter affect the Land and/or the Improvements and/or any of such leases shall be expressly subject to this Lease so that in the event of any termination of any such ground, overriding or underlying lease or foreclosure of any such mortgage, this Lease and the rights and estate of Tenant hereunder shall be unaffected by any such termination or foreclosure.

ARTICLE 30

EXCAVATIONS AND SHORING

If any excavation shall be made or contemplated to be made for construction or other purposes upon property adjacent to the Premises, Tenant shall afford to Landlord or, at Landlord's option, to the person or persons causing or authorized to cause such excavation the right to enter upon the Premises in a reasonable manner for the purpose of doing such work as may be necessary, without cost to Tenant, to preserve any of the walls or structures of the Improvements from injury or damage and to support the same by proper foundations; provided that (i) Tenant shall have approved of the plans and specifications for such work, which approval shall not be unreasonably withheld and shall be deemed given to the extent such work is the only practical means of achieving compliance with any Requirements, (ii) such work shall be done

promptly in a good and workerlike manner subject to all applicable Requirements and shall include any necessary restoration work, (iii) Tenant, at Tenant's sole cost and expense, shall have opportunity to have its representative present during all such work, (iv) the Person who performs such work shall indemnify Tenant from and against all loss and damage resulting from such work and (v) the Person who performs such work shall maintain adequate insurance (given the scope of the work being performed) to protect Tenant, the Premises and the Improvements from loss and damage resulting from such work. Tenant's approval shall be limited to determining that the work is safely planned, will not damage or adversely affect the Premises and shall not be unreasonably withheld. If Tenant shall not have approved or disapproved of such plans and specifications within twenty (20) days after they shall have been delivered to Tenant, Tenant shall be deemed to have approved of such plans and specifications. Tenant shall not, by reason of any such excavation or work, have any claim against Landlord for suspension, diminution, abatement, offset or reduction of Base Rent or Additional Charges or, except as set forth in this Article 30, for damages or for indemnity.

ARTICLE 31

CERTIFICATES BY LANDLORD AND TENANT

Section 31.01. At any time and from time to time upon not less than ten (10) days notice by Landlord, solely for the benefit of third parties (i.e. such information shall not be relied upon by Landlord or an Affiliate of Landlord), Tenant shall execute, acknowledge and deliver to Landlord or any other party specified by Landlord a statement certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which Base Rent and Additional Charges have been paid, stating whether or not to the best knowledge of

Tenant, Landlord is in default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which Tenant may have knowledge, and stating anything else reasonably requested by Landlord with respect to the Premises.

Section 31.02. At any time and from time to time upon not less than ten (10) days notice by Tenant, solely for the benefit of third parties (i.e. such information shall not be relied upon by Tenant or an Affiliate of Tenant) Landlord shall execute, acknowledge and deliver to Tenant or any other party specified by Tenant a statement (a) certifying that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same, as modified, is in full force and effect and stating the modifications) and the date to which Base Rent and Additional Charges have been paid, and stating whether or not to the best knowledge of Landlord, Tenant is in Default in the performance of any covenant, agreement or condition contained in this Lease, and, if so, specifying each such default of which Landlord may have knowledge, (b) stating whether or not Landlord shall recognize a proposed lender as a Mortgagee and (c) stating anything else reasonably requested by Tenant with respect to the Premises or the Lease.

Section 31.03. At Landlord's request, but not more than once a year, Tenant shall deliver a written statement to Landlord, certified as true and accurate by an officer of Tenant stating whether, to the best knowledge of the three representatives of Tenant who are most responsible for the construction, operation, maintenance and control of the Premises, Tenant has failed to observe or perform one or more of the monetary or material non-monetary terms, conditions, covenants or agreements contained in this Lease or is otherwise in monetary or material non-monetary default under this Lease. If Tenant is in default under this Lease, Tenant

shall deliver weekly statements to Landlord setting forth the acts taken by Tenant and the acts planned to be taken by Tenant in connection with the cure of any failure by Tenant to observe or perform one or more of the other terms, conditions, covenants or agreements contained in this Lease when such cure requires work to be performed, acts to be done, or conditions to be removed. Such statement shall be accompanied by evidence reasonably acceptable to Landlord that Tenant is diligently and continuously prosecuting the cure of such failure to completion. Tenant shall also provide to Landlord such other information which Landlord reasonably requests with respect to the matters described in this Section 31.03.

ARTICLE 32

CONSENTS AND APPROVALS

Section 32.01. All consents and approvals which may be given under this Lease shall, as a condition of their effectiveness, be in writing. The granting of any consent or approval by a party to perform any act requiring consent or approval under the terms of this Lease, or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its right to require such consent or approval for any further similar act.

Section 32.02. If Tenant shall request Landlord's consent or approval, and Landlord shall fail or refuse to give such consent or approval, Tenant shall have no recourse against Landlord for Landlord's withholding of its consent or approval, except solely in those instances in which Landlord has acted unreasonably and either (i) Landlord has expressly agreed in this Lease not to unreasonably withhold its consent or approval, (ii) as a matter of law Landlord may not unreasonably withhold its consent or approval or (iii) Landlord has acted purposefully, maliciously and in bad faith. In no event shall Tenant be entitled to any damages

for any unreasonable withholding by Landlord of its consent or approval. Tenant's sole recourse against Landlord for the unreasonable withholding of Landlord's consent or approval in those instances in which such recourse is permitted under this Section 32.02 shall be limited to expedited arbitration in accordance with the provisions of this Lease or an action for declaratory relief that the withholding of such consent or approval was unreasonable and that, accordingly, Tenant may proceed as if such consent or approval had been granted by Landlord. In the event Tenant shall prevail in such action, Landlord shall pay and reimburse Tenant for reasonable legal fees incurred by Tenant in connection therewith. In the event Tenant shall not prevail in such action, Tenant shall pay and reimburse Landlord for reasonable legal fees incurred by Landlord in connection therewith.

Section 32.03. If, pursuant to the terms of this Lease, any consent or approval by Landlord or Tenant is not to be unreasonably withheld, such consent or approval shall, in addition, not be unreasonably delayed or conditioned, unless specific time periods are provided therefor, in which event such specific time periods shall govern.

ARTICLE 33

SURRENDER AT END OF TERM

Section 33.01. On the last day of the Term or upon any earlier termination of this Lease, or upon a re-entry by Landlord upon the Premises pursuant to Article 24, Tenant shall well and truly surrender and deliver to Landlord the Premises in good order, condition and repair, reasonable wear and tear and, casualty to the extent the Premises or any part thereof are not required to be restored pursuant to Section 8.07(b), excepted, free and clear of all lettings, occupancies, liens and encumbrances other than the Title Matters and those created by or consented to by Landlord, other than residential lettings entered into in the ordinary course of

business extending beyond the Term or commercial lettings expressly approved by Landlord. Tenant hereby waives any notice now or hereafter required by law with respect to vacating the Premises on any such termination date.

Section 33.02. On the last day of the Term or upon any earlier termination of the Lease, or upon a re-entry by Landlord upon the Premises pursuant to Article 24, Tenant shall deliver to Landlord Tenant's executed counterparts of all Subleases and any service and maintenance contracts then affecting the Premises, true and complete maintenance records for the Premises, all original Permits then pertaining to the Premises, permanent or temporary Certificates of Occupancy then in effect for the Improvements, and all warranties and guarantees then in effect which Tenant has received in connection with any work or services performed or Equipment installed in the Improvements, together with a duly executed assignment thereof to Landlord, without recourse, and all financial reports, books and records required by Article 26 and any and all other documents relating to the Premises.

Section 33.03. Tenant shall, without recourse, give, assign and transfer all of its interests to Landlord, to the extent Tenant has any interest, in the Construction Documents, and any and all other plans, drawings, specifications and models prepared in connection with construction at the Premises, any Restoration and any Capital Improvement, upon the Expiration Date or any earlier termination of this Lease. All such documents shall become the sole and absolute property of Landlord and Tenant shall deliver all such documents to Landlord promptly upon the Expiration Date or any earlier termination of this Lease. Landlord shall be able to use all such Construction Documents only in connection with the Premises in its sole discretion and without consent from any other Person.

Section 33.04. Any personal property of Tenant or of any Subtenant which shall remain on the Premises for thirty (30) days after the termination of this Lease and after the removal of Tenant or such Subtenant, from the Premises, may, at the option of Landlord, be deemed to have been abandoned by Tenant or such Subtenant and either may be retained by Landlord as its property or be disposed of, without accountability, in such manner as Landlord may see fit. Landlord shall not be responsible for any loss or damage occurring to any such property owned by Tenant or any Subtenant.

Section 33.05. The provisions of this Article 33 shall survive any termination or expiration of this Lease.

ARTICLE 34

OPTION TO PURCHASE THE PREMISES

Section 34.01. Landlord hereby grants to Tenant and its successors, assigns of the Lease or designees (but in no event a Prohibited Party) the option to purchase the Premises, on the terms and conditions hereinafter set forth (the "Option").

Section 34.02.

(a) Subject to Section 34.02(c), provided that (i) no Event of Default has occurred and is continuing hereunder except as otherwise stated in Section 34.02(b), and (ii) no default has occurred and is then continuing under the Infrastructure Agreement, the Option may be exercised by Tenant's delivery of written Notice (the "Exercise Notice") of such exercise to Landlord at any time after the Infrastructure Compliance Date and Substantial Completion of the Building has occurred. The Exercise Notice shall constitute Tenant's irrevocable offer to purchase the Premises in accordance with the terms of this Article 34. If there is any dispute as to whether

Tenant may exercise the Option pursuant to this Section 34.02, such dispute shall be resolved by arbitration in accordance with the provisions of Article 35.

(b) At any time after the Infrastructure Compliance Date, if an Event of Default has occurred and is continuing hereunder (other than as a result of Tenant being a Prohibited Party), Tenant may, at any time prior to the date which is ninety (90) days after the receipt of a notice of termination of this Lease, exercise the Option pursuant to Section 34.02(a) notwithstanding the existence of an Event of Default and/or the termination of this Lease, provided (A) Tenant otherwise complies with the provisions of this Article 34, (B) Tenant has cured all monetary Events of Default and all cureable non-monetary Events of Default, in each case, within such ninety (90) day period, or in the case of only a cureable non-monetary Event of Default which cannot reasonably be cured within such ninety (90) day period, Tenant has promptly commenced such curative action, is diligently prosecuting to completion such cure and Tenant provides to Landlord on the Closing Date an agreement confirming its obligation to complete such cure in the form of Exhibit O attached hereto, (C) Tenant delivers the Exercise Notice and (D) Tenant at the time of such exercise is still in possession of the Premises. Tenant's delivery of the Exercise Notice shall constitute Tenant's irrevocable offer to purchase the Premises in accordance with the terms of this Article 34, provided that if there is any dispute as to whether Tenant may exercise the Option pursuant to this Section 34.02, such dispute shall be resolved by arbitration in accordance with the provisions of Article 35.

(c) Prior to the Closing Date, Tenant shall, in either case of (a) or (b) above, (i) pay to Landlord any amounts then due to Landlord hereunder including, but not limited to any Base Rent and Additional Charges due through and in respect of the period ending on the Closing Date, provided Tenant shall not be required to pay the Accelerated Amount, if any, in

connection with amounts which would otherwise have been due from and after the Closing Date, (ii) cure any monetary defaults under any other Stage II Ground Lease if (A) such default under such other Stage II Ground Lease occurs prior to the completion of the construction of the foundations of the Building and (B) at the time of such default under such other Stage II Ground Lease, the tenant under such Stage II Ground Lease is Tenant or an Affiliate thereof and (iii) fulfill or continuing to fulfill any payment and performance of any outstanding indemnity obligations required pursuant to this Lease.

Section 34.03. If Tenant shall exercise the Option pursuant to either Section 34.02(a) or (b), then Landlord shall sell, transfer, assign and convey to Tenant, its designee or nominee and Tenant, its designee or nominee shall purchase from Landlord, Landlord's fee interest in the Premises excluding any rights of Landlord as a Governmental Entity. Such sale and purchase shall include all right, title and interest of Landlord, if any, in and to the following:

(a) All easements, rights-of-way, privileges, appurtenances and rights pertaining to the Premises, as if the same were owned by a private entity;

(b) (i) All condemnation awards made or to be made in lieu thereof, (ii) all unpaid awards for damage to the Premises by reason of change of grade of any Street and (iii) all insurance proceeds, condemnation awards, and funds held by Depositary; and Landlord shall execute and deliver to Tenant at the Closing (as hereinafter defined) all proper and necessary instruments for the conveyance of any such title and the assignment and collection of any such award; and

(c) All fixtures, machinery, Equipment, articles of personal property and improvements in the nature of personal property, if any, owned by Landlord and attached or appurtenant to, or located on, or used in connection with the use or operation of the Premises.

Section 34.04. If Tenant shall exercise the Option, Landlord and Tenant will cooperate, at Tenant's sole expense, to subdivide the Premises and the PAPPS into two (2) separate tax lots, one (1) being comprised of the Premises and one (1) being comprised of the PAPPS (the date such subdivision is completed, the "Subdivision Date").

Section 34.05. (a) If Tenant shall exercise the Option, the purchase price (the "Purchase Price") payable by Tenant to Landlord for the purchase of the Premises shall be $1.00.

(b) If Tenant shall exercise the Option, the Purchase Price shall be paid at the Closing in cash and Landlord shall give Tenant a receipt therefor.

Section 34.06. If Tenant shall exercise the Option, the closing of the transaction contemplated by this Article 34 (the "Closing") shall take place at 10:00 A.M. on the Closing Date at the offices of Landlord or such other place in the City as Landlord shall select. The date of the Closing (the "Closing Date") shall be the later to occur of (i) the date set forth in the Exercise Notice, which shall not be less than fifteen (15) nor more than forty-five (45) days after the date of the Exercise Notice (the "Exercise Date"), and (ii) fifteen days after the Subdivision Date.

Section 34.07.

(a) If Tenant shall exercise the Option, the Premises shall be sold subject only to the Permitted Exceptions, and Landlord shall execute, acknowledge and deliver to Tenant at the Closing (i) a quitclaim deed without recourse and without any representations and which will be substantially in the form of deed set forth in Exhibit H attached hereto and which will provide that (w) if Substantial Completion of the Building has not occurred and the Option has been exercised (as allowed pursuant to Section 34.02(b)), the failure of the owner of the Premises to construct the Building approved hereunder or such other building as is approved by Landlord,

within either (A) three years after the Closing Date if at least three buildings have not been completed on three parcels demised under other Stage II Ground Leases pursuant to and in accordance with such other Stage II Ground Leases (provided, however, that if Tenant or an Affiliate of Tenant exercises the option to purchase the premises under another Stage II Ground Lease simultaneously with the exercise of the Option and such Tenant or Affiliate of Tenant completes construction of the building on such other parcel pursuant to and in accordance with such other Stage II Ground Lease within three years of the Closing Date with respect to the Premises hereunder, then this clause (A) shall not apply and Tenant shall instead be required to comply with clause (B)) or (B) fifteen (15) years of the Commencement Date of this Lease, shall result in the ownership of the Premises reverting back to Landlord, (x) the owner of the Premises will be required to pay to Landlord at the times specified in Section 3.09(b) the Public Maintenance Amount which would have been due hereunder for the unexpired term of the Lease ending at the Scheduled Expiration Date, provided such Public Maintenance Amount is not paid to an Association as permitted in Section 3.09(c), and (y) the owner of the Premises will continue to comply with the Design Controls, including, without limitation, the GPP; (ii) a bill of sale in the form set forth in Exhibit T for Equipment owned by Landlord and located at the Premises and (iii) a termination of all contractual assignments made from Tenant to Landlord under this Lease in the form set forth in Exhibit U. There shall be no apportionments as Tenant will be required to pay all amounts that are customarily apportioned up to the closing pursuant to the terms of this Lease. Notwithstanding the foregoing, any portion of the Base Rent or Additional Charges paid by Tenant attributable to periods after the Closing Date will be refunded by Landlord to Tenant at the Closing by good unendorsed certified or bank check drawn on a New York Clearing House Bank to the direct order of Tenant or Tenant's designee. Tenant shall pay all title, survey and any

other costs in connection with the purchase of the Premises (including, without limitation, any transfer taxes).

(b) If Tenant shall exercise the Option, Tenant shall execute, acknowledge and deliver to Landlord at the Closing the following document which must be satisfactory to Landlord in Landlord's reasonable discretion: an agreement restating and affirming all indemnification obligations of Tenant contained herein, including, but not limited to, any indemnifications relating to environmental matters in the form attached as Exhibit N.

Section 34.08. If Tenant shall exercise the Option, Tenant shall pay when due all transfer taxes, if any, relating to the transaction (including, without limitation, any termination of this Lease), whether payable by a transferor or transferee, including, without limitation, any tax imposed pursuant to Article 31 of the New York State Tax Law and the regulations applicable thereto, as the same may from time to time be amended (the "State Transfer Tax Law"), and any tax imposed pursuant to Chapter 21 of Title 11 of The Administrative Code of the City of New York and the regulations applicable thereto, as the same may from time to time be amended (the "City Transfer Tax Law"). Tenant hereby indemnifies and holds the Indemnitees harmless from and against all judgments, claims, losses, liabilities, and other costs and expenses (including, without limitation, penalties, interest, reasonable attorneys' fees and disbursements and court costs) incurred by any Indemnitee by reason of the non-payment of any of the taxes referred to in this Section 34.07 or Tenant's failure to execute and deliver any forms or other documents required in connection with the taxes referred to in this Section 34.07. Landlord and Tenant hereby agree to execute any necessary documents in connection with the payment of taxes referred to in this Section 34.07. The provisions of this Section 34.07 shall survive the Closing.

Section 34.09. If Tenant shall exercise the Option, then the Premises shall be sold subject to this Lease, unless Tenant otherwise elects at the time of Closing, in its sole discretion; provided, however, that neither Tenant nor any other owner or occupant of the Premises shall be entitled to any benefits by reason of the ownership of the Improvements by Landlord, a public entity, including, without limitation exemption from sales and compensating use taxes, mortgage recording tax and other Taxes, if any. Without limiting the generality of the foregoing, upon the occurrence of the Closing, Tenant shall pay and be responsible for any and all Taxes applicable to the Premises.

ARTICLE 35

ARBITRATION

Section 35.01. The parties hereto shall not have been deemed to have agreed to determination of any dispute arising out of this Lease by arbitration unless determination in such manner shall have been specifically provided for in this Lease.

Section 35.02. Every dispute between the parties which is to be determined by arbitration pursuant to this Lease shall be resolved in the manner set forth in this Article 35. If the arbitration is with respect to a non-monetary dispute, the arbitration shall be governed by all sections of this Article 35, except for Section 35.04. If the arbitration is with respect to a monetary dispute, the arbitration shall be governed by all sections of this Article 35, except for Section 35.03.

Section 35.03. If the arbitration is with respect to a non-monetary dispute, the parties shall proceed under this Section 35.03.

(a) The party requesting arbitration shall do so by giving notice to that effect to the other party (and if Landlord shall be the party requesting arbitration and prior to the date of

such notice shall have received the name and address of any Mortgagee, Landlord shall also give such notice to such Mortgagee), specifying in such notice the name and address of the disinterested person designated to act as an arbitrator on its behalf. Within fifteen (15) days after the service of such notice, the other party shall give notice to the first party specifying the name and address of the person designated to act as an arbitrator on its behalf. If the second party fails to notify the first party of the appointment of its arbitrator, as aforesaid, within the time above specified, then the appointment of the second arbitrator shall be made in the same manner as hereinafter provided for the appointment of a third arbitrator in a case where the two arbitrators appointed hereunder and the parties are unable to agree upon such appointment. Within fifteen (15) days after the second arbitrator is appointed, the two arbitrators shall together appoint a third arbitrator. In the event of their being unable to agree upon such appointment within twenty (20) days after the appointment of the second arbitrator, the third arbitrator shall be selected by the parties themselves if they can agree thereon within a further period of ten (10) days. If the parties do not so agree, then either party, on behalf of both and on notice to the other, may request such appointment by the president of the American Arbitration Association (or any successor organization thereto) (the "Arbitration Association") in accordance with its then prevailing rules, or if the president of the Arbitration Association shall fail to appoint such third arbitrator within twenty (20) days after such request is made, then either party may apply, on notice to the other, to the Supreme Court of New York County (or any other court having jurisdiction and exercising functions similar to those now exercised by such court) for the appointment of such third arbitrator, and the other party shall not raise any question as to such court's full power and jurisdiction to entertain the application and make the appointment.

(b) The arbitrators shall render their decision and award, upon the concurrence of at least two (2) of their number, within thirty (30) days after the effective date of the appointment of the third arbitrator. The appointment of the arbitrators shall be made in a writing which shall state the effective date thereof. Such decision and award shall be in writing and counterpart copies thereof shall be delivered to each of the parties. In rendering such decision and award, the arbitrators shall not add to, subtract from or otherwise modify or reform the provisions of this Lease and their jurisdiction is limited accordingly. Judgment may be entered upon the determination and award made by the arbitrators in any court of competent jurisdiction and may be enforced in accordance with the laws of the State of New York.

Section 35.04.

(a) If the arbitration is with respect to a monetary dispute, the parties shall proceed under this Section 35.04. The party requesting arbitration shall do so by giving notice to that effect to the other party, specifying in such notice the name and address of the disinterested person designated to act as a arbitrator on its behalf. Within fifteen (15) days after the service of such notice, the other party shall give notice to the first party specifying the name and address of the person designated to act as an arbitrator on its behalf. If the second party fails to notify the first party of the appointment of its arbitrator, as aforesaid, within the time above specified, then the appointment of the second arbitrator shall be made in the same manner as hereinafter provided for the appointment of a third arbitrator in a case where the two arbitrators appointed hereunder and the parties are unable to agree upon such appointment. Within twenty (20) days after the second arbitrator is appointed, the two arbitrators shall together appoint a third arbitrator. In the event of their being unable to agree upon such appointment within twenty (20) days after the appointment of the second arbitrator, the third arbitrator shall be selected by the parties

themselves if they can agree thereon within a further period of ten (10) days. If the parties do not so agree, then either party, on behalf of both and on notice to the other, may request such appointment by the president of the Arbitration Association in accordance with its then prevailing rules, or if the president of the Arbitration Association shall fail to appoint such third arbitrator within twenty (20) days after such request is made, then either party may apply, on notice to the other, to the Supreme Court of New York County (or any other court having jurisdiction and exercising functions similar to those now exercised by such court) for the appointment of such third arbitrator, and the other party shall not raise any question as to such court's full power and jurisdiction to entertain the application and make the appointment.

(b) Each of Landlord and Tenant shall, within ten (10) Business Days after notice of selection of the third arbitrator is given by the arbitrators to Landlord and Tenant, submit their separate written proposed determinations (each, a "Proposed Determination") to the three arbitrators. After the submission of any Proposed Determination, the submitting party may not make any additions, deletions or changes in such Proposed Determination. If either party fails to deliver its Proposed Determination within such ten (10) Business Day time period, time being of the essence with respect thereto, such party shall be deemed to have irrevocably waived its right to deliver a Proposed Determination, in which event the arbitrators, without holding a hearing, shall accept the Proposed Determination of the submitting party. If each party submits a Proposed Determination within the ten (10) Business Day period described above, the arbitrators shall promptly deliver a copy of each party's Proposed Determination to the other party. Within thirty (30) days after receipt of such Proposed Determinations by the three arbitrators the three arbitrators shall render a final decision by: (i) averaging the Proposed Determinations of Landlord and Tenant if the higher Proposed Determination is not more than one hundred ten

percent (110%) of the lower Proposed Determination or (ii) upon the concurrence of at least two of their number, choosing one of the two Proposed Determinations so submitted if the higher Proposed Determination is more than one hundred ten percent (110%) of the lower Proposed Determination. The three arbitrators shall have no options other than as specified in the immediately preceding sentence. In rendering such decision and award, the arbitrators shall not add to, subtract from or otherwise modify or reform the provisions of this Lease and their jurisdiction is limited accordingly. Such decision and award shall be in writing and counterpart copies thereof shall be delivered to each of the parties. Judgment may be entered upon the determination and award made by the arbitrators in any court of competent jurisdiction and may be enforced in accordance with the laws of the State of New York.

Section 35.05. Except in a matter determined under Section 35.04(b)(i), the arbitrators shall hold one or more hearings (at a reasonable location, upon reasonable notice and at a reasonable time), and Landlord and Tenant shall have the right to present evidence and witnesses as to the subject matter of the arbitration and the arbitrators shall have the right to retain and consult experts and authorities competent in the subject matter of the arbitration. Any such presentation of evidence or witnesses and any such consultation shall be made in the presence of both parties with full right on their part to rebut such evidence and cross-examine such experts and authorities.

Section 35.06. If for any reason whatsoever the written decision and award of the arbitrators shall not be rendered within the time limit set forth in Section 35.03 or 35.04, either party may apply to the Supreme Court for New York County or to any other court having jurisdiction and exercising functions similar to those now exercised by such court, by action, proceeding or otherwise (but not by a new arbitration proceeding) as may be proper to determine

the matter in dispute consistently with the provisions of this Lease. If any arbitrator named hereunder shall be unwilling or unable, for any reason, to serve or to continue to serve, a replacement arbitrator shall be appointed in the same manner as the arbitrator who is unwilling or unable to serve.

Section 35.07. Intentionally Deleted.

Section 35.08. All arbitrations referred to in this Lease shall be held in New York City.

Section 35.09.

(a) All arbitrations referred to in this Lease shall be conducted in accordance with the then prevailing Commercial Arbitration Rules of the Arbitration Association applicable to the subject matter of the dispute, modified as set forth in this Section 35.09:

(i) To the extent that the New York State Civil Practice Law and Rules or any successor statute imposes requirements different than those of the Arbitration Association in order for the decision of the arbitrator(s) to be enforceable in the courts of the State of New York, such requirements shall be complied with in the arbitration.

(ii) Each of the arbitrators appointed by Landlord or Tenant shall not be Landlord or Tenant, an Affiliate of either Landlord or Tenant, or an employee of Landlord, Tenant or an Affiliate of Landlord or Tenant, and shall have at least ten (10) years' experience in the City in real estate and the general subject matter to be determined in the arbitration, provided, however that any additional arbitrator selected by such appointed arbitrators shall be an independent Person unaffiliated with either Landlord or Tenant or any Affiliate of either of them and have at least ten (10) years' experience in the

City in real estate and the general subject matter to be determined in the arbitration. If the arbitration relates to Article 11 or Capital Improvements or Restoration, then each of the arbitrators shall be licensed, professional engineers or registered architects having at least ten (10) years experience in design of residential buildings and, to the extent applicable and consistent with this Article 35, shall be conducted in accordance with the then Construction Arbitration Rules of the Arbitration Association or any successor body.

(iii) Before hearing any testimony or receiving any evidence, the arbitrator(s) shall be sworn to hear and decide the controversy faithfully and fairly, by an officer authorized to administer an oath and a written copy thereof shall be delivered to Landlord and Tenant.

(b) The arbitration decision, determined as provided this Article 35, shall be conclusive and binding on the parties.

(c) Each party shall pay its own fees and expenses relating to the arbitration (including the fees and expenses of its counsel, arbitrator, experts and witnesses). Each party shall pay one-half (½) of the fees and expenses of the Arbitration Association and of the third arbitrator.

ARTICLE 36

QUIET ENJOYMENT

Landlord covenants that Tenant shall and may (subject, however, to the exceptions, reservations, terms and conditions of this Lease) peaceably and quietly have, hold and enjoy the Premises for the term hereby granted without molestation or disturbance by or from Landlord or any Person claiming through Landlord and free of any encumbrance created or

suffered by Landlord, except only those encumbrances, liens or defects of title, created or suffered by Tenant, the Permitted Exceptions and the Title Matters.

ARTICLE 37

INVALIDITY OF CERTAIN PROVISIONS

If any term or provision of this Lease or the application thereof to any Person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE 38

ENVIRONMENTAL PROVISIONS

Section 38.01. For the purpose of this Lease, the following terms shall have the following meanings:

"AIG Policy" shall mean a remediation cost cap and pollution legal liability insurance policy that has been mutually negotiated and agreed to by Landlord and Tenant's Affiliate and which is described on Exhibit X.

"Contaminants" shall mean (a) any toxic substance or hazardous waste, substance or related material, or any pollutant or contaminant defined as such under any Environmental Law; (b) radon gas, asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of any standard or criteria established under any applicable Environmental Law; (c) any substance, gas, material or chemical which is or hereafter is defined as or included in the definition of a "hazardous substance," "toxic substance," "hazardous

material," "hazardous waste" or words of similar import under any Environmental Law; and (d) any other chemical, material, gas, vapor, energy, radiation or substance, the exposure to or Release of which is or hereafter is prohibited, limited or regulated by any Governmental Authority having jurisdiction over the Premises or the operations or activity at the Premises under any applicable Environmental Law.

"Environment" shall mean soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata and air.

"Environmental Condition" shall mean any condition with respect to the Environment, whether or not yet discovered, which (i) affects the Premises or (ii) affects other property and results from the past, present or future occupancy of the Premises and which, in either case, is required to be addressed under Environmental Laws by a Governmental Authority having jurisdiction.

"Environmental Damages" shall mean all claims, judgments, damages (including punitive damages), losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of remediation, cleanup, investigation and/or defense of any claim, whether or not such claim is ultimately defeated, and of any settlement or judgment, of whatever kind or nature, foreseeable or unforeseeable, any of which are incurred at any time as a result of (i) an Environmental Condition, (ii) the existence of Contaminants on, about or beneath the Premises or which have migrated to or from the Premises regardless of whether the existence of such Contaminants arose prior to, on or after the Commencement Date, (iii) the Release or Threatened Release of Contaminants into the Environment on or off the Premises arising from or related to the Premises and/or activities or operations on or respecting the Premises, or (iv) the violation or threatened violation of any Environmental Law pertaining to the Premises, regardless

of whether the violation or threatened violation of an Environmental Law arose prior to, on or after the Commencement Date (but in no event shall Environmental Damages include any such event occurring after the Surrender Date provided that same is not caused by the acts or omissions of Tenant), and including:

(i) damages for personal injury, disease or death or injury to property or natural resources occurring on or off the Premises arising from or related to the Premises and/or activities or operations on or respecting the Premises including, with limitation, the cost of demolition and rebuilding of any improvements but excluding consequential damages;

(ii) diminution in the value of the Premises, and damages for the loss of or restriction on the use of the Premises; and

(iii) reasonable fees incurred for the services of attorneys, consultants, Contractors, experts, laboratories and all other reasonable costs incurred in connection with the investigation, cleanup or remediation, including the preparation of any feasibility studies or reports and the performance of any cleanup, remedial, removal, abatement, containment, closure, restoration or monitoring work on or off the Premises arising from or related to the Premises and/or activities or operations respecting the Premises, in each case required under an applicable Environmental Law. Landlord's cleanup costs shall not include costs, charges and expenses incurred by Landlord for the design, engineering or mobilization respecting infrastructure and capital improvements due to the presence of Contaminants existing at the Premises as of the date of this Lease.

"Environmental Laws" shall mean all Laws relating to the protection of human health or the Environment, including, without limitation:

(i) all Laws relating to reporting, licensing, permitting, investigation or remediation of emissions, discharges, Releases, Threatened Releases or the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Contaminants, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; the Hazardous Materials Transportation Act, as amended 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, as amended 42 U.S.C. §6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251, et seq.; analogous state environmental statutes and local ordinances, including the New York State Environmental Conservation Law and the New York State Navigation Law; and any regulations promulgated under any of the foregoing;

(ii) all Laws pertaining to Contaminants in relation to the protection of the health and safety of employees or the public; and

(iii) the obligations arising under any in force and applicable Voluntary Cleanup Agreement (assuming no termination thereof by any signatory thereto).

"Release" shall mean any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping of any Contaminant into the Environment.

"Threatened Release" shall mean a substantial likelihood of a Release which requires action to prevent or mitigate damage to the Environment which may result from such Release.

"TRC Contract" shall mean a contract that has been mutually negotiated and agreed to by Landlord and Tenant's Affiliate and which is described on Exhibit Y.

Section 38.02. On January 1 of each year during the portion of the Term occurring after the Environmental Exchange Date and on January 1 of the year after the Expiration Date, Tenant shall disclose to Landlord all known, with a reasonable degree of due diligence (including without limitation requirements for disclosure in leases with tenants and subtenants), types and amounts of Contaminants, other than the Excluded Contaminants, which were manufactured, processed, distributed, used, treated, stored, disposed of, transported or handled on, in or about the Premises since the Environmental Exchange Date in the case of the first such report, and since the immediately preceding January 1 in the case of each subsequent report, or which Tenant intends to manufacture, process, distribute, use, treat, store, dispose of, transport or handle on, in or about the Premises. In each such report, Tenant shall correct any statements that were later determined to be incorrect or misleading in any prior report. Reasonable quantities of fuel oil, office and janitorial supplies customarily used in residential buildings and associated commercial uses that are stored and used in accordance with all Environmental Laws and all activities undertaken pursuant to the New York State Department of Environmental Conservation Voluntary Cleanup Program shall be excluded from the reporting provisions of this Section 38.02.

Section 38.03. Tenant shall not by any act, omission or negligence violate, cause to be violated or knowingly permit any Covered Person to violate any provision of any applicable Voluntary Cleanup Agreement and for all purposes of this Lease, any such violation of any applicable Voluntary Cleanup Agreement shall be deemed to be a violation of an Environmental Law. Tenant shall not cause or permit any Contaminants to be manufactured, processed, distributed, used, treated, stored, disposed of, transported or handled on, in or about the Premises: (i) without the prior consent of Landlord, which consent Landlord shall not unreasonably

withhold as long as Tenant demonstrates to Landlord's reasonable satisfaction that such Contaminant is necessary or useful to Tenant's business or the business of Tenant's subtenants, is of a kind customarily used in connection with such business and will be used, kept and stored in a manner that complies with all Environmental Laws; (ii) except in commercial uses customarily associated with residential developments, including, without limitation, pharmacies, photo developing, hardware stores, clothing dry cleaners and nail and hair salons; or (iii) except as part of the performance of the Remediation Work pursuant to the Infrastructure Agreement.

Section 38.04. Intentionally Deleted.

Section 38.05. Intentionally Deleted.

Section 38.06. In addition to its obligations under Section 38.03, from and after the Environmental Exchange Date, Tenant shall, at it sole cost and expense and to the extent and in a manner reasonably satisfactory to Landlord, perform such investigation, clean up or remediation of any Environmental Condition required under applicable Environmental Laws, at, on, under or migrating from the Premises, including without limitation: (a) any Contaminant present at, on, under or migrating from the Premises, with respect to which there is or has been a Release or Threatened Release at, on, under or migrating from the Premises, which Environmental Condition, Contaminant, Release or Threatened Release, or the nature or level of which, has not been identified in any applicable Voluntary Cleanup Agreement and (b) any Environmental Condition, Contaminant, Release or Threatened Release, which is expressly excluded from any applicable DEC Covenant Not-to-Sue or with respect to which DEC has, in such covenant, expressly reserved its future rights. Notwithstanding the foregoing, Landlord shall not require Tenant to perform any of the foregoing activities: (i) in excess of that required under Environmental Laws by all Governmental Authorities with jurisdiction over the Premises or in a manner

that would result in a deed or use restriction that is inconsistent with the GPP; (ii) to the extent an Environmental Condition is caused or exacerbated by Excluded Contaminants or the negligence, recklessness or willful misconduct of Landlord or its agents occurring after the date this Lease is executed; or (iii) with respect to migration of Contaminants specifically described in Section 38.12(a)(2)(i) and (ii). Subsection (ii) and (iii) of this Section 38.06 are hereinafter defined as "Excluded Liabilities".

Section 38.07. (a) If Tenant acquires any knowledge or notice of a Release, Threatened Release or Environmental Condition or notice with regard to air emissions, water discharges, noise emissions or recycling violations or threatened violations of any Environmental Law or any other environmental, health or safety matter arising from or related to Contaminants, affecting the Premises (an "Environmental Complaint"), on its own, independently or from any person or entity (including any Governmental Authority), not addressed in any Voluntary Cleanup Agreement or associated work plan, then Tenant shall give written notice of the same to Landlord, as soon as reasonably practicable, detailing all relevant facts and circumstances; provided, however, that Tenant need not provide any such notice to the extent Developer has provided such notice to Landlord. Tenant shall send to Landlord a copy of any correspondence, notice or other communication received by Tenant from DEC and not also sent by DEC to Landlord (or sent to Landlord by TRC) within five (5) Business Days after Tenant's receipt thereof and shall simultaneously send to Landlord any correspondence, notice or other communication that Tenant sends to DEC, including, without limitation, monthly progress reports and sampling data to the extent such exist.

(b) Should Landlord receive any notice or correspondence from any third party regarding any potential or actual Environmental Condition, Release, Threatened Release or

violation of Environmental Laws affecting the Premises, Landlord shall forward same to Tenant as soon as reasonably practicable under the circumstances except to the extent the same was received from, or also sent to Developer.

(c) Any notices delivered by Developer to Landlord, the subject matter of which relates to this Section 38.07, shall also be deemed a notice delivered by Tenant. Any notices delivered by Landlord to Developer, the subject matter of which relates to this Section 38.07, shall also be deemed a notice delivered to Tenant.

Section 38.08. (a) Except with respect to (i) those tasks described in any Voluntary Cleanup Agreement which Tenant is undertaking pursuant to such agreement or which Tenant has completed to the satisfaction of DEC as evidenced to Landlord by delivery to Landlord of a no further action letter issued by DEC and a DEC release and covenant-not-to-sue or other evidence of Closure, and (ii) Excluded Liabilities, Landlord shall have the right, but not the obligation, to notify Tenant of any actions Landlord reasonably deems necessary to cleanup, remove, resolve or minimize the impact of or otherwise deal with (as required by Environmental Laws) any Contaminant, Release, Threatened Release or Environmental Complaint occurring on or off the Premises that arise from or relate to the Premises and/or operations or activities respecting the Premises upon its obtaining knowledge of such matters independently or pursuant to receipt of any notice from any person or entity, including any Governmental Authority. Landlord shall not require Tenant to undertake any activity that would result in a deed or use restriction that is inconsistent with the GPP. If Tenant shall fail to commence and diligently pursue such actions within thirty (30) days after notice thereof from Landlord (subject to Unavoidable Delay), the provisions of Section 21.01 (b) and 21.02 of this Agreement shall apply and Landlord shall have the right, but not the obligation, to enter onto the Premises and take such

actions; provided, however, that Landlord shall not be liable to Tenant, subtenant(s), occupant(s) or any other person(s) or entity(ies) claiming by or through Tenant for entering the Premises or taking such actions unless Landlord acts with negligence, recklessness or willful misconduct.

(b) Notwithstanding the foregoing, no notice shall be required in an emergency as judged by a prudent person acting under similar circumstances; however, Landlord shall give notice to Tenant as soon as practicable to allow Tenant the first opportunity to remediate any such Contaminant, Release, Threatened Release or Environmental Complaint.

(c) To the extent that Tenant addresses an Excluded Liability in order to comply with Environmental Laws as required by a Governmental Authority with jurisdiction, Tenant shall be entitled to reimbursement from Landlord (to the extent provided for under Environmental Laws and the common law) for the costs actually incurred by Tenant and not otherwise covered by the TRC Contract and the AIG Policy and not recovered under any other applicable insurance, bond or other security as required pursuant to Section 38.16(b).

Section 38.09. As referenced in Section 24.01(l), the occurrence of any of the following events shall constitute an Event of Default: if any Governmental Authority or other person asserts or creates a lien or asserts a claim against Tenant (or any subtenant, licensee or other occupant of the Premises), the Premises or Landlord, which arises from or is the result of an Environmental Condition, a Release, an Environmental Complaint, or the violation of any Environmental Law on or pertaining to the Premises other than as the result of an Excluded Liability; provided, however, such lien or claim shall not constitute an Event of Default if, within forty five (45) days after the assertion or creation of such lien or claim:

(a) Tenant has commenced and is diligently pursuing (subject to Unavoidable Delay) either: (x) the cure or correction of the event which constitutes the basis for the lien

or claim and continues diligently to pursue the cure or correction to completion and obtains the discharge of any lien or claim, or (y) a defense of the claim which defense is reasonably satisfactory to Landlord, or (z) legal proceedings for an injunction, restraining order or other appropriate relief pursuant to available proceedings under applicable laws preventing the Governmental Authority, person or entity from proceeding with such claim or foreclosing such lien; and

(b) In any of the foregoing events, Tenant has posted a bond, letter of credit or other security reasonably satisfactory in form, substance and amount to Landlord, and to the Governmental Authority, if any, asserting such lien or claim, or to the court of competent jurisdiction before which such lien or claim is pending, to secure the proper and complete cure or correction of the event which constitutes the basis for the lien or claim.

Section 38.10. Tenant hereby indemnifies and holds harmless the Indemnitees from and against any and all Environmental Damages actually incurred after the Environmental Exchange Date except to the extent such Environmental Damages result from the Excluded Liabilities. This obligation shall include the burden and expense of defending all claims, suits and administrative proceedings (with counsel reasonably satisfactory to Landlord) even if such claims, suits or proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due from the Indemnitees. Without limiting the foregoing and with Landlord's consent which shall not be unreasonably withheld, Tenant shall promptly take all actions at its sole cost and expense, as are necessary under Environmental Laws applicable to the Premises to return the Premises to a condition acceptable to all applicable Governmental Authorities if there is a Release, Threatened Release or Environmental Condition

on, from or at the Premises (other than one relating to an Excluded Liability). In the event of (i) an emergency or imminent threat to human health or the environment as judged by a prudent person acting under similar circumstances, or (ii) actions undertaken pursuant to any Voluntary Cleanup Agreement and its work plans, Landlord's prior approval shall not be required. Tenant shall, however, give notice to Landlord as soon as practicable of the actions it intends to undertake or has undertaken.

Section 38.11. Tenant acknowledges that testing of the Premises has been conducted which testing revealed the presence of Contaminants at the Premises. Tenant, on behalf of itself and its successors and assigns, hereby waives, releases, quits and forever discharges Landlord, its officers, directors, partners, shareholders, employees, agents, representatives and any other person acting on behalf of Landlord, and the successors and assigns of any of the preceding, of and from any and all Environmental Damages associated with the presence of such Contaminants at the Premises except to the extent such Environmental Damages result from the Excluded Liabilities. Neither Tenant's testing of the Premises nor anything contained in this Section 38.11 shall relieve Tenant of its obligations under this Article 38.

Section 38.12. Notwithstanding any provision of this Lease to the contrary, nothing contained in this Lease shall (i) preclude Tenant from asserting or prosecuting any claim it may have for Environmental Damages against any Person, including prior owners or occupants of the Premises, but in all events excluding Landlord (except to the extent expressly permitted under Section 38.12(a)) or (ii) be deemed to be a waiver by Tenant of any claim described in clause (i), provided that Tenant hereby waives any such claim against Landlord (except to the extent expressly permitted under Section 38.12(a)). Landlord shall not be required to join in any actions or proceedings brought by Tenant against a third party in connection with any Environ-

mental Condition unless the provisions of any Requirement then in effect shall require that such actions or proceedings be brought by or in the name of Landlord, in which event, Landlord shall join and cooperate in such actions or proceedings or permit the same to be brought in its name; provided, however, that Landlord shall not be liable for the payment of any costs or expenses in connection with any such actions or proceedings and Tenant shall pay Landlord, on demand, for all reasonable costs and expenses which Landlord may sustain or incur in connection with any such actions or proceedings, including, without limitation reasonable attorneys' fees and disbursements.

(a) Nothing contained in this Lease shall be deemed to release Landlord from any claim brought by Tenant for Environmental Damages due to: (1) Landlord's negligence, recklessness or willful misconduct occurring after the date this Lease is executed (including, without limitation, to the extent Environmental Conditions are caused or exacerbated thereby); or (2) the migration, after the date this Lease is executed, of Contaminants onto the Premises from other property owned, operated or controlled by Landlord which migration onto the Premises is not now occurring provided: (i) the source of the migrating Contaminants is not the Stage II Project Area unless (a) Closure has previously been achieved, (b) the migrating Contaminant was first introduced onto the Stage II Project Area after the date Closure was achieved, (c) such migration is not from the property subject to a Stage II Ground Lease and (d) the introduction of such Contaminant was not caused by Tenant or its agents, contractors, affiliates, or employees (the "New Contaminant") and (ii) Tenant, its, successors, assigns, subtenants or affiliated or related entities have not been previously and are not then, leasing, occupying or operating said other property and were and are not in any way responsible for the migration at issue.

Section 38.13. Intentionally Omitted.

Section 38.14. The provisions of this Article 38 shall survive the Expiration Date with respect to acts and omissions occurring during the Term; provided that the indemnification provisions of this Article 38 shall survive the Expiration Date regardless of whether the claims relating to such acts or omissions occurring during the Term are made before or after the Expiration Date, but in any event subject to the applicable statute of limitations. Unless arising from or related to the acts or omissions of Tenant, its successors, agents, subject to (iii) below its assigns or an obligation that otherwise survives this Lease, Tenant shall not be liable for claims relating to acts or omissions occurring after the earliest to occur of the: (i) Expiration Date, (ii) lawful termination of this Lease, (iii) the date Tenant lawfully assigns this Lease in conformity with the requirements of this Lease upon which date such assignee shall assume such liabilities hereunder, or (iv) the date Tenant and its successors, assigns and agents are dispossessed from the Premises and, under (i), (ii) and (iv) above, possession of the Premises is returned to Landlord or its successor or assignee (such earliest date, the "Surrender Date").

Section 38.15. To the maximum extent reasonable and practicable under the circumstances, from and after the Environmental Exchange Date, Landlord and Tenant shall consult and cooperate respecting written or oral communication with Governmental Authorities or any other entities respecting Contaminants, Environmental Conditions or Environmental Complaints in any way affecting the Premises ("Communications"), including but not limited to the following examples: (i) timely informing the other of Communications initiated by a third party; (ii) discussing with the other Communications intended to be initiated by Landlord or Tenant prior to the time it is initiated; and (iii) sharing with adequate time for meaningful consultation prior to submission, any proposed submission to any third party. In furtherance of

the foregoing, in no event shall either Landlord or Tenant (or any of their Affiliates) initiate any Communication with DEC without the presence and participation of the other party, provided, however, in the case of an emergency with respect to the matters covered by this Article 38, either Landlord and Tenant may initiate a Communication with DEC without the presence and participation of the other, provided the initiating party has used and continues to use all reasonable efforts under the circumstances to include the other party in such Communication. In the event that DEC initiates a Communication with either Landlord or Tenant, such party shall utilize all reasonable efforts under the circumstances to enable the other party to participate in such Communications and in no event shall either Landlord or Tenant engage in any substantive Communications initiated by DEC without the participation of the other party. Notwithstanding the foregoing, in the event that DEC initiates a Communication with either Landlord or Tenant (a) in connection with an emergency with respect to the matters covered by this Article 38 or (b) on the Premises (without an appointment) as part of an on-site inspection, such party may engage in a Communication with DEC provided such party shall utilize all reasonable efforts under the circumstances to enable the other party to participate in such Communication. Landlord and Tenant acknowledge that prior to the Environmental Exchange Date the Remediation Work shall be performed and Communications shall be governed pursuant to the Infrastructure Agreement, TRC Contract and Management Agreement.

Section 38.16. (a) Landlord and Tenant hereby agree that irrespective of the extent or nature of (i) any work performed under the TRC Contract and/or (ii) any claims made under the AIG Policy, there shall be no reapportionment, reallocation or any shifting between Landlord or Tenant of the contract price of the TRC Contract and/or the premium for the AIG Policy.

(b) In the event of a claim between the parties under this Lease relating to an Environmental Condition, the party wishing to assert the claim is first required to fully exhaust any available remedy under the TRC Contract, AIG Policy or any other applicable insurance, bond or security against which recovery is reasonably likely and may recover against the other party only to the extent, after fully exhausting such available remedies, the claim then remains unsatisfied.

(c) To the extent that a claim is made under the AIG Policy due solely to an Excluded Liability or Environmental Damages resulting therefrom, Landlord shall pay any required deductible or self-insured retention and, unless otherwise expressly provided in the Management Agreement, in all other events any deductible or self-insured retention shall be paid by Tenant.

(d) Notwithstanding anything contained in this Lease to the contrary, Tenant's indemnification of Landlord shall not include liabilities Landlord has assumed, or assumes after the date of this Lease, respecting Contaminants at, on or under, or migrating from property other than the Premises and the PepsiCo Parcels and Outparcels (each as defined in the Infrastructure Agreement) provided: (i) Tenant, its agents, successors or assigns are not in any way responsible for the Contaminants at issue; or (ii) the source of the Contaminants is not the Premises, the PepsiCo Parcels or Outparcels other than New Contaminants migrating from the PepsiCo Parcels or Outparcels..

ARTICLE 39

RECORDING OF MEMORANDUM; TRANSFER TAXES

Section 39.01. Neither Landlord nor Tenant shall record this Lease or cause the same to be placed of record without the consent of the other party. Landlord and Tenant agree that concurrently with the execution of this Lease, the parties shall join in the execution of, and record, a memorandum of lease in the form annexed as Exhibit E hereto and made a part hereof. Landlord and Tenant agree that the parties shall join in the execution of a memorandum of amendment of lease with respect to any amendment or modification of the Lease. Either Landlord or Tenant may record a memorandum of this Lease or a memorandum of any amendment or modification of this Lease in each case, provided same is duly executed by both Landlord and Tenant.

Section 39.02. Landlord and Tenant agree to complete any and all forms required by Article 31 of the New York State Tax Law, Chapter 21 of Title 11 of the Administrative Code of the City of New York and all other tax laws promulgated by any Governmental Authority in connection with the recording of the memorandum of this Lease (and any future amendment thereto), and any future sale, assignment, subletting or other transfer and Tenant agrees to timely pay any applicable taxes to the appropriate Governmental Authority.

Section 39.03. Tenant hereby indemnifies and saves the Indemnitees harmless from and against all judgments, claims, losses, liabilities and costs and expenses (including, without limitation, interest, penalties, reasonable attorneys' fees and disbursements) incurred by any Indemnitee by reason of the non-payment of any of the taxes referred to in Section 39.02 or the failure by Tenant to duly execute and deliver any forms required by the laws referred to in Section 39.02.

Section 39.04. The obligations arising under this Article 39 shall survive the termination or expiration of this Lease.

ARTICLE 40

NO DISCRIMINATION

Section 40.01. Tenant, in the sale, transfer or assignment of its interest under this Lease, or in its use, operation or occupancy of the Premises and employment and conditions of employment in connection therewith, or in the subletting of the Premises or any part thereof, or in connection with the erection, maintenance, repair, Restoration, alteration or replacement of, or addition to, the Improvements shall (a) not discriminate nor permit discrimination against any person by reason of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status and (b) comply with all Laws prohibiting such discrimination or pertaining to equal employment opportunities.

Section 40.02. Tenant shall be bound by and shall include the following paragraphs (a) through (e) of this Section 40.02 in all Construction Agreements.

(a) Contractor shall not discriminate against employees or applicants for employment because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status, shall comply with all applicable Federal, State, City and local laws, ordinances, rules and regulations from time to time in effect prohibiting such discrimination or pertaining to equal employment opportunities and shall undertake programs of affirmative action to ensure that employees and applicants for employment are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or

termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

(b) Contractor shall request each employment agency, labor union and authorized representative of workers with which it has a collective bargaining or other agreement or understanding to furnish it with a written statement that such employment agency, labor union or representative will not discriminate because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status and that such agency, union or representative will cooperate in the implementation of Contractor's obligations hereunder.

(c) Contractor shall state in all solicitations or advertisements for employees placed by or on behalf of contractor that all qualified applicants shall be afforded equal employment opportunities without discrimination because of race, creed, color, religion, national origin, ancestry, sex, age, disability or marital status.

(d) Contractor shall comply with all of the provisions of the Civil Rights Law of the State of New York and Sections 291-299 of the Executive Law of the State of New York, shall upon reasonable notice furnish all information and reports deemed reasonably necessary by Landlord and shall permit access to its relevant books, records and accounts for the purpose of monitoring compliance with the Civil Rights Law and such sections of the Executive Law.

(e) Contractor shall include in any written agreements with subcontractors the foregoing provisions of Sections (a) through (d) in such a manner that said provisions shall be binding upon the subcontractor and enforceable by Contractor, Tenant and Landlord. Contractor shall take such action as may be necessary to enforce the foregoing provisions. Contractor shall promptly notify Tenant and Landlord of any litigation commenced by or against it arising out of

the application or enforcement of these provisions, and Tenant and Landlord may intervene in any such litigation.

Section 40.03. Tenant has reviewed the Non-discrimination and Affirmative Action Construction Contract Provisions annexed hereto as Exhibit F. Tenant shall, and shall cause each of its agents, contractors, subcontractors and employees to, promptly and diligently carry out its obligations under such Program in accordance with the terms thereof. If Tenant fails to comply with its obligations under Section 40.03 or under Exhibit F, Landlord's sole remedies will be as provided in Exhibit F.

ARTICLE 41

MISCELLANEOUS

Section 41.01. The captions of this Lease are for convenience of reference only and in no way define, limit or describe the scope or intent of this Lease or in any way affect this Lease.

Section 41.02. The Table of Contents is for the purpose of convenience of reference only and is not to be deemed or construed in any way as part of this Lease or as supplemental thereto or amendatory thereof.

Section 41.03. The use herein of the neuter pronoun in any reference to Landlord or Tenant shall be deemed to include any individual Landlord or Tenant, and the use herein of the words "successors and assigns" or "successors or assigns" of Landlord or Tenant shall be deemed to include the heirs, legal representatives and assigns of any individual Landlord or Tenant.

Section 41.04. Depositary may pay to itself out of the monies held by Depositary pursuant to this Lease its reasonable charges for services rendered hereunder, which shall not exceed customary charges for a depositary performing the services of Depositary in the City. Tenant shall pay Depositary any deficiency.

Section 41.05. If more than one entity is named as or becomes Tenant hereunder, Landlord may require the signatures of all such entities in connection with any notice to be given or action to be taken by Tenant hereunder except to the extent that any such entity shall designate another such entity as its attorney-in-fact to act on its behalf, which designation shall be effective until receipt by Landlord of notice of its revocation executed by all of them. Each entity named as Tenant shall be fully liable for all of Tenant's obligations hereunder. Any notice by Landlord to any entity named as Tenant shall be sufficient and shall have the same force and effect as though given to all parties named as Tenant. If all such parties designate in writing one entity to receive copies of all notices, Landlord agrees to send copies of all notices to that entity.

Section 41.06. (a) The liability of Landlord or of any Person who has at any time acted as Landlord hereunder for damages or otherwise shall be limited to Landlord's interest in the Premises including, without limitation, the rents and profits therefrom, the proceeds of any insurance policies relating to the Premises, any condemnation awards and other rights, privileges, licenses, franchises, claims, causes of action or other interest, sums or receivables appurtenant to the Premises, in each case, to the extent such amounts were not previously received or realized by Landlord. Neither Landlord nor any such Person nor any of the members, partners, joint venturers, shareholders, directors, officers, employees, agents or servants of either shall have any liability (personal or otherwise) hereunder beyond Landlord's interest in the Premises, and no other property or assets of Landlord or any such Person or any of the members, directors,

officers, employees, agents or servants of either shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenant's remedies hereunder.

(b) No member, partner, joint venturer, principals (disclosed or undisclosed) shareholder, director, officer, employee, agents or servant of Tenant (collectively, the "Protected Parties") shall have any liability (personal or otherwise) hereunder, and no property or assets of any such Protected Party shall be subject to levy, execution or other enforcement procedure for the satisfaction of Landlord's remedies hereunder. Nothing contained in this Section 41.06(b), however, shall relieve any Protected Party from personal liability for fraud or intentional misapplication or misappropriation of any Proceeds (as hereinafter defined). As used herein, the term "Proceeds" shall mean, collectively, all rents and other income derived from the Premises, condemnation awards, insurance proceeds, proceeds of any assignment or subletting and security of subtenants.

Section 41.07. Except if Landlord and Tenant otherwise agree in writing, there shall be no merger of this Lease or the leasehold estate created hereby with the fee estate, the Premises or any part thereof by reason of the same Person acquiring or holding, directly or indirectly, this Lease or the leasehold estate created hereby or any interest in this Lease or in such leasehold estate as well as the fee estate in the Premises.

Section 41.08. Each of the parties represents to the other that it has not dealt with any broker, finder or like entity in connection with this Lease. If any claim is made by any Person who shall claim to have acted or dealt with Tenant or Landlord in connection with this transaction, Tenant or Landlord, as the case may be, will pay the brokerage commission, fee or other compensation to which such Person is entitled, shall indemnify and hold the other party hereto harmless from and against any claim asserted by such Person for any such brokerage

commission, fee or other compensation and shall reimburse such other party for any costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by such other party in defending itself against claims made against it for any such brokerage commission, fee or other compensation.

Section 41.09. This Lease may not be changed, modified, or terminated orally, but only by a written instrument of change, modification or termination executed by Landlord and Tenant.

Section 41.10. This Lease shall be governed by and construed in accordance with the internal laws of the State of New York without regard to conflicts of laws principles.

Section 41.11. The agreements, terms, covenants and conditions herein shall be binding upon, and shall inure to the benefit of, Landlord and Tenant and (except as otherwise provided herein) their respective successors and assigns. Except as set forth in the immediately preceding sentence, nothing contained in this Lease shall be deemed to confer upon any Person any right or benefit, including any right to insist upon, or to enforce against Landlord or Tenant, the performance of such party's obligations hereunder.

Section 41.12. All references in this Lease to "Articles" or "Sections" or "Exhibits" shall refer to the designated Article(s), Section(s) or Exhibit(s), as the case may be, of this Lease, unless otherwise stated.

Section 41.13.

(a) The term "Landlord" as used in this Lease means only the owner of the Premises so that if the landlord named herein or any successor to its interest hereunder ceases to have any interest in the Premises under this Lease or there is at any time or from time to time any sale or sales or disposition or dispositions or transfer or transfers of Landlord's or any successor's

interest in the Premises, the landlord named herein or any such successor, as the case may be, shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Landlord hereunder to be performed on or after the date of such sale or transfer, except those obligations which relate to the period prior to the date of such sale or transfer, and it shall be deemed and construed without further agreement between the parties or their successors in interest or between the parties and the Person who acquires or owns the landlord's interest in the Premises under this Lease, including, without limitation, the purchaser or transferee in any such sale, disposition or transfer, that, subject to the provisions of Section 41.06, such Person has assumed and agreed to carry out any and all agreements, covenants and obligations of Landlord hereunder to be performed on and after the date of such acquisition, sale or transfer.

(b) Provided Substantial Completion of the Building has occurred, if Tenant (in such capacity, "Assignor") assigns this Lease pursuant to Article 10 hereof, then Assignor shall be and hereby is entirely freed and relieved of all agreements, covenants and obligations of Tenant hereunder which are not required to be performed prior to the date of such sale or transfer, except those obligations which expressly survive the termination of this Lease pursuant to the terms of this Lease, and it shall be deemed and construed without further agreement between the parties or their successors in interest, subject to the provisions of Section 41.06, that the assignee has assumed and agreed to carry out (1) any and all agreements, covenants and obligations of Tenant hereunder which first arise from and after the date of such assignment or transfer and (2) any and all agreements, covenants and obligations of Tenant hereunder which constitute existing and continuing obligations of Tenant.

Section 41.14. Nothing herein is intended nor shall be deemed to create a joint venture or partnership between Landlord and Tenant, nor to make Landlord in any way responsible for the debts or losses of Tenant.

Section 41.15.

(a) Tenant shall have the right to create advertising and promotional materials in connection with the leasing of the Improvements or otherwise, provided that (i) at the beginning of any new advertising campaign (an "Advertising Campaign"), the content of any such advertising and promotional materials (including, without limitation, any brochures and tag lines) shall be subject to the approval of Landlord, which approval shall not be unreasonably withheld and (ii) the content of any material changes to any advertising materials which use the name "Queens West" shall be subject to the approval of Landlord, which approval shall not be unreasonably withheld. Subject to Section 41.15(b), if Landlord shall not have approved or disapproved of such advertising and promotional materials in accordance with the provisions hereof within fifteen (15) Business Days after such materials have been delivered to Landlord, Landlord shall be deemed to have approved of such materials, provided, Tenant complies with all relevant provisions of this Lease, including, without limitation, the provisions of Article 25 and Section 41.15(b). Tenant shall not be required to obtain the approval of Landlord with respect to non-material changes to advertising materials which are based on an Advertising Campaign which has been previously approved by Landlord pursuant to the terms hereof.

(b) In addition to the requirements set forth in Article 25, in the event that Landlord will be deemed to have consented to a request contained in a Notice pursuant to the terms of Section 41.15(a) if Landlord does not timely respond to such Notice, such deemed consent will only be valid if the Notice requesting such consent contains the following capital-

ized and boldfaced language, **"THIS NOTICE CONTAINS A REQUEST FOR CONSENT BY LANDLORD PURSUANT TO SECTION 41.15 OF THE SITE 5 LEASE. IF LANDLORD DOES NOT RESPOND WITHIN FIFTEEN (15) BUSINESS DAYS, LANDLORD WILL BE DEEMED TO CONSENT TO THE REQUEST CONTAINED HEREIN."**

Section 41.16. Other than the Infrastructure Agreement, this Lease, together with the Exhibits hereto and any other agreements entered into concurrently herewith by Landlord and Tenant, contains all the promises, agreements, conditions, inducements and understandings between Landlord and Tenant relative to the Premises and there are no promises, agreements, conditions, understandings, inducements, warranties, or representations, oral or written, expressed or implied, between them, other than as herein or therein set forth. The Exhibits to this Lease are hereby made a part of this Lease.

Section 41.17. Submission by Landlord of this Lease for review and execution by Tenant shall confer no rights nor impose any obligation upon either party unless and until both Landlord and Tenant shall have executed this Lease and duplicate originals thereof shall have been delivered to the respective parties hereto or their respective attorneys.

Section 41.18 Intentionally Deleted.

Section 41.19. To the extent permitted by law, Tenant shall have the right to all depreciation deductions, investment tax credits and other similar tax benefits attributable to any construction, demolition and Restoration performed by Tenant or attributable to the ownership of the Improvements and Equipment, and in this regard it is agreed that during the Term Tenant shall enjoy all the benefits and bear all the burdens of ownership of the Improvements and Equipment notwithstanding that Landlord shall hold legal title to the Improvements and certain Equipment, subject to the provisions below. Landlord, from time to time, shall execute and

deliver such instruments as Tenant shall reasonably request in order to effect the provisions of this Section 41.19, and Tenant shall pay Landlord's reasonable costs and expenses thereof. Landlord makes no representation as to the availability of any such deductions, credits or tax benefits. Notwithstanding the foregoing, it is not the intention of Landlord or Tenant that Tenant or any of its Affiliates or successors receive any additional monetary benefits as a result of the Landlord's ownership of the Premises or other involvement with the Stage II Project Area or the Queens West Project Area other than the benefits expressly set forth herein. To this end, to the extent that Tenant or any of its Affiliates shall receive pecuniary benefits by reason of the Landlord's ownership of the Premises or other involvement with the Stage II Project Area or the Queens West Project Area other than those benefits expressly set forth herein, Tenant hereby agrees to waive and cause its Affiliates to waive such benefit to the extent that Tenant or its Affiliates may lawfully do so. Tenant acknowledges that the foregoing waiver is intended to negate Tenant's ability to use Landlord's tax exempt status as a means of obtaining pecuniary or other benefits, and Landlord acknowledges that such waiver is not intended to restrict benefits granted to Tenant or its Affiliates by any municipality, government agency or authority. To the extent that Tenant or its Affiliates shall be unable to waive the receipt of any of such pecuniary or other benefits, an amount equivalent to the amount of such additional benefits shall be paid to Landlord by Tenant as Additional Charges hereunder within ten (10) days of Tenant's or its Affiliate's receipt of such benefit.

Section 41.20. Whenever Landlord shall have the right to approve the architect, engineer or accountant to be employed by Tenant, any architect, engineer or accountant so approved by the Landlord at any time during the Term shall be deemed to be acceptable to

Landlord for employment by Tenant at any time thereafter, unless such consultant becomes a Prohibited Party.

Section 41.21. Landlord hereby covenants and agrees to encourage additional ferry service between Manhattan and the Queens West Project Area and to encourage bus shuttle service to the trains from the Queens West Project Area (the "Transportation Mechanisms"), provided, however, that Landlord (i) shall have no duty or obligation with respect to the Transportation Mechanisms including, but not limited to implementing, operating or otherwise dealing with such Transportation Mechanisms, (ii) shall have no liability in connection with the Transportation Mechanisms, whether or not such Transportation Mechanisms are put in place and (iii) shall have no liability for failure of the Transportation Mechanisms to be put in place. Nothing contained in this Section 41.21 shall be deemed to reduce Landlord's obligations, if any, with respect to such Transportation Mechanisms under the GPP.

Section 41.22. Tenant shall utilize only unionized labor for the construction of the Improvements and shall be responsible for employing Tenant's own operating engineers. Any union personnel, including teamsters, required in connection with construction of the Improvements shall be employed by Tenant.

Section 41.23. Tenant shall not name or refer to the Improvements other than by its official City address or such other name for the Improvements as Tenant may hereafter designate and Landlord shall approve, such approval not to be unreasonably withheld, conditioned and delayed. Tenant shall not name or refer to the location of the Improvements or the Stage II Project Area or the Queens West Project Area as other than Queens West, or such other name for the location of the Improvements or the Stage II Project Area or the Queens West

Project Area as Tenant may hereafter designate and Landlord shall approve, such approval not to be unreasonably withheld, conditioned and delayed.

Section 41.24. Notwithstanding anything to the contrary set forth in this Lease, in no event shall Landlord or Tenant be liable to the other, or any party claiming by or through either of them, for consequential or punitive damages.

ARTICLE 42

INTENTIONALLY DELETED

ARTICLE 43

RENT STABILIZATION

Section 43.01. So long as the Rent Stabilization Code and/or the New York City Rent Guidelines or any successor law or regulation thereto remain in effect, any Residential Sublease where the monthly base rent after the Stabilized Occupancy Date is less than Two Thousand Dollars ($2,000) shall be deemed to be a "Stabilized Sublease" for the purposes of this Lease. With respect to each Stabilized Sublease:

(a) Tenant shall be permitted to (i) increase the base rent payable thereunder by the percentage increase permitted from time to time by the New York City Rent Guidelines Board (or any successor thereto) plus one hundred dollars ($100) per month, when and as permitted by such guidelines, but not otherwise, and (ii) increase the base rent payable thereunder by the amount of increase permitted from time to time by the New York City Rent Guidelines Board (or any successor thereto) in connection with a major capital improvement, but not otherwise;

(b) When a vacancy occurs, Tenant shall be permitted to increase the monthly base rent payable under such Stabilized Sublease by twenty percent (20%) in addition to any increase allowed by Section 43.01(a); and

(c) The Subtenant under such Stabilized Sublease shall have an automatic right of renewal for either one or two years at the election of such Subtenant and Tenant shall notify such Subtenant of such right of renewal in writing four (4) months prior to the end of the applicable Stabilized Sublease term (subject to Tenant's right to refuse to renew such Stabilized Sublease on the same grounds as renewals may be denied to rent stabilized tenants pursuant to the New York City Rent Guidelines Board (or any successor thereto)). Such Subtenant shall be required to exercise in writing its rights of renewal at least (2) two months prior to the end of such Subtenant's Stabilized Sublease term.

Section 43.02. For each Sublease where the monthly base rent is Two Thousand Dollars ($2000) or more either on the Stabilized Occupancy Date or thereafter because of allowed increases pursuant to Section 43.01(a) or (b), Section 43.01 shall not apply, the future monthly base rent shall not be limited as set forth above and renewal terms set forth above shall not be required.

Section 43.03. Tenant shall incorporate Section 43.01(a) and (c) into each Stabilized Sublease term and if Tenant shall fail to comply with the provisions of Section 43.01(a) with respect to a Stabilized Sublease then Tenant shall be obligated to (i) pay to any Subtenant who shall have been overcharged the amount of such overcharge, together with interest thereon at the rate of nine percent (9%) from the date of such overcharge until the date repaid with such interest, and (ii) pay to Landlord, as Additional Charges, an amount equal to ten percent (10%) of such overcharge.

Section 43.04. For as long as the New York City Administrative Code Section 11-208.1 (or any successor thereto) ("Section 11-208.1") is in force and effect and has not been judicially declared invalid, income and expense statements (or any other statements) required by Section 11-208.1 shall, to the extent applicable to the Premises, be prepared and filed by Tenant as if Tenant were the "owner" of the Premises as such term is used in Section 11-208.1. All such statements shall be submitted within the time periods and to the address provided for in Section 11-208.1. Such statements shall be submitted notwithstanding that Landlord holds fee title to the Premises, that the Premises may not be "income-producing property" as that concept is used in Section 11-208.1, or that PILOT rather than Taxes are being paid with respect to the Premises.

ARTICLE 44

MORTGAGE RECORDING TAX

Section 44.01. Landlord shall cooperate with Tenant, including participating as a nominee for a Mortgagee or acting as a co-lender without an obligation to fund, to mitigate or eliminate any tax (the "MRT Savings") which would otherwise be imposed upon the recording of any Mortgages (the "Mortgage Recording Tax") to secure financing provided to Tenant in connection with the Building or financing provided to an Affiliate of Tenant to fund Developer's obligations under the Infrastructure Agreement, by, among other things, cooperating with Tenant, and if requested, participating as a nominee for a Mortgagee or acting as a co-lender without an obligation to fund, provided, however, that at the time (and each time) Tenant seeks such cooperation from Landlord, Tenant shall be required to provide Landlord with all of the materials necessary for a calculation of the MRT Savings which Tenant is entitled to realize pursuant to this Article 44 (together with a calculation thereof), including, without limitation, a copy of each Hard Cost Certificate previously required to be delivered to Landlord and any prior mortgages

recorded in connection with any premises within the Stage II Project Area. Except to the extent additional MRT Savings are to be made available to Tenant pursuant to Sections 2.5(b), 2.5(c), 4.6(b) or 11.3(a) of the Infrastructure Agreement and/or Section 11.04(f), such cooperation shall continue to the extent necessary for the total MRT Savings to equal, but not exceed, the amount of Mortgage Recording Tax which would have otherwise been paid upon the recording of a Mortgage in the amount of the Estimated Construction Costs, as such Estimated Construction Costs are determined by Landlord and Tenant at the time of recording a Mortgage. Notwithstanding anything to the contrary contained in this Lease, Landlord (i) shall have no obligation to take any action in connection with the provisions of this Article 44, if any such action would violate any applicable Laws and (ii) shall have no liability for failure of any such Mortgage Recording Tax to be mitigated or eliminated except to the extent the same results solely from the failure of Landlord to comply with its obligations under this Article 44.

Section 44.02. Upon Landlord's receipt of the Hard Cost Certificate, Landlord shall calculate the difference between (i) the Estimated Construction Costs and (ii) the Actual Construction Costs (such difference, "Hard Cost Differential"). If the Estimated Construction Costs are greater than the Actual Construction Costs, then Tenant shall within thirty (30) days of the delivery of the Hard Cost Certificate to Landlord either (a) pay to Landlord, as Additional Charges, an amount equal to the product of (A) the Hard Cost Differential and (B) 2.75% or (b) pay down the outstanding principal balance secured by any Mortgage (or aggregate amounts of all Mortgages if more than one Mortgage encumbers the Premises) upon which Tenant received MRT Savings such that the outstanding principal balance secured by such Mortgage or Mortgages is equal to the Actual Construction Costs. If the Actual Construction Costs are greater than the Estimated Construction Costs, Landlord shall further cooperate with Tenant as set forth in

Section 44.01 to allow Tenant to receive a total MRT Savings equal to the amount of Mortgage Recording Tax which would have otherwise been paid upon the recording of a Mortgage in the amount of the Actual Construction Costs at the time of recording the initial Mortgage encumbering the Premises (the "MRT Cap").

Section 44.03. In the event (a) it is determined that Landlord cannot extend the any MRT Savings to Tenant, and such inability is not due to Tenant's refusal to structure its financing as required to receive such MRT Savings, and (b) Tenant pays Mortgage Recording Tax with respect to one or more mortgages recorded against the Premises (the amount so paid, the "Paid MRT"), Tenant shall be entitled to deduct the lesser of the MRT Cap and the Paid MRT from the PILOST Amount due to Landlord hereunder.

ARTICLE 45

EASEMENTS

Section 45.01. Tenant hereby acknowledges and agrees that Landlord reserves and retains full power and authority, without any liability to Tenant, to grant any easements to public utility companies or to any municipal or other governmental agency requesting the same or to modify any such easements to the extent such modifications are required by applicable Laws or the public utility companies or any municipal or other similar governmental agency requesting such easements; provided, however, that such easements will not unreasonably interfere with Tenant's construction of the Improvements or Tenant's use, maintenance and occupancy of the Improvements or the Premises.

ARTICLE 46

CONVERSION TO CONDOMINIUM OR COOPERATIVE OWNERSHIP

In the event Tenant desires to implement a condominium or cooperative ownership structure at the Premises and the same is permitted by all applicable Laws, Landlord will cooperate with Tenant to implement such condominium or cooperative ownership structure provided (i) neither Landlord nor Landlord's interest in the Premises are materially adversely effected as a result thereof, (ii) all documentation necessary to effectuate the same shall be in form and substance reasonably satisfactory to Landlord, (iii) any expenses incurred by Landlord or Tenant in connection therewith will be paid by Tenant, (iv) Landlord's obligations under this Lease and with respect to the Premises shall not be increased except to a de minimis extent, (v) Landlord's rights under this Lease and with respect to the Premises shall not be decreased except to a de minimis extent and (vi) the Board of Managers, cooperative and each owner will be obligated to sign any documents reasonably requested by Landlord to ensure the satisfaction of the foregoing clauses (iv) and (v).

ARTICLE 47

MAINTENANCE OF ADJACENT STREETS

In the event that (i) Substantial Completion of the Building has occurred, (ii) Landlord has completed construction of the Adjacent Streets and (iii) the Adjacent Streets have not been dedicated to the City, then in order to ensure access to the Premises, Landlord, at Landlord's sole cost and expense, shall maintain such Adjacent Streets as if such Adjacent Streets had been dedicated to the City and the City were maintaining the Adjacent Streets (including without limitation, snow removal, signage and lighting); provided, however, the obligation of

Landlord to maintain the Adjacent Streets shall terminate at such time as the Adjacent Streets are dedicated to the City.

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IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease as of the day and year first above written.

LANDLORD:
QUEENS WEST DEVELOPMENT CORPORATION

By: _____
Name: Alexander P. Federbush
Title: President

TENANT:

EAST COAST 5 L.L.C.

By: _____
Name: Frederick Elghanayan
Title: Vice Chairman & Secretary

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

On the 18th day of Sept in the year 2003 before me, the undersigned, personally appeared Alexander Fedotach, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
Taking acknowledgment

JASON SMITH
NOTARY PUBLIC, State of New York
No. 01SM6067357
Qualified in Kings County
Certificate Filed in New York County
Commission Expires Dec. 10, 2005

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

On the 25 day of August in the year 2003 before me, the undersigned, personally appeared Frederick Elghanayan personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
Taking acknowledgment

JESSICA A. SOLINSKY
NOTARY PUBLIC, State of New York
No. 01SO60779407
Qualified in New York County
Commission Expires Aug. 26, 2006

EXHIBIT A

LAND

(see attached)

SURVEY NUMBER 56469
LEGAL DESCRIPTION
PARCEL 5

All that certain plot, piece or parcel of land situate, lying and being in the County of Queens, City and State of New York bounded and described as follows:

BEGINNING AT THE CORNER formed by the intersection of the northerly side of 47th Avenue (60 feet wide) with the westerly side of Center Boulevard (100 feet wide) said point being on the prolongation westerly of the northerly side of 47th Avenue as said street is mapped east of 5th Street (60 feet wide) and distant 345.82 feet westerly from the westerly side of 5th Street, said prolongation being at right angles to the westerly side of 5th Street;

RUNNING THENCE westerly along the northerly side of 47th Avenue, along the aforementioned prolongation and at right angles to the westerly side of 5th Street, 151.86 feet to the easterly boundary of a Park;

RUNNING THENCE northerly along the easterly boundary of the aforementioned Park at right angles to the northerly side of 47th Avenue and parallel with the westerly side of 5th Street, 199.99 feet to the southerly side of 46th Road (60 feet wide), said point being on a line drawn parallel with the northerly side of 47th Avenue and 199.99 feet northerly therefrom;

RUNNING THENCE easterly along the southerly side of 46th Road, at right angles to the last mentioned course and along a line drawn parallel with the northerly side of 47th Avenue and 199.99 feet northerly therefrom, 152.68 feet to the westerly side of Center Boulevard, said point being on a line drawn parallel with the westerly side of 5th Street and 345.00 feet westerly therefrom;

RUNNING THENCE southerly along the westerly side of Center Boulevard, at right angles to the last mentioned course and along a line drawn parallel with the westerly side of 5th Street and 345.00 feet westerly therefrom, 179.74 feet to a point of curvature;

RUNNING THENCE southwesterly along the northwesterly side of Center Boulevard and along a curve bearing to the right having a radius of 250.00 feet, an arc length of 20.28 feet to the northerly side of 47th Avenue at the POINT OR PLACE OF BEGINNING.

The above-mentioned streets and park being as shown on New York City Alteration Map No. 4876.

COMPLETION GUARANTY

THIS COMPLETION GUARANTY (this "**Guaranty**"), is made as of the 19th day of Septemeber, 2003, by ROCKROSE EQUITIES L.L.C., a limited liability company organized under the laws of the State of New York, having an address at 290 Park Avenue South, New York, New York 10010 ("**Guarantor**"), to QUEENS WEST DEVELOPMENT CORPORATION, a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York, constituting a public benefit corporation and a political subdivision thereof, having an address at 633 Third Avenue, 36th floor, New York, New York 10017 ("**Landlord**").

W I T N E S S E T H :

WHEREAS, East Coast 5 L.L.C. ("**Tenant**"), an affiliate of Guarantor, is simultaneously with the execution hereof becoming the tenant under that certain Agreement of Lease between Landlord and Tenant, dated as of the date hereof (the "**Lease**"; capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Lease);

WHEREAS, pursuant to the terms of the Lease, Tenant is required to cause the Commencement of Construction and the Substantial Completion of construction of the Building to occur pursuant to and in accordance with the terms of the Lease (the "**Construction Work**");

WHEREAS, as an inducement for Landlord to enter into the Lease, Landlord has required, and Guarantor has agreed to deliver, this Guaranty; and

WHEREAS, Guarantor will derive substantial direct and indirect benefit from the transactions contemplated by the Lease.

NOW, THEREFORE, in consideration of the foregoing premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby covenants and agrees as follows:

1. Completion of Construction Work. In the event the Construction Work commences and subject to the second sentence of this paragraph, Guarantor does hereby unconditionally and irrevocably guaranty that Tenant shall complete the Construction Work in accordance with the requirements of the Lease. In the event that Tenant fails to complete the Construction Work in accordance with the requirements of the Lease, Guarantor, within ninety (90) days after Landlord's written demand, shall notify Landlord in writing (the "Guarantor's Election Notice") as to whether Guarantor plans to (a) complete the Construction Work in accordance with the provisions of the Lease or (b) completely and entirely demolish the Improvements (other than piles below grade driven to support the Building) in accordance with all Requirements. If Guarantor fails to notify Landlord of its decision to complete the Construction Work or demolish the Improvements such failure shall be deemed Guarantor's election to complete the Construction Work in accordance with the provisions of the Lease. In the event Guarantor elects to demolish the Improvements, Guarantor shall have the further option to pay to Landlord an amount equal to Landlord's estimate of the cost of such demolition in-lieu-of performing such demolition. Guarantor only shall have the right to request Landlord's

estimate in Guarantor's Election Notice. Within thirty (30) days after receipt of Landlord's estimate, Guarantor shall either pay to Landlord an amount equal to such estimate or Guarantor shall have waived its right to make such a payment and shall be required to perform the demolition. In the event Guarantor pays Landlord's estimate of such cost to Landlord and Landlord or its designee elects not to demolish any portion of the Construction Work but to use it in the construction of a new improvement, Landlord or its designee shall refund such payment to Guarantor and Guarantor's obligations hereunder shall be deemed satisfied (Guarantor's obligation to complete the Construction Work, perform the demolition or make payments in-lieu-of such demolition, as applicable, is hereinafter referred to as the "Completion Obligation").

2. Additional Guaranties. Guarantor also unconditionally and irrevocably guarantees that (a) Tenant shall fully and punctually pay and discharge any and all costs, expenses and liabilities for or in connection with the Construction Work in accordance with the provisions of the Lease as the same become due and payable; (b) the Construction Work shall be and remain free and clear of all liens, encumbrances, chattel mortgages, conditional bills of sale and other charges of any and all persons, firms, corporations or other entities furnishing materials, labor or services in constructing or completing the Construction Work in accordance with the provisions of the Lease (such obligations under the foregoing clauses (a) and (b) together with the Completion Obligation, collectively, the "**Guarantied Obligations**"); and (c) Guarantor agrees to pay on demand any and all claims, losses, suits, costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by Landlord in enforcing or collecting any or all of the Guarantied Obligations under this Guaranty (collectively, the "**Landlord's Expenses**") to the extent the same are incurred after Tenant and Guarantor have failed to perform any Guarantied Obligation beyond applicable notice and grace period, if any. This is not a guaranty of payment of any monetary indebtedness of Tenant to Landlord evidenced by a note or other similar instrument.

3. Guaranty Absolute.

(a) Guarantor guaranties that the Guarantied Obligations will be paid or performed strictly in accordance with this Guaranty, regardless of any law, statute, rule, regulation, decree or order now or hereafter in effect in any jurisdiction affecting or purporting to affect in any manner any of such terms or the rights or remedies of Landlord with respect thereto.

(b) Any payment or payments made by Tenant or any other person or received or collected by Landlord from Tenant or any other person by virtue of any action or proceeding or any other set-off or appropriation or application at any time or from time to time in respect of any obligations or liabilities of Tenant under the Lease may be applied by Landlord in satisfaction of such obligations and liabilities in such order as Landlord may determine, and no application of such payment or payments to satisfaction of indebtedness, obligations or liabilities other than the Guarantied Obligations shall discharge in any manner any obligations of Guarantor hereunder.

(c) The liability of Guarantor under this Guaranty shall be absolute and unconditional, and shall not be affected, released, terminated, discharged or impaired, in whole or in part, by, and Landlord may proceed to exercise any right or remedy hereunder irrespective of, any or all of the following:

(i) any lack of genuineness, regularity, validity, legality or enforceability, or the voidability of, the Lease or any other agreement or instrument relating thereto;

(ii) the failure of Landlord to exercise or to exhaust any right or remedy or take any action against Tenant or any other security available to it;

(iii) any amendment or modification of the terms of the Lease, the Infrastructure Agreement or any other document in connection with the transactions contemplated by the Lease or the Infrastructure Agreement;

(iv) any change in the time, manner or place of payment or performance, of all or any of the Guarantied Obligations or any extensions of time for payment, performance or observance, whether in whole or in part, of the terms of the Lease on the part of Tenant to be paid, performed or observed, as applicable;

(v) any amendment or waiver of, or any assertion or enforcement or failure or refusal to assert or enforce, or any consent or indulgence granted by Landlord with respect to a departure from, any term of the Lease, including, without limiting the generality of the foregoing, the waiver by Landlord of any default of Tenant, or the making of any other arrangement with, or the accepting of any compensation or settlement from, Tenant;

(vi) any failure or delay of Landlord to exercise, or any lack of diligence in exercising, any right or remedy with respect to the Lease or this Guaranty;

(vii) any dealings or transactions between Landlord and Tenant, whether or not Guarantor shall be a party to or cognizant of the same;

(viii) any bankruptcy, insolvency, assignment for the benefit of creditors, receivership, trusteeship or dissolution of or affecting Tenant;

(ix) any exchange, surrender or release, in whole or in part, of any security which may be held by Landlord at any time for or under the Lease or in respect of the Guarantied Obligations;

(x) any other guaranty now or hereafter executed by Guarantor or any other guarantor or the release of any other guarantor from liability for the payment, performance or observance of any of the Guarantied Obligations or any of the terms of the Lease on the part of Tenant to be paid, performed or observed, as applicable, whether by operation of law or otherwise;

(xi) any rights, powers or privileges Landlord may now or hereafter have against any person, entity or collateral in respect of the Guarantied Obligations;

(xii) Landlord's consent to any assignment or successive assignments of the Lease by Tenant;

(xiii) any other circumstance which might in any manner or to any extent constitute a defense available to Tenant (except performance in accordance with the provisions of the Lease), or vary the risk of Guarantor, or might otherwise constitute a legal or equitable discharge or defense available to a surety or guarantor, whether similar or dissimilar to the foregoing;

(xiv) any change, restructuring or termination of the structure or existence of Tenant;

whether occurring before or after any default by Tenant under the Lease, and with or without further notice to or assent from Guarantor.

(d) Notwithstanding anything to the contrary contained in **Section 13** hereof, this Guaranty shall continue to be effective or be reinstated, as the case may be, and the rights of Landlord hereunder shall continue with respect to, any Guarantied Obligation (or portion thereof) at any time paid by Tenant which shall thereafter be required to be restored or returned by Landlord upon the insolvency, bankruptcy or reorganization of Tenant, or for any other reason, all as though such Guarantied Obligation (or portion thereof) had not been so paid or applied.

(e) Notwithstanding anything to the contrary contained herein, the obligations of Guarantor hereunder with respect to payment of Landlord's Expenses and satisfaction of the Guarantied Obligations shall survive the expiration or earlier termination of the Lease.

(f) If Guarantor shall fail to perform the Guarantied Obligations in accordance with the terms hereof, subject to notice, grace and cure periods, if any, Landlord may, or may allow a Mortgagee to, but shall not be obligated to, take such action personally or by its agents or attorneys, without any notice, demand, presentment or protest (each and all of which are hereby waived), as Landlord deems necessary or advisable to protect and enforce Landlord's rights and remedies hereunder, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Landlord, in its sole discretion, may determine, without impairing or otherwise affecting its other rights or remedies hereunder, at law or in equity:

(i) complete the Construction Work in accordance with the terms of the Lease;

(ii) pay, remove, release, discharge, bond or settle or cause the payment, removal, release, discharge, bonding or settlement of any lien, claim or demand, the removal, release, discharge, bonding, settlement or payment of which is guaranteed hereunder; and

(iii) cause compliance with all Requirements which must be complied with in connection with the performance of the construction of the Building.

In the event that Landlord shall perform any of the acts described in this **Section 3(f)**, Guarantor, upon demand by Landlord, shall, reimburse Landlord for the amount of the sums

paid and costs and expenses incurred by Landlord in connection therewith, including, without limitation, reasonable attorneys' fees and disbursements.

(g) Landlord may proceed to protect and enforce any or all of its rights under this Guaranty by suit in equity or action at law, whether for specific performance of any covenants or agreements contained in this Guaranty or otherwise, or to take any action authorized or permitted under applicable law, and shall be entitled to require and enforce the performance of all acts and things required to be performed hereunder by Guarantor. Each and every remedy of Landlord shall, to the extent permitted by law, be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity. Guarantor shall indemnify and hold Landlord free and harmless from and against any and all loss, damage, cost, expense, injury, or liability Landlord may suffer or incur in connection with the exercise of its rights under this Guaranty or the performance of the Guarantied Obligations in accordance with the terms hereof.

4. Representations and Warranties. Guarantor represents and warrants to Landlord as follows:

(a) Guarantor is a duly organized, validly existing limited liability company, subsisting under the laws of the State of New York, and has full power, authority and legal right to execute and deliver this Guaranty and to perform fully and completely all of its obligations hereunder.

(b) The execution, delivery and performance of this Guaranty by Guarantor has been duly authorized by all necessary limited liability company action, and will not violate any provision of any law, regulation, order or decree of any governmental authority, bureau or agency or of any court binding on Guarantor, or any provision of the charter, bylaws or code of regulations of Guarantor, or of any contract, undertaking or agreement to which Guarantor is a party or which is binding upon Guarantor or any of its property or assets, and will not result in the imposition or creation of any lien, charge or encumbrance on, or security interest in, any of its property or assets pursuant to the provisions of any of the foregoing.

(c) This Guaranty has been duly executed and delivered by a duly authorized officer of Guarantor and constitutes a legal, valid and binding obligation of Guarantor, enforceable against it in accordance with its terms, subject as to enforcement of remedies to any applicable bankruptcy, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally and doctrines of equity affecting the availability of specific enforcement as a remedy.

(d) All necessary resolutions, consents, licenses, approvals and authorizations of any person or entity required in connection with the execution, delivery and performance of this Guaranty have been duly obtained and are in full force and effect.

(e) There are no conditions precedent to the effectiveness of this Guaranty that have not been either satisfied or waived.

(f) The Guarantor has, independently and without reliance upon the Landlord and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Guaranty.

(g) As of the date hereof, the ultimate, indirect beneficial owners of Guarantor are, through other entities, also the owners of all of the beneficial interests in Tenant.

(h) In all loan transactions during the last several years from Institutional Lenders to affiliates of Guarantor in which such Institutional Lenders have required a completion, payment or other guaranty from a "Rockrose" entity with a significant net worth, Guarantor was the sole party executing such guaranty in favor of such Institutional Lender and Guarantor in at least three (3) of those transactions (involving more than $100,000,000) had, as of the closing date of such transaction and the date such guaranty was delivered, no legal or beneficial interest in the affiliate entering into such loan transaction.

(i) Guarantor has received, reviewed and understands the terms contained in the Lease.

(j) There are no actions, suits or proceedings pending or, to the knowledge of Guarantor, threatened against or affecting Guarantor, which, if determined adversely to Guarantor, will have a material adverse impact upon Guarantor's ability to perform its obligations hereunder, or involving the validity or enforceability of this Guaranty, at law or in equity; and Guarantor is not in default under any order, writ, injunction, decree or demand of any court or any administrative body having jurisdiction over Guarantor.

5. Waivers. Guarantor expressly waives the following:

(a) notice of acceptance of this Guaranty and of any change in the financial condition of Tenant;

(b) promptness, diligence, presentment and demand, except as expressly set forth herein, for payment or performance of any of the Guarantied Obligations;

(c) protest, notice of dishonor, notice of default and any other notice, except as expressly set forth herein, with respect to any of the Guarantied Obligations and/or this Guaranty;

(d) any demand for payment, except as expressly set forth herein, under this Guaranty;

(e) the right to interpose all substantive and procedural defenses of the law of guaranty, indemnification and suretyship, except the defenses of prior payment or performance by Tenant of the Guarantied Obligations which Guarantor is called upon to pay or perform under this Guaranty;

(f) all rights and remedies accorded by applicable law to guarantors, or sureties, including, without being limited to, any extension of time conferred by any law now or hereafter in effect;

(g) the right to trial by jury in any action or proceeding of any kind arising on, under, out of, or by reason of or relating, in any way, to this Guaranty or the interpretation, breach or enforcement hereof;

(h) the right to interpose any set-off or counterclaim of any nature or description in any action or proceeding arising hereunder or with respect to this Guaranty; and

(i) any right or claim of right to cause a marshaling of the assets of Tenant or to cause Landlord to proceed against Tenant and/or any collateral or security held by Landlord at any time or in any particular order.

6. Bankruptcy. Notwithstanding anything to the contrary herein, Guarantor's liability shall extend to all amounts or other obligations which constitute part of the Guarantied Obligations and would be owed by, or required to be performed by, Tenant under the Lease but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving Tenant. Without limiting the foregoing, neither Guarantor's obligation to make payment or otherwise perform in accordance with this Guaranty nor any remedy for the enforcement thereof shall be impaired, modified, changed, stayed, released or limited in any manner by any impairment, modification, change, release, limitation or stay of the liability of Tenant or its estate in bankruptcy or any remedy for the enforcement thereof, resulting from the operation of any present or future provision of the United States bankruptcy laws or other statute or from the decision of any court interpreting any of the same.

7. Currency of Payments. Any and all amounts required to be paid by Guarantor hereunder shall be paid in lawful money of the United States of America and in immediately available funds to Landlord. Guarantor agrees that whenever, at any time, or from time to time, it shall make any payment to Landlord on account of its liability hereunder, it will notify Landlord in writing that such payment is made under this Guaranty for that purpose.

8. Waiver of Rights Against Tenant; Subordination.

(a) Guarantor hereby waives, until the Guuarantied Obligations are satisfied in full, all rights of subrogation and any other claims that it may now or hereafter acquire against either Tenant or any insider that arise from the existence, payment, performance or enforcement of Guarantor's obligations under this Guaranty or any other documents executed in connection herewith (collectively, the "**Guaranty Documents**"), including, without limitation, any right of reimbursement, exoneration, contribution or indemnification and any right to participate in any claim or remedy of Landlord against either Tenant or any insider, whether or not such claim, remedy or right arises in equity or under contract, statute or common law, including, without limitation, the right to take or receive from either Tenant or any insider, directly or indirectly, cash or other property or by set-off or in any other manner, payment or security on account of such claim, remedy or right.

(b) If any amount shall be paid to Guarantor in violation of the preceding subsection (a), such amount shall be held in trust for the benefit of Landlord and shall forthwith be paid to Landlord to be credited and applied to all amounts payable under this Guaranty in accordance with the terms of the Lease and the Guaranty Documents, or to be held as collateral for any amounts payable under this Guaranty thereafter arising. Guarantor acknowledges that it has and will receive direct and indirect benefits from the performance of the Construction Work and that the waiver set forth in this subsection is knowingly made in contemplation of such benefits.

(c) All indebtedness, liabilities and obligations of Tenant to Guarantor, whether secured or unsecured and whether or not evidenced by any instrument, now existing or hereafter created or incurred, are and shall be subordinate and junior in right of payment to the Guarantied Obligations.

9. Amendment in Writing. No amendment or waiver of any provision of this Guaranty nor consent to any departure by Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Landlord, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

10. Remedies. The obligations of Guarantor under this Guaranty are independent of Tenant's obligations under the Lease, and a separate action or actions may be brought and prosecuted against the Guarantor to enforce this Guaranty, irrespective of whether any action is brought against Tenant or whether Tenant is joined in any such action or actions. Any one or more successive and/or concurrent actions may be brought hereon against Guarantor either in the same action, if any, brought against Tenant or in separate actions, as often as Landlord, in its sole discretion, may deem advisable.

11. Certified Statement. Guarantor agrees that it will, at any time and from time to time, within thirty (30) days following request by Landlord, execute and deliver to Landlord a statement certifying that this Guaranty is unmodified and in full force and effect (or if modified, that the same is in full force and effect as modified and stating such modifications). Landlord agrees that it will, at any time and from time-to-time, within thirty (30) days following request by Guarantor, execute and deliver to Guarantor a statement as to the status of the Construction Work, and, to its knowledge, whether Guarantor is in default of this Guaranty.

12. Notices. Whenever it is provided in this Guaranty that a notice, demand, request, consent, approval or other communication (a "**Notice**") shall or may be given to or served upon either of the parties by the other and whenever either of the parties shall desire to give or serve upon the other any Notice with respect hereto, each such Notice shall be in writing (whether or not so stated elsewhere in this Guaranty) and, any law or statute to the contrary notwithstanding, shall be effective for any purpose only if given or served as follows:

(a) if by Landlord, by hand delivering or by mailing the same to Guarantor by registered or certified mail, postage prepaid, return receipt requested, or by sending the same by nationally recognized overnight courier service,

addressed to Guarantor at:

290 Park Avenue South
New York, NY 10017
Attention: H. Henry Elghanayan

with copies to: 290 Park Avenue South
New York, NY 10017
Attention: Kamran T. Elghanayan

290 Park Avenue South
New York, NY 10017
Attention: Frederick Elghanayan

and: Kramer Levin Naftalis & Frankel LLP
919 Third Avenue
New York, NY 10022
Attention: Michael Paul Korotkin, Esq.

or to such other parties and address(es) as Guarantor may from time to time designate by notice given as aforesaid; and

(b) if by Guarantor, by hand delivering or by mailing the same to Landlord by registered or certified mail, postage prepaid, return receipt requested, or by sending the same by nationally recognized overnight courier service

addressed to Landlord at:

Queens West Development Corporation
633 Third Avenue
New York, New York 10017
Attention: President

with copies to: New York State Urban Development Corporation
d/b/a Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attention: Senior Vice President, Legal/General Counsel

and: Skadden, Arps, Slate Meagher& Flom LLP
Four Times Square
New York, New York 10036
Attention: Neil L. Rock, Esq.
Telecopy: (212) 735-2000

or to such other parties and address(es) as Landlord may from time to time designate by notice given as aforesaid.

(c) Every Notice hereunder shall be deemed to have been given or served only when delivered against a signed receipt, or if mailed or sent by overnight courier, on the earliest to occur of (a) the date of actual receipt thereof, or if not a business day, on the next business day, and (b) the date of refusal by the addressee to accept such mailing or delivery.

(d) Every Notice hereunder delivered by Guarantor to Landlord shall be delivered together with a cover letter in the form of Exhibit A attached hereto. Any Notice which is delivered by Guarantor to Landlord hereunder which does not comply with the requirements set forth herein will be deemed not delivered to Landlord.

13. Termination of Guaranty; Successors and Assigns. This Guaranty shall: (a) remain in full force and effect until the date on which the Construction Work is complete in accordance with the requirements of the Lease and has been paid for in accordance with **Section 2** hereof and the Guarantied Obligations are otherwise fully satisfied and, thereafter, upon request of Guarantor, Landlord shall promptly furnish Guarantor with a written statement that the Guarantied Obligations have been fully satisfied and that this Guaranty is of no further force and effect (subject to the provisions of **Section 3(d)** hereof); (b) be binding upon Guarantor, its successors and permitted assigns; and (c) inure to the benefit of and be enforceable by Landlord and its successors, transferees and assigns or by any person to whom Landlord transfers, conveys or leases the Land. Wherever in this Guaranty reference is made to Landlord or Tenant, the same shall be deemed to refer also to the then successor or assign of Landlord or Tenant. Notwithstanding anything herein to the contrary, Guarantor shall not have the right to assign this Guaranty or delegate its obligations without the prior written consent of Landlord, which may be withheld in Landlord's sole and absolute discretion, and any purported assignment in violation of the foregoing clause shall be null and void as against Landlord.

14. Governing Law. This Guaranty shall be governed by, and construed in accordance with, the laws of the State of New York applicable to agreements made and to be performed entirely within said state.

15. Severability. If any term, covenant, condition or provision of this Guaranty or the application thereof to any circumstance or to Guarantor shall be invalid or unenforceable to any extent, the remaining terms, covenants, conditions and provisions of this Guaranty or the application thereof to any circumstances or to Guarantor other than those as to which any term, covenant, condition or provision is held invalid or unenforceable, shall not be affected thereby and each remaining term, covenant, condition and provision of this Guaranty shall be valid and shall be enforceable to the fullest extent permitted by law.

16. Headings. The headings used in this Guaranty are for convenience only and are not to be considered in connection with the interpretation or construction of this Guaranty.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, Guarantor has executed and delivered this Guaranty as of the date first above written.

GUARANTOR:

ROCKROSE EQUITIES L.L.C.,
a New York limited liability company

By: _____
Name:
Title:

EXHIBIT A

FORM OF COVER LETTER

[Landlord]
[Address]

Re: Parcel 5 of Stage II of the Queens West Development Project

Ladies and Gentlemen:

Reference is hereby made to that certain Completion Guaranty dated as of September 19, 2003 between you, as Landlord, and us, as Guarantor (the "Guaranty"). Capitalized terms used herein without definition shall have meanings ascribed thereto in the Lease.

Pursuant to Section [____] of the Guaranty, [Insert relevant substantive information].

Thank you.

Very truly yours,

ROCKROSE EQUITIES L.L.C.,
a New York limited liability company

By: _____
Name:
Title:

EXHIBIT C

PAPPS

As shown on Survey No. 56469-6 made by Montrose Surveying Co., LLP, dated November 15, 2001 and last revised 8/13/03.[1]

[1] To be replaced by final legal descriptions upon receipt.

LEGAL DESCRIPTION
PAPPS A (Affecting Parcel 5)

ALL that certain plot, piece or parcel of land situate lying and being in the Borough and County of Queens, City and State of New York bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of 47th Avenue (60 feet wide) with the westerly side of Center Boulevard (60 feet wide);

RUNNING THENCE westerly along the northerly side of 47th Avenue 43.69 feet to a point;

RUNNING THENCE northerly at right angle to the northerly side of 47th Avenue 5.00 feet to a point;

RUNNING THENCE easterly at right angles to the last mentioned course 44.05 feet to the westerly side of Center Boulevard;

RUNNING THENCE southerly along the westerly side of Center Boulevard along a curve bearing to the right having a radius of 250 feet an arc length of 5.01 feet to the corner the point or place of Beginning.

The above-mentioned streets being as shown on New York City Alteration Map No. 4876.

LEGAL DESCRIPTION
PAPPS B (Affecting Parcel 5)

ALL that certain plot, piece or parcel of land situate lying and being in the Borough and County of Queens, City and State of New York bounded and described as follows:

BEGINNING at the corner formed by the intersection of the southerly side of 46th Avenue (60 feet wide), with the westerly side of Center Boulevard (100 feet wide);

RUNNING THENCE westerly along the southerly side of 46th Avenue 69.51 feet to a point;

RUNNING THENCE southerly at right angles to the southerly side of 46th Avenue 5.00 feet to a point;

RUNNING THENCE easterly at right angles to the last mentioned course 69.51 feet to the westerly side of Center Boulevard;

RUNNING THENCE northerly along the westerly side of Center Boulevard 5.00 feet to the corner the point or place of BEGINNING.

The above-mentioned streets being as shown on New York City Alteration Map No. 4876.

EXHIBIT D

TITLE MATTERS

1. State of facts shown on Survey no. 56469 made by Montrose Surveying Co., LLP dated October 12, 2000 and last revised May 1, 2003.

2. All building, zoning and other state, county or Federal laws, codes, and regulations (whether existing or proposed), affecting the Premises, including any and all special exceptions, conditions, site plan approvals, proffers, and other similar matters, if any, related to the zoning of the Premises.

3. The following Covenant and Restriction:

   "Provided, nevertheless, and these presents are upon the express condition that there shall not be made, erected, carried on or permitted upon any portion of the hereby granted premises, any nuisance, trade or business generally offensive to the neighborhood."

   as recited in Deeds recorded in Liber 115 Cp. 5, Liber 115 Cp. 171, Liber 132 Cp. 317 and Liber 132 Cp. 321 covering Block 21 Lot 1.

4. Terms, Covenants, Conditions and Easements set forth in an Agreement made between Pepsi-Cola Company and The City of New York, dated 9/14/1960 and recorded on 12/2/1960 in Liber 7292 Cp. 398. Also shown on Map entitled "Showing the Elimination of 47th Avenue from point 446.96 feet west of 5th Street to the U.S. Bulkhead Line of the East River, including the layout of a Permanent Sewer Easement from a point in 47th Avenue 446.96 feet west of 5th Street to the U.S. Bulkhead Line of the East River" dated 9/30/1959 bearing No. 4039; And also shown on a Map entitled "Discontinuing and Closing 47th Avenue from a point 446.96 feet west of 5th Street to the U.S. Bulkhead Line of the East River, pursuant to Chapter 15, Title E, of the Administrative Code of the City of New York" dated 10/1/1959 bearing the No. 4090; And also as set forth in the Deed, including possibility of reverter, made by The City of New York to Pepsi-Cola Company dated 12/1/1960 and recorded 12/20/1960 in Liber 7295 Cp. 643.

5. Mapping Agreement made among The City of New York, The New York Economic Development Corporation and Queens West Development Corporation, dated 12/20/1994, unrecorded.

6. Terms, Covenants, Restrictions, Conditions and Easements set forth in the Easement,

Covenant and Restriction Agreement made by and between PepsiCo, Inc. and Queens West Development Corporation dated as of September 19, 2003 and to be recorded in the New York City Register's Office for the County of Queens.

7. Rights of Federal Government under the Federal Navigational Servitude to enter upon and take possession of land now or formerly lying below the high water mark of East River.

EXHIBIT E

MEMORANDUM OF LEASE

(see attached)

MEMORANDUM OF AGREEMENT OF LEASE

between

QUEENS WEST DEVELOPMENT CORPORATION,

as Landlord,

and

EAST COAST 5 L.L.C,

as Tenant

County: Queens
Block and Lot:

Record and Return to

Kramer Levin Naftalis & Frankel LP
919 Third Avenue
New York, NY 10022. Attn: Larry Loeb

MEMORANDUM OF AGREEMENT OF LEASE

This Memorandum of Agreement of Lease (this "Memorandum") is made and recorded pursuant to Section 291-c of the Real Property Law of the State of New York. The Agreement of Lease is referred to herein as the "Lease." All capitalized terms used herein and not defined herein shall have the respective meanings given to such terms in the Lease.

LANDLORD: Queens West Development Corporation, a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York constituting a public benefit corporation and a political subdivision thereof, having an address at 633 Third Avenue, 36th floor, New York, New York 10017.

TENANT: East Coast 5 L.L.C., a New York limited liability company, having an address at 290 Park Avenue South, New York, New York 10010.

DATE OF EXECUTION OF THE LEASE: As of [_____], 2003.

DESCRIPTION OF THE PREMISES IN THE FORM CONTAINED IN THE LEASE: See Schedule A annexed hereto and made a part hereof.

THE TERM OF THE LEASE AS TO THE PREMISES: The Premises are leased for a term of approximately ninety-nine (99) years, commencing on [_____], 2003 and ending [_____], 2102 (the "Expiration Date").

OPTION TO PURCHASE THE PREMISES: Tenant has certain options to purchase the Premises subject to and in accordance with the terms of the Lease.

This Memorandum has been executed by Landlord and Tenant solely for the purpose of recordation and giving notice of the Lease and Tenant's option to purchase the Premises and is subject in its entirety to the terms, covenants and conditions contained therein.

IN WITNESS WHEREOF, this Memorandum has been executed as of_____, _____.

LANDLORD:

QUEENS WEST DEVELOPMENT CORPORATION

By:_____
Name:
Title:

TENANT:

EAST COAST 5 L.L.C

By:_____
Name:
Title:

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

On the _____ day of_____ in the year ____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
Taking acknowledgment

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

On the _____ day of_____ in the year ____ before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Signature and Office of individual
Taking acknowledgment

SCHEDULE A

DESCRIPTION OF THE PREMISES

EXHIBIT F

NON-DISCRIMINATION AND AFFIRMATIVE ACTION CONSTRUCTION CONTRACT PROVISIONS

I. Policy

It is the policy of the State of New York, the New York State Urban Development Corporation d/b/a Empire State Development Corporation ("ESDC") and its subsidiaries, including Queens West Development Corporation (ESDC and its subsidiaries collectively hereinafter referred to in this Exhibit as "ESD") to comply with all federal, State and local laws, policies, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, and to take affirmative action to ensure that Minority and Women-owned Business Enterprises (M/WBEs), Minority Group Members and women share in the economic opportunities generated by ESD's participation in projects or initiatives, and/or the use of ESD funds.

(1) Tenant represents that its equal employment opportunity policy statement incorporates, at a minimum, the policies and practices set forth below:

(a) Tenant shall (i) not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, sexual orientation, age, disability or marital status, (ii) undertake or continue existing programs of affirmative action to insure that Minority Group Members and women are afforded equal employment opportunities without discrimination, and (iii) make and document its conscientious and active efforts to employ and utilize Minority Group Members and women in its workforce on Contracts. Such action shall be taken with reference to, but not limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on-the-job training.

(b) At the request of the AAO, Tenant shall request each employment agency, labor union, or authorized representative of workers with whom it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative does not unlawfully discriminate, and that such union or representative will affirmatively cooperate in the implementation of Tenant's obligations herein.

(2) Commencing not more than 30 days after the later to occur of (i) execution of a Contract, or (ii) start of construction, Tenant shall submit to the AAO a Monthly Employment

Utilization Report (Schedule A-1) of the workforce actually utilized on the Contract, itemized by ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by the AAO.

(3) Tenant shall also include with the first Monthly Employment Utilization Report and as part of the documentation required for final payment, such data describing: a) the total number of company employees at commencement of the project, b) the total number of company employees at the completion of the project and c) any net increases in the number of employees in the company. Net increases in employment shall be further classified by ethnicity, gender and occupational code.

Tenant shall include, or cause to be included, the provisions of clauses (1) through (3) in every Contract that Tenant enters into in order to fulfill its obligations under the Lease, in such a manner that such provisions will be binding upon each and every Contracting Party with respect to any Contract or Subcontract.

II. Goals for Minority and Women-Owned Business Enterprise Participation

(a) Tenant is required to use its best efforts to achieve an overall M/WBE participation goal of 20% of the total dollar value of the work performed by or on behalf of Tenant pursuant to Contracts.

(b) The total dollar value of the work performed by M/WBEs will be determined as: (i) the dollar value of the work subcontracted to M/WBEs; (ii) where the Contracting Party is a joint venture, association, partnership or other similar entity including one or more M/WBEs - the contract price multiplied by the percentage of the entity's profits/losses which are to accrue to the M/WBE(s) under the Contracting Party's agreement; or (iii) where the M/WBE is the Contracting Party, the contract price.

(c) Tenant shall include, or cause to be included, the provisions of clauses (a) and (b) in every Contract that Tenant enters into in order to fulfill its obligations under the Lease, in such a manner that such provisions will be binding upon each and every Contracting Party with respect to any Contract or Subcontract.

III. Goals for Minority and Female Workforce Participation

(a) Tenant is required to use its best efforts to achieve the overall goal of 25% minority and female workforce (M/FWF) participation in the work performed pursuant to Contracts.

(b) The M/FWF participation goals are expressed as a percentage equal to the person

hours of training and employment of minority or female workers, as the case may be, used by any Contracting Party, divided by the total person hours of training and employment of all workers (including supervisory personnel).

(c) The required participation for minority and female employment and training must be substantially uniform throughout the work.

(d) Tenant shall not participate in the transfer of minority or female employees or trainees from employer-to-employer or from project-to-project for the sole purpose of meeting the Tenant's obligations herein.

(e) In striving to achieve the goals for M/FWF participation, Tenant shall use its best efforts to identify and employ qualified minority and female supervisory personnel and journey persons.

(f) The non-working hours of trainees or apprentices may not be considered in meeting the goals for M/FWF participation contained herein unless: (i) such trainees or apprentices are employed by Contracting Party during the training period; (ii) Tenant has made a commitment to employ the trainees or apprentices at the completion of their training, subject to the availability of employment opportunities; and (iii) the trainees are trained pursuant to an approved training program.

(g) Tenant shall include, or cause to be included, the provisions of clauses (a) through (f) in every Contract that Tenant enters into in order to fulfill its obligations under the Lease in such a manner that such provisions will be binding upon every Contracting Party with respect to any Contract or Subcontract.

IV. Reporting Requirements

Tenant will permit access to its books, records and accounts, with respect to Contracts, by the AAO for purposes of investigation to ascertain compliance with the provisions herein. Upon request, Tenant shall periodically file, or cause to be filed, reports, substantially in the format attached hereto as Schedule A-1 and A-2 (MBE/WBE Compliance Report to be filed monthly), with the AAO detailing compliance with the provisions of these non-discrimination and affirmative action clauses. Accuracy of the information contained in the reporting documentation shall be certified to by an owner or officer of Tenant.

V. Non-Compliance and Sanctions

(1) Within twenty (20) days after the end of each calendar month, the AAO will review the Monthly Employment Utilization Report and the MBE/WBE Compliance Report filed

with the AAO to assess compliance with the established program. If Tenant has failed to file the required monthly reports and/or if in the reasonable judgment of the AAO an analysis of the report reveals apparent underutilization, the AAO may notify Tenant in writing (the "First Notice"), which notice shall describe the nature and extent of the apparent underutilization.

(2) If the AAO's review and analysis of Tenant's reports filed in the month next following the month in which Tenant received the First Notice reveals that there continues to be apparent underutilization, then the AAO may notify Tenant in writing (the "Second Notice") which notice shall describe the nature and extent of the continuing apparent underutilization and will arrange a conference which Tenant must attend, at which the AAO will identify in consultation with Tenant, specific reasonable and practicable corrective measures from among those available to demonstrate Best Efforts which Tenant will undertake.

(3) If the AAO's review and analysis of Tenant's reports filed in the month next following the month in which Tenant received the Second Notice reveals continuing apparent underutilization and if Tenant has not already undertaken the specific corrective measures agreed upon to demonstrate its Best Efforts, the AAO may notify Tenant in writing (the "Final Notice"), which notice shall describe the nature and extent of the continuing apparent underutilization. Upon receipt of the Final Notice, Tenant shall be required to comply with the following sanctions and remedies for compliance:

(a) ESD may summon Tenant for a hearing with the AAO.

(b) After any such hearing, and a determination by the AAO that Tenant has failed to comply with any of these provisions, and the passage of time in which to remedy such failure has transpired, the AAO, in his/her sole discretion, may assess liquidated damages against Tenant for failure to demonstrate its best efforts in complying with the affirmative action program. Liquidated damages may be assessed in an amount equal to the dollar value that would have been realized by M/WBEs if the goals set forth in these provisions had been achieved less any amounts actually realized by M/WBEs in connection with Contracts.

(c) If such an award is assessed against Tenant, (i) the amount of such assessment may be withheld from any monies due to Tenant by ESD or; (ii) may be paid to the ESD by the Contracting Party that has been found to fail to comply with the affirmative action program. Any liquidated damages collected hereunder shall be paid into one or more M/WBE technical assistance funds administered by the ESD.

(d) Such sanctions that may be imposed and remedies invoked hereunder, shall be

considered independent of, or in addition to, sanctions and remedies otherwise provided by law.

NON-DISCRIMINATION AND AFFIRMATIVE ACTION DEFINITIONS

Affirmative Action

Shall mean the actions to be undertaken by Tenant and any Contracting Party in connection with Contracts to ensure non-discrimination and Minority/Women-owned Business Enterprise and minority/female workforce participation, as set forth in Sections II and III herein, and developed by ESD.

Affirmative Action Officer ("AAO")

Shall mean ESD's Affirmative Action Officer or his/her designee, managing the affirmative action program for ESD.

Contract

Shall mean a written agreement or purchase order instrument, or amendment thereto, executed by or on behalf of a Contracting Party and relating to the construction of the Building and the foundation of the Building, providing for a total expenditure in excess of $5,000 for labor, services, supplies, equipment, materials or any combination of the foregoing.

Contracting Party

Shall mean the Tenant and any Contractor, as defined in the Lease, of which this Exhibit is a part.

Subcontract

Shall mean an agreement providing for a total expenditure in excess of $1,500 between a Contracting Party and any individual or business enterprise, for goods or services rendered in connection with the construction of the Building and the foundation of the Building.

Minority Business Enterprise ("MBE")

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is an enterprise certified by New York State as a minority business.

Minority Group Member

Shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups: (i) Black persons having origins in any of the Black African racial groups; (ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race; (iii) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands; and (iv) Native American or Alaskan native persons having origins in any of the original peoples of North America.

Women-owned Business Enterprise ("WBE")

Shall mean a business enterprise, including a sole proprietorship, partnership or corporation that is an enterprise certified by New York State as woman-owned.

Best Efforts - Minority and Women-owned Business Enterprise Participation

Best efforts are not limited to the efforts specified herein, and the role of M/WBE firms are not restricted to that of a subcontractor/subconsultant. Where applicable, M/WBE firms should be considered for roles as prime contractors. Such best efforts shall include at least the following:

(a) Dividing the contract work into smaller portions in such a manner as to permit subcontracting to the extent that it is economically and technically feasible to do so;

(b) Actively and affirmatively soliciting bids from qualified M/WBEs, including circulation of solicitations to minority and women's trade associations. Each Contracting Party shall maintain records detailing the efforts made to provide for meaningful M/WBE participation in the work. Such record keeping must include the names and addresses of all M/WBEs contacted and, if an M/WBE is the low bidder and is not selected for such work or portion thereof, the reasons for such decision;

(c) Making plans and specifications for prospective work available to M/WBEs in sufficient time for review;

(d) Utilizing the services and cooperating with those organizations providing technical assistance to the Contracting Party in connection with potential M/WBE participation on the Contract;

(e) Utilizing the resources of the AAO to identify New York State certified M/WBE firms for the purpose of soliciting bids and subcontracts;

(f) Encouraging the formation of joint ventures, associations, partnerships, or other similar entities, where appropriate, to ensure that the Contracting Party will meet its obligations herein; and

(g) Remitting payment in a timely fashion.

Best Efforts - Minority Group Member and Female Workforce Participation

Best efforts to provide for meaningful Minority Group Member and female workforce participation shall include at least the following in connection with the work:

(a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at the premises. The Contracting Party shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the obligation to maintain such a working environment, with specific attention to Minority Group Member or female individuals working at the premises;

(b) State in all solicitations or advertisement for employees that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, sexual orientation, age disability or marital status;

(c) Send to each labor union or representative of workers with which a collective bargaining agreement or understanding is in place, a notice advising the said labor union or workers' representative of commitments under this Section, and post copies of the notice in conspicuous places available to employees and applicants for employment;

(d) Establish and maintain a current list of Minority Group Member and female recruitment sources and community organizations, and provide written notification to them when employment opportunities are available. Maintain a record of the organization's responses;

(e) Maintain a current file of the name, address and telephone number of each Minority Group Member and female applicant and any referrals from a union, recruitment source or community organization, and of the action taken with respect to each individual. If such individual was sent to the union hiring hall for referral and was not referred back by the union or, if referred, was not employed, this shall be documented in writing in the file with the reasons therefor, along with whatever additional actions the Contracting Party may have taken;

(f) Disseminate the Contracting Party's equal employment opportunity policy by providing notice of the policy to unions and training programs and requesting their cooperation in meeting its Equal Employment Opportunity obligations, by including it in any policy manual and collective bargaining agreement, by publicizing it in the company newspaper, annual report, and other similar items, by specific review of the policy with all management personnel and with all Minority Group Member and female employees at least once a year, and by posting the company Equal Employment Opportunity policy on bulletin

boards accessible to all employees at each location where work is performed under this Contract;

(g) Disseminate the Contracting Party's Equal Employment Opportunity policy externally by including it in any advertising in the news media, specifically including Minority Group Member and female news media, and provide written notification to and discussing the Equal Employment Opportunity policy with any contractor with whom the Contracting Party does or anticipates doing business; and,

(h) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities shall be provided to assure privacy between the sexes.

EXHIBIT G

SALES TAX EXEMPTION PROCEDURES

Appliances

1 Determine if property to be purchased is eligible for the sales tax exemption.

An item will be eligible for the sales tax exemption if it is an appliance purchased and installed in the residential apartments located within the building constructed on the Premises.

2 If the item being purchased is not eligible for the sales tax exemption, the purchase should be made using Tenant's ordinary procedures and documentation.

If the item being purchased is eligible for the sales tax exemption, the following steps must be complied with:

a. Complete and execute purchasing documents. All purchasing documents, whether they are purchase orders, contracts, invoices, master purchase agreements, schedules to master purchase agreements, or other similar instruments, must:

i. list the purchaser as "[Rockrose Entity] as Agent for Queens West Development Corporation";

ii. set forth the customer's name preceding the shipping address as "[Rockrose Entity] as Agent for Queens West Development Corporation";

iii. include the project description language set forth in the Letter of Authorization for Sales Tax Exemption issued by the Queens West Development Corporation (the "Appliance Sales Tax Letter");

iv. have a copy of the Sales Tax Letter attached to it;

v. if signed, be signed in the name of "[Rockrose Entity] as Agent for the Queens West Development Corporation";

vi. have the notice address, if any, listed as "[Rockrose Entity] as Agent for the Queens West Development Corporation"; and

vii. set forth the purchase price and the amount of the sales tax exemption claimed.

b. Each item which is purchased with the sales tax exemption must remain in the Premises where it is initially placed except to the extent (i) it is removed for repair, in which event it must be reinstalled within the Premises, but not necessarily the same apartment, upon its repair, or (ii) the same has become obsolete.

c. Upon receipt of the invoice, the invoice should be matched with the purchase order to confirm that the purchase order was properly completed, the invoice excludes the proper amount of sales tax and the invoice sets forth the customer as "[Rockrose Entity] as Agent for the Queens West Development Corporation".

EXHIBIT H

FORM OF DEED

QUITCLAIM DEED

THIS INDENTURE, made the ___ day of _____ two thousand and _____ BETWEEN QUEENS WEST DEVELOPMENT CORPORATION, a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York, constituting a public benefit corporation and a political subdivision thereof, party of the first part, and EAST COAST 5 L.L.C., a New York limited liability company, party of the second part,

WITNESSETH, that the party of the first part, in consideration of one dollar ($1.00), lawful money of the United States, paid by the party of the second part, the receipt and sufficiency of which is hereby acknowledged, does hereby remise, release and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second party forever,

ALL that certain plot, piece or parcel of land, together with the buildings and improvements thereon erected, described on Schedule A hereto (the "Premises").

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said Premises,

TO HAVE AND TO HOLD the Premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, hereby covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose,

AND the party of the second part hereby covenants that it shall pay to the party of the first part the Public Maintenance Amount (as such term is defined in that certain Agreement of Lease dated as of [_____], 2003, between the party of the first part and the party of the second part (the "Lease")), which would have been due the party of the first part by Tenant (as such term is defined in the Lease) pursuant to terms of the Lease had such Lease continued in existence until the Scheduled Expiration Date (as such term is defined in the Lease), with such payments being made by the party of the second part to the party of the first part as and when such payments

STATE OF NEW YORK, COUNTY OF ss:

On the day of 20 ,

before me

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 20 ,

before me

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that executed the same.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 20 ,

before me personally came

to me know, who, being by me duly sworn, did depose and say that he resides at No.

that he is the

of

, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and

that he signed h name thereto by like order.

STATE OF NEW YORK, COUNTY OF ss:

On the day of 20 ,

before me personally came

the subscribing witness to the foregoing instrument, with whom I am personally acquainted, who, being by me duly sworn, did depose and say that he resides at No.

that he knows

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw

execute the same; and that he, said witness, at the same time subscribed h name as witness thereto.

Quitclaim Deed

TITLE NO.

TO

SECTION

BLOCK

LOT

COUNTY OR TOWN

RECORD AND RETURN BY MAIL TO:

ZIP NO.

RESERVE THIS SPACE FOR USE OF RECORDING OFFICE

SCHEDULE A

DESCRIPTION OF THE PREMISES

EXHIBIT I

FORM OF SURVEYOR CERTIFICATE

The undersigned being a registered surveyor of the State of [State] hereby certifies to Queens West Development Corporation, East Coast 5 L.L.C., [INSERT NAME OF EACH MORTGAGEE] and [INSERT NAME OF TITLE COMPANY], and each of their respective successors and assigns, as of the date below, as follows:

This print of survey actually was made on the ground on [INSERT DATE SURVEY WAS MADE] in accordance with the "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by American Land Title Association ("ALTA") and American Congress on Surveying & Mapping ("ACSM") and National Society of Professional Surveyors ("NSPS") in 1999, contains Items 1, 2, 3, 4, 6, 7(a), 7(b)(1), 8, 9, 10, 11, 13, 14 and 16of Table A thereto, and correctly shows: (i) a fixed and determinable position and location of the land described herein (together with the buildings and improvements thereon, the "Property"), including the position of the point of beginning; (ii) the location of all buildings, structures and other improvements situated on the land; (iii) all driveways or other curb cuts along any street or alley upon which the land abuts; (iv) the location and name of all public and private streets or alleys located thereon or adjacent thereto, all of which are public unless otherwise noted; (v) the location, dimension and recording data of all easements, rights-of-way and other matters of record thereon or with respect to which the undersigned has knowledge; (vi) the location and dimension of all unrecorded easements, paths, rights-of-way and party walls to the extent visible thereon or with respect to which the undersigned has knowledge; (vii) the location of applicable building restriction and setback lines required by local ordinances and regulations; and (viii) the location of all encroachments or overhangs onto or from the Property. Except as shown on this survey, there are no visible discrepancies, conflicts, shortages in area or boundary line conflicts. Except as shown on the survey, the Property does not serve any adjoining property for drainage, utilities or ingress or egress. The Property has access to and from a duly dedicated and accepted public roadway. This survey reflects boundary lines of the land, which "close" by engineering calculations. All utility services to the Property either enter the Property through adjoining public streets, or this survey shows the point of entry and location of any utilities which pass through or are located on adjoining private land to the extent visible or known to the undersigned. The Property and only the Property constitutes one tax lot. The undersigned has received and examined a copy of the Commitment for Title Insurance No. _____, dated _____, issued by _____, with respect to the Property, as well as a copy of each instrument listed therein. The location of each exception set forth in such

Commitment, to the extent it can be located, has (with recording reference and reference to the exception number of the Commitment) been shown hereon. The undersigned further certifies that this survey meets the Accuracy Standards (as adopted by ALTA, ACSM and NSPS and in effect on the date of this certification) of an Urban Survey, and the ratio and precision of this survey is at least 1 to 15,000.

_____

, Licensed Surveyor

Date: _____

[seal]]

EXHIBIT J

FORM OF IMPROVEMENTS SALES TAX LETTER

[TO COME]
[TO COME]

Re: Queens West Development Corporation,
Land Use Improvement Project,
Parcel 5, Long Island City, New York

Dear [TO COME]:

This letter is being issued in connection with the construction and alterations being performed at the following locations: Lots [__] in Block [__] of the Tax Map of the City of New York, County of Queens (collectively, the "Premises"). Such construction and alterations are being undertaken by East Coast 5, L.L.C. (the "Tenant") and its contractors pursuant to a certain Agreement of Lease (the "Lease"), dated as of September 19, 2003, between Queens West Development Corporation ("QWDC"), as landlord, and Tenant.

QWDC is a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation ("ESD"), which is a corporate governmental agency of the State of New York constituting a political subdivision and public benefit corporation. ESD and it subsidiaries, including QWDC, are exempt from sales and compensating use taxes on the purchase, and labor charges for the installation, of materials and equipment which are to be incorporated into or attached or affixed to buildings owned by them. Materials and equipment sold to contractors for use in improving real property owned by ESD and its subsidiaries, including QWDC, or to be incorporated into or attached or affixed to buildings owned by ESD or its subsidiaries, or sold to contractors for use in completing a project for ESD and its subsidiaries, and labor charges in connection therewith, are also exempt from sales and compensating use taxes.

No sales tax exemption certificates or numbers are issued to governmental entities. Accordingly, Tenant and its contractors and suppliers hereby are authorized to rely upon copies of this letter as evidence of the tax exemption for materials used in the above-described alterations of the Premises.

This letter only exempts sales and compensating use taxes on the items described above. Any misuse of this letter shall constitute fraud punishable by law.

This letter shall be valid from [_____] through and including [_____]. Should the construction and alterations undertaken by Tenant pursuant to the Lease progress beyond the termination date of this letter, QWDC shall issue a new letter in accordance with the obligations and requirements under the Lease.

Very truly yours,

QUEENS WEST DEVELOPMENT CORPORATION

By:_____
Name:
Title:

EXHIBIT K

GPP

(see attached)

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
HUNTERS POINT (QUEENS WEST)WATERFRONT DEVELOPMENT
LAND USE IMPROVEMENT PROJECT
MODIFIED GENERAL PROJECT PLAN
APRIL 23 2003

In November 1983, an agreement was entered into by the City of New York (the "City"), the Port Authority of New York and New Jersey (the "PA") and the State of New York to have the PA undertake a waterfront development project in New York City. This agreement was contingent on the passage of waterfront development legislation pending in the New York State Legislature that would authorize the PA in New York and New Jersey to finance and implement waterfront projects. The legislation, an amendment to the marine terminal legislation, McKinney's Unconsolidated Laws §6671 et seq., was passed by the State of New York and signed into law in 1984. Companion legislation was passed by the State of New Jersey. The New York City Public Development Corporation ("PDC")was designated as the City's representative for the project.

Shortly after the 1983 agreement, the PA undertook feasibility studies and an environmental assessment of proposed development for the Hunters Point waterfront. This work and related technical analyses led to the proposed project.

Commenced by the PA and PDC and joined by UDC, a complex master planning process resulted in this proposed development of the Hunters Point site. To accomplish the objectives described in the proposed plan of development, UDC would undertake a land use improvement project (the "Project") and has accordingly prepared this General Project Plan (the "Plan"). These actions have been undertaken in accordance with a Memorandum of Understanding ("MOU") among the PA, the City, PDC and UDC dated August, 1989. Upon final approval of this Plan in the manner provided by the New York State Urban Development Corporation Act (the "UDC Act")after compliance with other applicable laws, such as the State Environmental Quality Review Act ("SEQRA"), UDC proposes to undertake, or cause to be undertaken in conjunction with the City, PDC and the PA (acting through its enabling legislation, the Project described herein (UDC, PDC and the PA are herein collectively referred as the "Public Sponsors").

I. Project Location and Site

The Project is located in Long Island City, Queens County, and is generally bounded by the Anable Basin (also known as the 11th Street Basin) to the north, by the U. S. Pierhead line of the East River on the west, by the entrance to Newtown Creek on the south, and on the east by 5th Street between the Anable Basin and 49th Avenue, by a line near the western end of the block between 49th and 50th Avenue, and by 2nd Street between Newtown Creek and 50th Avenue. The project site also includes a strip of land between 5th and 21st Streets, which contains 48th Avenue and a portion of an existing but unused Long Island Rail Road (LIRR) cut (the "Project Area")(Attachment 1).

II. General Project Description

The Project proposed to be undertaken contemplates the creation of nineteen (19) development parcels, generally organized around a main north-south boulevard. Other roads will also be developed between the development parcels and a continuous waterfront esplanade. East-west access to and through the site will be created through extension of certain existing street rights-of-way through the site, connecting with the main boulevard and any outboard roads. A new access road, in the former LIRR cut, will be developed to provide, together with Borden Avenue, principal vehicular access to the Project Area.

The Project contemplates that three distinct neighborhoods will be created. In the northerly area (Parcels 1-11) a residential area will be created. In the lower central portion of the site (Parcels 12-15), the commercial core will be established. Parcels 17-20 will create a second residential neighborhood in the southerly area of the site. Parcels 16 and 21 will be comprised of open space and related uses.

An elementary school, for grades K-5 and seating up to 650 pupils, will be provided on Parcel 4, subject to a determination of need by the City. Until such time as an elementary school is provided, an early childhood learning center for grades K-2, with 300 seats and an area of approximately 17,500 gross square feet, to be operated by the City, will be provided, as part of the first stage of Project development.

Also within the first development stage, a community center with a swimming pool will be constructed. The community center will be provided without reduction of the aggregate building square footage heretofore contemplated for commercial and residential development. The community center will be financed fifty percent (50%) by the Project in an amount not to exceed five million dollars ($5,000,000). The balance of financing is to be provided by New-York City Councilman Walter McCaffrey and Queens Borough President Claire Shulman, with each providing twenty-five percent (25%) or two million, five hundred thousand dollars ($2,500,000). If at the commencement of the first development phase either (i) the Borough President or Councilman McCaffrey has not made his or her share of the contemplated financing available, or (ii) the final plans and specifications for the community center have not been completed, or (iii) an executed agreement with a responsible operating entity to manage and maintain the community center has not been submitted to and approved by the Public Sponsors (which approval cannot be unreasonably withheld), then the construction of the community center will be deferred until such time as the aforementioned conditions have been satisfied.

A waterfront esplanade will be created along the entire water's edge. Ranging from approximately 30 feet to over 100 feet in width, this publicly dedicated park is intended to be used as active and passive recreational space, and will be furnished with walkways, benches and planting. In addition, appropriately located play areas for small children and pre-teens will be provided within the esplanade.

Public and private open space will also be developed as part of the Project. A major public park space for active recreation will be located adjacent to Parcel 4. A public park for

passive recreational uses will be developed on a portion of Parcel 5. Public open space on Parcel 8 will increase as a result of a redistribution of bulk within that parcel. Parcel 16 will be developed as active recreational space. Parcel 21, the former 48th Avenue right-of-way, will be mapped as public park and developed for active recreational and related uses. small private open spaces located on top of residential garages will be created by developers on certain residential parcels for the use of building residents. In addition, an existing, neon lit, 65 year old Pepsi-Cola sign, now located on the northern residential area, will be permanently incorporated into the Project at one of 2 designated locations: a temporary location and a permanent location. Maintenance of the sign and the land on which it will be sited will be provided by Pepsi Cola Inc. in perpetuity.

The Project contemplates approximately 6.4 million square feet of residential space, 2.4 million square feet of office/hotel space, 225,000 square feet of retail space and 167,000 square feet of public facilities. The proposed total area of building program development is approximately 9.3 million square feet. Off-street parking spaces in structures at ratios of approximately 0.6 spaces per dwelling unit for residential space, and one space for every 1,250 gross square feet of commercial space, are proposed. Valet parking will be encouraged in order to increase the ratio of parking spaces to dwelling units. On-street parking spaces will be available as well. Attachment 2 describes the site plan graphically.

A below-market housing component to equal ten percent (10%) of the residential units in the Project's first development phase will be provided. One third (1/3) of these units will be reserved for low-income households, one third for moderate-income households, and one third for middle-income households; and within each category, fifty percent (50%), of the units shall be set aside for senior citizens and fifty percent (50%) of the units shall be set aside for residents of Community Board #2 and residents of adjacent community boards.

Subject to all legal requirements, and to the extent that financial resources are available from sources other than the Project, the Project will endeavor to provide below-market residential units for subsequent development phases, either on or off-site within Community Board #2 and/or adjacent community boards, to the maximum extent feasible, and any below-market units provided in subsequent development phases shall be appropriately balanced between senior citizens and families.

There will be a limited shuttle service provided to the residential areas to provide linkage between the Project and main transit nodes. The provision of such shuttle service will be linked to the phased development of the project.

The specific development program and the controls and requirements for development of each parcel are discussed in sections following.

III. Objectives Under the UDC Act

The principal goal of the Project is to establish within the Project Area a viable development consisting of residential, commercial, cultural and recreational facilities and to provide public access to the waterfront.

Another objective of the Project is to eliminate the substandard and unsanitary conditions that presently exist in the Project Area.

IV. Project Objectives

In addition to removal of substandard and unsanitary conditions, which act presently as impediments to the effective and economic use of the site, the proposed Project is designed to establish and carry out a range of public policy objectives in the context of a comprehensive plan. These objectives include:

1. The expansion and reinforcement of the outer boroughs of New York City as feasible alternate locations to Manhattan.

2. The creation of commercial sites with large floor plates for business which, but for the availability of such commercial sites, would leave the City or State of New York for other locations.

3. The recognition of the historical prominence of the site as the symbolic "gateway" to Queens and creation of a new image for and access to the water's edge for use by residents, employees and visitors.

4. The creation of a new mixed-use neighborhood, including a significant expansion of the City's housing stock.

5. The expansion of the City's tax base by opening hitherto underdeveloped areas, generating new employment and new business opportunities, and increasing potential generation of revenue.

6. The creation of a significant public open space that opens the Queens waterfront to passive recreational uses for the use of all people, through the provision of a continuous publicly accessible waterfront esplanade.

V. Project Implementation

It is expected that the Project will be implemented in the following manner.

A. Administration

The Project will be implemented by the Public Sponsors. Among the responsibilities of the Public Sponsors will be:

- acquisition of privately held property to be developed as part of the Project by negotiated purchase, where possible, or by condemnation, where necessary

- promulgation of detailed design guidelines, which will provide specific direction for the development of each project parcel

- creation and utilization of land disposition agreements that outline the terms under which parcels would be conveyed to private parties for development or creation of a public amenity

- if compliance with local laws is not feasible or practicable, the override of local codes and ordinances by UDC

- receipt and or disbursement of funds, from public or private entities, for the purpose of maintenance of publicly owned open spaces

- exercise of other duties that may be necessary to undertake the Project.

B. Methods of Acquisition and Disposition of Property for Purposes of Project Development

Acquisition and disposition of Project properties for development may occur in any of the following ways or combinations thereof:

1. The Public Sponsors may enter into agreements with property owners who wish to develop their Project site holdings in accordance with the Plan. If such agreements with owners are reached, no public funds for acquisition would be required, but title would likely pass from the private owner to the Public Sponsors for some period of time during the development process.

2. The Public Sponsors may undertake acquisition of lands (other than those owned by the PA) in a phased manner. Such phased acquisition may be funded in whole or in part by the Public Sponsors. If PA funds are used for acquisition, title may pass to the PA.

3. The Public Sponsors may provide for the development and disposition of any site not being developed by its existing owner, through a request for proposals, sole source negotiations, or some combination thereof.

4. The approval requirements and procedures applicable to UDC and its projects will apply, in lieu of the Uniform Land Use Review Procedure of the New York City Charter, to any disposition of City-owned property necessary to implement the Project.

C. Requirements of Developers

As part of any response to a request for proposals or any inquiry for development of the Project in accordance with this Plan, developers will be required to demonstrate a willingness and capacity to fund costs of any acquisition and any other costs of development that may be necessary.

D. Infrastructure Development

All required infrastructure intended to advance Project purposes will be undertaken as part of the Project, under the aegis of the Public Sponsors, and may be financed through some combination of public and private funds.

Elements of infrastructure will include provision for utilities such as sanitary sewerage, storm water disposal, provision of water, electrical service, gas service and telephone service, as well as roads, sidewalks, streetscape and other similar improvements.

E. Operation of Public Open Space

The Project will provide for the operation and maintenance of parks and open space.

VI. General Development Controls

The General Development Controls will promote the proper implementation of the Project, consistent with the design objectives formulated during the master planning process. These general controls establish a framework for the development of parcel-specific design guidelines and requirements which will be prepared for the Project by the public Sponsors, and will be incorporated as part of land disposition agreements governing development under this Plan.

The General Development Controls consist of three elements: building bulk and massing controls; pedestrian and vehicular circulation controls; and open space controls. The General Development Controls are presented graphically on Attachments 4, 5 and 6 hereto.

A Proposed Parcel Descriptions

Attachment 3 hereto describes each parcel, with parcel area, approximate intended program and floor area. Coupled with the bulk, height and setback requirements, these descriptions define the permitted building program.

Lot areas shown are approximate and will be refined following the survey of all the constituent parcels of the Project site.

B. Permitted Uses

The following would be allowed as part of the Project:

Residential uses: Residential uses, for sale or for rent (or a combination thereof), public educational uses, community space, recreation and open space.

Commercial uses: Commercial uses including front and back office space, and hotel.

Retail uses: Retail sales, including restaurants and service establishments. Retail establishments are intended primarily to provide convenience services for the use of residents and commercial

occupants of the Project Area. Retail uses may be permitted on any residential parcel, so long as the total retail program is not exceeded. Retail locations on commercial parcels are required.

Open Space uses: Open space uses include active and passive recreational uses accessible to the general public, except as otherwise specified herein.

C. Bulk Controls

1. Intent

Bulk Controls establish the building envelopes for the Project. The objectives of these controls are to: (1) delineate the distribution of building development across the site, assuring that the overall physical massing and form of the Project reflects the design principles identified in the overall physical planning process; (2) establish building heights, street wall requirements, setbacks, and tower locations, so as to ensure adequate light and air for streets, parks, public spaces and adjacent context and to preserve views and vistas; and (3) encourage development that will complement adjacent properties through building elements placed to create design emphases, reinforce open space planning concepts and preserve waterfront views.

Shifts in bulk among residential parcels and among commercial parcels and modifications to individual parcel height and setback requirements may be permitted by the Public Sponsors, as long as such changes reinforce Project design goals and objectives and do not result in a change to total Project building program floor area, Project height or grade level setback requirements. The total Project building program will be limited to approximately 9.3 million square feet, inclusive of program additions requested as part of the Board of Estimate approval of the General Project Plan. The overall Project height will not exceed 400 feet for commercial parcels and 390 feet for residential parcels, with the tallest buildings sited on parcels, 2, 10, 13 and 19.

2. Definitions

The following definitions are illustrated on the accompanying Bulk Controls diagrams (Attachment 4):

Height Control Line -A line defining the boundaries of each height restriction zone. A building wall is permitted, but not required, to occur along the height control line and may be built to a height not exceeding the height restriction specified.

Lot Line - A line defining the boundary of a tract of land intended for development. Lot lines may coincide with a required street wall.

Maximum Building Height -The maximum building height permitted, measured from the adjacent finished curb level. The following are permitted obstructions or exceptions which may penetrate the maximum building height limit: chimneys or flues; elevator or stair bulkheads, roof water tanks or cooling towers (including enclosures); flagpoles or aerials; ornamental church towers having no habitable floor area; certain parapet walls; spires or belfries; wire, chain link, or other transparent fences.

Street Line -A lot line separating a street from other land.

Street Wall -A wall or portion of a wall of a building facing a street or publicly accessible private pedestrian space.

Required Street Wall -A wall or portion of a wall of a building facing a street or publicly accessible private pedestrian space which must be built to a height of between 40'0"and 100'0" above curb level. Modulation of the street wall within these ranges will be permitted in order to create a sense of different uses, visual interest and orientation.

D. Circulation Controls

1. Intent

Circulation Controls have been established to create parameters for the location of pedestrian and vehicular circulation elements and the placement of pedestrian and service easements. The objectives of the Circulation Controls are to: (1) provide separation of vehicular and pedestrian movements to the extent feasible; (2) minimize pedestrian/vehicular conflicts particularly with regard to curb cuts on major pedestrian circulation routes; (3) provide public street activity at the Project perimeter, along Center Boulevard and on side streets through locating building entry zones on each parcel; (4) assure public access to the waterfront through provision of a combination of various pedestrian/circulation easements.

2. Definitions

The following terms are illustrated on the accompanying Circulation Controls Diagram (Attachment 5):

Building Entrance Zone -Required primary building entrance location, with other points of entry permitted.

Curb Cut Zone -Portions of parcel areas where curb cuts are permitted. These curb cut requirements shall be in addition to any other applicable City rules or regulations concerning driveway curb cuts, as may be required.

E. Open Space Controls

1. Intent

Open Space Controls establish the location and nature of public and private open space treatments to be developed as part of the Project, and describe the design intent of active and passive recreational areas. The objectives of these controls are: (1) to promote a high level of design quality and diversity of public and private open spaces; (2) to promote a continuity of the design through common and compatible treatments of public streets and open spaces; and (3) to respond to the adjacent context.

The nature and character of public open spaces have been defined in the Uniform Land Use Review Procedure (ULURP) application submitted by PDC as part of the Project. The Open Space Controls are a departure point for the treatment of open space which will be incorporated into the Design Guidelines, to be developed and implemented through the land disposition agreements and infrastructure development program.

2. Definitions

The following definitions are illustrated on the accompanying Open Space Controls diagram (Attachment 6):

Grade Level Setback -A grade level setback is an area defined by the lot line or height control line. Grade level setbacks occur on residential parcels as well as on Parcel 14. Permitted encroachments into this area include stoops, bay windows, canopies, balconies, and retail storefronts.

Private Open Space -An area within the lot lines of a parcel, which is located at or above grade level, which has an unobstructed exposure to the sky and which is for the exclusive use of residents of that parcel.

Publicly Accessible Private Pedestrian Space -A continuous area, located on privately owned land, designated for public pedestrian circulation.

Public Open Space -A publicly accessible and maintained landscaped pedestrian esplanade provided along the entire length of the waterfront including Anable Basin and Newtown Creek and community park located south of Parcel 4. The esplanade links all the neighborhoods and contains a mix of passive and active uses.

VIII. Relocation

There are no residential occupants presently in the Project Area; therefore, no residential relocation will be required.

IX. Environmental Review

UDC is acting as lead agency for environmental review under the New York State Environmental Quality Review Act (" SEQRA").

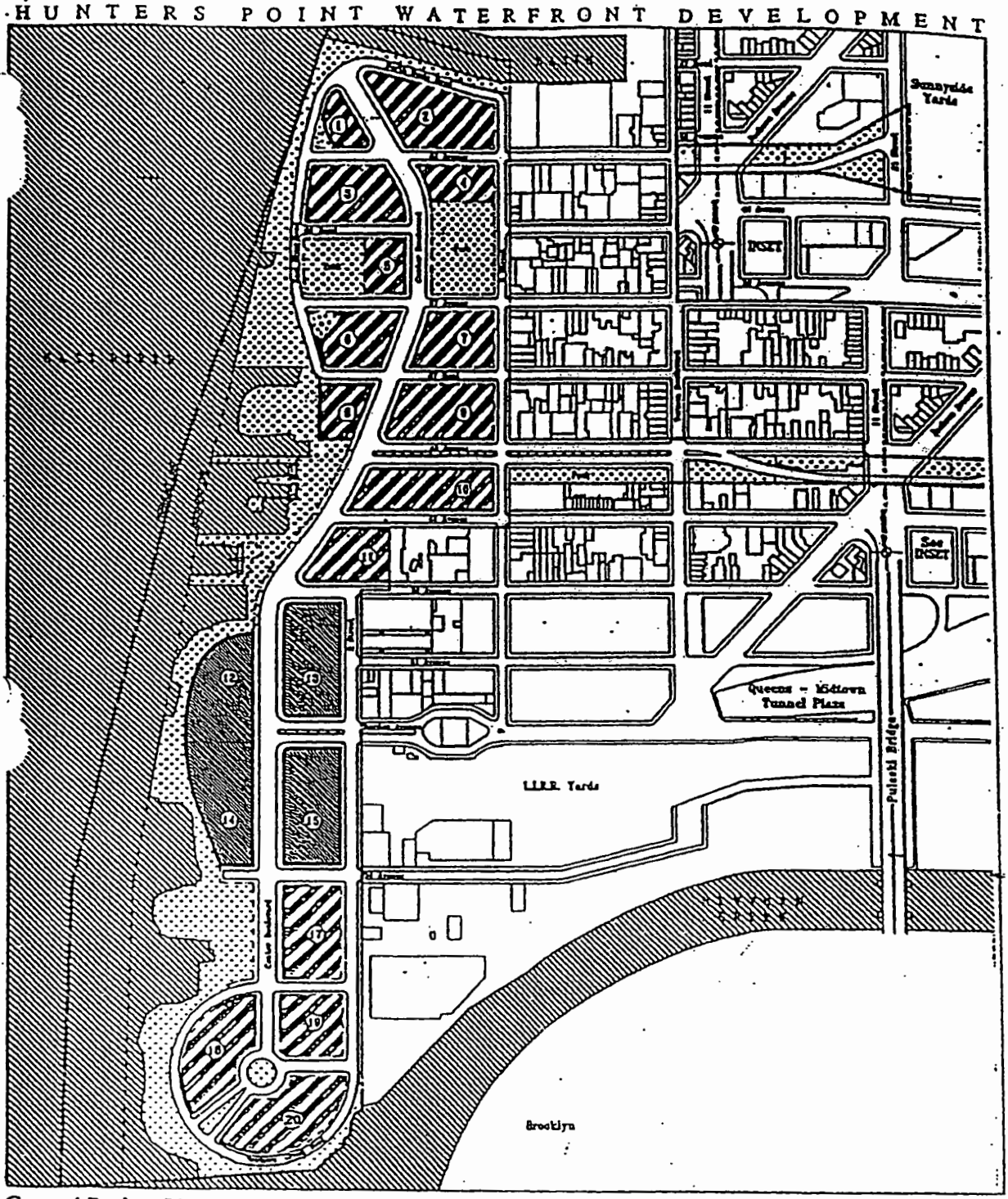
X. Real Estate Taxes

Real estate taxes, or the equivalent thereof, shall be based on existing as-of-right programs, and such payments shall be made to the City. With respect to property owned by the PA, however, the June 30, 1987 Principles of Agreement between the PA, the City and PDC shall apply.

XI. Zoning and Building Code

The Project will be developed in substantial conformance with the General Development Controls outlined herein and Project design guidelines to be developed. These General Development Controls and design guidelines will apply in lieu of the New York City Zoning Resolution.

The construction of all buildings and public improvements will conform to the New York City Building Code.



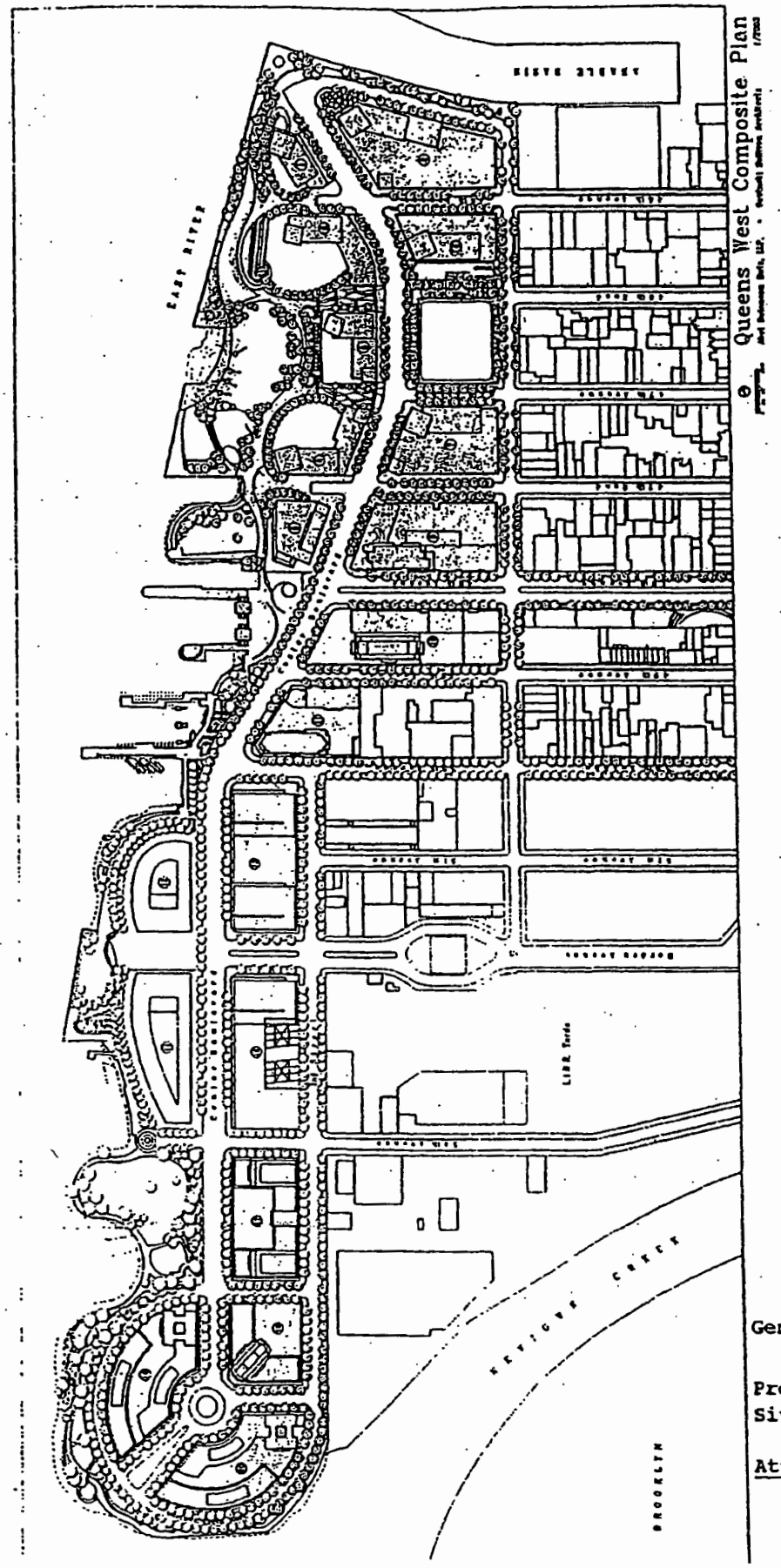
General Project Plan
Land Use Plan

Residential
Commercial
Open Space

Permitted Retail Storefront
Project Boundary
Lot Line
(19) Parcel Number

Attachment #1

0 250 500



General Project Pl

Proposed Illustrat
Site Plan

Attachment#2

GENERAL PROJECT PLAN

Attachment 3

Parcel Descriptions

Proposed Program, Bulk and Use Controls

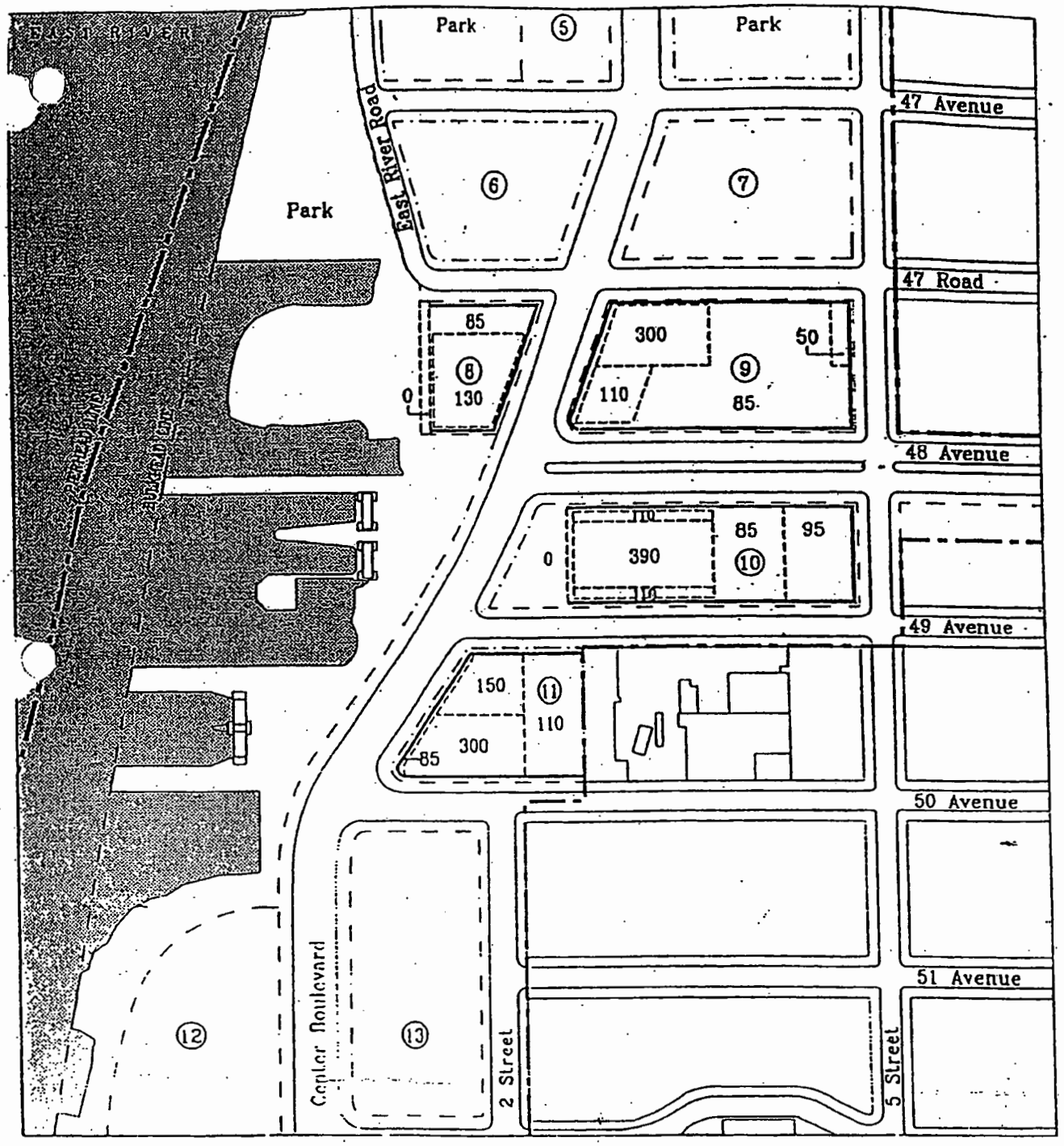
parcel	approx lot area	residential floor area	commercial / office / hotel area	retail floor area (1)	public facilities floor area	total floor area (2)	maximum bldg height	parking spaces	loading spaces	private open space	other requirements
1	24,786	258,000				258,000	240	0	0		0 sf PAPPS
2	88,685	726,000				726,000	390	1000 (7)	0	13,500	3,500 sf PAPPS
3	57,105	250,000				250,000	200	0	0	11,000	8,385 sf PAPPS
4	35,740	433,000			100,000 (5)	533,000	270	0	0		
5	30,767	250,000				250,000	200	0	0		566 sf PAPPS
6	48,090	468,000		5,000		473,000	300	0	0	8,000	535 sf PAPPS
7	57,931	432,000		15,000		447,000	290	825 (7)	0	12,000	
8	32,040	104,000		35,000		139,000	130	0	0		15'-0" wide PAPPS
9	77,809	435,000		30,000		465,000	300	594 (6)	1	10,000	
10	79,553	495,000		40,000 (4)	40,000 (8)	575,000	390	527	1		12,000 sf PAPPS
11	50,874	436,000 (6)		10,000		446,000	300	135 (6)	0	9,000	
12	85,974		350,000	10,000		360,000	180	0	2		45'-0" wide PAPPS
13	81,733		800,000	20,000		820,000	400	924	3		
14	85,577		400,000	40,000		440,000	180	0	2		
15	83,409		800,000	20,000		820,000	300	584	3		
17 (3)	67,032	646,269		10,000		656,269	270	394	0	11,500	
18	70,827	550,219				550,219	210	336	0	12,000	
19	47,599	453,292				453,292	390	260	0	12,000	
20	72,629	550,220				550,220	210	336	0	12,000	
	1,178,160	6,487,000	2,350,000	235,000	140,000	9,212,000		5,915	12	111,000	

(1) Suggested retail program. Retail is permitted on all parcels but shall not exceed the total 235,000 SF program.
(2) Total Floor Area is all floor area above grade, excluding parking and mechanical space (3% residential and 5% commercial)
(3) Parcel 16, redesignated as public open space, has been omitted
(4) 27,000 SF of retail on Parcel 10 is being used as an early childhood learning center.
(5) Elementary school (Grades K-5) pursuant to NYC Board of Estimate's Resolution of Approval and current NYC Board of Education space planning requirements
(6) April 19, 2000 GPP amendment resulted in increased residential area on parcel 11 by 20,000SFand transfer of 234 parking spaces from parcel 11 to 9.
(7) Based on square footage of parking provided. Assume 275 SF per parking space.
(8) Community Center with Swimming Pool, pursuant to the NYC Board of Estimate's Resolution of Approval.

26 September, 2001; rev April, 2003.

Attachment 3

QUEENS WEST DEVELOPMENT AT HUNTERS POINT



General Project Plan
Bulk Controls - Stage 1

Attachment #4a (r)

0 100 200

?0 Height Restriction (in feet)

⑳ Parcel Number

— Required Street Wall

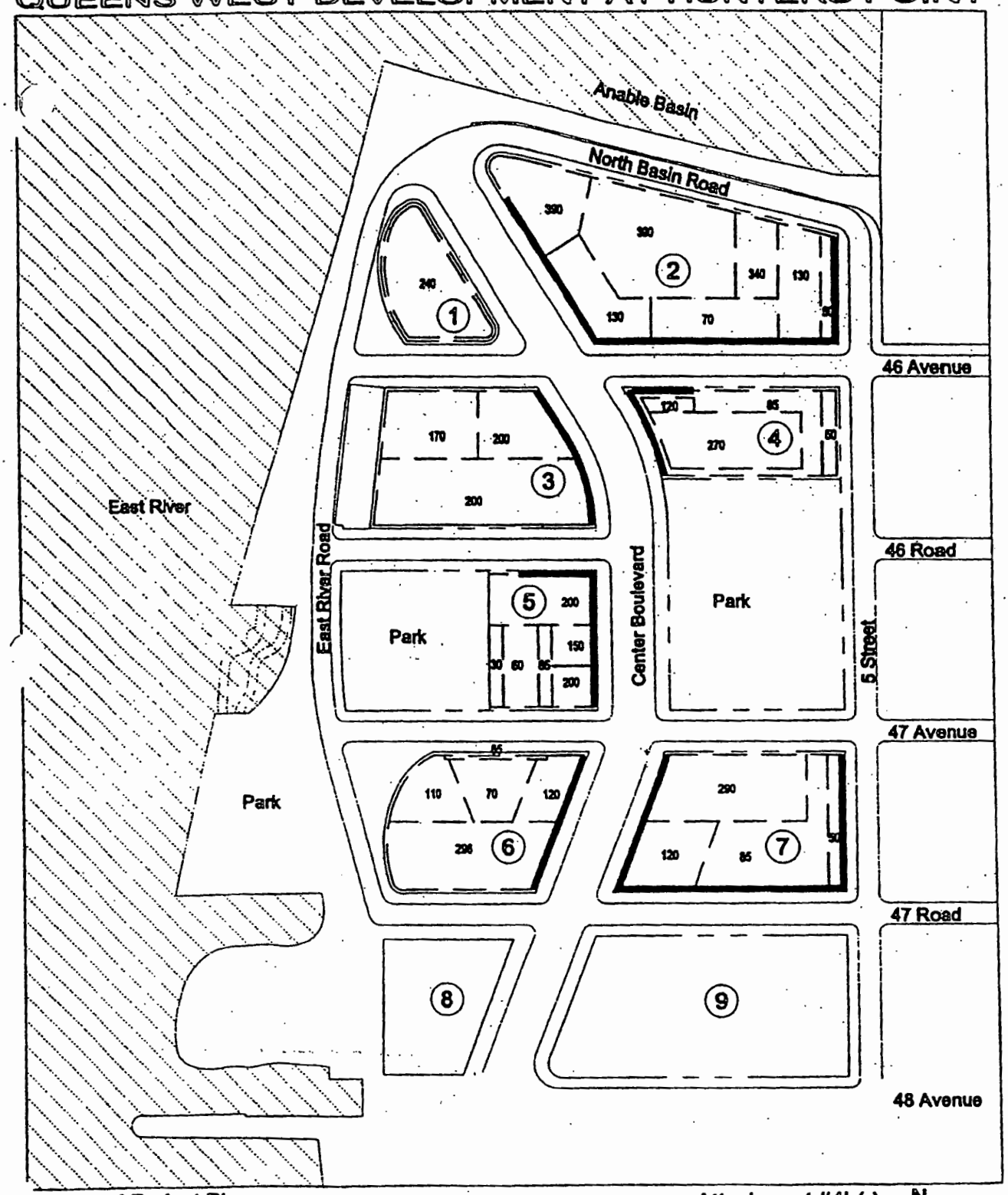
— · — Lot Line

- - - Height Control Line

— - Project Boundary

Gruzen Samton Steinglass / Beyer Blinder Belle
Associated Architects & Planners

QUEENS WEST DEVELOPMENT AT HUNTERS POINT



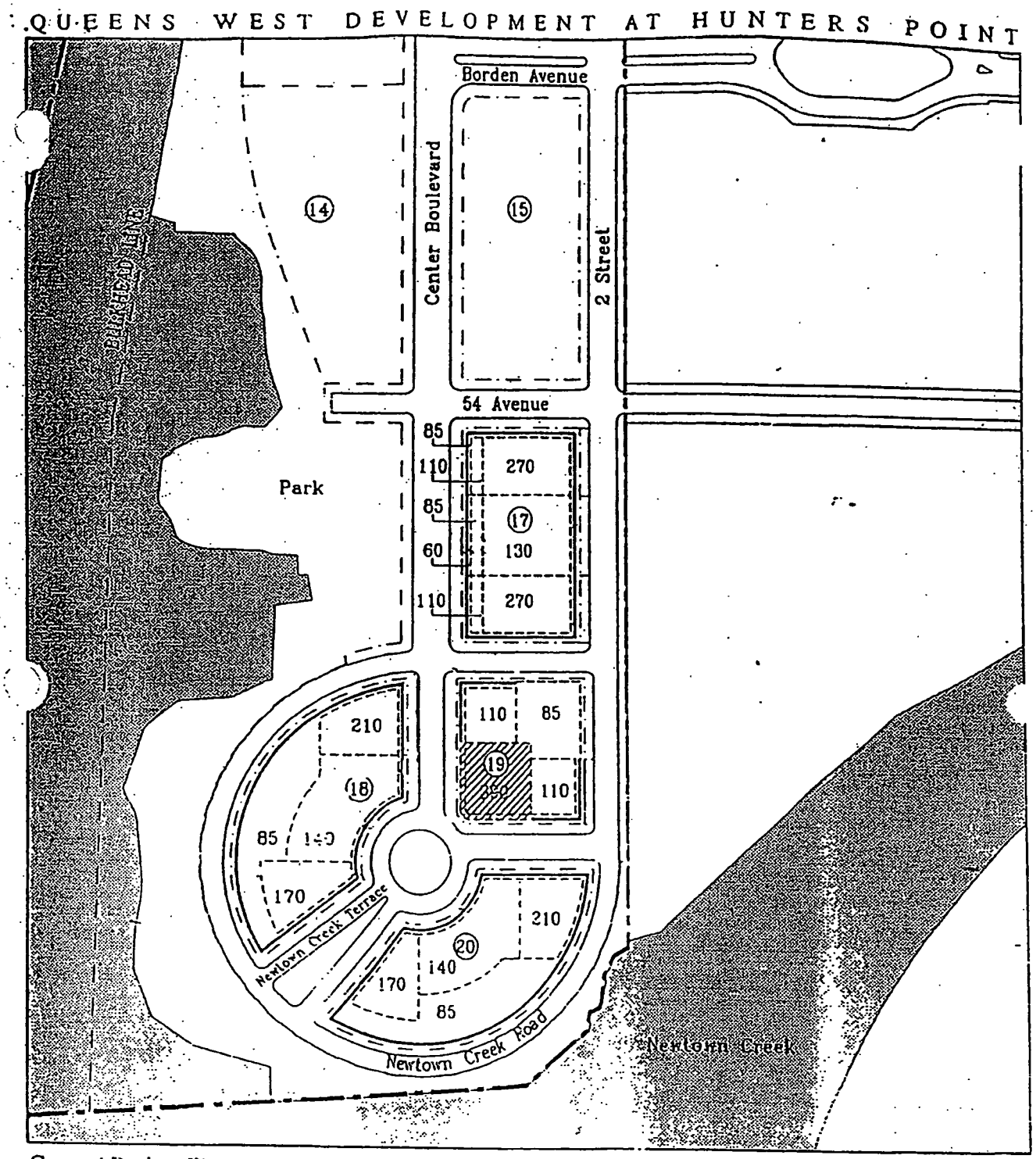
General Project Plan
Bulk Controls - Stage 2

Attachment #4b(r)
rev 9/01
rev4/03

296 Height Restriction (in feet) (8) Parcel Number

Required Street Wall

Height Control Line — — — — Lot Line



General Project Plan
Bulk Controls - Stage 3

Attachment #4c (r)

0 100 200

270 Height Restriction (in feet)

— Required Street Wall

--- Height Control Line

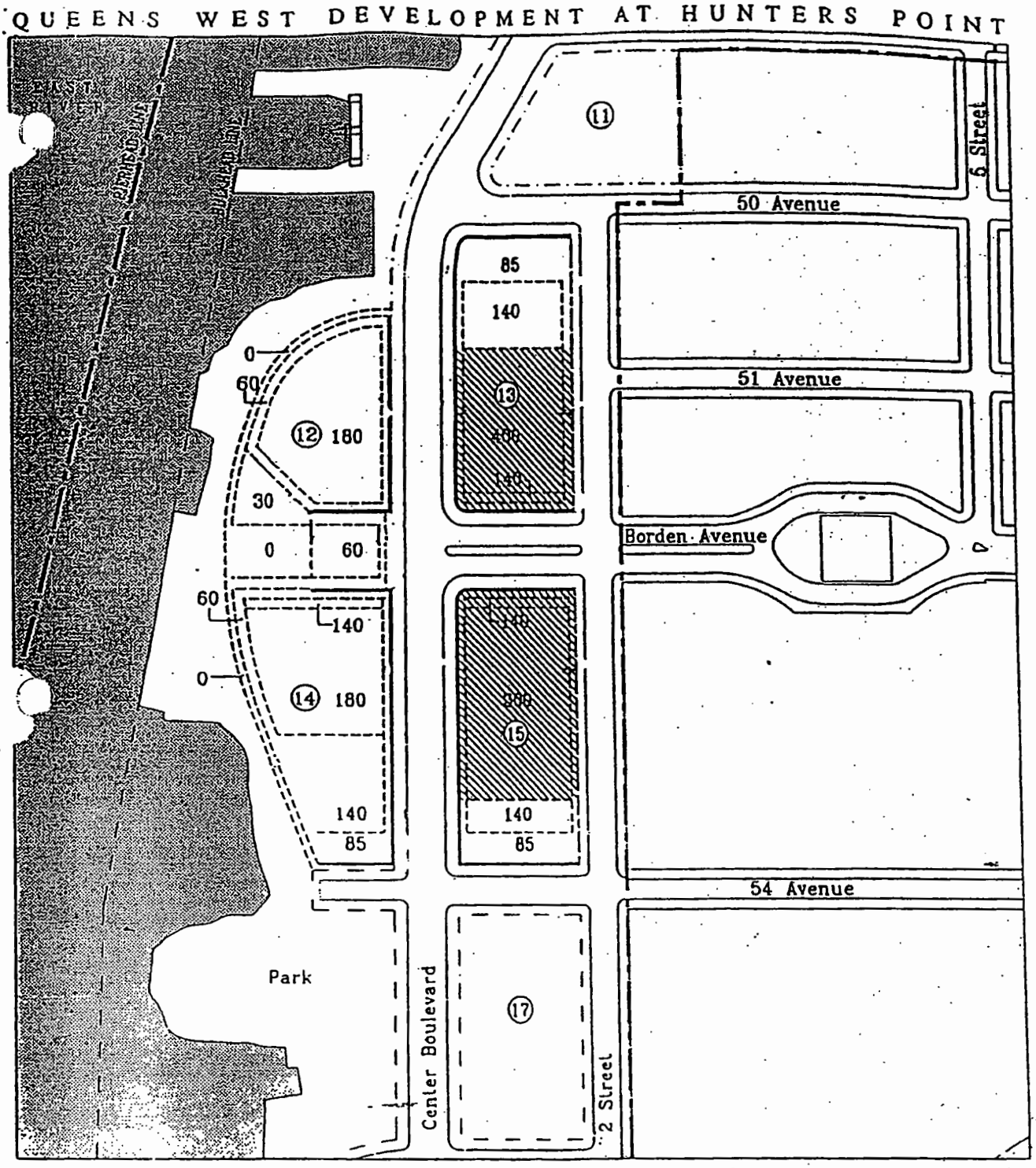
Type A Tower Zone

(20) Parcel Number

— · — Lot Line

— - Project Boundary

Gruzen Samton Steinglass / Beyer Blinder Belle
Associated Architects & Planners



General Project Plan
Bulk Controls - Stage 4

Attachment #4d (r)

0 100 200

70 Height Restriction (in feet)

20 Parcel Number

Required Street Wall

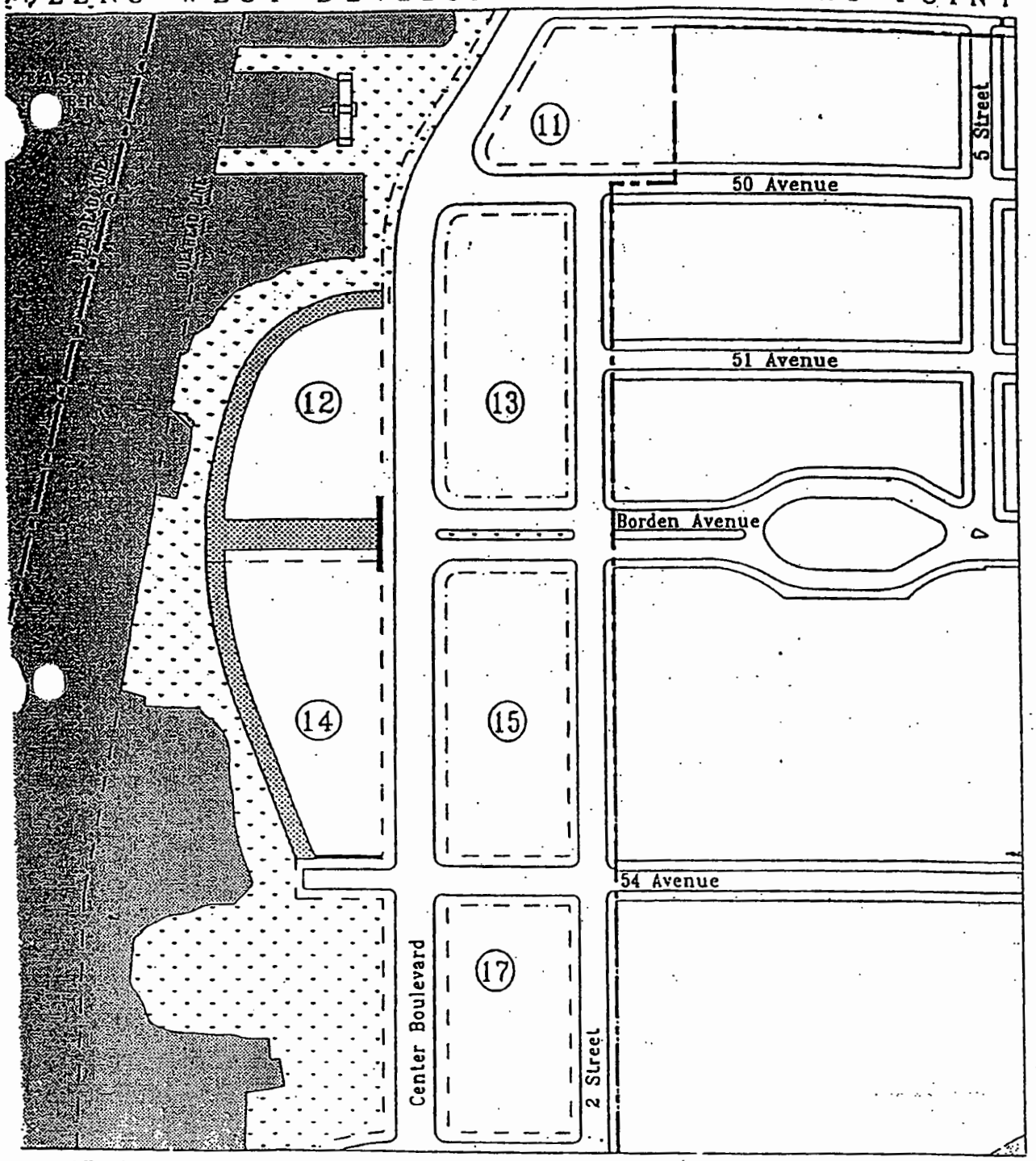
Lot Line

Height Control Line

Project Boundary

Type B Tower Zone

Gruzen Samton Steinglass / Beyer Blinder Belle
Associated Architects & Planners



eneral Project Plan
pen Space Controls - Stage 4

Attachment #6d (r)

0 100 200

Public Open Space
rivate Open Space (square feet)
Publicly Accessible Private Ped. Space
Grade Level Setback
(19) Parcel Number
Lot Line
Project Boundary

en Samton Steinglass / Beyer Blinder Belle
iated Architects & Planners

EXHIBIT L

DESIGN GUIDELINES

(see attached)

QUEENS WEST DEVELOPMENT AT HUNTERS POINT

Design Guidelines

January 1994

A Project of the Queens West Development Corporation

Prepared by

Gruzen Samton / Beyer Blinder Belle

QUEENS WEST DEVELOPMENT AT HUNTERS POINT

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QUEENS WEST DEVELOPMENT AT HUNTERS POINT

ACKNOWLEDGMENTS

Queens West Development Corporation

New York State Urban Development Corporation
Port Authority of New York and New Jersey
New York City Economic Development Corporation

Gruzen Samton/Beyer Blinder Belle
Associated Planners and Architects

Signe Nielsen
Landscape Architecture

Hayden McKay Lighting Design
Lighting Consultants

Chermayeff & Geismar, Inc.
Signage Consultants

Halcyon Real Estate Advisors/Ernst & Young
Retail Consultants

Flack & Kurtz
Innovative Technology Consultants

Amis, Inc.
Cost Consultants

EDAW, Inc.
Landscape Architects

Vollmer Associates
Traffic, Transportation and Civil Engineering

1. INTRODUCTION

QUEENS WEST DEVELOPMENT AT HUNTERS POINT

1. INTRODUCTION

1.1 PURPOSE OF THE DESIGN GUIDELINES

The Queens West Development Corporation (QWDC), a subsidiary of the New York State Urban Development Corporation (UDC), is undertaking the development of the Queens West Waterfront Development Project at Hunters Point (the Project) in Long Island City, Queens. The three public sponsors acting through QWDC to implement the Project are the Port Authority of New York and New Jersey (PA), the City of New York acting through New York City Economic Development Corporation (EDC) and UDC.

The Design Guidelines have been prepared to provide developers and architects with information describing the Project's design intent and specific controls affecting the site as a whole and each development parcel. The Design Guidelines serve two functions:

- They establish a level of design quality and consistency for the entire development and insure design continuity will be carried through to the full implementation of the Project. The Design Guidelines establish basic site-wide design standards and criteria which serve to maintain the integrity of the overall master plan concept and protect the visual and environmental quality of the Project as a whole. These Design Guidelines are intended to permit design flexibility while establishing a vocabulary which will guide the development team for each parcel.

- They consolidate and illustrate the implications of the regulations and established practices which will govern the physical development of each parcel, defining the standards for use, bulk, parking and loading, architectural features, landscape treatment, signage and lighting.

The Project is subject to the general development controls of the UDC Modified General Project Plan (GPP) as refined by these Design Guidelines, both of which will apply in lieu of the NYC Zoning Resolution. QWDC review of development plans for compliance with the GPP and Design Guidelines will replace the usual zoning review by the NYC Department of Buildings. However, compliance with the NYC Building Code and Multiple Dwelling Law will continue to be reviewed by the NYC Department of Buildings.

1.2 GOALS AND OBJECTIVES

The design principles which have contributed to shaping the Project are as follows:

- The provision of public access to the East River waterfront and continuous public open space along the water's edge;

- The creation of both active and passive recreational facilities for both the on-site and off-site population.

- The preservation of existing view corridors along east-west streets from the adjacent community to the river and the Manhattan skyline;

- The provision of lower scale buildings adjacent to established residential neighborhoods;
- The improvement of access to and from the site to accommodate Project traffic and to minimize the use of existing local streets;
- Minimizing the visual impact of parking on the site;
- The creation of development parcels that offer flexibility to respond to market conditions and development phasing;
- The creation of an active street life focused on Center Boulevard that also affords access to all individual development parcels; and
- Utilizing the unique features of the site including waterfront location, irregular configuration of the site, historic artifacts such as the railroad gantries and piers, and views of Manhattan.

Meeting these design objectives was the driving force behind the development of the master plan. The Design Guidelines serve to reinforce these principles.

1.3 ABBREVIATIONS

The following abbreviations appear in the Guidelines:

DEP	New York City Department of Environmental Protection
DH	New York City Department of Highways
DOT	New York City Department of Transportation
DPR	New York City Department of Parks and Recreation
EDC	New York City Economic Development Corporation
FEIS	Final Environmental Impact Statement
GPP	UDC Modified General Project Plan (July 20, 1993)
HPS	High Pressure Sodium
IES	Illuminating Engineering Society
IND	Independent Subway
IRT	Interboro Rapid Transit
LIRR	Long Island Railroad
MTA	New York State Metropolitan Transportation Authority
NYC	New York City
NYS	New York State
PA	Port Authority of New York and New Jersey
PAPPS	Publicly Accessible Private Pedestrian Space
QWDC	Queens West Development Corporation
SF	Square Feet
TSM	Transportation System Management
UDC	New York State Urban Development Corporation
ULURP	Uniform Land Use Review Procedure

2. PROJECT BACKGROUND

2. PROJECT BACKGROUND

2.1 EXISTING CONDITIONS

The Project site lies adjacent to the Hunters Point neighborhood of Long Island City in Queens, directly across the East River from the United Nations. It is one stop on the subway from Grand Central Station. The adjacent community consists of industrial and commercial uses interspersed with low density housing. Residential uses are concentrated between Borden Avenue and 46th Road. Vernon Boulevard is the area's retail/commercial corridor with the Vernon Boulevard/50th Avenue intersection being the community "center." The area south of Borden Avenue is entirely rail and industrial uses. The Project site and adjacent community are served by mass transit including the New York City subway and Long Island Railroad providing service from Long Island to the area. The area has seen recent major development projects such as Citibank and the International Design Center to the north and east of the Project site as well as a number of other new projects now in planning stages. Various details of the existing conditions are more fully described in other documents such as the ULURP submission drawings and the Project's FEIS.

2.1.1 Existing site

The Project site consists of 74.5 acres on land and over 20 additional acres which are under water. Development will occur only on the upland portion. The site is bounded by the U.S. Pierhead Line to the west, the Anable Basin to the north and Newtown Creek to the south. The eastern edge is formed by 2nd and 5th Streets. An important characteristic of the site is the depressed Long Island Railroad right-of-way, now abandoned, which parallels 48th Avenue from the East River to 21st Street.

The Project site currently contains a mix of industrial, transportation-related and recreational uses. Approximately 25 acres are vacant. The site is approximately 4,150 feet in length (in the north/south direction) and generally varies from 600 to 800 feet in width. The site narrows to less than 300 feet in width between 49th and 50th Avenues. The topography is primarily flat in character ranging from +2.7 in the LIRR right-of-way to +25.0 feet at its south end at the "point." Most of the site is between +3.0 and +10.0 feet in elevation. Elevations are based upon the Queens Borough datum. Approximately one half of the Project site is currently within the 100 year flood plain. The existing conditions will be altered as part of the Project's park and infrastructure improvement program; new grades will be established.

2.1.2 Existing utilities

The Project site is served by 12" water mains located in the mapped street beds adjacent to the site. Service into the site from 5th Street is provided by 8" water mains which are to be replaced by new 12" mains in the new streets. A 54" interceptor sewer runs along 5th Street and 2nd Street to 54th Avenue. Combined sewer lines and outfalls traverse the site at various locations.

2.1.3 Existing water's edge conditions

The water's edge consists of a combination of structures including relieving platforms, cribbing, rip-rap, sheet piles and limited areas of natural shoreline. The northern water's edge along the East River, north of 47th Road and along Anable Basin and the edge along Newtown Creek, is largely relieving platform and timber cribbing. In the middle, at the end of the railroad cut, are the gantry cranes and piers of the former railroad float car operations. The remaining river frontage is primarily rip-rap with some areas of relieving platform opposite Borden Avenue. These structures are in varying states of repair. The water's edge structures will be rehabilitated in phases as part of the Project's park and infrastructure improvement program.

2.1.4 Existing sub-surface conditions

The most significant sub-surface conditions affecting the site are the three tunnel systems traversing the site in an east/west direction. The IRT No. 7 line Steinway Tunnel below 50th Avenue bows to the north just west of 2nd Street. The Queens Midtown Tunnel lies below Borden Avenue and also follows a curving path to the north just west of 2nd Street. The Pennsylvania Railroad tunnels currently utilized by Amtrak and the Long Island Railroad lie below the area between Borden Avenue and 54th Avenue. In addition, a major NYS Power Authority electrical feeder line lies below portions of the site adjacent to Borden Avenue.

Bedrock levels slope downward from north to south. Rock is at grade at 46th Road. It is at its lowest level (-50.0 feet) at the "point." North of 48th Avenue, rock generally lies between -30.0 and -50.0 feet.

2.2 PROJECT DESCRIPTION

The mixed-use Project encompasses the total redevelopment of the underutilized and industrially zoned site. Situated on the western edge of Long Island City, the site represents an opportunity to create a new waterfront community in the Borough of Queens. Occupying a highly visible position along the East River opposite the United Nations and the midtown core, the development program consists of approximately 9 million square feet of new construction. In addition, parking facilities will be provided for approximately 5,350 automobiles. Although the site includes land which is under water, no development is proposed in or over any lands under water. The GPP allows for 6.385 million square feet of residential space, 2.0 million square feet of office space, 225,000 square feet of retail, 115,000 square feet of community facility space, and a 350,000 square foot hotel. Significant improvements to site and area infrastructure, transportation, and recreational amenities, including new on-site streets and utilities, will be provided. Most importantly, the development will create 1.25 miles of waterfront park for public use.

2.2.1 Design intent

The objective of the plan is not only to accommodate the new mixed use community but also to create a system of streets, development parcels, and open spaces which, once integrated into the fabric of the city, can respond to changing economic and social needs.

The first organizing principle of the plan (see Figure II-1, Illustrative Site Plan) is an extension of the existing east-west city streets to the waterfront. The second is the creation of a new north/south boulevard which, together with these east-west streets, links all the development parcels into the street grid. This reflects the successful history of New York City's pattern of blocks, streets, and avenues in meeting the challenge of adapting to the needs of changing communities. The two remaining dominant elements which organize the plan are the development of an extensive waterfront esplanade and a new access boulevard constructed in the LIRR cut along 48th Avenue.

The development plan is comprised of three major areas: a north and a south residential neighborhood and a central commercial core area. The development parcels are designed so that most residents and employees will have spectacular views of the river and Manhattan and have direct access to the esplanade.

(a) **Parcels.** The development parcels range from 24,331 square feet to 88,685 square feet in area. Parcels are dimensioned to permit adequate depth for residential uses while responding to the traditional city grid street pattern and existing view corridors. Parcels adjacent to Borden Avenue are sufficiently sized to permit large floor plate commercial uses. All parcels are separated from the esplanade by streets or Publicly Accessible Private Pedestrian Space.

(b) **Commercial core.** The commercial core, consisting of parcels 12-15, extends from 50th to 54th Avenues, with its central focus at the intersection of Borden Avenue and the new Center Boulevard. A Publicly Accessible Private Pedestrian Space is to be located here to provide a connection to the waterfront esplanade. The commercial core will ultimately contain 2.44 million square feet of office, hotel and retail space. It is anticipated that about 10,000 people will work in this new business district. Building massing steps up in height away from the waterfront toward Center Boulevard, and on axis with Borden Avenue, a major approach route to the development.

(c) **Residential neighborhoods.** Flanking the commercial core are two predominantly residential neighborhoods with a projected population of about 13,500 residents. The northern residential neighborhood will contain approximately 4,185 units with supporting retail, service uses and community facilities. The buildings are lower rise along the water's edge and 5th Street. The tallest buildings and highest density are organized along the spine of Center Boulevard. This permits maximizing waterfront views for the residential units, a lower scale along the Project's boundary with the existing neighborhood, and the highest density to be concentrated on the widest street.

The northern residential neighborhood is centered around an active two-acre community park adjacent to parcel 4 and a one-acre passive park adjacent to parcel 5.

Virtually every parcel is within a few hundred feet of the esplanade. Local retail services and restaurants are focused around Gantry Plaza, the historic and geographic center of the site.

The southern residential community will contain approximately 2,200 units and may also provide supporting retail, service uses and community facilities. Its major focus is the "point" at the southern end of Center Boulevard, which reflects the unique configuration of the land. The development parcels in this part of the Project are centered around a landscaped circle which is linked to the esplanade by way of a landscaped public street. Building massing terminates the Center Boulevard spine on a high "point", with concentric lower scale buildings on the waterfront and higher buildings on the circle. An active recreation area is provided in the waterfront park adjacent to parcels 17 and 18.

(d) **Bulk.** The typical residential block is a mid-rise perimeter base building punctuated by a high-rise tower. Parking and open space accessory to the residential use are located in the building base within the center of each parcel. Towers of varying heights are located so that the views from adjacent buildings are not obstructed. The maximum building height in the Project is permitted for the office tower on parcel 13 at 400'. At the two ends of the development, on parcels 2 and 19, and at the midpoint on parcel 10, major residential towers are proposed as signature features of the development, each permitted to a maximum building height of 390'.

(e) **Waterfront Esplanade.** The esplanade which links all the neighborhoods along the water's edge provides a mix of passive and active uses related programmatically to adjacent development. The esplanade extends from the Anable Basin, along the entire length of the site's East River frontage, to the mouth of Newtown Creek. It provides a range of landscape treatments, from formal sitting areas adjacent to the commercial core to "tot lots" and open play areas adjoining the residential communities.

A major feature of the esplanade is to be created in the geographic center of the Project at 48th Avenue. This area, called Gantry Plaza, is focused around the railroad car float gantries and acknowledges the historically transportation and industrial character of the site. The existing water's edge configuration will not be significantly altered and improvements to the edge will generally consist of repairing or reconstructing the existing conditions. Bulkheads, rip-rap, platforms, etc. are to be restored in kind.

2.2.2 Development program

The Project site has been divided into 19 separate parcels. Together the land area of these parcels comprises 1,192,169 square feet (27.37 acres). During ULURP, park area was increased by redesignating the former parcel 16 as open space but parcel numbering was not changed. The total development for the Project is approximately 9 million square feet, plus another 1.9 million square feet of parking.

The overall program is summarized, by use, as follows:

	Floor Area
Residential	6,385,000
Office	2,000,000
Hotel	350,000
Retail	225,000
Community facility	115,000
TOTAL	9,075,000

Residential use is planned at approximately 6,385 dwelling units. Commitments have been made in the GPP to provide for a below-market housing component in the Project. Commercial use is planned to meet the demands generated by a large floor-plate, technology intensive office market. Retail space is planned to support the development.

Parking spaces are required for 60% of the apartments and permitted for 100% of the apartments. Parking at the ratio of one space per 1,500 square feet of office space, and 50% of the hotel rooms is required. No parking is required for retail or community facilities. Parking will be provided either below grade or in a visually non-intrusive way on each parcel. An additional 300 curbside parking spaces will be available on the new street system.

The Project provides approximately 19 acres of public open space, the major component of which is the 1.25 mile long waterfront esplanade, which varies from 25 to over 360 feet in width. The esplanade is programmed primarily for passive use, however, there are active recreation areas for young children adjacent to residential areas. The landscape treatment provides a range of environments which are punctuated by public plazas, pavilions, locations for art work and special activities. Other significant features are a two-acre active recreation park adjacent to parcel 4, a one-acre passive park adjacent to parcel 5, and a one-acre active park adjacent to 48th Avenue in the LIRR cut. In addition, within the private development parcels, the following Publicly Accessible Private Pedestrian Spaces (PAPPS) are provided which will be open to the public and may, subject to land disposition agreements, contain retail, eating, and passive recreational uses:

- Parcel 8: 15' wide corridor at park edge
- Parcel 10: 12,000 sf on Center Boulevard
- Parcel 12: 45' wide corridor extending Borden Avenue; 25' wide corridor at park edge
- Parcel 14: 25' wide corridor at park edge

2.2.3 Site access and circulation

The Project incorporates a series of off-site and on-site vehicular and pedestrian access improvements intended to minimize the development's impact on the adjacent community and improve general area circulation and access to and from the site. The most significant of these vehicular improvements is the development of a limited access roadway in the railroad cut as a major access route, linking traffic approaching from the Pulaski Bridge and Jackson Avenue to the middle portion of the site. Improvements to Borden Avenue will bring traffic directly to the office core.

On-site vehicular and pedestrian circulation will be provided by the new street system. North/south vehicular movement will occur on the 100' wide Center Boulevard; east/west movement will occur typically on 60' wide streets on an alternating one-way pattern. A perimeter loop road separates the north and south residential neighborhoods from the esplanade. In the commercial core, service and parking traffic is contained on a widened 2nd Street.

Pedestrian circulation improvements on-site will include sidewalks to be provided by the new street system (15' typical; 20' on Center Boulevard; 10' on waterfront streets), the PAPPS on parcels 8, 10, 12 and 14, and a continuous waterfront esplanade.

(a) **Street map.** The on-site street system at the Project is an extension of the Long Island City street grid between 46th Avenue and 54th Avenue, terminating at either East River Road or Center Boulevard. Of these streets, 46th Avenue, 47th Avenue, 47th Road, and 49th Avenue have 60' right-of-ways, curb to curb widths of 30' (matching the streets they extend) and accommodate one way traffic. North Basin Road, terminating at East River Road, Center Boulevard and 5th Street, is mapped at 42', has a curb to curb width of 30' and carries one-way eastbound traffic.

48th Avenue, being one of the main east-west access roads to the site, has a right-of-way width of 104' including 15' sidewalks and a 14' median. 50th Avenue and 54th Avenue, which both provide access to the commercial core, have a right-of-way of 74' west of 2nd Street with 44' curb to curb widths and 15' sidewalks. Borden Avenue, which provides the other main east-west access, has a right-of-way width of 114' west of 2nd Street including 20' sidewalks and a 14' median. 48th, 50th, Borden and 54th Avenues all accommodate two-way traffic. 2nd Street, which bounds the eastern edge of the site from Newtown Creek to 50th Avenue and formerly had a right-of-way width of 60', is widened to 74' including 15' sidewalks to accommodate traffic to and from the commercial core. 5th Street, which bounds the eastern edge of the site from 49th Avenue to the Anable Basin, remains at its existing right-of-way width of 60' including 15' sidewalks.

The site is traversed from north to south by Center Boulevard, having a right-of-way width of 100', which extends from North Basin Road in the north to Newtown Creek Road in the south. This street accommodates two-way traffic, has a curb to curb width of 60' and includes 20' sidewalks within the mapped right-of-way. The only other north-south street within the site is East River Road which runs adjacent to the proposed esplanade along the East River from 47th Road north. This street is mapped at 42', has a curb to curb width of 30' and carries one-way northbound traffic. This street includes a 10' sidewalk on the east side, and 2' of right-of-way but no sidewalk on the west side. Pedestrian walkways are provided in the esplanade which abuts the west curb line of the street.

As part of the mapping action certain sewer corridors are maintained in an east-west direction extending to the U.S. Pierhead Line. Two volumes of space under Center Boulevard between elevation -0.5' and -40.5' are not mapped as street to permit below grade parking and service access between parcels 12 and 13, and parcels 14 and 15.

Street grades are raised from low points along 5th and 2nd Streets to high points along Center Boulevard. The northern and southern ends of the site are at elevation ± 19 feet, while the lowest point along Center Boulevard is elevation ± 7.5 feet (at 49th Avenue). Minimum street grades are 0.5%, while maximum grades (occurring on the side streets between 2nd or 5th Streets and Center Boulevard) do not exceed 6%.

(b) **Off site improvements.** A number of off-site street improvements are also planned to improve access to and from the site. The most significant of these will be a new road from 21st Street to the site built along the abandoned LIRR tracks in the cut section between 48th and 49th Avenues. Other major off-site improvements include the reconstruction of Borden Avenue.

2.2.4 Utilities

The Project will require water distribution, a sanitary and storm sewer system, and electric, gas and telephone service. Gas and electric service will be provided by Con Edison, and telephone service by New York Telephone. Water and sewer services will be provided by the NYC Department of Environmental Protection (DEP).

(a) **Public utilities.** All water mains within mapped streets will be under the jurisdiction of the DEP Bureau of Water Supply. The water distribution system will connect with the existing mains running in 5th and 2nd Streets.

The existing sewers serving Long Island City are a combined system and are to remain. Totally independent new separate storm and sanitary systems are proposed for the Project. Both the existing and new sanitary sewers are to be served by the Bowery Bay Treatment Plant and will be under the jurisdiction of the DEP Bureau of Sewers.

(1) Water distribution. The water distribution system within the site will be an extension of the NYC water distribution system presently serving Long Island City. The new system will consist of 20" mains in 46th, 48th Avenues and Newtown Creek Road and along the new Center Boulevard which runs in a north-south direction from the North Basin Road to Newtown Creek Road. From this main, 12" distribution lines will be constructed on all streets within the site and along the Emergency Vehicle Access way running along the esplanade behind parcels 12 and 14. All water needs (potable and fire fighting) will be provided by this distribution system.

(2) Storm and sanitary sewers. A storm sewer piping system will collect surface and building runoff and discharge it into the East River via a number of storm water outfalls constructed as part of the project. These outfalls will be located in the extensions of 54th Avenue, Borden Avenue, 49th Avenue, 47th Road, 46th Avenue and north end of 5th Street. All storm sewer outfalls will be located within mapped sewer corridors when traversing the proposed park along the river's edge.

The sanitary system will consist of a separate piping network which will carry sanitary sewage from the site to an existing 54" diameter interceptor sewer running in 2nd and 5th Streets. This interceptor sewer serves a major portion of Long Island City and terminates at the Bowery Bay Treatment Plant.

(b) **Private utilities.** Private utilities including Con Edison gas and electric service, and New York Telephone service, will be funded and built by those companies. In the event that the parcel developer becomes responsible for the construction of the streets and public utilities on behalf of QWDC, the developer will be required to undertake this work in close coordination with Con Edison and NY Telephone.

2.2.5 Staging

This Project site is subdivided into four development stage areas, each containing four or more parcels. It is anticipated that the residential parcels (stages 1-3) will be developed first, with the commercial parcels (stage 4) developed last. However, market conditions could change this sequence.

(a) **Stage 1.** The stage 1 area of the project consists of parcels 8-11, located between 47th Road and 50th Avenue, and is designated primarily for residential use. It will have approximately 18% of the Project's total development floor area: 1,450,000 square feet of residential use; 115,000 square feet of retail use (of which 17,500 square feet is temporarily to be used for an early childhood learning center); and 40,000 square feet for a community recreation center. This area is envisioned as the neighborhood center of the Project, with significant ground floor retail and service uses as well as the temporary early childhood learning center and recreational center. Related on-site infrastructure and public spaces, including the adjacent portion of the esplanade and Gantry Plaza, will be constructed at this time.

(b) **Stage 2.** The stage 2 area of the project consists of parcels 1-7, located between North Basin Road and 47th Road, and is designated primarily for residential use. It will have approximately 31% of the Project's total development floor area: 2,735,000 square feet of residential use; 10,000 square feet of retail use; and 75,000 square feet for an elementary school (K-5). Related on-site infrastructure and public spaces, including the esplanade and parks adjacent to parcels 4 and 5, will be constructed at this time.

(c) **Stage 3.** The stage 3 area of the project consists of parcels 17-20, located between 54th Avenue and Newtown Creek Road, and is also designated primarily for residential use. It will have approximately 24% of the Project's total development floor area: 2,200,000 square feet of residential use and 10,000 square feet of retail use. Related on-site infrastructure and public spaces, including the esplanade and medians at the terminus of Center Boulevard, will be constructed at this time.

(d) **Stage 4.** The stage 4 area of the project consists of parcels 12-15, located between 50th Avenue and 54th Avenue, and is designated for commercial use. It will have

approximately 27% of the Project's total development floor area: 2,350,000 square feet of commercial use and 90,000 square feet of retail use. Related on-site infrastructure and public spaces, including the esplanade and medians on Borden Avenue, will be constructed at this time.

2.3 IMPLEMENTATION MECHANISMS

2.3.1 Approvals received

In order for the objectives of the GPP to be implemented, the public sponsors have received the following approvals:

(a) **SEQRA.** UDC acted as lead agency for environmental review under the New York State Environmental Quality Review Act (SEQRA) and applicable regulations of the New York State Department of Environmental Conservation (DEC). The Final Environmental Impact Statement (FEIS) was published in June, 1990.

(b) **ULURP.** The street and park map received ULURP approval by the NYC Board of Estimate in August, 1990. As a part of this action a new roadway was created in the former railroad cut between Vernon Boulevard and 21st Street; 48th Avenue was widened between Vernon Boulevard and 5th Street. Additionally, all existing streets to the west of the 5th Street and 2nd Street road beds have been demapped and a completely new street system was mapped consistent with the GPP. The mapping has established road alignments, profiles, and grading for the development and located parkland. Refer to the parks, water's edge engineering, streets and utilities documents for additional information.

(c) **General Project Plan.** The NYC Board of Estimate approved the GPP in August, 1990. In November, 1990 the Board of Commissioners of the Port Authority concurred in the GPP, which provided the basis for the PA's continued investment in the Project up to the $125 million commitment limit. In January, 1991 the GPP was affirmed by the UDC Directors, thereby establishing the overall Project's use, bulk, circulation, open space requirements and creating the ability to override the existing zoning applicable to the site. The GPP was modified by UDC on July 20, 1993. The UDC Modified General Project Plan is included in the appendix to these guidelines.

2.3.2 Design Guidelines

The GPP and these Design Guidelines as they may be amended from time to time by QWDC shall apply in lieu of the New York City Zoning Resolution, and control all development in the Project. The construction of all buildings and public improvements shall conform to the New York City Building Code, the Multiple Dwelling Law and federal ADA regulations.

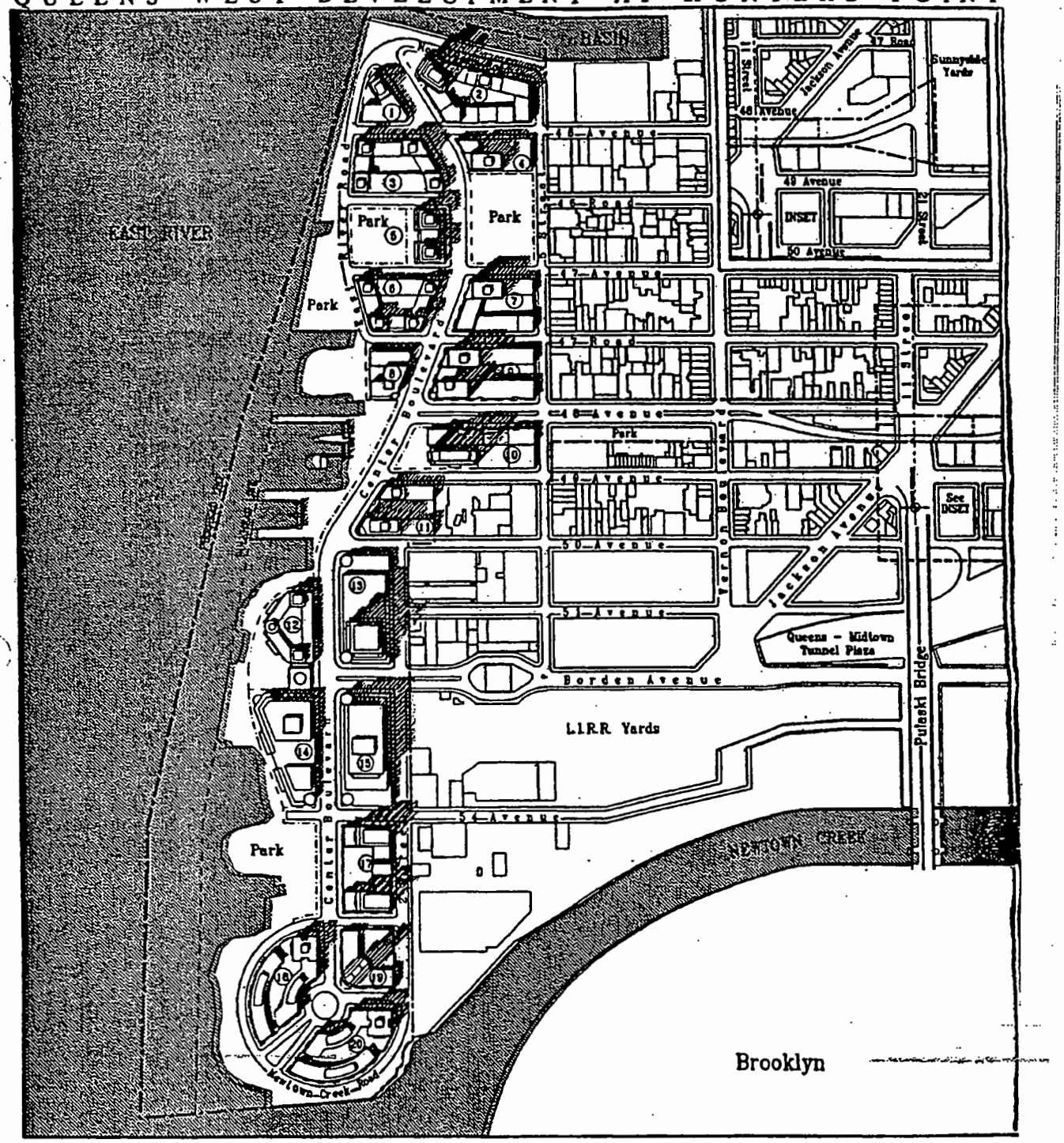
2.3.3 Land disposition agreements

QWDC expects to enter into some form of express land disposition agreements for the development of each parcel. These agreements will spell out any supplemental development

controls to augment the Design Guidelines, GPP and or other requirements or regulations as QWDC may deem necessary. The agreements may also cover other topics such as:

- The terms of ground leases for development parcels
- Fees and/or other payments to QWDC
- Use restrictions/requirements
- Developer maintenance/operating obligations
- Public improvement construction contract responsibilities of the developer
- Details of and/or references to third party agreements for the construction and/or operation and/or financial support for community facilities
- Administrative procedures for QWDC review and approval of architectural plans and specifications to assure consistency with the GPP, these Design Guidelines and any applicable parcel controls.

QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Illustrative Site Plan

Figure II-1

0 250 500

⑲ Parcel Number

Project Boundary

Lot Line

3. SITE-WIDE DESIGN GUIDELINES

3. DESIGN GUIDELINES

The Project shall be developed in conformance with the UDC Modified General Project Plan (GPP) and the Design Guidelines outlined herein, which shall apply in lieu of the New York City Zoning Resolution. The construction of all buildings and public improvements shall conform to all other applicable statutory or regulatory requirements, including the New York City Building Code, Multiple Dwelling Law and federal ADA.

- Certain terms and concepts used in these Design Guidelines are based upon and are intended to have the same meaning as similar terms and concepts contained in the NYC Zoning Resolution, and where so identified, those provisions of the NYC Zoning Resolution shall be incorporated by reference in these Design Guidelines.

- Four types of *streets* have been identified in the Design Guidelines: *boulevard, waterfront, primary* and *secondary*; refer to Figure III-3, Street Type Plan. *Required street wall* and certain architectural elements are defined in relation to the adjacent *street* type.

3.1 DEFINITIONS

3.1.1 Interpretation of inconsistent provisions

In the case of inconsistency between these Design Guidelines and the incorporated provisions of the NYC Zoning Resolution, the provision which is more restrictive or imposes higher standards or requirements shall govern; otherwise, these Design Guidelines shall govern. The diagrams complement the text; the diagrams are as binding as if fully described in the text.

3.1.2 Rules for construction of language

The word "shall" or "required" is always mandatory and not discretionary. The word "may" or "permitted" is discretionary.

3.1.3 Definitions

Terms which require definition are indicated in *italics* in the text and are listed below.

Accessory use, or accessory: a use conducted on the same *parcel* as the principal use to which it is related, except that *accessory* off-street parking or loading need not be located on the same *parcel*; and it is a use which is clearly incidental to, and customarily found in connection with, such principal use. An *accessory use* includes:

(1) Swimming pools not located within a *residential* building provided that the use of such pools shall be restricted to occupants of the principal use and guests for whom no admission or membership fees are charged.
(2) *Home occupations*
(3) A newsstand primarily for the convenience of the occupants of a building
(4) *Accessory* off-street parking spaces, open or enclosed
(5) *Accessory* off-street loading berths

(6) *Accessory* signs.

Awning: glazing or fabric on metal frame structure supported entirely from the building to provide weather protection at doors, windows and/or *storefronts*; may be retractable.

Base: the lower portion of a building located at or within 85' above *curb level*.

Basement: a *story* partly below *curb level*, with at least one-half of its height (measured from floor to ceiling) above *curb level*. On through lots the *curb level* nearest to a *story* shall be used to determine whether such *story* or portion of a *story* is a *basement*.

Building entrance zone: required primary building entrance location, with additional points of entry permitted.

Canopy: glazing, fabric and/or metal structure with vertical supports located on the sidewalk to provide weather protection at a building's primary entrance; subject to DOT approval.

Cellar: a space wholly or partly below *curb level*, with more than half its height (measured from floor to ceiling) below *curb level*. On through lots the *curb level* nearest to such space shall be used to determine whether such space or portion of a space is a *cellar*.

Commercial use: uses listed in Use Groups 5 and 6 in the NYC Zoning Resolution. Commercial uses may include front and back office space, *hotel*, *accessory* parking, *accessory* loading and *open space*.

Community facility use: uses listed in Use Groups 3 or 4 in the NYC Zoning Resolution. Also called "public facility" in the GPP.

Curb cut zone: portion of a sidewalk where vehicular curb cuts are permitted.

Curb level: the mean level of the curb adjoining a *parcel* on each *street*, except that, for the purpose of regulating and determining the level of *private open space*, the *curb level* is the highest of the mean levels of the curbs on the adjoining *streets*. Height and setback regulations based upon *curb level* shall apply separately on each *street* on which the *parcel* fronts.

Expression band: a distinctive linear architectural element occurring on the building *base* facade at the highest floor. The *expression band's* height shall be no less than 5'-0" and no more than the actual floor to floor height plus the adjacent parapet height. The band shall be contrasting in color, texture, material and/or fenestration from the adjacent building *base* facade. Projections may occur within an *expression band*.

Expression line: a distinctive linear architectural element occurring along the top edge

of every setback of the building *tower* facade and on the building *base* facade as noted. The *expression lines's* height shall be no less than 3'-0" and no more than 5'-0". The line shall be contrasting in color, texture and/or material from the adjacent building facade.

Floor area: the sum of the gross areas of the several floors of a building measured from the exterior faces of exterior walls or from the center lines of walls separating two buildings. In particular, *floor area* includes:

(1) *basement* space;
(2) elevator shafts or stairwells at each floor;
(3) floor space in penthouses;
(4) attic space providing structural headroom of 8'-0" or more;
(5) floor space in interior mezzanines or bridges;
(6) floor space in *accessory* buildings, except for floor space used for *accessory* off-street parking;

However, the *floor area* of a building shall not include:

(1) *cellar* space, except that *cellar* space used for *retail* shall be included for the purpose of calculating requirements for *accessory* off-street parking spaces and *accessory* off-street loading berths;
(2) elevator or stair bulkheads, *accessory* water tanks, or cooling towers;
(3) uncovered steps;
(4) attic space providing structural headroom of less than 8'-0";
(5) floor space in open or roofed terraces and exterior balconies;
(6) floor space used for *accessory* off-street parking;
(7) floor space used for *accessory* off-street loading berths;
(8) floor space used for mechanical equipment.

Grade level setback: a required building setback of 5'-0" minimum depth defined by the *lot line* and *height control line*. *Grade level setbacks* occur on *residential parcels* as well as on *parcels* 12 and 14.

Height control line: a line defining the boundaries of each *maximum building height* zone. A building wall is permitted, but not required, to occur along the *height control line* and may be built to a height not exceeding the height restriction specified. A *height control line* may coincide with a *required street wall*.

Home occupation: as defined in the NYC Zoning Resolution sec. 12-10.

Hotel, transient: a building in which living or sleeping accommodations are used primarily for transient occupancy, and may be rented on a daily basis; one or more common entrances serve all such living or sleeping units; and twenty-four hour desk service is provided, in addition to one or more of the following services: housekeeping, telephone, or bellhop services, or the furnishing or laundering of linens. Permitted *accessory uses* include restaurants, cocktail lounges, public banquet halls, ballrooms, or meeting rooms.

Leaseline: the line of tenant leased premises extends inward from the outermost exterior face of the *storefront*, except if noted otherwise in diagrams.

Legally required window: a window or portion of a window (including a window either in addition to or as a substitute for mechanical ventilation) which is required by any applicable law or statute to provide light or ventilation to a "living room" as defined in Section 4 of the Multiple Dwelling Law.

Lot: see *parcel*.

Lot line: a line defining the boundary of a tract of land intended for development. A *lot line* may coincide with a *required street wall*, *height control line* or a *grade level setback*.

Marquee: a permanent glazing and/or metal structure supported entirely from the building to provide weather protection at a building's primary entrance.

Maximum building height: the maximum height permitted, measured from the adjacent *street curb level*.

Open space use: active and passive recreational areas accessible to the general public, except as noted herein. *Open spaces* occur in mapped parks, *publicly accessible private pedestrian space*, *grade level setbacks* and *private open space* which are defined herein.

Parcel: a tract of land intended for development, defined by *lot lines* or *street lines*. Refer to Figure III-1, Parcel Plan, and Table III-A, Summary of Program, Bulk and Use Controls.

(1) ***Parcel, commercial***: *parcels* 12, 13, 14 and 15.
(2) ***Parcel, residential***: *parcels* 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 17, 18, 19 and 20.

Private open space: a required area within the *lot lines* of *parcels* 2, 3, 6, 7, 9, 11, 17, 18, 19 and 20, which is located at or above *curb level*, which is open from its lowest level to the sky, except for permitted obstructions, and is accessible to and usable by all persons occupying an apartment on the *parcel*. *Private open space* is permitted on *parcels* 1, 4, 5, 8 and 10 subject to Section 3.8.2, Private open space and QWDC approval.

Publicly accessible private pedestrian space (PAPPS): a continuous area, located on privately owned land, designated for and designed to encourage public pedestrian circulation and other appropriate public uses.

Required street wall: a wall or portion of a wall of a building facing a *street* or *publicly accessible private pedestrian space* which must be built to a height of between 40'-0" and 85'-0" above *curb level*.

Required street wall articulation, aggregate width of: the sum of the maximum widths of all segments of *required street wall articulation* on a *street* at the level of any *story*. The width of a *required street wall articulation* is measured in plan as the width of the *street line* from which perpendicular lines may be drawn to such *required street wall articulation*.

Required underground connection: underground service and parking connections are required between *parcels* 12 and 13 and between *parcels* 14 and 15. A zone for these connections is identified in the approved *street* map. These connections shall be a minimum 30' wide with a clear height of 9' for parking connections and 14' clear height for service connections.

Residential use: uses listed in Use Group 1, 2, 3 and 4 in the NYC Zoning Resolution. *Residential uses* may include *residential*, *community facility*, *accessory* recreation, *accessory* parking, *accessory* loading and *open space*.

Retail use: uses listed in use group 6, 9 and 12 in the NYC Zoning Resolution. *Retail* establishments are intended primarily to provide convenience services for the use of residents and *commercial* occupants of the project area including *retail* sales, restaurants and service establishments. *Retail use* may be located only on a *story* below the lowest *story* occupied by *residential use* or *community facility use*; and *retail use* is limited in location to two *stories* in any building.

Sewer corridor: a zone traversing private property identified in the approved *street* map. Certain restrictions are placed on the developer with respect to construction over or near the *sewer corridor* to permit maintenance access by the City.

Storefront: the architectural facade, including doorways, of any tenant-leased premise perimeter adjacent to public circulation areas. *Storefronts* refers to all permitted *retail uses* including *retail*, service, restaurants and cultural establishments.

Story: that part of a building between the surface of a floor (whether or not counted for purposes of computing *floor area*) and the ceiling immediately above. However, a *cellar* is not a *story*.

Street: a way shown on the City Map.

(1) ***Street, boulevard***: see Figure III-3, Street Type Plan.
(2) ***Street, primary***: see Figure III-3, Street Type Plan.
(3) ***Street, secondary***: see Figure III-3, Street Type Plan.
(4) ***Street, waterfront***: see Figure III-3, Street Type Plan.

Street line: a *lot line* separating a *street* from other land.

Street wall: a wall or portion of a wall of a building facing a *street*, *publicly accessible private pedestrian space* or park.

Tower: the portion of a building located above 85' above *curb level*.

3.2 *PARCEL* PLAN

The GPP establishes 19 *parcels* for the Project as indicated in Figure III-1, Parcel Plan. Table III-A, Summary of Program, Bulk and Use Controls (modified version of Attachment 3 from the GPP) provides a summary by *parcel* of: *lot* area; program *floor area* for *residential*, *commercial* office, *hotel*, *retail*, public facilities (*community facility*) uses; the number of required parking/loading spaces; *maximum building height*; and *open space* requirements. The *lot* areas are shown for reference only.

3.3 PERMITTED USES

The GPP establishes the permitted uses for the Project as indicated in Figure III-2(.1-.4), Land Use Plan (modified version of Attachment 1 from the GPP). Each of the 19 *parcels* is permitted *residential use*, *commercial use*, *retail use* and/or *open space use* as defined herein. *Community facility use* is required on certain *parcels* and permitted on all *residential parcels*. The GPP controls are made more specific herein by providing plan dimensions for the locations of the permitted *retail use*. Where no dimensions are specified, permitted *retail storefronts* extend for 50' measured perpendicular to the *street* front.

Use group 6 uses and bicycle rental or repair shops are permitted in all *retail storefronts* subject to review and approval by QWDC. Use groups 9 and 12 uses are permitted in *retail storefronts* on *parcels* 12, 13, 14 and 15 subject to review and approval by QWDC. Parking requirement categories of the NYC Zoning Resolution shall not apply.

3.4 BULK

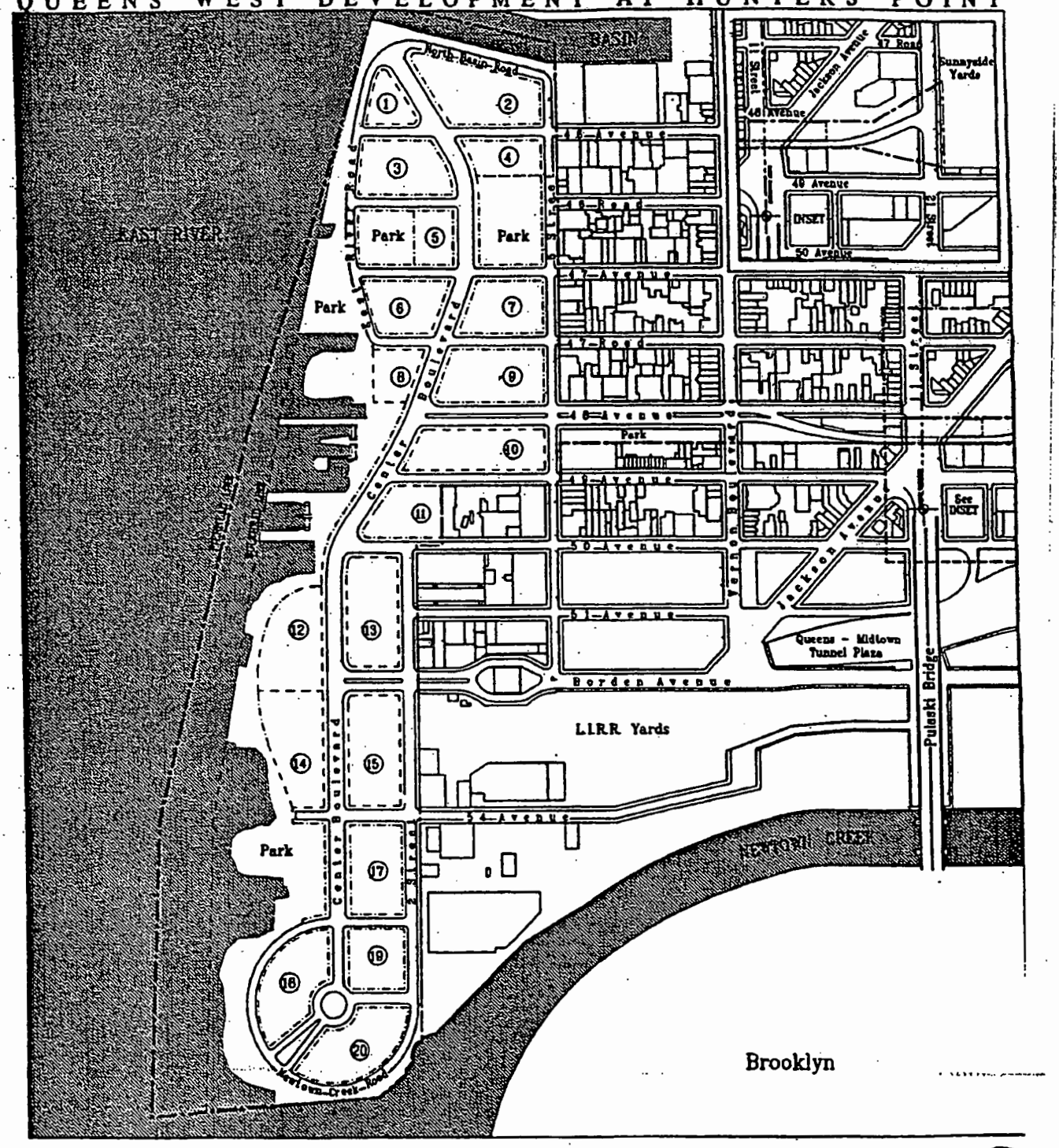
The GPP establishes the overall bulk controls for the Queens West Development; the GPP controls are made more specific herein by providing plan dimensions for the locations of the *height control lines* and *required street walls* on each *parcel*, further definition of *required street wall*, *street wall*, *tower* controls and minimum distance.

3.4.1 *Floor area*

For permitted *floor area* on each *parcel* as established in the GPP refer to Table III-A, Summary of Program, Bulk and Use Controls (modified version of Attachment 3 from the GPP).

The *retail* program of 225,000 square feet established in the GPP for the Project shall not be exceeded. The distribution of *retail floor area* on *residential* and *commercial parcels* as indicated in Table III-A, Summary of Program, Bulk and Use Controls, may be modified subject to review and approval by QWDC. Parcel Controls and/or Land Disposition Agreements may provide additional regulations on individual *parcels*.

QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Parcel Plan

Figure III-1

0 250 500

⑲ Parcel Number

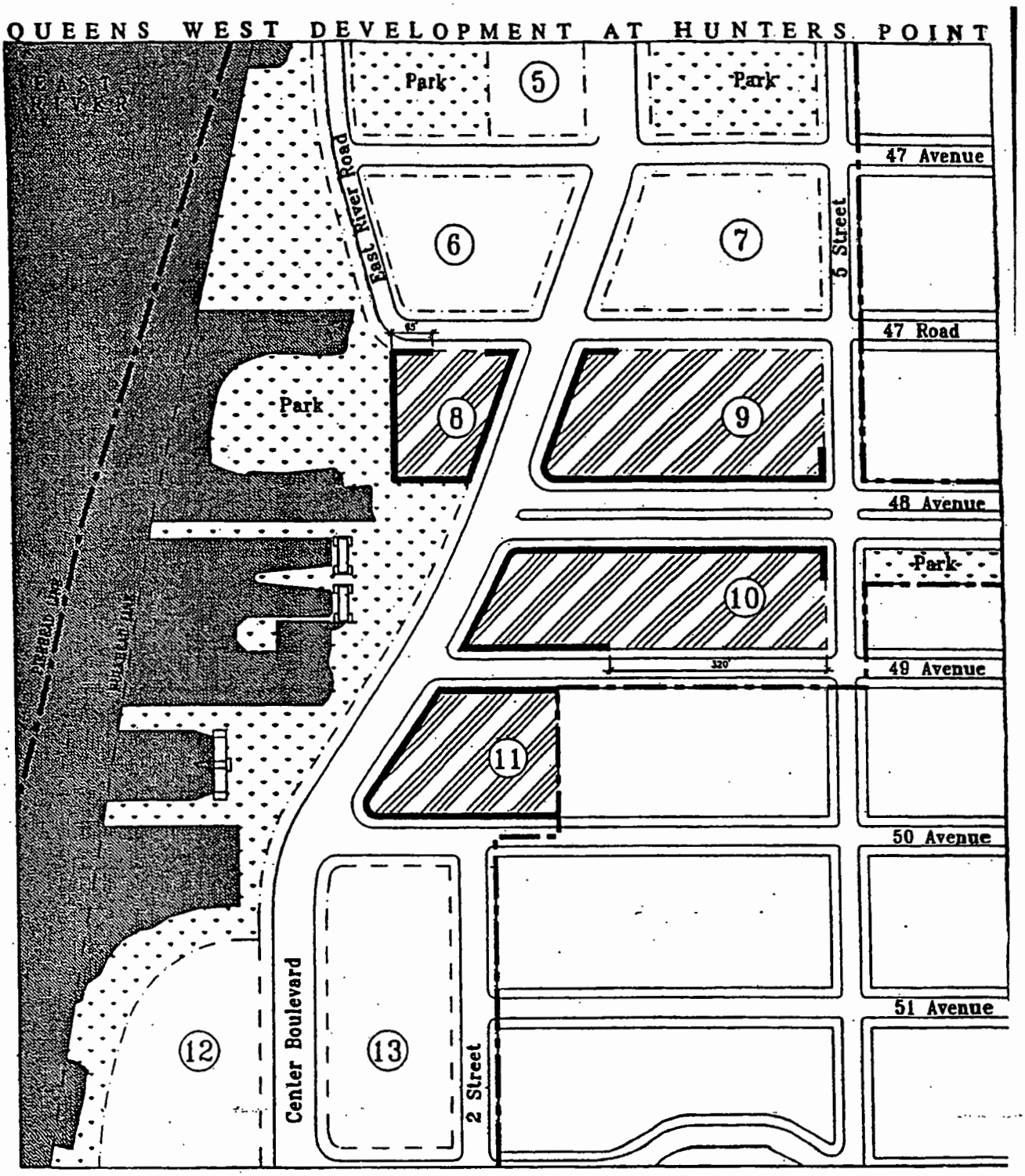
— — Lot Line

—·— Project Boundary

TABLE III - A
SUMMARY OF PROGRAM, BULK AND USE CONTROLS

Parcel #	Approx. *Lot Area* (SF)	*Residential Floor Area* (SF)	*Commercial Office/Hotel Floor Area* (SF)	*Retail Floor Area* (SF) (1)	*Community Facilities Floor Area* (SF)	Total *Floor Area* (SF) (2)	*Maximum Building Height* (feet)	Required Parking/ Loading (# spaces)	*Private Open Space* (SF)	Other Requirements
1	24,331	212,000	-	-	-	212,000	170	0/1	-	
2	88,685	745,000	-	-	-	745,000	390	570/1	13,500	
3	65,600	439,000	-	-	-	439,000	200	249/1	11,000	
4	35,740	240,000	-	-	75,000(5)	315,000	250	0/1	-	
5	30,767	302,000	-	10,000	-	312,000	200	0/1	-	
6	54,059	372,000	-	-	-	372,000	200	186/1	8,000	
7	57,931	425,000	-	-	-	425,000	250	258/1	12,000	
8	32,040	104,000	-	35,000	-	139,000	130	0/1	-	15'-0" wide PAPPS
9	77,809	435,000	-	30,000 (4)	-	465,000	300	360/1	10,000	
10	79,553	495,000	-	40,000	40,000 (6)	575,000	390	527/1	-	12,000 SF PAPPS
11	50,874	416,000	-	10,000	-	426,000	300	369/1	9,000	
12	85,974	-	350,000	10,000	-	360,000	180	0/2	-	45'-0" wide PAPPS
13	81,733	-	800,000	20,000	-	820,000	400	924/3	-	
14	85,577	-	400,000	40,000	-	440,000	180	0/2	-	
15	83,409	-	800,000	20,000	-	820,000	300	584/3	-	
17 (3)	67,032	646,269	-	10,000	-	656,269	270	394/1	11,500	
18	70,827	550,219	-	-	-	550,219	210	336/1	12,000	
19	47,599	453,292	-	-	-	453,292	390	260/1	12,000	
20	72,629	550,220	-	-	-	550,220	210	336/1	12,000	
	1,192,169	6,385,000	2,350,000	225,000	115,000	9,075,000		5,353/25	111,000	

(1) Suggested *retail* program. *Retail* is permitted on all *parcels* but shall not exceed the total 225,000 SF program.
(2) Total *floor area* is all *floor area* above grade excluding parking and mechanical space (approximately at 3% *residential* and *retail*, 5% *commercial*).
(3) *Parcel* 16, redesignated as public *open space*, has been omitted.
(4) 17,500 SF of *retail* on *parcel* 9 will be used for a temporary early childhood learning center until and unless elementary school is needed.
(5) Elementary school (grades K-5), pursuant to the NYC Board of Estimate's Resolution of Approval.
(6) Community center with swimming pool, pursuant to the NYC Board of Estimate's Resolution of Approval.



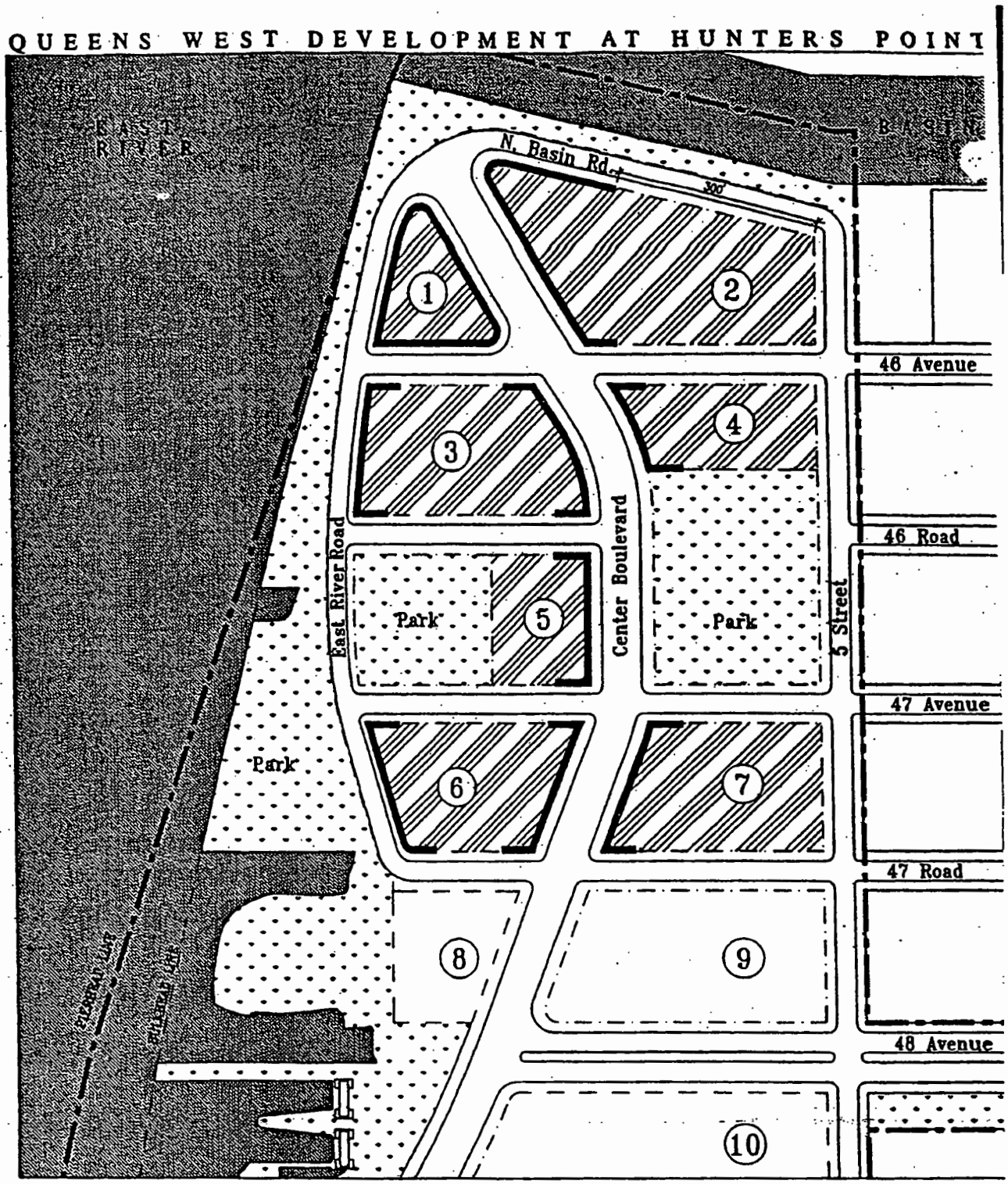
Stage 1
Land Use Plan

- Permitted Retail Storefront
- Residential
- Public Open Space
- (19) Parcel Number
- Lot Line
- Project Boundary

Figure III-2.1

0 100 200

Note: All Permitted Retail Storefronts Return 50' on Side Street Except as Noted.



Stage 2
Land Use Plan

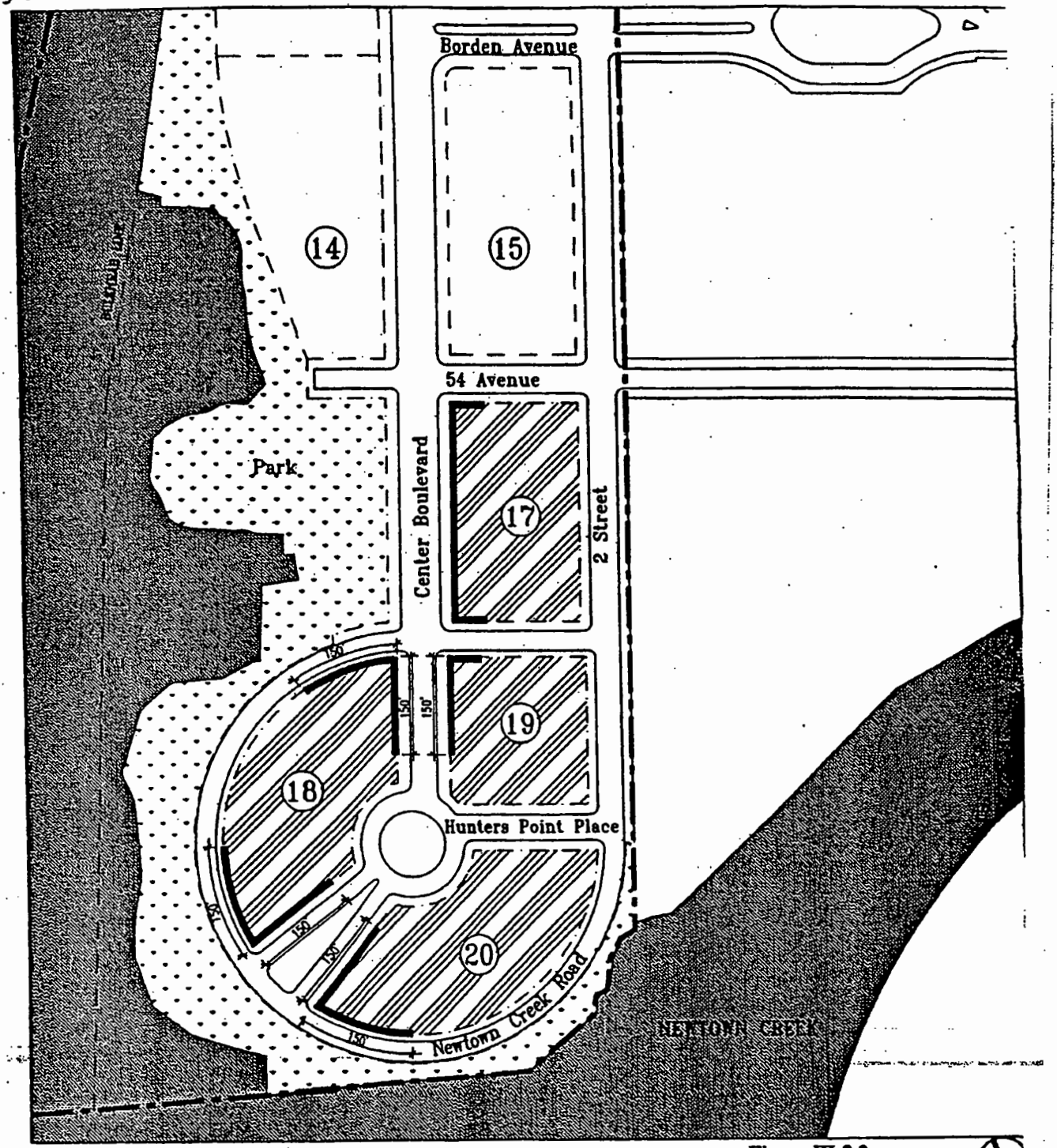
- Permitted Retail Storefront
- Residential
- Public Open Space
- (18) Parcel Number
- Lot Line
- Project Boundary

Figure III-2.2

0 100 200

Note: All Permitted Retail Storefronts Return 50' on Side Street Except as Noted.

QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Stage 3
Land Use Plan

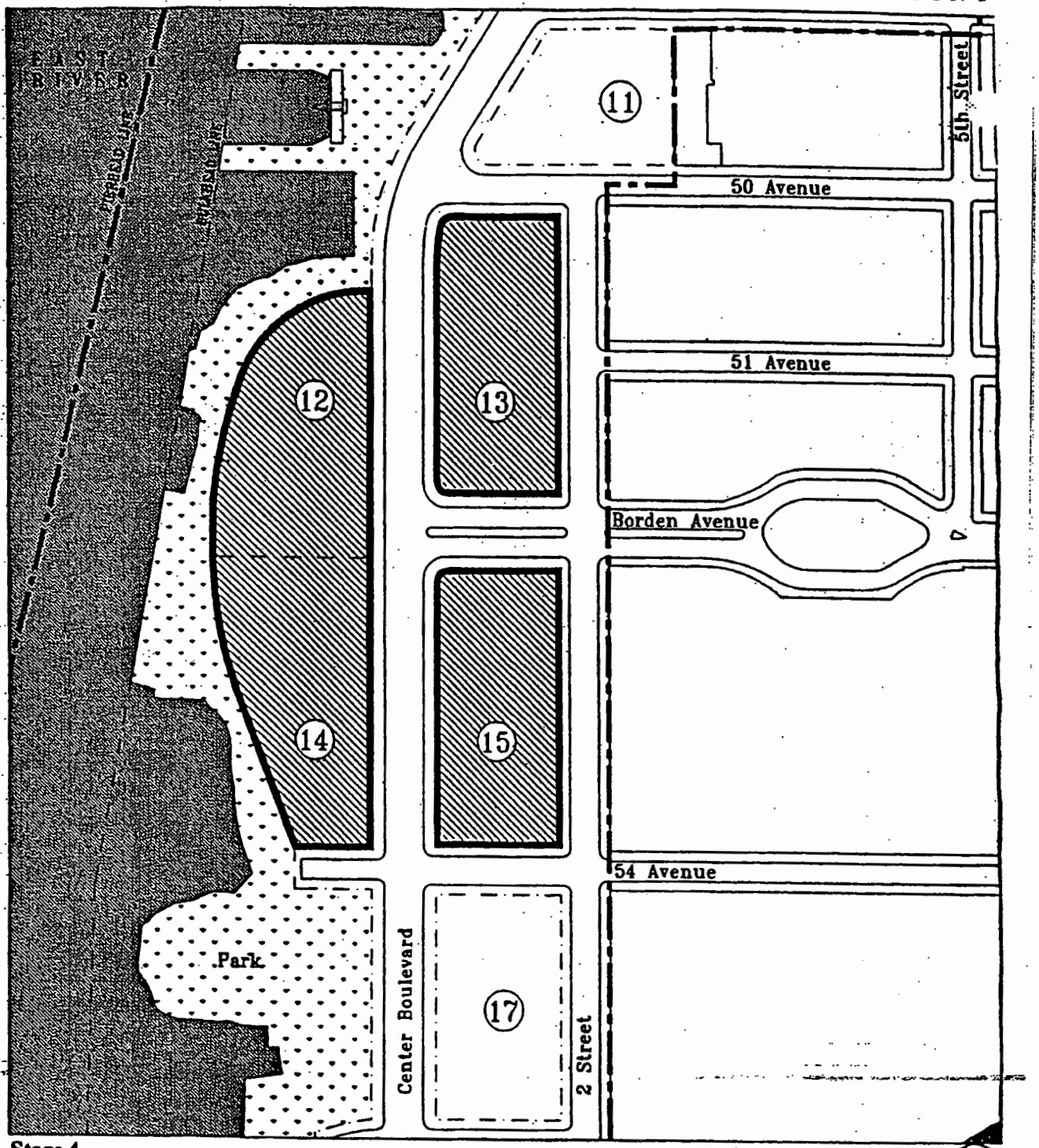
- Permitted Retail Storefront
- Residential
- Public Open Space
- (19) Parcel Number
- Lot Line
- Project Boundary

Figure III-2.3

0 100 200

Note: All Permitted Retail Storefronts Return 50' on Side Street Except as Noted.

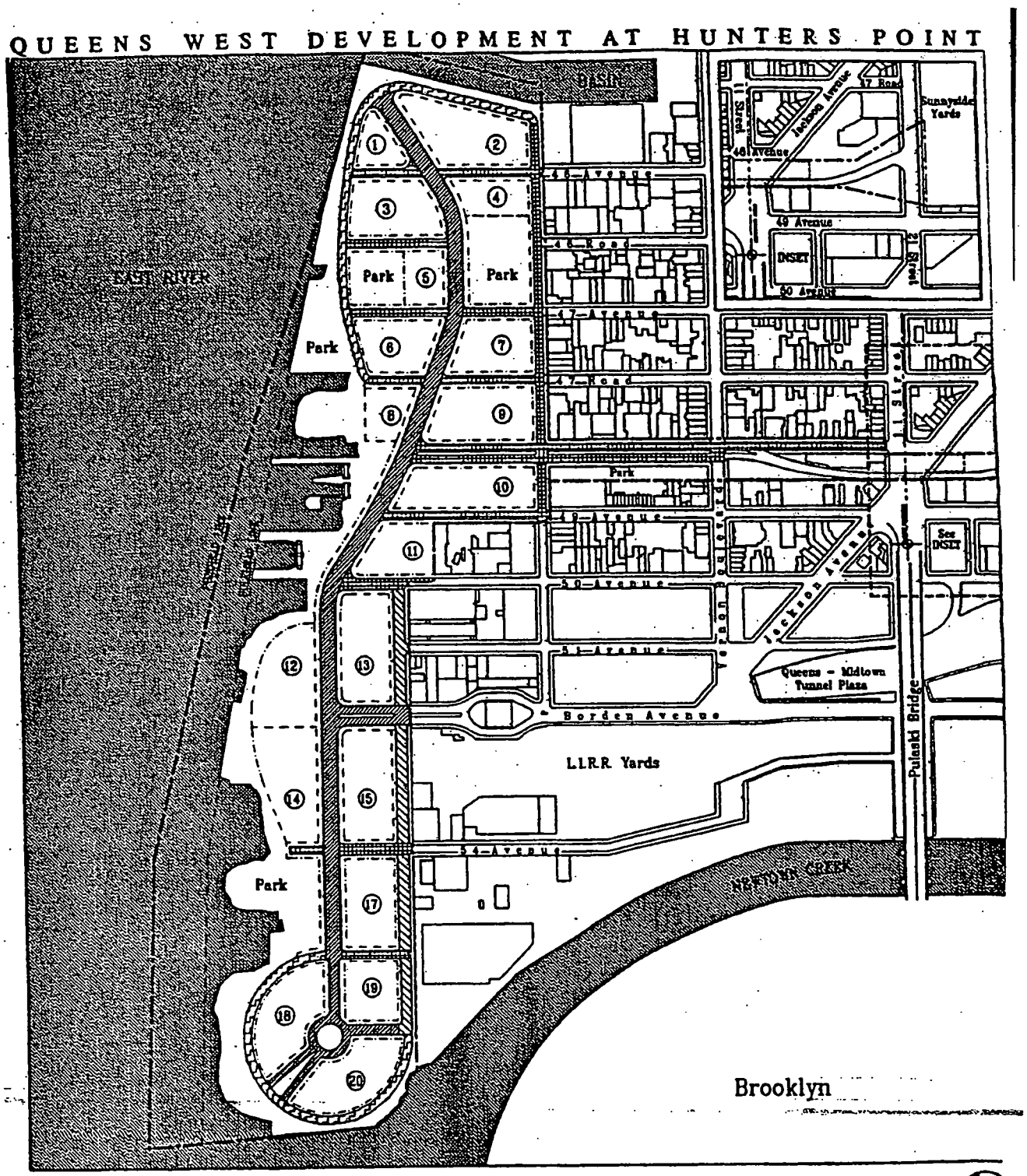
QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Stage 4
Land Use Plan

Figure III-2.4

- Permitted Retail Storefront
- Commercial
- Public Open Space
- (19) Parcel Number
- Lot Line
- Project Boundary



Street Type Plan

Figure III-3

0 250 500

Type 1 - Boulevard

Type 2 - Waterfront

Type 3 - Primary

Type 4 - Secondary

(20) Parcel Number

Lot Line

Project Boundary

Gruzen Samton / Beyer Blinder Belle
Associated Architects & Planners

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3.4.2 *Maximum building height*

For permitted *maximum building height* on each *parcel* as established in the GPP and modified herein refer to Figure III-4(.1-.4), Bulk Controls Plan (modified version of Attachment 4 from the GPP). Building massing on each *parcel* is controlled by the *height control line*, *maximum building height*, and *required street wall*. The following are permitted obstructions which may penetrate the *maximum building height*: chimneys or flues; elevator or stair bulkheads, roof water tanks or cooling towers (including enclosures); flagpoles or aerials; ornamental church towers having no habitable floor area; parapet walls not more than 4'-0"; spires or belfries; wire, chain link, or other transparent fences.

3.4.3 *Required street wall*

For *required street wall* on each *parcel* as established in the GPP and modified herein refer to Figure III-4(.1-.4), Bulk Controls and Figure III-5(.1-.4), Required Street Wall Controls; also refer to Figure III-3, Street Type Plan.

(a) **Design intent:** *required street walls* define the scale and character of the pedestrian environment. Articulation of the *required street wall* within the permitted ranges is required in order to create a sense of different uses, visual interest and orientation.

(b) **Location of a *required street wall*:**

(1) *Parcels* with a *grade level setback*: the *required street wall* shall be located 5'-0" from the *street line*, except as noted in Figure III-10(.1-.4), Open Space Controls.

(2) *Parcels* or portions of *parcels* without a *grade level setback*: the *required street wall* shall be located on the *street line*.

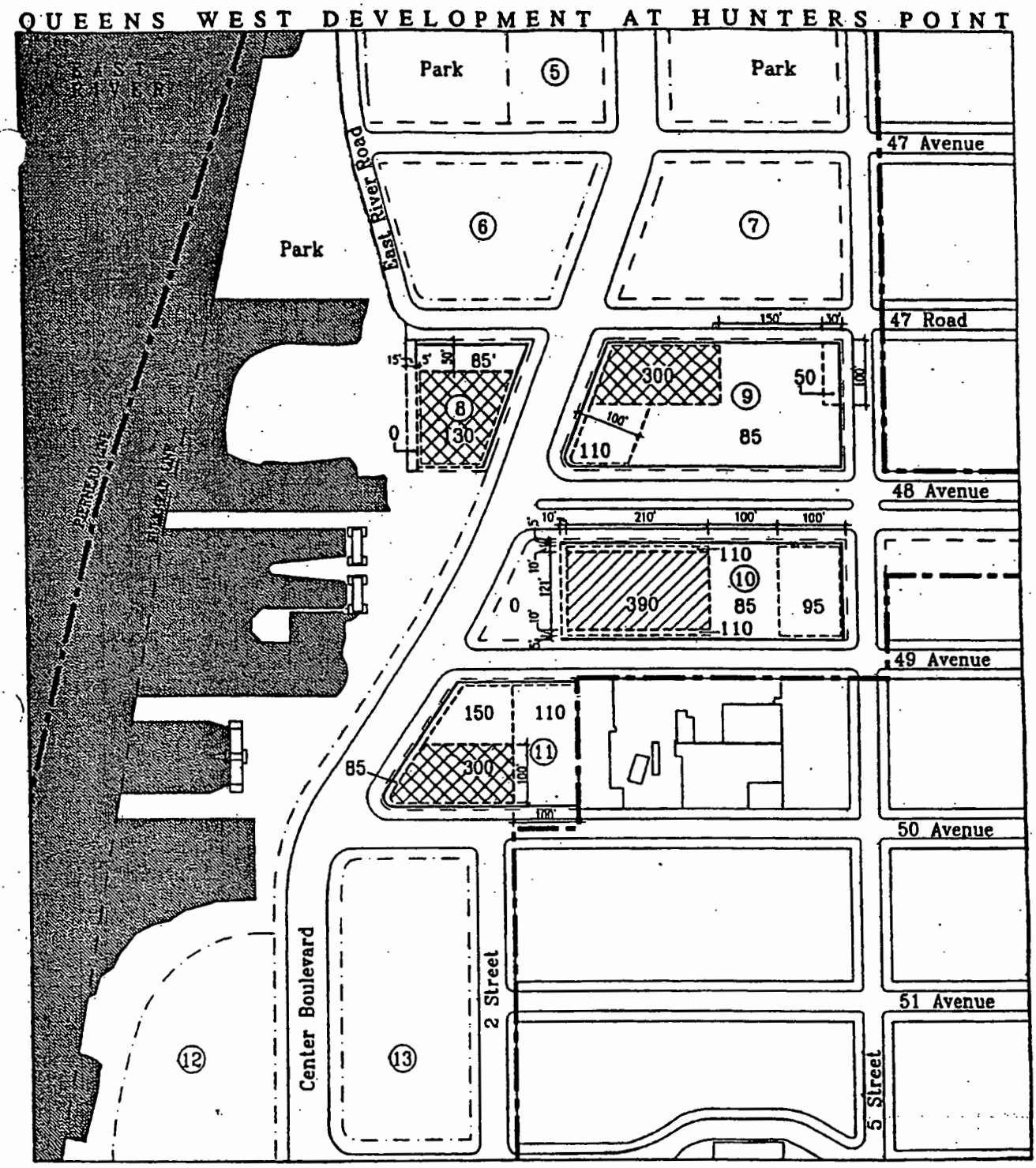
(c) **Height of *required street wall* and dimension of initial setback:**

(1) *Boulevard street*:

At a minimum of 70' to a maximum of 85' above *curb level*, a minimum of 10'-0" setback is required except as noted; at the intersection of two *street lines* on *residential parcels* the *required street wall* height shall be returned for 30'-0" minimum along a *primary street*.

(2) *Waterfront street*:

At a minimum of 40' and a maximum of 85' above *curb level*, a minimum of 10'-0" setback is required except as noted.



Stage 1
Bulk Controls

230 Maximum Building Height (feet)

Required Street Wall

Height Control Line

Type A Tower

(20) Parcel Number

Lot Line

Project Boundary

Type C Tower

Gruzen Samton / Beyer Blinder Belle
Associated Architects & Planners

Figure III-4.1

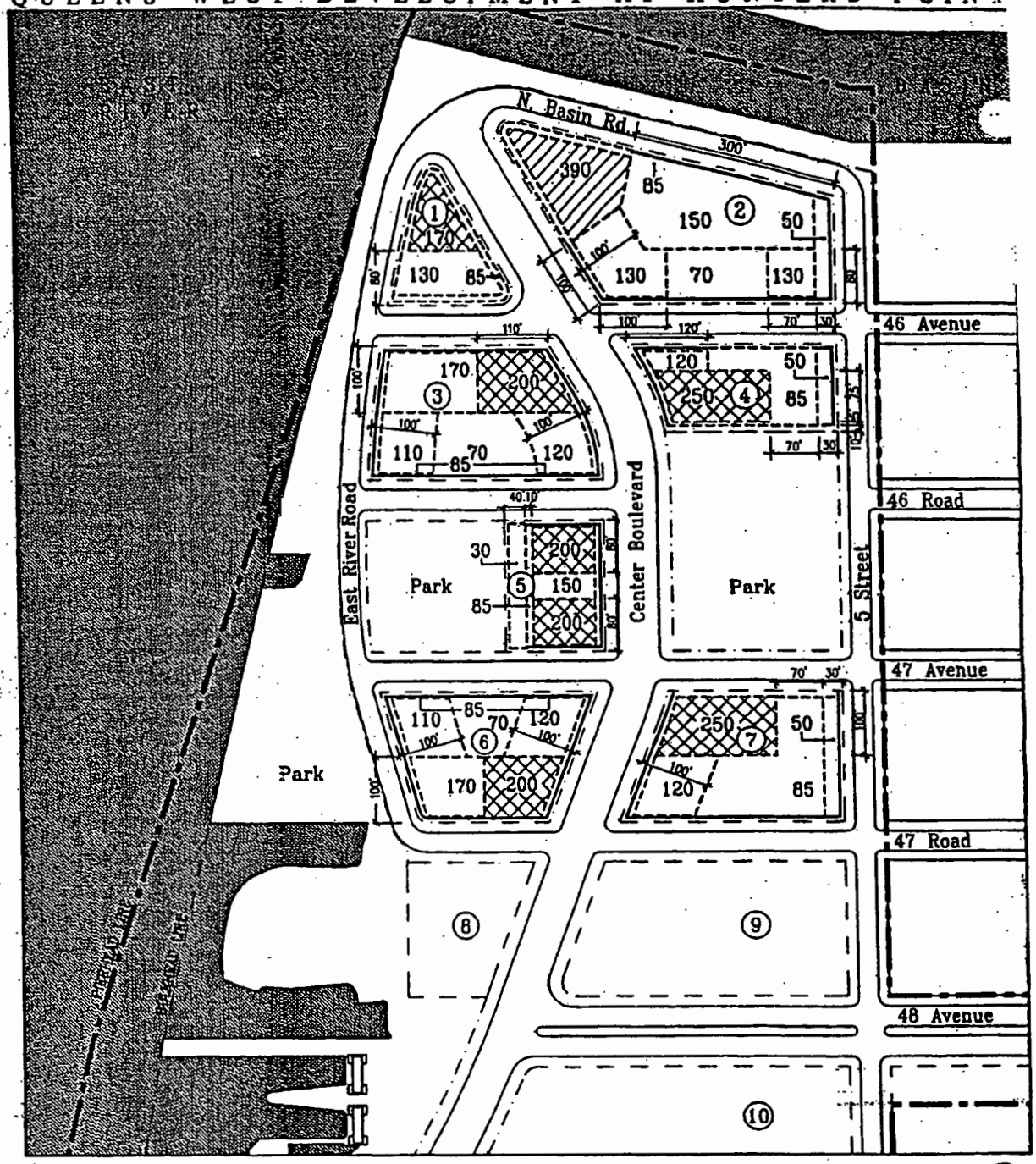
0 100 200

Note: All Grade Level Setbacks Are 5' Deep From Lot Line, Except As Noted.

For Parcels 8-11, Initial Building Setbacks Are: 10' Deep on Center Blvd.; 5' Deep on All Other Streets Except As Noted.

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QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Stage 2
Bulk Controls

230 Maximum Building Height (feet)
Required Street Wall
Height Control Line
Type A Tower
(20) Parcel Number
Lot Line
Project Boundary
Type C Tower

Gruzen Samton / Beyer Blinder Belle
Associated Architects & Planners

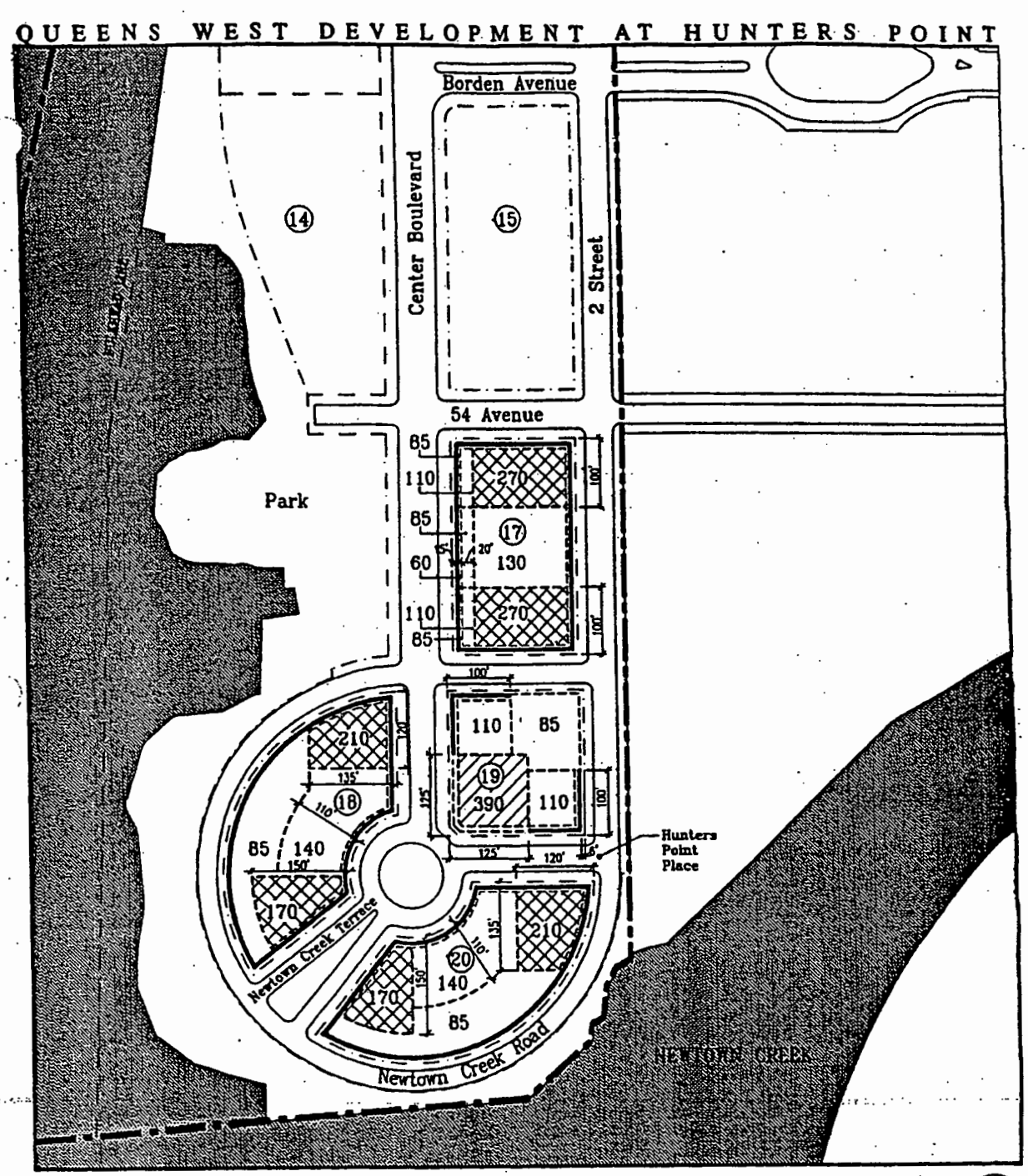
Figure III-4.2

0 100 200

Note: All Grade Level Setbacks Are 5' Deep From Lot Line, Except As Noted

For Parcels 1-7, Initial Building Setbacks Are: 10' Deep on Center Blvd. East River Rd and N. Basin Rd; 5' Deep on All East-West Streets Except As Noted.

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Stage 3
Bulk Controls

230 Maximum Building Height (feet)
Required Street Wall
Height Control Line
Type A Tower
(20) Parcel Number
Lot Line
Project Boundary
Type C Tower

Gruzen Samton / Beyer Blinder Belle
Associated Architects & Planners

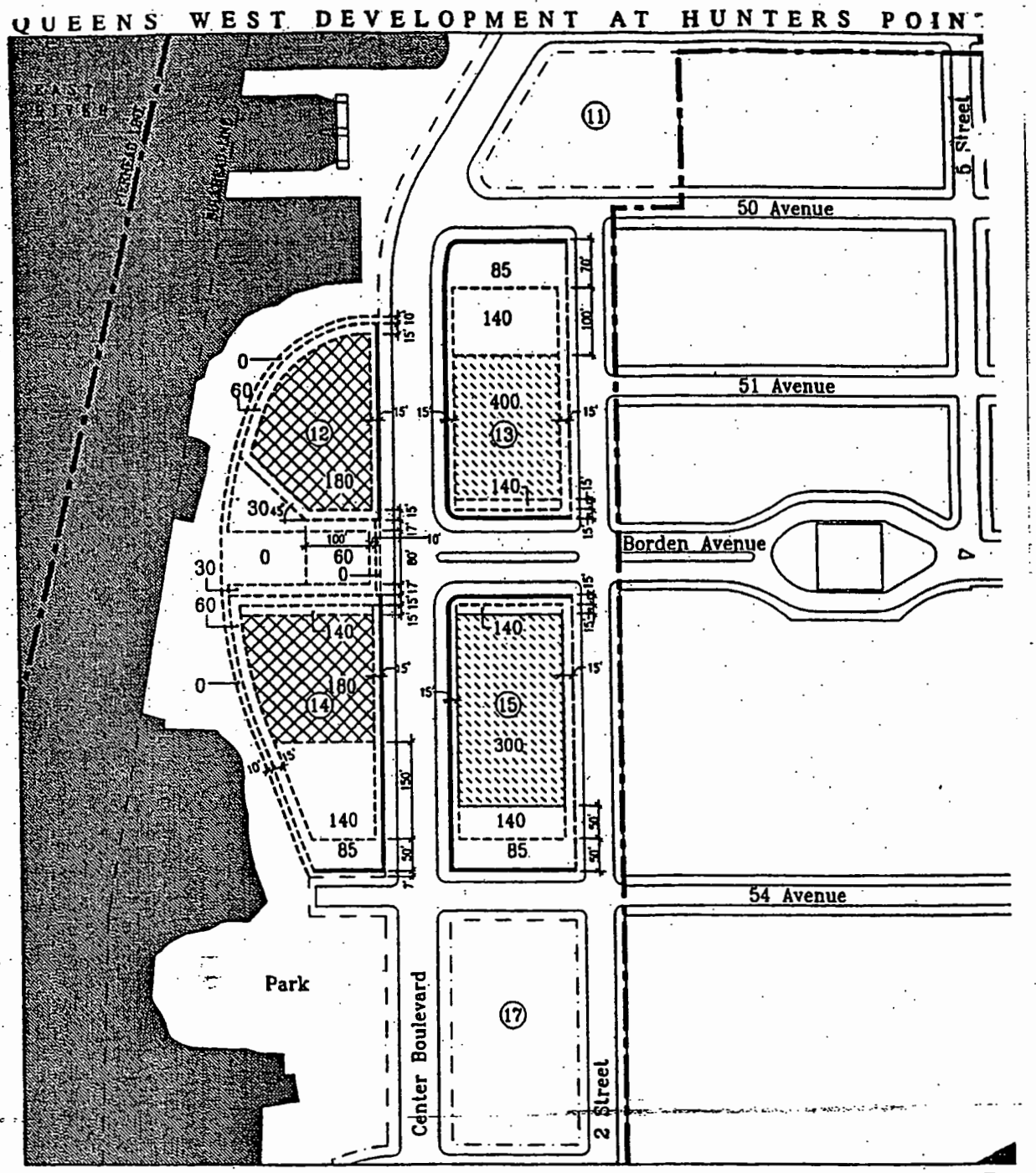
Figure III-4.3

0 100 200

Note: All Grade Level Setbacks Are 5' Deep From Lot Line, Except As Noted.

For Parcels 17-20, Initial Building Setbacks Are: 10' Deep on Center Blvd. and Hunters Point Pl; 5' Deep on All Other Streets Except As Noted.

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Stage 4
Bulk Controls

230 Maximum Building Height (feet)
Required Street Wall
Height Control Line
Type B Tower
(20) Parcel Number
Lot Line
Project Boundary
Type C Tower

Gruzen Samton / Beyer Blinder Belle
Associated Architects & Planners

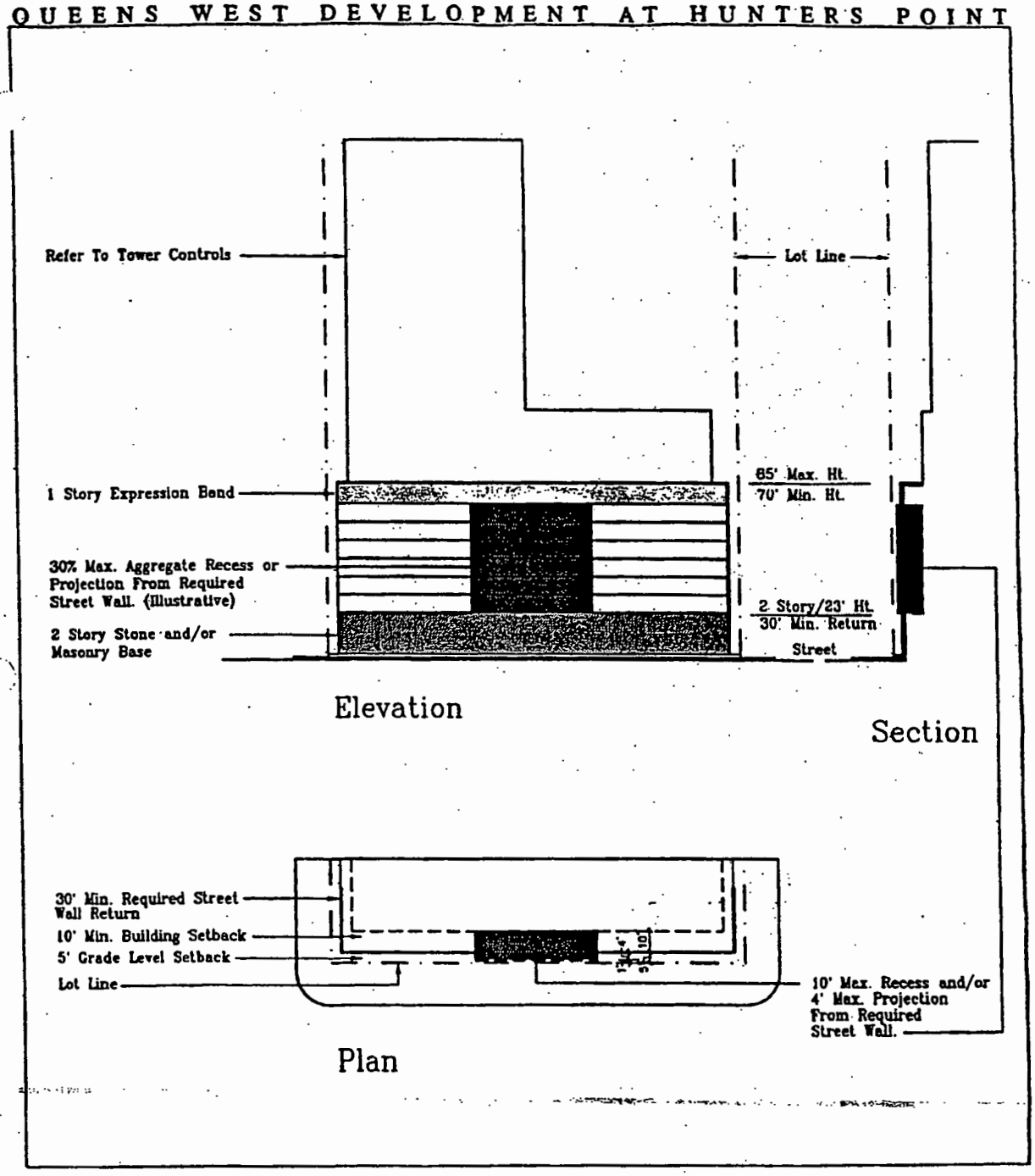
Figure III-4.4

0 100 200

Note: All Grade Level Setbacks Are 5' Deep From Lot Line, Except As Noted

All Initial Building Setbacks Are: 15' Deep on Center Blvd., 2 Street and Borden Ave; 5' Deep on All East-West Streets Except As Noted.

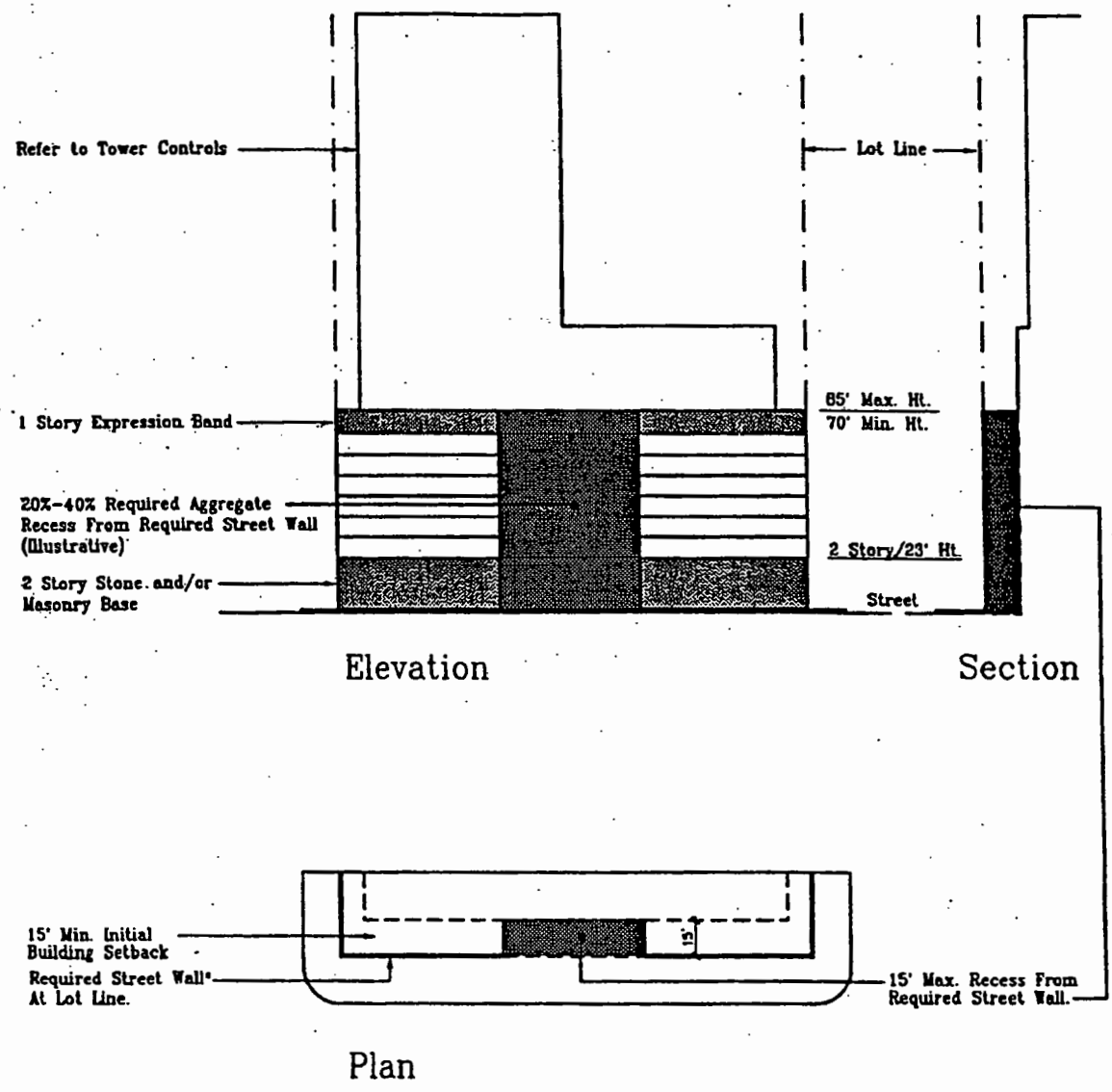
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Required Street Wall Controls
Street Type 1 - Boulevard at Residential Parcels

Figure III-5.1a

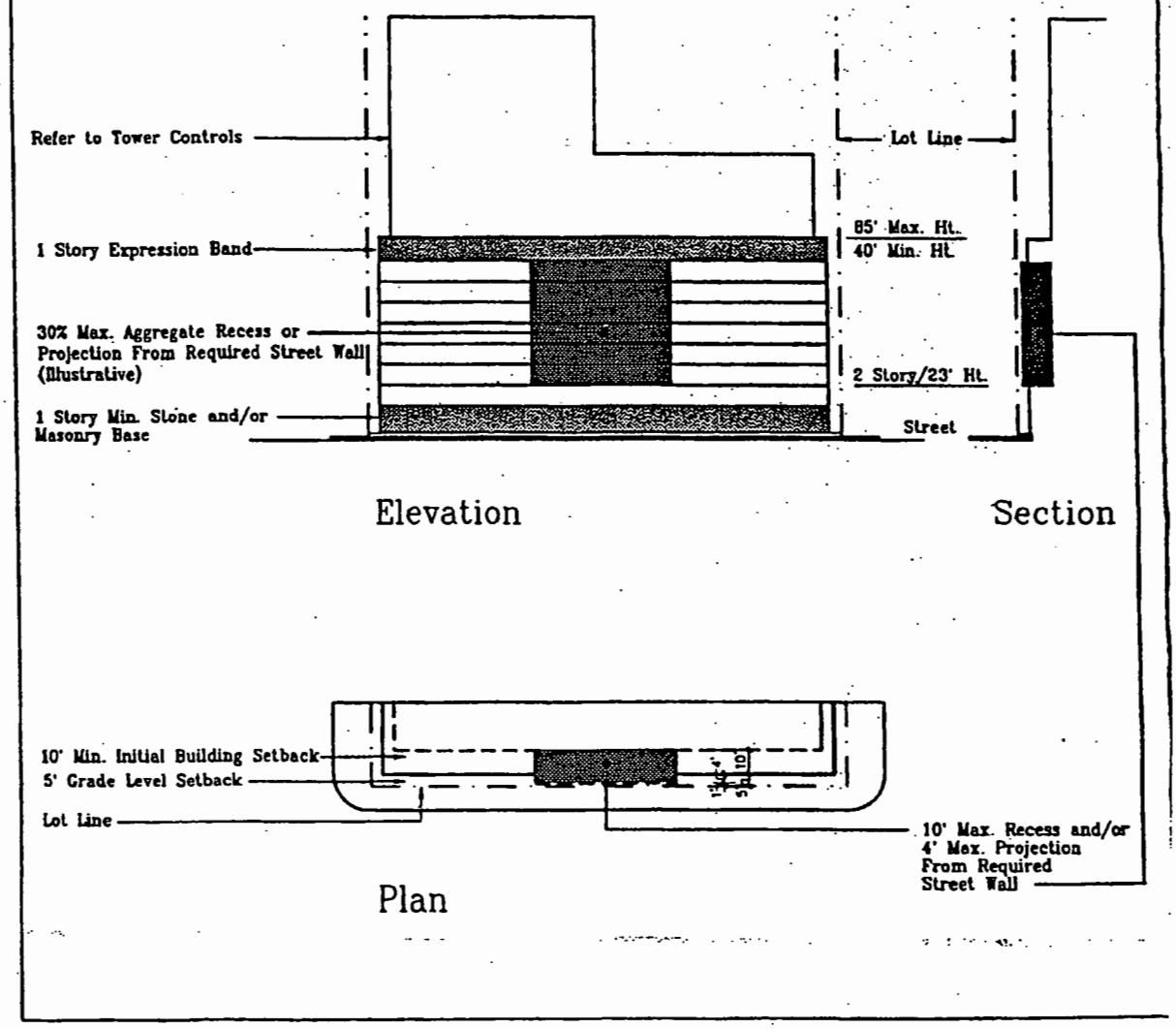
0 32 64



Required Street Wall Controls
Street Type 1 - Boulevard at Commercial Parcels

Figure III 5.1b

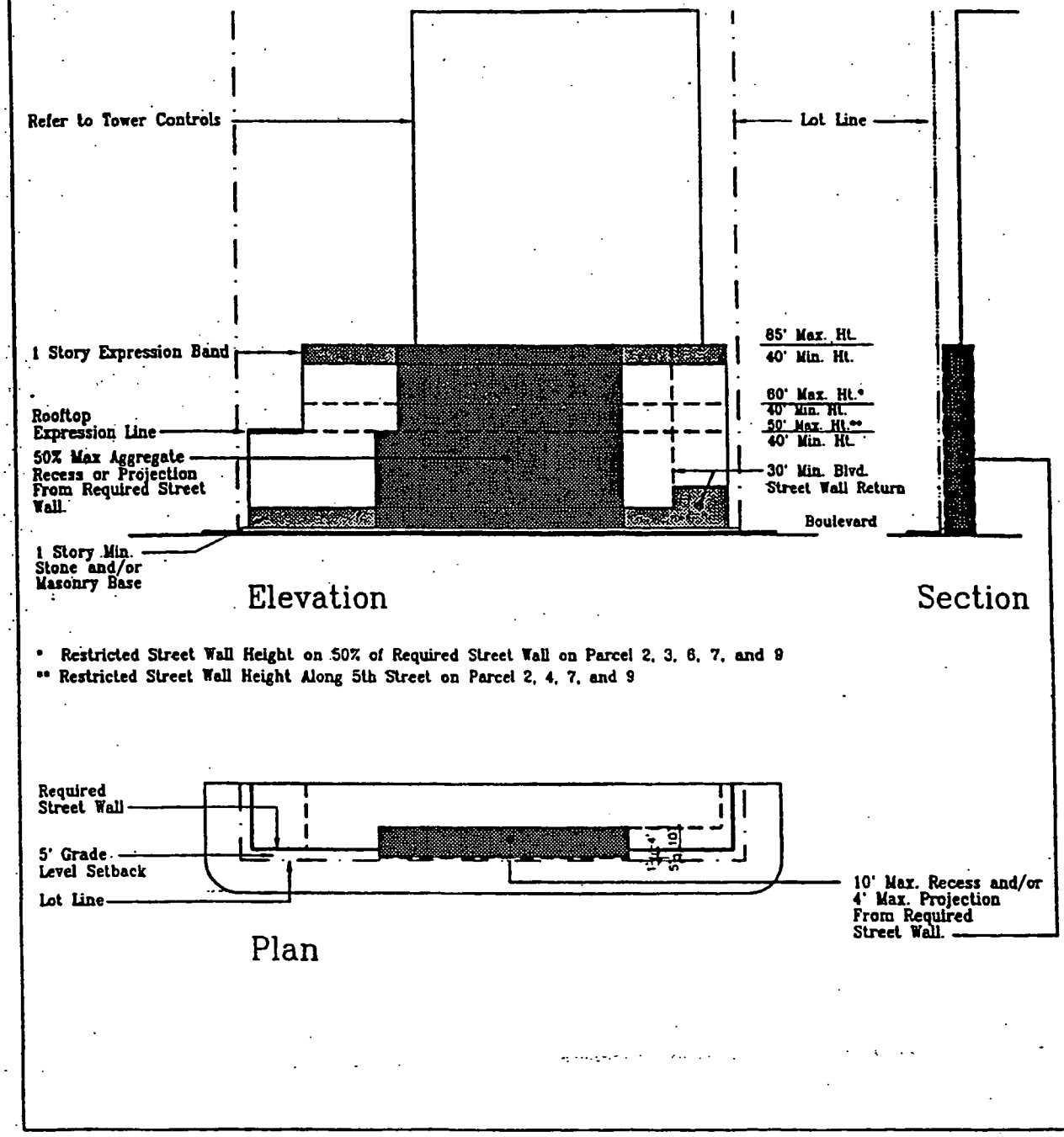
0 32 64



Required Street Wall Controls
Street Type 2 - Waterfront

Figure III-5.2

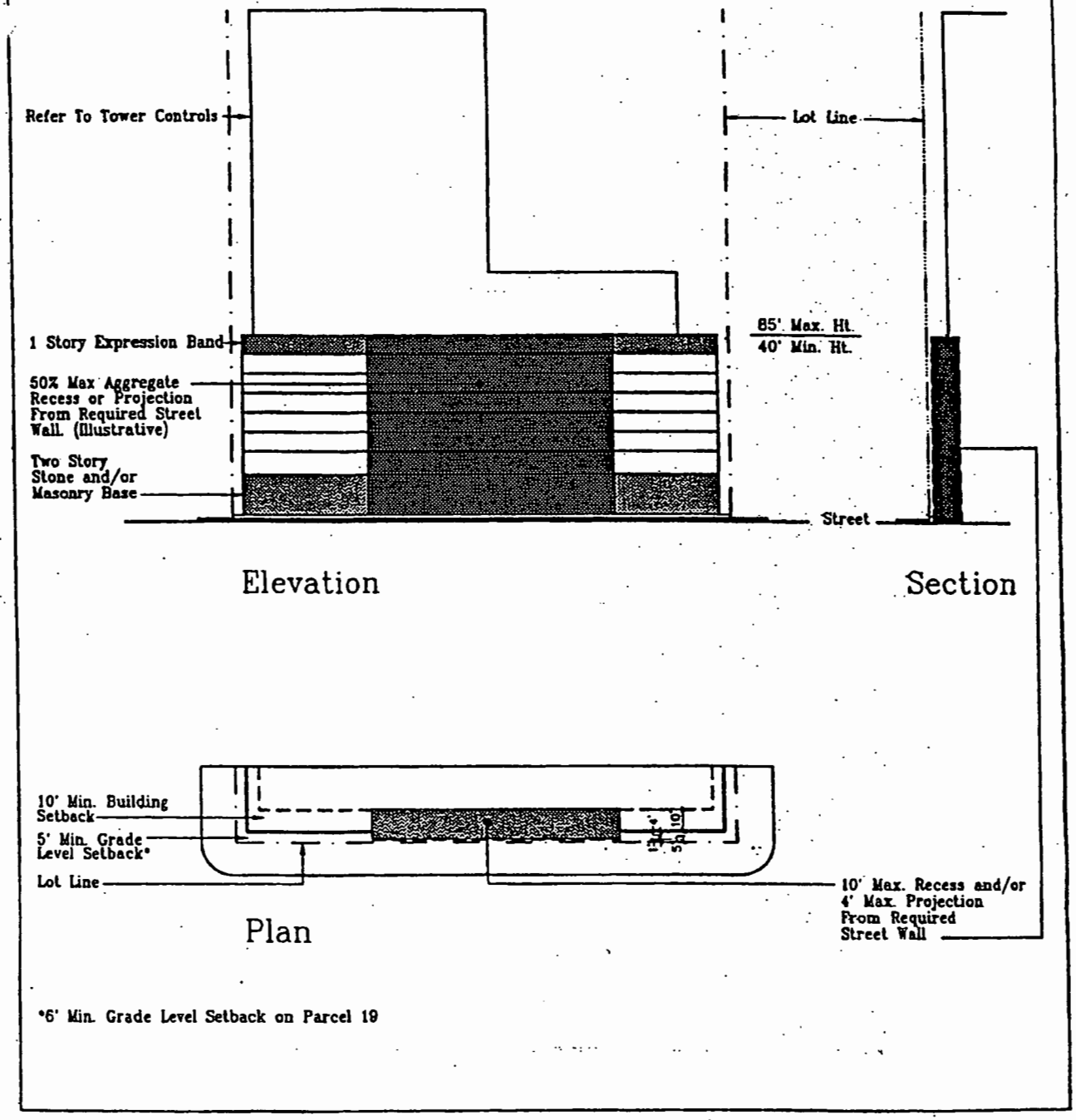
0 32 64



Required Street Wall Controls
Street Type 3 - Primary at Residential Parcels

Figure III-5.3a

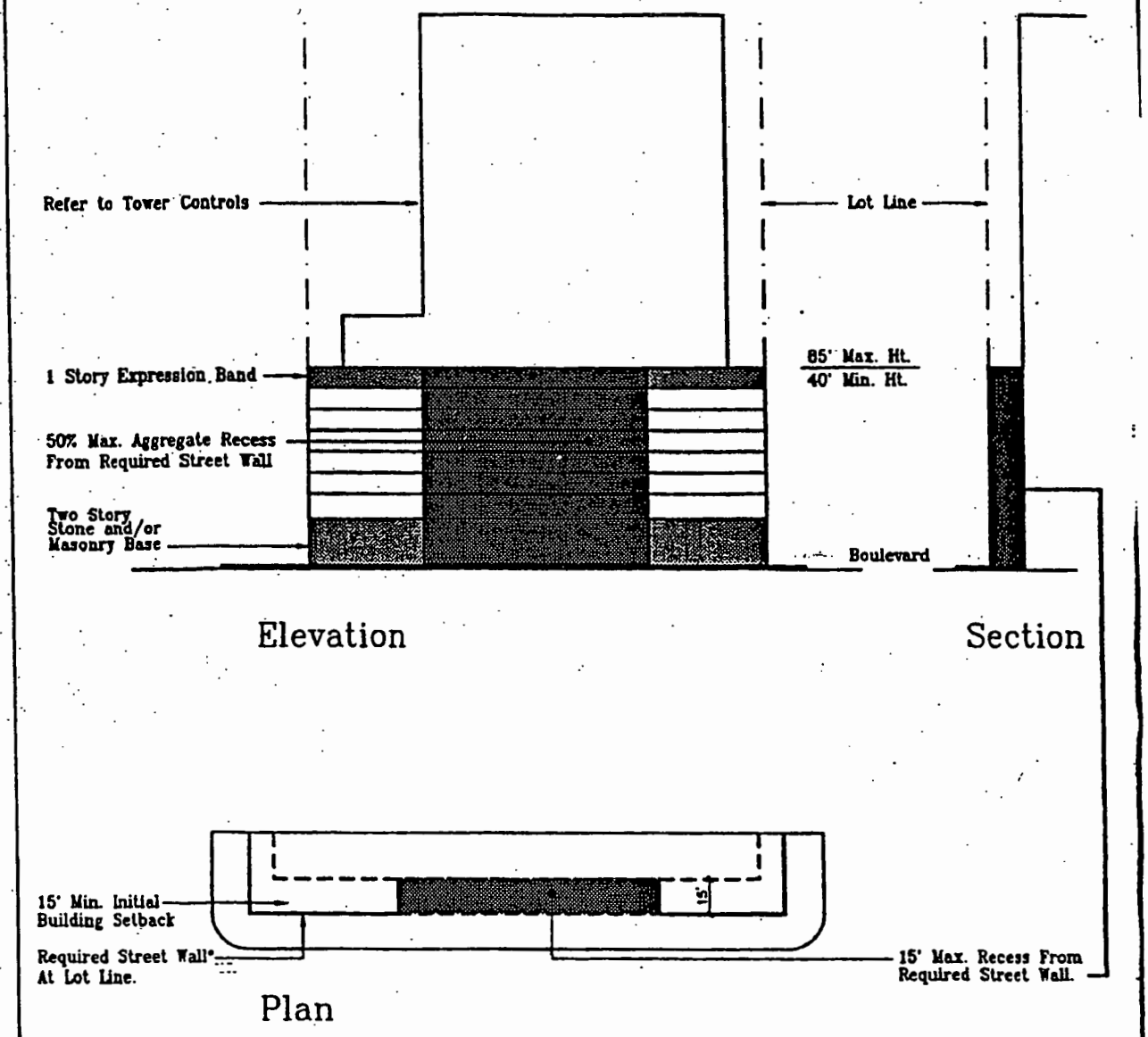
0 32 64



Required Street Wall Controls
Street Type 4 - Secondary at Residential Parcels

Figure III-5.4a

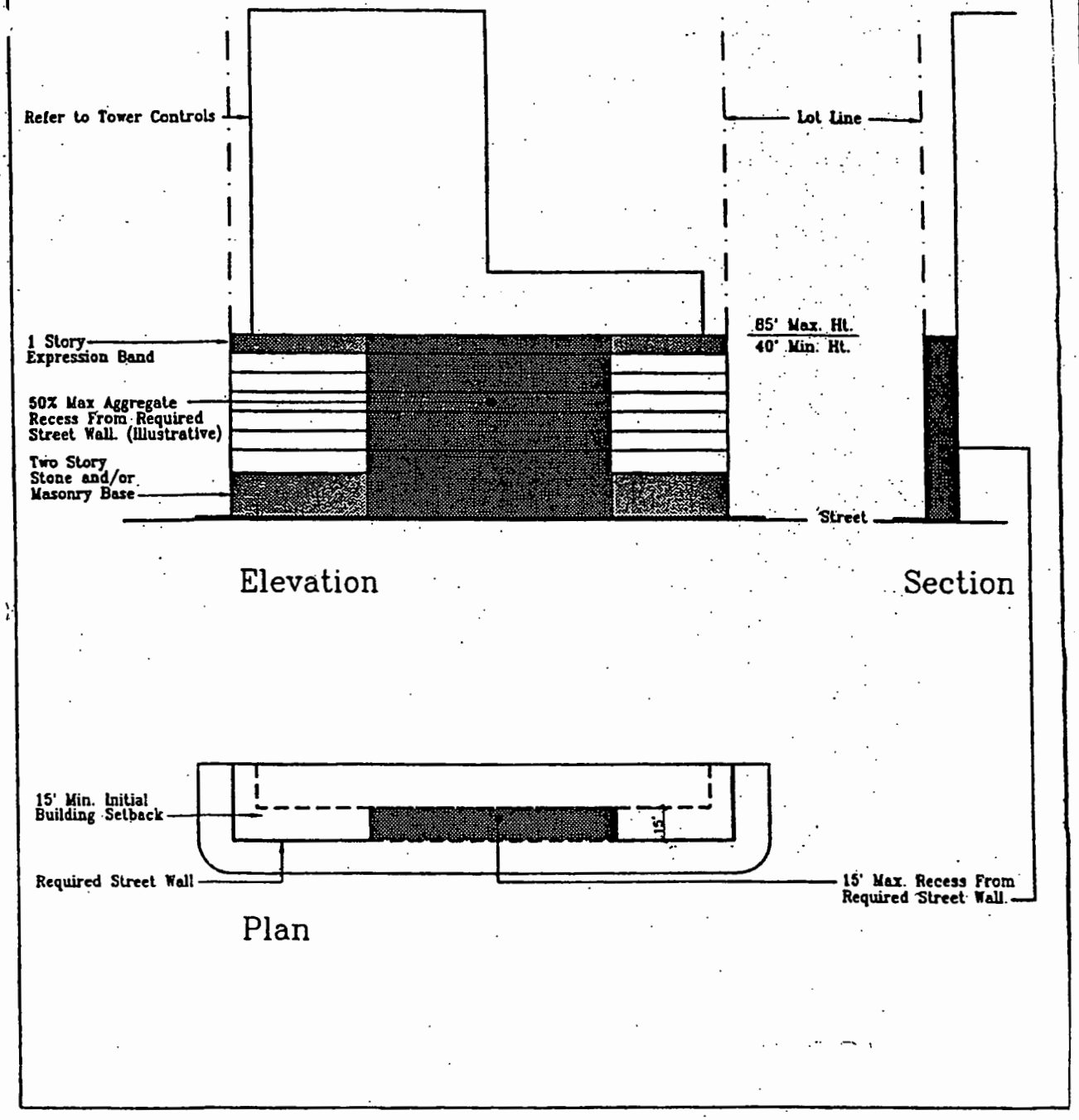
0 32 64



Required Street Wall Controls
Street Type 3 - Primary at Commercial Parcels

Figure III-5.3b

0 32 64



Required Street Wall Controls
Street Type 4 - Secondary at Commercial Parcels

Figure III-5.4b

0 32 64

(3) *Primary street:*

At a minimum of 40' and a maximum of 85' above *curb level*, a minimum of 5'-0" setback is required except as noted. On 5th Street on *parcels* 2, 4, 7 and 9 at a maximum of 50' above *curb level*, a minimum 30' setback is required. On 46th Avenue on *parcels* 2 and 3, and on 47th Road on *parcels* 6, 7 and 9, 50% of the *required street wall* shall be a minimum of 40' and a maximum of 60' above *curb level*.

(4) *Secondary street:*

At a minimum of 40' and a maximum of 85' above *curb level*, a minimum of 10'-0" setback is required except as noted.

(d) **Amount of articulation of *required street wall*:**

(1) *Boulevard street:*

- *Residential parcels*: the *aggregate width of required street wall articulation* at the level of any *story* shall not exceed 30% of the *required street wall* above the level of the second *story* ceiling or 23'-0" above *curb level*, whichever is less, to the floor level of the penultimate floor within the *required street wall* height. Within the lesser of 2 *stories* or 23'-0" above *curb level*, recesses, balconies and bay windows shall not be permitted. Building entries, *accessory* parking and loading entries and exits are permitted; steps, ramps, *marquees*, *canopies*, *awnings* and *retail storefronts* are permitted.

- *Commercial parcels*: the *aggregate width of required street wall articulation* at the level of any *story* shall not be less than 20% nor more than 40% from grade level to the initial setback.

(2) *Waterfront street:* same as *boulevard street*.

(3) *Primary street:*

- *Residential parcels*: the *aggregate width of required street wall articulation* at the level of any *story* shall not exceed 50% of the *required street wall* from grade level to the initial setback. Balconies and bay windows shall be located above the level of the first *story* ceiling or 15'-0" above *curb level*, whichever is less. The maximum length of *required street wall* permitted without articulation above the first *story* ceiling or 15'-0" above *curb level* is 80'.

- *Commercial parcels*: the *aggregate width of required street wall articulation* at the level of any *story* shall not exceed 50% of the *required street wall* from grade level to the initial setback.

(4) *Secondary street:* same as *primary street*.

(e) **Types of permitted articulation of a *required street wall*:**

(1) Recess:

- *Residential parcels*: recesses shall be permitted to a maximum depth of 10'-0" with a 1:2 maximum depth to width ratio.
- *Commercial parcels:* recesses shall be permitted to a maximum depth of 15'-0" with a 1:2 maximum depth to width ratio and to a maximum depth of 20' within 20' of the intersection of two *street lines*.

(2) Balcony:

A balcony may project a maximum of 4'-0" from a *required street wall* over a *grade level setback* and each balcony may have a maximum length of 12'-0"; shall be enclosed by a solid masonry parapet not exceeding 2'-6" in height and a rail to 3'-8" in total height, or a railing not less than 50% open not exceeding 4'-6" in height; and shall be enclosed by building walls a minimum of 40% and a maximum of 60% which area shall not be included as *floor area*.

(3) Bay window:

A bay window may project a maximum of 4'-0" from a *required street wall* over a *grade level setback*; and each may have a maximum length of 12'-0".

(f) *Expression band*: shall be provided at the highest *base* floor.

(g) Other permitted projections: elements which project beyond the *street line* from a *required street wall* shall comply with the Building Code.

(1) Architectural facade elements such as *expression bands*, cornices; eaves, gutters, and downspouts may project from a *required street wall* over a *grade level setback* by a maximum depth of 3'-0".

(2) Steps and ramps may project from a *required street wall* over a *grade level setback* by a maximum depth of 5'-0".

(3) *Marquees, canopies and awnings:* see Section 3.5.3.

(4) *Retail storefronts:* may project from a *required street wall* over a *grade level setback* by a maximum depth of 5'-0". The maximum height of these projections for each *parcel* shall not exceed two *stories* or 23'-0" above *curb level*, whichever is less.

3.4.4 Other *base street walls*

Building *base street walls* which are not *required street walls* and occur on *streets*, *publicly accessible private pedestrian space* or parks are treated as follows:

(a) Other *base street wall* occurring on a *street*:

(1) *Base street wall* located within 15' or less from the *street line*: on each *street line* 50% of the *base street wall* located within 15' or less from the *street line* shall comply with the regulations for a *required street wall* Section 3.4.3 except subsection (b); and the dimension of the initial setback need not exceed the depth indicated for its *height control line*.

(2) *Base street wall* located more than 15' from the *street line*: on all *residential parcels*, where no building wall occurs within more than 15' from the *street line*, decorative fencing with a minimum 5'-0" depth of landscaping (*grade level setback*) shall be required at the *street line* to define the pedestrian environment, except on *parcel* 10. Refer to Figure III-7.2, Grade Level Controls - Fencing at Residential Setbacks. The *base street wall* shall be integral with adjacent raised planter and building architecture.

(b) Other *base street wall* occurring on a *publicly accessible private pedestrian space* or park: shall comply with the regulations for a *required street wall* Section 3.4.3 except subsection (b) for a *waterfront street*; and the dimension of the initial setback need not exceed the depth indicated for its *height control line*.

3.4.5 *Tower* controls

For setback and articulation requirements refer to Figure III-6.(1-.2) Tower Controls.

(a) *Tower* location: on *residential parcels*, a *tower* 160' or greater in height above *curb level* shall be located with its equal or longer dimension parallel to the east-west *streets*, except for *parcels* 2, 18, 19 and 20.

(b) Setbacks and articulation of *tower* walls and crown:

(1) Type A *tower*:

- There shall be a minimum of three (3) setbacks occurring on all *tower* walls of a minimum depth of 5'-0" each and a minimum length of 40' each. One setback shall occur within the lower 1/3 of the *tower* and two setbacks shall occur within the upper 1/3 of the *tower*.
- 20% minimum required articulation of *tower* wall.
- Distinctive *tower* profile and lighting required at the highest three (3) floors and rooftop mechanical equipment enclosures (see Section 3.9.3

Lighting).

(2) Type B *tower*:

- There shall be a minimum of three (3) setbacks occurring on all *tower* walls of a minimum depth of 5'-0" each and a minimum length of 50' each. One setback shall occur within the lower 1/3 of the *tower* and two setbacks shall occur within the upper 1/3 of the *tower*.
- 10% minimum required articulation of *tower* wall.
- Distinctive *tower* profile and lighting required at the highest three (3) floors and rooftop mechanical equipment enclosures (see Section 3.9.3 Lighting).

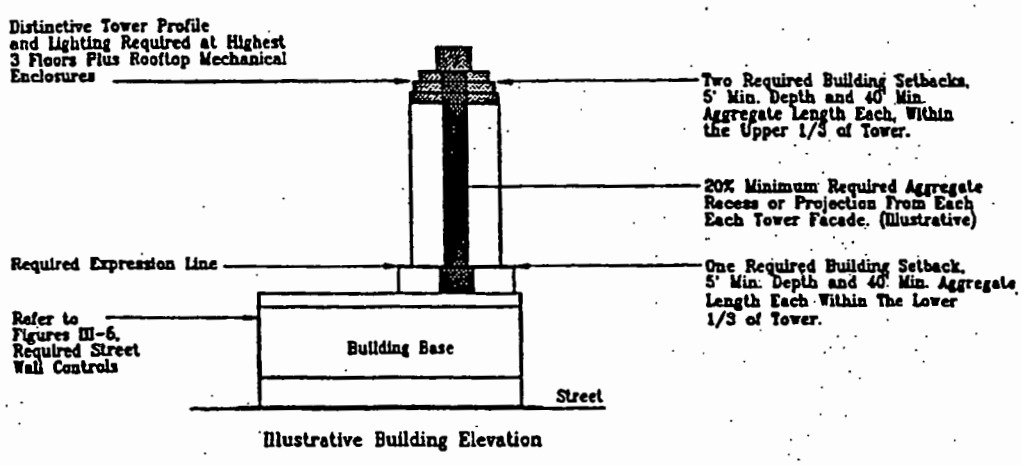
(3) Type C *tower*:

- For *towers* 220' and more in height above *curb level*: there shall be a minimum of two (2) setbacks occurring on all *tower* walls of a minimum depth of 5'-0" each and a minimum length of 40' each.
- For *towers* between 130' and under 220' in height above *curb level*: there shall be a minimum of one (1) setback occurring on all *tower* walls of a minimum depth of 5'-0" each and a minimum length of 40' each.
- 10% minimum required articulation of *tower* wall.
- Distinctive *tower* crown and lantern lighting required at the highest two (2) floors and rooftop mechanical equipment enclosures (see Section 3.9.3 Lighting).

(4) All other *towers*:

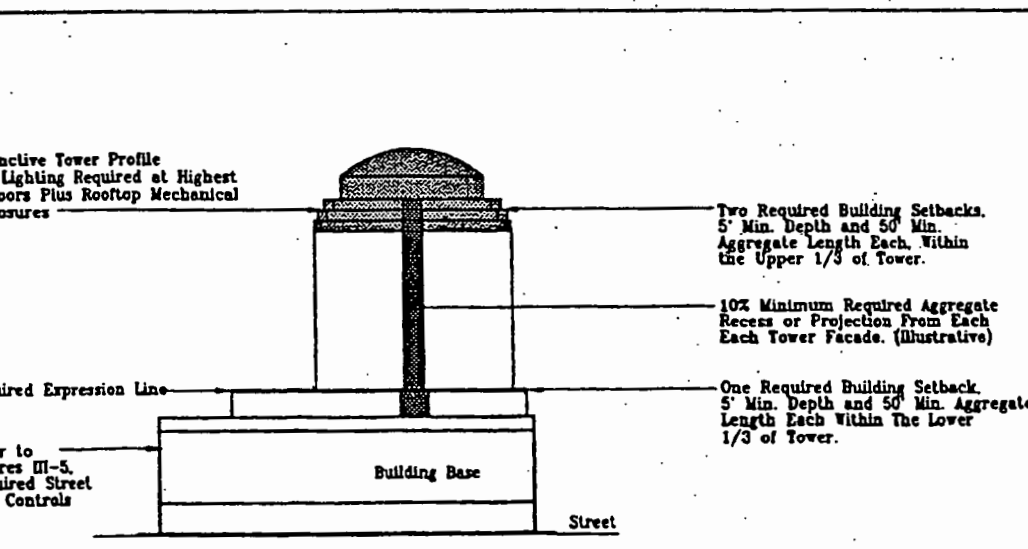
- For *towers* 220' and more in height above *curb level*: there shall be a minimum of two (2) setbacks occurring on all *tower* walls of a minimum depth of 5'-0" each and a minimum length of 40' each.
- For *towers* between 130' and under 220' in height above *curb level*: there shall be a minimum of one (1) setback occurring on all *tower* walls of a minimum depth of 5'-0" each and a minimum length of 40' each.
- Articulation of *tower* wall permitted.
- Distinctive *tower* crown and lighting permitted but not required at the highest one (1) *story* and rooftop mechanical equipment enclosure of a

building *tower* (see Section 3.9.3 Lighting).



Illustrative Building Elevation

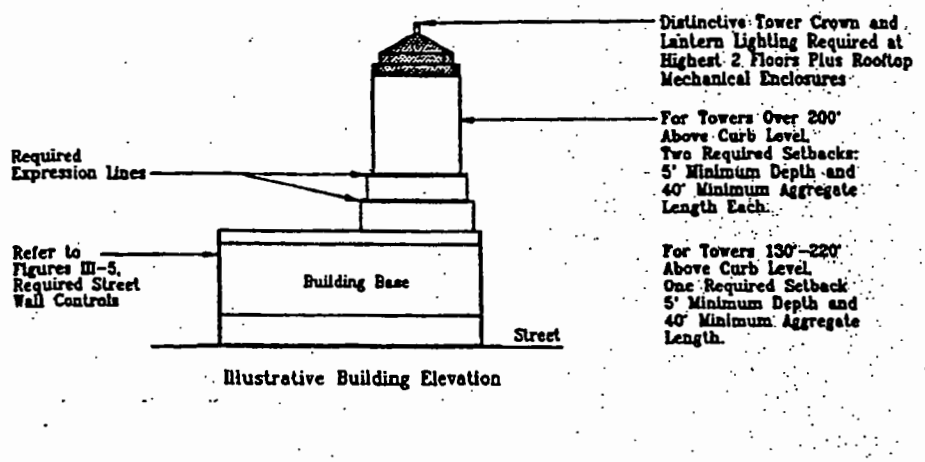
Tower Controls
Type A Tower



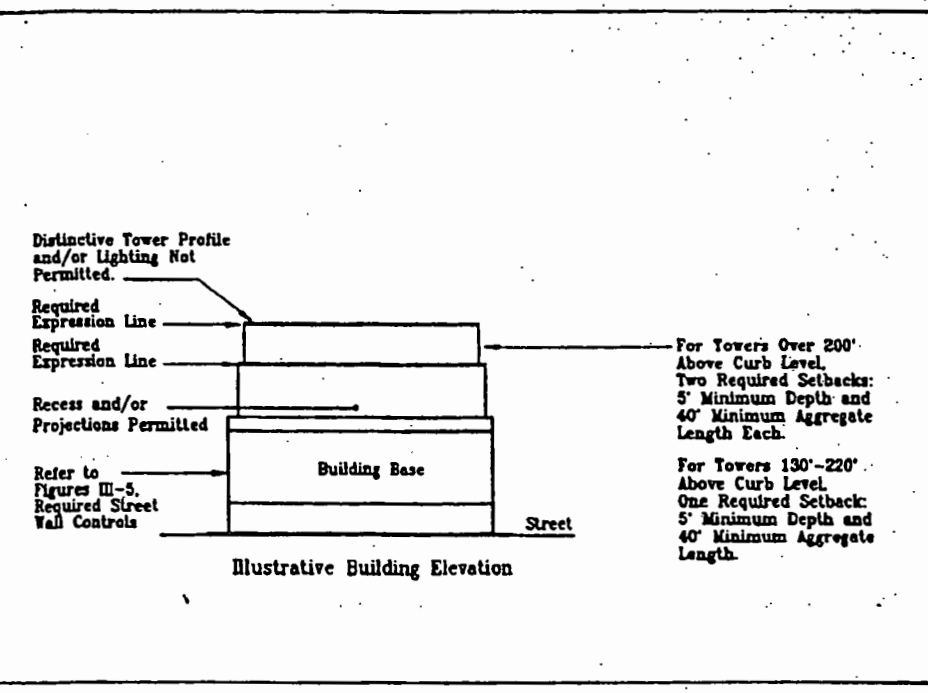
Illustrative Building Elevation

Tower Controls
Type B Tower

Figure III-6.1



Tower Controls
Type C Tower



Tower Controls
All Other Buildings

Figure III-6.2

(c) Types of permitted articulation of a *tower* wall:

(1) Balconies:

- Balconies may project a maximum of 5'-0" from a *tower* wall and each have a maximum length of 12'-0";
- If the balcony is enclosed less than 40% by building walls, the balcony shall be enclosed by a solid masonry parapet not exceeding 2'-6" in height and a rail to 3'-8" in total height; if the balcony is enclosed 40% or more by building walls, the balcony may be enclosed by a railing not less than 50% open and not exceeding 4'-6" in height.

(2) Bay windows: may project a maximum of 5'-0" from a *tower* wall and each have a maximum length of 12'-0".

(d) *Expression line*: shall be provided at each setback.

3.4.6 Minimum distance between windows and walls

The minimum horizontal distance between a *legally required window* and any wall opposite such window shall be 30'-0", nor shall any such wall be nearer to such window than a distance equal to one-half the total height of such wall above the sill level of such window. Such minimum distance need not exceed 60'-0". Such minimum distance shall be measured in a horizontal plane at the sill level of, and perpendicular to, the *legally required window* for the full width of the rough window opening, between such window and such wall.

3.5 ARCHITECTURAL ELEMENTS

3.5.1 Building materials and color

These Design Guidelines define the general design objectives for the material and color of distinct portions of the buildings and prescribe the treatment required for buildings on both *residential* and *commercial parcels* according to the type of adjacent *street*.

(a) *Boulevard street*:

(1) The lesser of 2 *stories* or 23' above *curb level*: shall be of a light colored stone and/or masonry, with a 30' minimum return on a *primary street*; within this zone a minimum of 50% of the non-fenestrated area shall be stone including a minimum of 2'-0" high stone plinth provided at grade.

(2) *Base*: above the lesser of 2 *stories* or 23' above *curb level* to the initial setback, the *base* shall be a warm earth tone color in stone, masonry, tile, and/or precast concrete. Metal panels or spandrel glass shall not be permitted except as a component of the fenestration and shall not exceed 60% of facade area. Reflective glass and deeply tinted glass shall not be permitted.

(3) *Expression band:* shall be provided at the highest *story* within the *base*.

(4) *Tower:* shall be a light earth tone color in stone, masonry, tile, and/or precast concrete. Metal panels or spandrel glass shall not be permitted except as a component of the fenestration. Reflective glass and deeply tinted glass shall not be permitted.

(5) *Expression line:* shall be provided at all setbacks in the *tower*.

(6) Rooftop mechanical equipment: shall be screened with materials and design consistent with the building architecture; see Section 3.4.5 (d) Tower crown.

(b) ***Waterfront street***: same as *primary street*.

(c) ***Primary street***:

(1) The lesser of 1 *story* or 15' above *curb level*: shall be of a light colored stone and/or masonry.

(2) *Base:* above the lesser of 1 *story* or 15' above *curb level* to the initial setback, the *base* shall be a warm earth tone color in stone, masonry, tile, and/or precast concrete. Metal panels or spandrel glass shall not be permitted except as a component of the fenestration and shall not exceed 60% of facade area. Reflective glass and deeply tinted glass shall not be permitted.

(3) *Expression line:* shall be provided at the highest *story* within the *base* and at all setbacks in the *tower*.

(4) *Tower:* shall be a light earth tone color in stone, masonry, tile, and/or precast concrete. Metal panels or spandrel glass shall not be permitted except as a component of the fenestration. Reflective glass and deeply tinted glass shall not be permitted.

(5) Rooftop mechanical equipment: shall be screened with materials and design consistent with the building architecture; see Section 3.4.5 (d) Tower crown.

(d) ***Secondary street***: same as *primary street*, except that the lesser of 2 *stories* or 23' above *curb level* shall be of a light colored stone and/or masonry.

(e) **Exceptions:** on *parcels* 2, 10, 13, 15 and 19 the color and material of the *tower* shaft may be continued to grade.

3.5.2 Grade level controls

(a) **Ground floor height:** minimum 12'-0" height floor to ceiling.

(b) **Ground floor glazing:** when any building wall adjoins a *street line* or *grade level*

setback, at least 25% of the total surface area of such wall between *curb level* and 12'-0" above *curb level* or to the ceiling of the ground floor, whichever is higher, shall be transparent. Door or window openings or unglazed openings within such walls shall be considered as transparent. Such openings shall have a minimum width of 2'-0". The lowest point of any transparency that is provided to satisfy the requirements of this section shall not be higher than 4'-0" above the *curb level*. *Retail storefront* ground floor glazing requires at least 50% transparency.

In addition, any portion of such building wall, 50' or more in length, which contains no transparent elements between *curb level* and 12' above *curb level* or the ceiling of the ground floor, whichever is higher, or to its full height, shall be covered with vines or similar planting or contain art work or be treated so as to provide visual relief. Design review and approval by QWDC is required of art work.

(c) **Building entrance:** see Section 3.5.3 *marquees, canopies, awnings*; Section 3.7.2 *building entrance zones*; Section 3.9.2 for signage controls, and Section 3.9.3 for lighting controls.

(d) Service and refuse: refer to Section 3.11.3A Central Garbage Collection & Recycling

(1) *Residential parcels:* all refuse, except materials to be recycled, shall be mechanically compacted in accordance with applicable law. The storage of refuse shall occur entirely within an enclosed area on the *parcel* and appropriate locations within the *parcel* shall be delineated for this purpose: at least one for *residential* use and one for *community facility* and *retail* uses. Developments shall store compacted refuse in an on-site container acceptable to the Department of Sanitation. Each *parcel* shall have a minimum of one on-site loading berth; refer to Section 3.6.2 Loading.

A refuse disposal room meeting ADA requirements for access, shall be provided on each *story* that has a corridor with two (2) or more entrances to apartments. At least 2 square feet of the door to the disposal room shall be transparent. The refuse disposal room shall contain two vertical chutes and two containers and shelf space for the storage of recyclable materials. One vertical chute shall be for garbage to be deposited by each tenant on each floor; the second vertical chute shall be used for recyclables to be loaded by building personnel via key operated chute door. Each such refuse storage room and the central refuse storage and disposal room on each *parcel* shall be excluded from the definition of *floor area*.

(2) *Commercial parcels:* shall provide refuse storage areas within the building of a size sufficient for that development to ensure that refuse is stored and loaded off-street. Refuse storage areas shall be directly and conveniently accessible to a curb cut; refer to Section 3.6.2 Loading.

(e) *Retail storefronts*: refer to Section 3.10 Retail Design Guidelines.

3.5.3 ***Marquees, canopies, awnings***

(a) **Location by use:**

(1) *Residential use:* ***marquee*** or ***canopy*** shall be provided at the primary building entrance; ***canopy*** or ***awning*** is permitted at secondary entrances; refer to Figure III-7.1, Grade Level Controls at Residential Parcels.

(2) *Community facility use* and professional office: ***canopy*** or ***awning*** is permitted.

(3) *Commercial use:* ***marquees*** or ***canopies*** are discouraged and shall only be permitted for office use upon design review and approval by QWDC; ***marquees*** or ***canopies*** shall be permitted for ***hotel*** use. ***Awnings*** shall be permitted for ***retail*** use; refer to Figures III-20(.1-.2), Storefront Controls.

(b) ***Marquees*****:** 10'-0" minimum clear height shall be provided above the sidewalk; 2'-0" minimum horizontal distance from face of curb. Maximum width permitted of a ***marquee*** is 30'.

(1) *Boulevard street:* permitted to a maximum height of 20' above ***curb level.***

(2) *Waterfront, primary and secondary streets:* permitted to the height of the lesser of 1 ***story*** or 15' above ***curb level.***

(c) ***Canopies, awnings*****:** 8'-0" minimum clear height shall be provided above the sidewalk; 2'-0" minimum horizontal distance from face of curb. Maximum continuous length permitted is 15', with a minimum of 2'-0" spacing between ***awnings.***

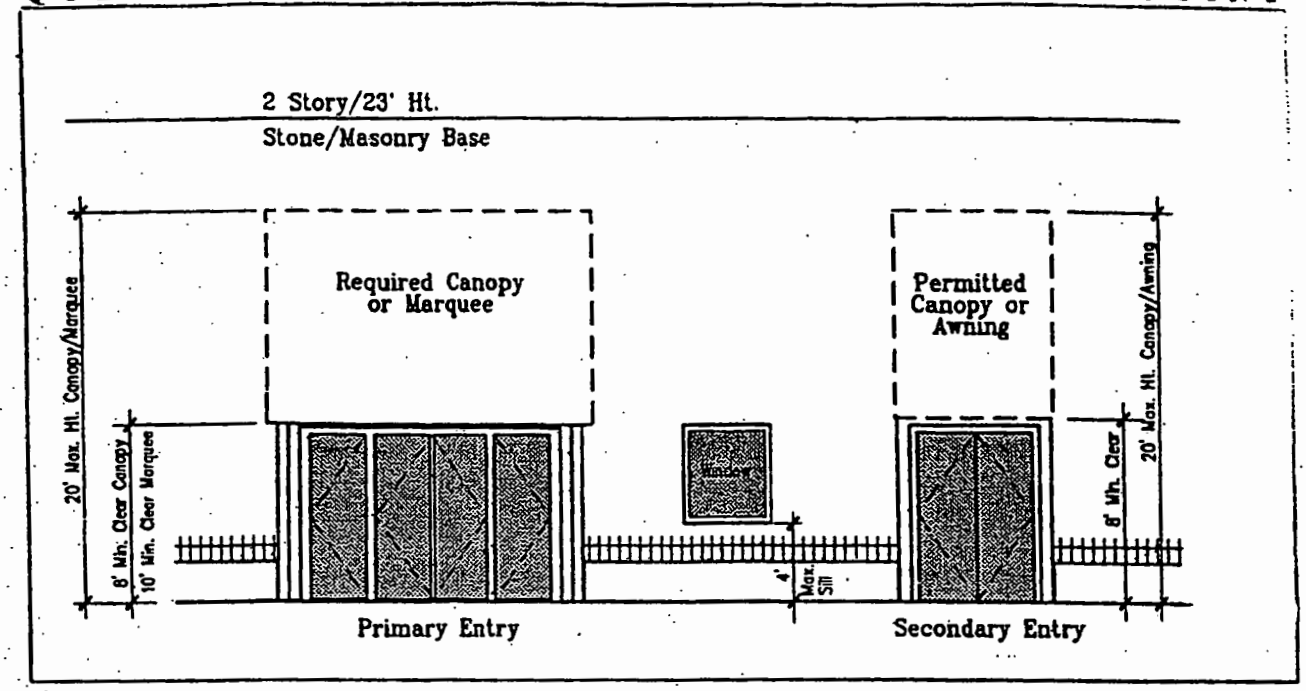
(1) *Boulevard street:* permitted to a maximum height of 20' above ***curb level.***

(2) *Waterfront, primary and secondary streets:* permitted to the height of the lesser of 1 ***story*** or 15' above ***curb level.***

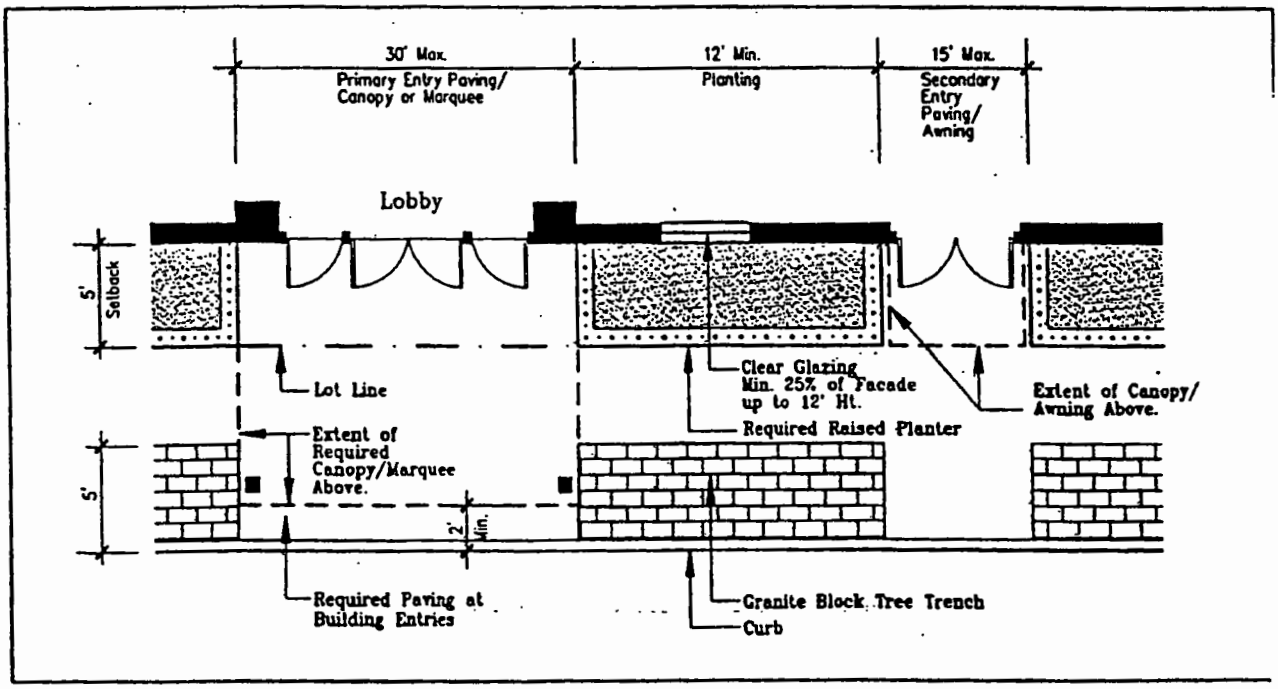
3.5.4 **Fenestration**

(a) **Windows:** refer to Section 3.11.1C Glazing

(b) **Louvers, wall openings:** shall be designed to integrate with building architecture. Maximum uninterrupted louver or grille permitted is 8'-0" in height and 8'-0" in width.

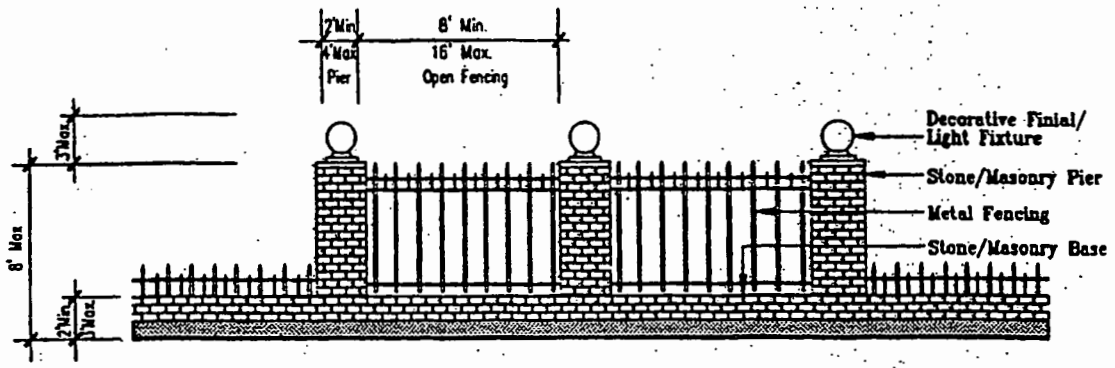


Grade Level Controls at Residential Parcels
Elevation



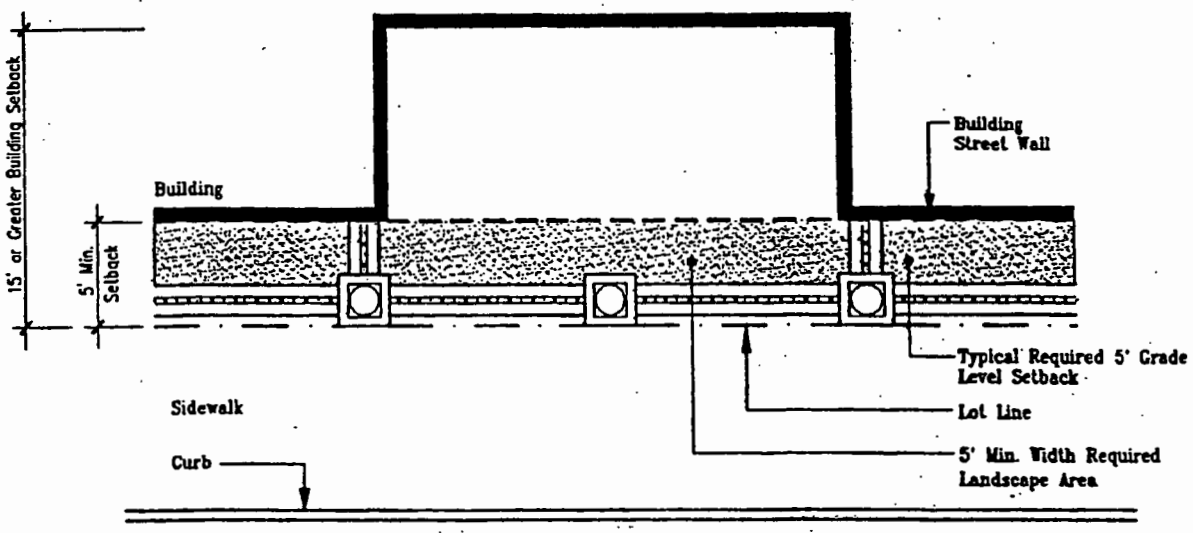
Grade Level Controls at Residential Parcels
Plan

Figure III-7.1



Note: Required at Lot Line When a Residential Building's Streetwall Setback is 15' or Greater.

Grade Level Controls - Fencing at Residential Setbacks
Elevation



Grade Level Controls - Fencing at Residential Setbacks
Plan

Figure III-7.2

0 4 8

3.5.5 Rooftops and setbacks

(a) General requirements:

(1) Rooftops and setbacks are highly visible and provide a significant amenity. They shall be designed with consideration for use and to be visually attractive when viewed from locations adjacent and above.

(2) For rooftops to be developed as usable outdoor area, refer to requirements specified under *private open space*, Section 3.8.2.

(3) All other roof surfaces and setbacks shall provide surface materials which are not reflective or high contrast colors. All obtrusive features such as vents, bulkheads and cooling units shall be minimized and finished in materials which are compatible in color and interest to the surrounding building surfaces.

(b) Rooftops and setbacks adjacent to *residential* units:

(1) Rooftops and setbacks exceeding 50 square feet shall be finished with materials suitable for use and landscaping.

(2) Paving materials shall be durable; slope of surface shall not exceed 3%.

(3) Waterproof electrical outlets and exterior water source shall be provided for each residential unit or at 50' intervals if a single unit abuts a rooftop or setback greater than 50' in length.

3.5.6 Parapets, handrails, roof mechanical equipment screening

(a) Parapets and handrails: if part of an *expression band* or *expression line*, shall be finished in a distinctive manner.

(b) Roof mechanical equipment: shall be screened; materials and design to be consistent with the building architecture.

3.6 PARKING AND LOADING

3.6.1 Parking

For the purpose of calculating the number of required or permitted parking spaces, any fraction of a space 50% or more shall be counted as an additional space.

(a) Required *accessory* off-street parking spaces:

(1) *Residential use:* the number of required *accessory* off-street parking spaces shall be 60% of the number of apartments contained on a *parcel*, to a project wide minimum total of 3,830 spaces. The required parking spaces for *parcels*

1, 3, 4, 5, 6, 8 and 19 may, with approval of QWDC, be located on another *residential parcel*. All such *accessory* off-street parking spaces shall be used primarily by the occupants of the *residential* development.

(2) Transient hotels: the number of required *accessory* off-street parking spaces shall be 50% of the number of *hotel* rooms, to a project wide maximum total of 175 spaces. The required parking spaces for *parcel* 12 may, with approval of QWDC, be located on *parcel* 13. All such *accessory* parking spaces shall be used primarily for the personnel, guests and occupants of the *transient hotel*.

(3) *Commercial use*: the number of required *accessory* off-street parking spaces shall be 1 space per 1,500 square feet of office *commercial floor area*, to a project wide maximum total of 1,333 spaces. The required parking spaces for *parcel* 14 may, with approval of QWDC, be located on *parcels* 13 and/or 15.

(4) *Community facility, retail uses*: none.

(5) Required *accessory* off-street parking spaces per *parcel*: shall be equal to the number listed in Table III-A, Summary of Program, Bulk and Use Controls. All *accessory* off-street parking spaces shall be located within a completely enclosed building.

(b) **Permitted *accessory* off-street parking spaces for *residential use*:** the number of permitted *accessory* off-street parking spaces shall not exceed 100% of the number of apartments contained in a *parcel*. All such *accessory* off-street parking spaces shall be used primarily by the occupants of the *residential* development, including the tenants and employees of the *community facility* and *retail uses*. Valet parking is encouraged in order to keep the size of the parking garage to a minimum.

(c) **Additional regulations for required and permitted *accessory* off-street parking spaces:**

(1) Location of *accessory* off-street spaces: may be located on the same *parcel* as the use to which they are *accessory*, or if off-site, within 1,000' of the nearest *lot line* of such *parcel*.

(2) Location of access to the *street*: the entrances and exits to all *accessory* off-street parking spaces shall not be located within 50' of the intersection of any two *street lines*. The entrances and exits to all *accessory* off-street parking spaces shall not be located on Center Boulevard or East River Road.

(3) Vehicular entrances and exits: a minimum of two separate vehicular entrances and exits shall be provided for each parking garage, located not less than 25' apart.

(4) Reservoir space: shall be provided outside the point of control at the entrance to accommodate a minimum of 5% of the total parking spaces on the *parcel*,

but in no event shall such reservoir space be required for more than 20 automobiles on *residential parcels*.

(5) Excluded from *floor area*: the gross unobstructed surface area of an *accessory* group parking facility including stalls, aisles, driveways, maneuvering areas and reservoir space shall be excluded from *floor area*.

(6) Dimensions: except as noted, the dimensions of a parking stall shall be not less than 18' by 8'-6". A limited number of spaces, not to exceed 5% of the total required spaces, may be permitted by QWDC for designated "small car" use.

(7) Screening: all parking spaces shall be screened from all adjoining *streets* by a wall which is not more than 50% open. Openings must have louvers or visual screening devises. The wall may be interrupted by normal entrance or exit doors. See Section 3.9.2 for signage and Section 3.9.3 for lighting controls.

- Entrances and exits shall be a maximum width of 25' and a maximum height of 15' above grade level;
- 50% minimum enclosed stone/masonry facade integrated with the adjacent building facade on the *parcel*; sloping garage floors shall not be expressed on the building facade; and
- Openings shall reflect the scale and proportion of the adjacent building fenestration on the *parcel*.

(d) **Restrictions on operation of *accessory* off-street parking spaces on *residential parcels*:** spaces shall be designed and operated primarily for the long-term storage of the private passenger motor vehicles used by the occupants of the *residential use* and by the tenants or employees of the *community facility* or *retail uses*. However, such spaces may be rented for periods of not less than one week and not more than one month to persons who are not occupants of the *residential use* or tenants or employees of the *community facility* or *retail uses* provided that such spaces are made available to the occupants of the uses to which they are *accessory* within 30 days after written request therefor is made to the landlord.

3.6.2 Loading

(a) **Required *accessory* off-street loading berths:** the minimum number of required *accessory* off-street loading berths per *parcel* shall equal the number listed in Table III-A, Summary of Program, Bulk and Use Controls. The required loading berths for *parcels* 12 and 14 may, with approval of QWDC, be located on the adjacent *parcels* 13 and/or 15. All *accessory* off-street loading berths shall be located within a completely enclosed building.

(b) **Permitted *accessory* off-street loading berths:** the number of permitted *accessory* off-street loading berths on *parcels* 1-11 and 17-20 shall not exceed two (2) per *parcel*.

(c) **Additional regulations for required and permitted *accessory* off-street loading berths:**

(1) Location of *accessory* off-street loading berths: may be located on the same *parcel* as the use to which they are *accessory*, or if off-site, within 1,000' of the nearest *lot line* of such *parcel*.

(2) Location of access to the *street*: the entrances and exits to all *accessory* off-street loading berths shall not be located within 50' of the intersection of any two *street lines*. The entrances and exits to all *accessory* off-street loading berths shall not be located on Center Boulevard or East River Road.

(3) Excluded from *floor area*: the gross unobstructed surface area of *accessory* loading berths including stalls, driveways and maneuvering areas shall be excluded from *floor area*.

(4) Dimensions: in no event shall the dimensions of any loading berth be less than 33' long by 12' wide by 14' high.

(5) Screening: all loading berths shall be screened from all adjoining *streets* by a wall which is not more than 50% open. Openings must have louvers or visual screening devises. The wall may be interrupted by normal entrance or exit doors. Refer to Section 3.9.2 for signage and Section 3.9.3 for lighting controls.

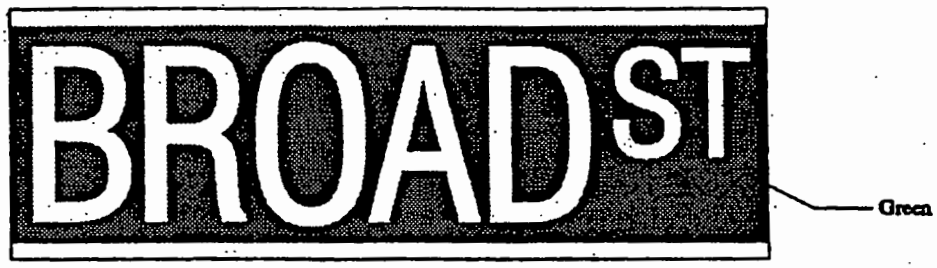
- Entrances and exits shall be a maximum width of 25' and a maximum height of 15' above grade level;
- 50% minimum enclosed facade integrated with the adjacent building facade on the *parcel*; and
- Openings shall reflect the scale and proportion of the adjacent building fenestration on the *parcel*.

3.7 CIRCULATION

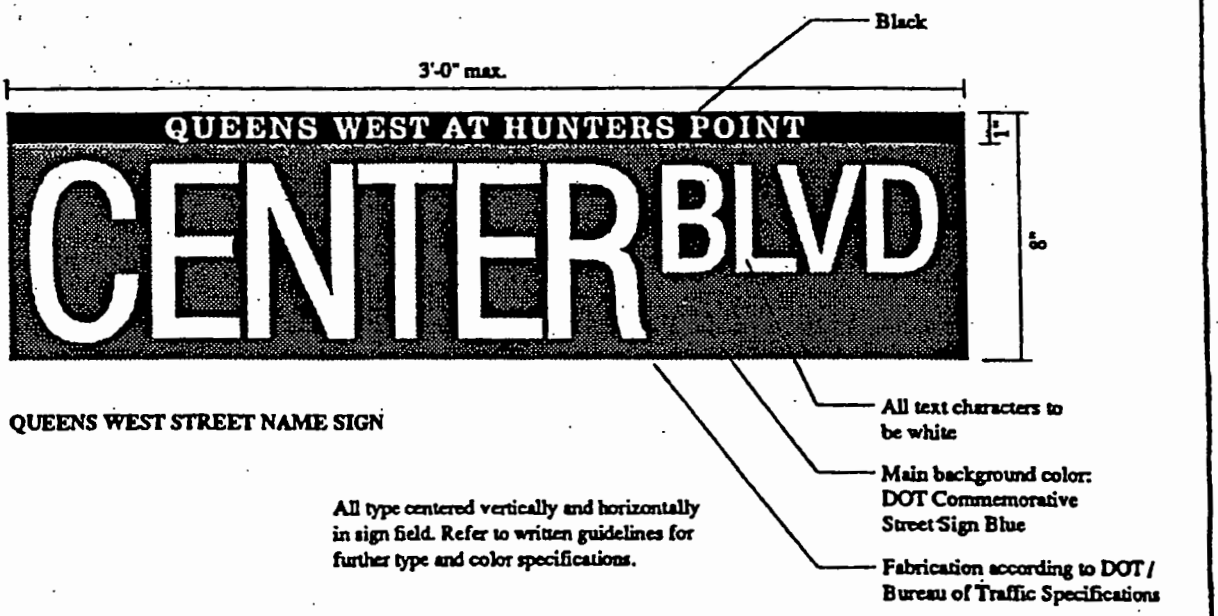
As indicated in Figure III-8(.1-.4), Circulation Controls (modified version of Attachment 5 from the GPP), the location of curb cuts on each *parcel* are controlled by *curb cut zones*, and the location of primary building entrances on each *parcel* are controlled by *building entrance zones*. The widths of all *streets* and sidewalks are shown for reference only.

3.7.1 *Curb cut zones*

To increase pedestrian safety and comfort, and to strengthen visual continuity, no curb cuts shall be permitted on Center Boulevard or East River Road, except that curb cuts shall be permitted on *parcel* 12 for off-street passenger vehicle loading only. The maximum width of a curb cut shall be 15' for one-way traffic and 25' for two-way traffic. A maximum of 3 curb



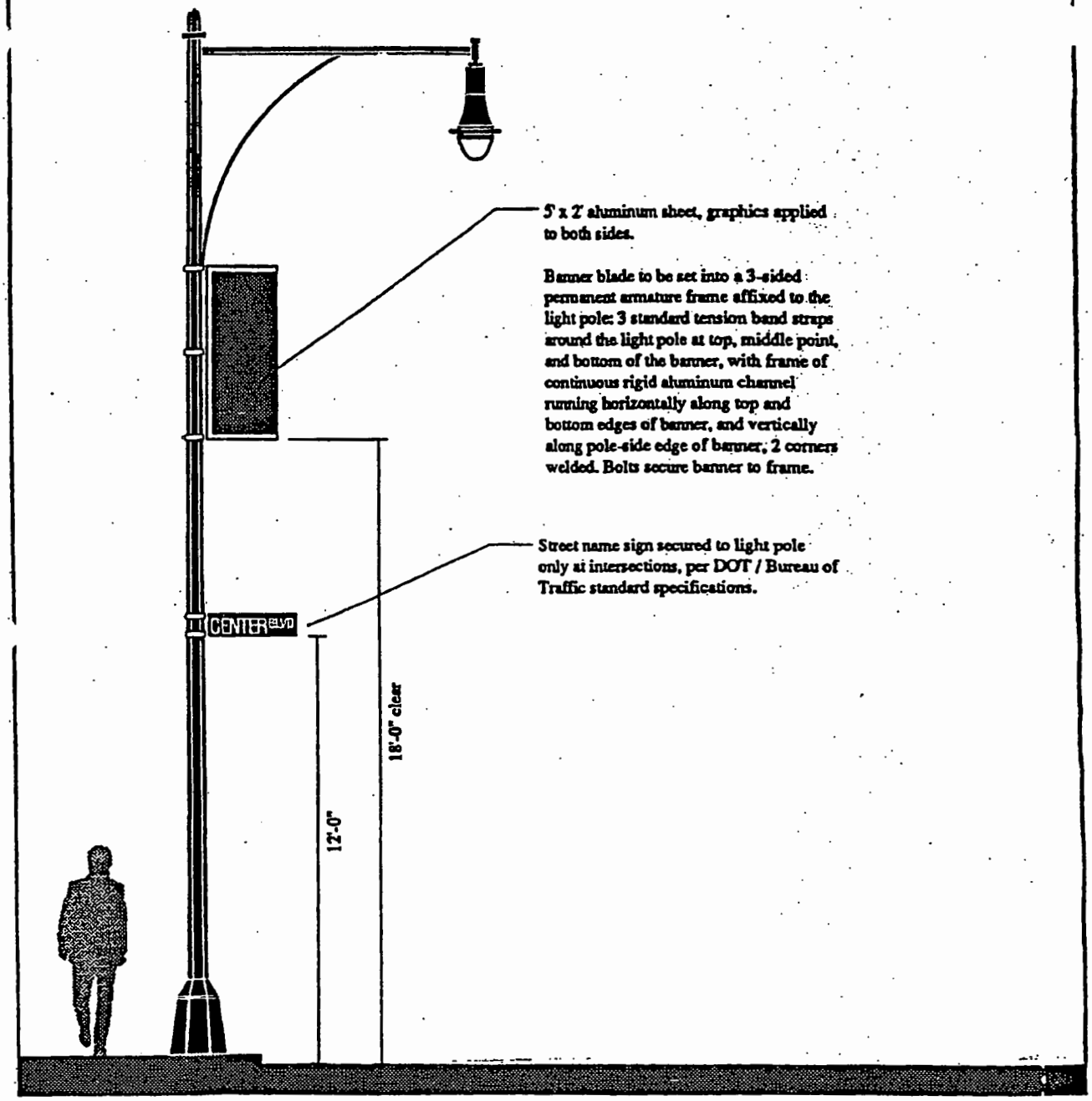
STANDARD STREET NAME SIGN
(Federal Manual on Uniform Traffic Control Devices)



QUEENS WEST STREET NAME SIGN

Streetscape Signage
Street Name Sign

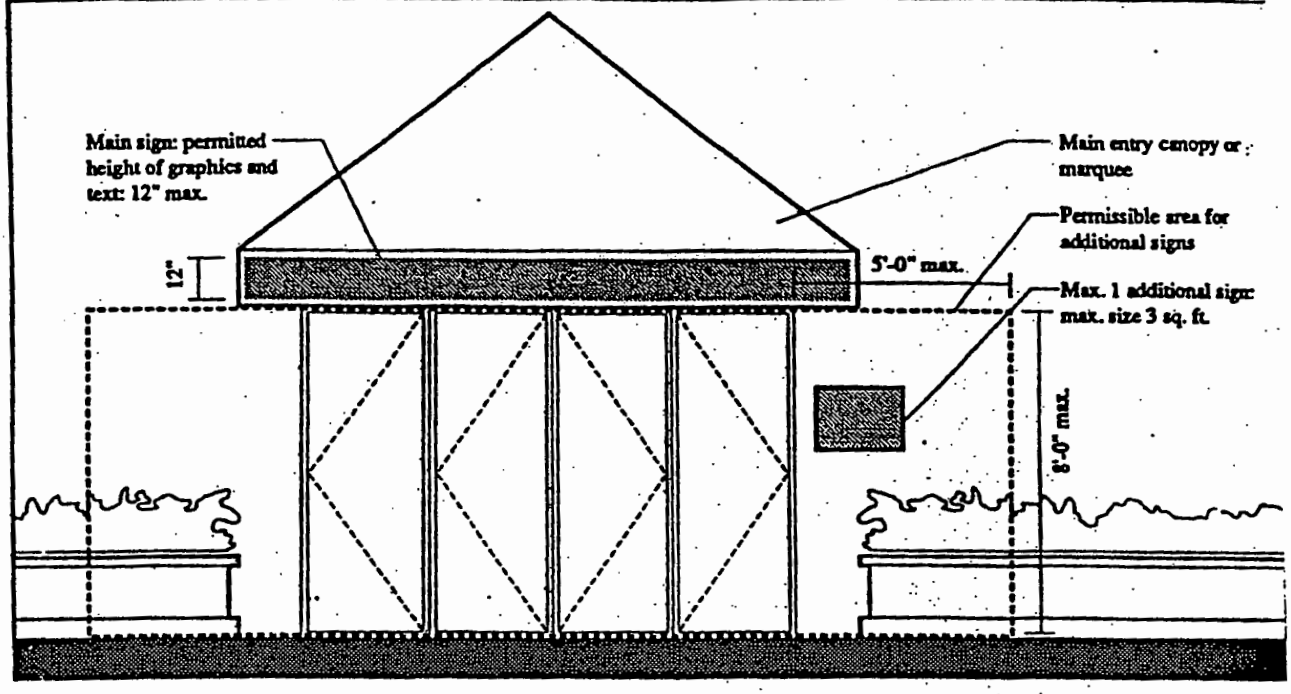
Figure III-17.1

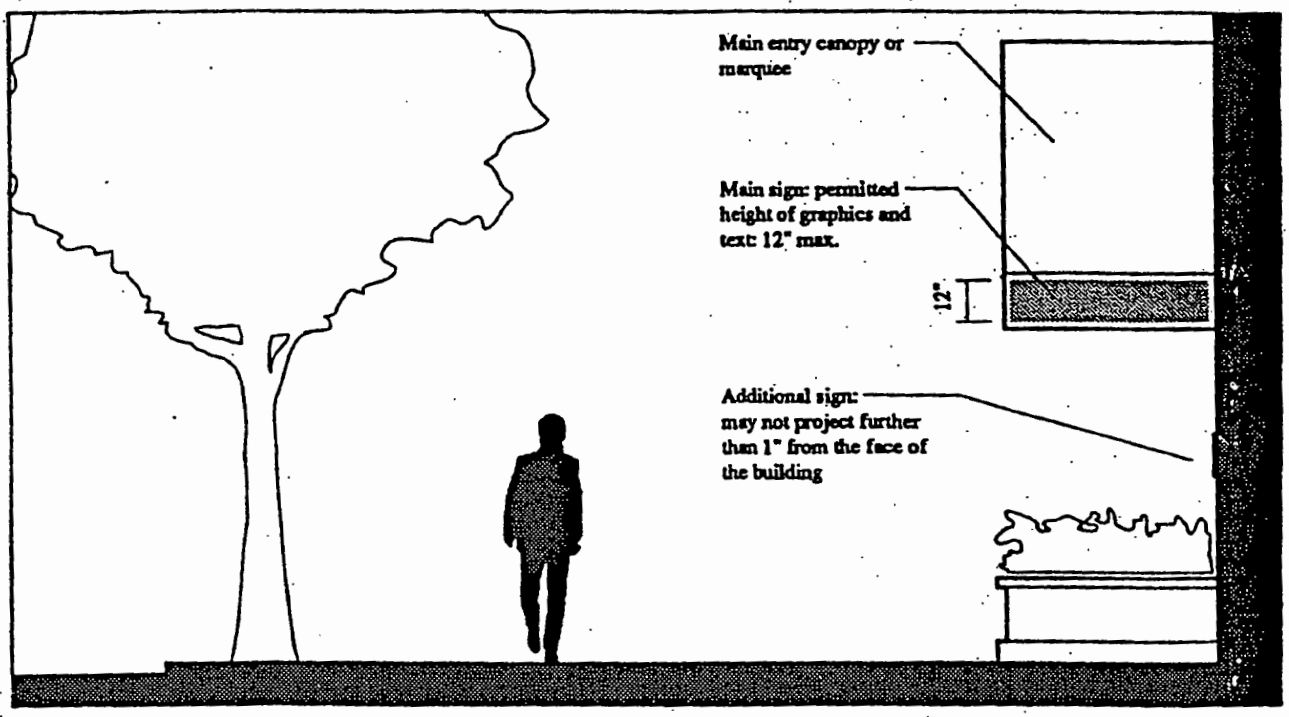


Streetscape Signage
Light Pole Banner

Figure III-17.2

0 2 4





Signage at Grade
Residential streetscape signage

Figure III-17.4

0 2 4

cuts are permitted per *curb cut zone*. These curb cut requirements shall be in addition to any other applicable City rules or regulations concerning driveway curb cuts. Where permitted, curb cuts are to be kept to a minimum size and number. For all *parcels*, no curb cuts shall be permitted within 50'-0" of the intersection of two *street lines*. For all specific locational requirements refer to Figure III-8(.1-.4), Circulation Controls. Refer to Section 3.9.1 Streets and Sidewalks (c) Curb Cuts for additional curb cut controls.

(a) **Parking access:** see Section 3.6.1.

(b) **Service access:** service access for *retail* use in predominantly *residential* developments shall be restricted to the *primary streets* not less than 50' from the intersection of Center Boulevard on *parcels* 1-9, except that *parcel* 9 may also have service access in the area within the *curb cut zone* on 5th Street. Service access for *retail* use on *parcel* 10 is limited to the area within the *curb cut zone* on 49th Avenue. Service access for *retail* and office use on *parcels* 12-15 is limited to the area within the *curb cut zone* on 2nd Street. Service access for *retail* use on *parcel* 17 is limited to the area within the *curb cut zone* on 2nd Street.

3.7.2 *Building entrance zones*

For all specific locational requirements refer to Figure III-8(.1-.4), Circulation Controls. On *residential parcels*, in addition to the building's primary entrance located within a specified *building entrance zone*, there shall be a minimum of one secondary entrance every 50' of building frontage on *waterfront* and *primary streets* except 5th Street. See Section 3.5.3 *marquees, canopies, awnings;* Section 3.9.2 for signage controls, and Section 3.9.3 for lighting controls.

3.8 *OPEN SPACE*

In addition to the mapped parks extending along the entire water's edge of the project, parks adjacent to *parcels* 4 and 5, and adjacent to 48th Avenue, *open space* shall be provided on the development *parcels* as indicated in Figure III-9(.1-.4), Open Space Controls, and Figure III-10(.1-.2), Grade Level Setback, consisting of *grade level setbacks*, *private open space* and *publicly accessible private pedestrian space*.

3.8.1 *Grade level setback*

A required building setback of 5'-0" minimum depth defined by the *street line* and *height control line*. *Grade level setbacks* occur on *residential parcels* and on *parcels* 12 and 14.

(a) **Design intent:** on *residential parcels* the purpose of a *grade level setback* is to provide a landscape amenity, accentuate the low scale character and punctuate the rhythm of entries with projecting raised planting areas. On *commercial parcels*, the *grade level setback* shall be a continuation of the sidewalk.

(b) **Materials:**

(1) Raised planters shall be faced on all exposed sides with stone or masonry compatible with the building facade materials.

(2) An ornamental metal railing shall be required and shall be embedded in the wall or coping. Railings shall be painted in a black or dark green color compatible with architectural features of the building.

(3) Plant material shall be selected for suitability to solar orientation, neat appearance, relationship to fenestration and seasonal diversity. The mature size of any plant shall not project more than 12" beyond the faces of the planter below a height of 10' above the adjacent sidewalk.

(c) **Dimensions:**

(1) Required overall width: 5'-0"

(2) Minimum wall height: 6"

(3) Maximum wall height: 2'-6"

(4) Maximum height including railing: 3'-6" except that if the *grade level setback* is more than 15'-0" in depth then the height may be 8'-0".

(5) Minimum soil depth: 4'-0"

(6) Minimum length of planter: 12'-0"

(d) **Permitted obstructions:** the following are permitted obstructions which may occur in the *grade level setback*: building entries, steps, ramps, balconies, bay windows, architectural facade details, *marquees*, *canopies*, *awnings*, and *retail storefronts*.

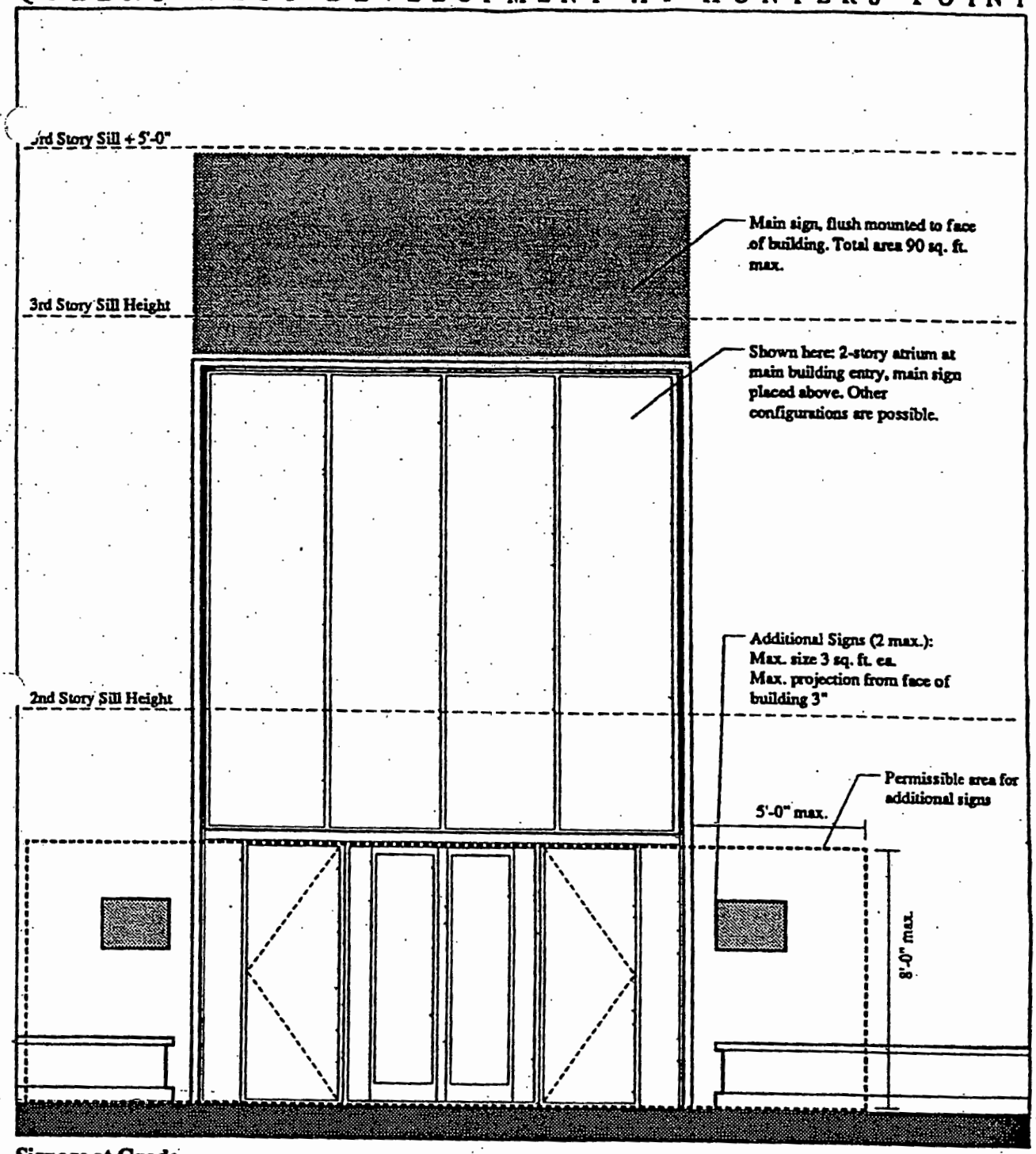
(e) **Other requirements:** each planted area shall have provision for proper drainage and shall be equipped with waterproof electrical outlets and exterior water sources at a maximum interval of 50' or a minimum of one in each setback area.

3.8.2 *Private open space*

(a) **Design intent:** a *private open space* is intended to be a "rear yard" providing light and air to apartments on the interior of a *parcel*; secure, primarily passive recreational *open space* for resident adults and play space for children; and to be visually attractive when viewed from apartments adjacent and above.

(b) **Size of *private open space*:**

(1) The minimum area of each *private open space* is listed in Table III-A, Summary of Program, Bulk and Use Controls by *parcel*. This area shall be developed for use as a landscaped amenity for building residents.



Signage at Grade
Commercial streetscape signage

Figure III-17.3

0 2 4

(2) To qualify as *private open space*, the area shall be primarily at one level, have no dimension less than 25', and be structurally designed to accommodate weight loads required for landscaping. (Note: must exceed NYC Building Code requirement of 40 lbs/sf).

(3) The landscaped area shall comprise a minimum of 50% of the total *private open space* square footage. The remaining area shall have a durable, attractive paved surface.

(c) **Location of *private open space*:**

(1) *Private open space* shall be located at grade or on any *story* above *curb level*. The roof of any portion of a building used for *accessory* parking or for any permitted non-*residential use* shall be considered as *private open space* if such roof-area:

- is not higher than 60' feet above *curb level*, and
- is at least two and one-half feet below the sill level of all *legally required windows* opening on such roof area.

(2) *Private open space* shall be open to the sky except that building projections, not to exceed 5'-0" in depth, may cover up to 10% of the outdoor recreation space provided that the lowest level of the projection is at least 10'-0" above the level of the *private open space*.

(d) **Access to *private open space*:**

(1) *Private open space* shall be directly accessible to all residents on the *parcel* through a lobby connecting to each elevator core. Such spaces shall be accessible to the handicapped. Ramps, elevators, corridors and doors shall be designed to accommodate wheelchairs.

(2) *Private open space* shall be accessible only from the *residential* portion of the building.

(3) At least 35% of each door to a *private open space* shall be transparent.

(4) A plaque, not less than one square foot in size, shall be mounted on a wall at a height of 5' above floor level at the entrance to each *private open space*. Such plaque shall include the following statement:

"This private open space is provided for the use of the residents of this building as required by QWDC."

(e) **Permitted obstructions:** the following are permitted obstructions which may occur in a *private open space*:

(1) Terraces, balconies, bay windows, architectural facade details, *accessory* non-commercial greenhouses, planting boxes, steps and ramps for access by the handicapped, vents, bulkheads or other mechanical equipment, projecting not more than 5'-0";

(2) Eaves, gutters, or downspouts projecting not more than 16";

(3) Arbors, trellises, fences, flag poles, *awnings* or *canopies*;

(4) Chimneys projecting not more than 3'-0"; and

(5) Recreational equipment.

(f) General requirements:

(1) For every twenty (20) apartments on the *parcel* one fixed seat with a back shall be provided in *private open space*.

(2) *Private open spaces* shall be separated from all apartments, and outdoor areas serving individual apartments, by a 4' high opaque fence, wall or year round screen of densely planted shrubs located at least 6' from a window or door of an apartment.

(3) Areas with play equipment for young children may be provided. Play areas shall not be located within 20' of a *residential* unit and shall be visually and acoustically buffered from *residential* units and other non-planted areas.

(4) Vents, bulkheads or other mechanical equipment penetrations shall be located so as not to obstruct access to and usefulness of the *private open space*. Surface finishes of projecting structures shall be finished with materials compatible with vertical building materials. No exhaust vents are permitted unless such intakes and vents are more than 10'-6" above the level of the *private open space*.

(g) Landscape requirements:

(1) The landscaped portion may be designed as a single area or multiple planted areas. The minimum size of a single planted area shall be 100 square feet.

(2) The minimum soil depths for planting are:

Trees:	36"
Shrubs:	30"
Lawns, ground cover:	18"

Each planted area shall have provision for proper drainage, and shall be equipped with automatic drip irrigation and waterproof electrical outlets.

(3) Planting requirements:

- For each 400 square feet of landscaped area there shall be at least one (1) major shade tree or two (2) minor trees.
- The remaining landscaped area(s) shall be planted with seasonally diverse plant material appropriate for rooftops. See Section 3.8.2 (h) Recommended plant material for rooftops, below.
- The landscaped area(s) shall be located such that they receive a minimum of 4 hours of direct sunlight as calculated on June 21.
- The landscaped areas shall be contained by durable planters to accommodate the requirements specified in (2) above. Planters may be designed with a coping to provide additional seating if the coping is minimum 12" wide and does not exceed 18" in height. Planters may also be partially recessed into roof slab provided the overall requirements of (2) above are met.

(h) Recommended plant material for rooftops: * denotes evergreen/semi-evergreen

(1) Trees

Acer ginnala	Amur Maple
Acer palmatum var.	Japanese Maple
Amelanchier canadensis	Shadblow
Betula spp.	Birch species
Cedrus atlantica var.*	Atlas Cedar
Cercis canadensis	Canadian Redbud
Crataegus spp.	Hawthorn species
Eleagnus angustifolia	Russian Olive
Hibiscus syriacus	Rose of Sharon
Juniperus chinensis var.*	Chinese Juniper
Juniperus virginiana*	Eastern Red Cedar
Malus spp.	Flowering Crab Apple species
Picea ssp*	Spruce
Pinus nigra ssp*	Pine
Prunus ssp.	Ornamental Cherry species
Ostrya virginiana	Hop Hornbeam

(2) Shrubs

Abelia grandiflora var.*	Flowering Abelia
Azalea spp.*	Azalea species
Caryopteris clandonensis	Blue beard
Chamaecyparis spp.*	False cypress species
Cornus spp.	Shrub Dogwood species
Corylus avellana var.	European Filbert
Cotoneaster spp.*	Cotoneaster species

Cytisus spp.	Broom species
Euonymous spp.*	Euonymous species
Forsythia spp.	Forsythia species
Hamamelis spp.	Witch Hazel species
Hydrangea spp.	Hydrangea species
Ilex spp.*	Holly species
Juniperus spp.*	Juniper species
Ligustrum spp.	Privet species
Lonicera spp.	Honeysuckle species
Pinus mugo*	Mugo Pine
Prunus laureocerasus*	Cherry Laurel species
Pyracantha coccinea var.*	Firethorn species
Rhododendron spp.*	Rhododendron species
Rosa spp.	Rose species
Spirea spp.	Spirea species
Taxus spp.*	Yew species
Thuja spp.*	Arborvitae species
Viburnum spp.	Viburnum species
Yucca spp.*	Yucca species

New York City is classified as Zone 6b by the U.S. Department of Agriculture in their revised Plant Hardiness Zone map of 1990. However, due to high winds and root exposure typically associated with rooftop plantings, it is advisable to select subspecies (ssp.) from the species lists which are hardy to Zone 5b or 6a.

For selection of groundcovers, grasses, perennials and annuals, the same considerations of wind tolerance, exposure to sun/shade and climate zone shall apply.

(i) **Furnishings:**

(1) Furnishings such as seating, tables, gazebos or other shade structures are encouraged. Furnishings may be movable or fixed. If fixed, they shall be oriented to provide maximum variety in relationship to planted areas, sun and shade.

(2) Surfacing beneath play equipment for young children shall comply with Federal safety standards and equipment shall be anchored in accordance with manufacturer's guidelines. Play equipment shall be such as is normally acceptable to the NYC Department of Parks as appropriate for child use.

(3) Provision for outdoor lighting: refer to Section 3.9.2.

3.8.3 *Publicly accessible private pedestrian space (PAPPS)*

A continuous area, located on privately owned land, designated for and designed to encourage public pedestrian circulation and other appropriate public uses. An application for design review and approval shall be filed with QWDC showing all the required features of the

proposed *PAPPS* as set forth herein.

(a) **Location and size requirements:**

(1) Parcel 8: a *PAPPS* of 15'-0" minimum width shall be provided along the entire western *lot line* of *parcel* 8 as the terminus of East River Road. Refer to Figure III-9.1 for location and dimension requirements.

(2) Parcel 10: a *PAPPS* of 12,000 square feet minimum shall be provided along the entire *lot line* of *parcel* 10 on Center Boulevard. Refer to Figure III-9.1 for location and dimension requirements.

(3) Parcel 12: a *PAPPS* of 45'-0" minimum width shall be provided on axis with and at the terminus of Borden Avenue. This space is intended to be the focus of public activity in the *commercial* area of the development. The *PAPPS* shall provide the public direct access from Center Boulevard to the park, as well as enhance the experience of the esplanade. In addition, a *PAPPS* of 25'-0" minimum width shall be provided along the entire western *lot line* of *parcel* 12, connecting to the *PAPPS* on *parcel* 14. Refer to Figure III-9.4 for location and dimension requirements.

(4) Parcel 14: a *PAPPS* of 25'-0" minimum width shall be provided along the entire western *lot line* of *parcel* 14, connecting to the *PAPPS* on *parcel* 12. Refer to Figure III-9.4 for location and dimension requirements.

(b) **Circulation and access:**

(1) Parcel 8: the *PAPPS* shall be open for use by the public at all times, with direct access from its entire frontage on 47th Road and south *lot line* and at least one point of its west *lot line* adjoining the park. The level of the *PAPPS* shall not at any point be more than 3'-6" above or below *curb level* of the nearest adjoining *street* and shall be coterminous with the ground floor elevation(s) of the adjacent portion of the *parcel* 8 building.

(2) Parcel 10: the *PAPPS* shall be open for use by the public at all times, with direct access from an adjoining public sidewalk along at least 50% of its total length of *street* frontage. The level of the *PAPPS* shall not at any point be more than 3'-6" above or below *curb level* of the nearest adjoining *street* and shall be coterminous with the ground floor elevation(s) of the adjacent portion of the *parcel* 10 building.

(3) Parcel 12: to be determined

(4) Parcel 14: to be determined

(c) **Standards of accessibility for the handicapped:** there shall be at least one path of travel to each of the following: the major portion of the *PAPPS*; any building lobby

accessible to the *PAPPS*; any use that may be present on, or adjacent to the *PAPPS*; and the following standards shall apply to assure access for handicapped persons:

(1) Such paths shall have a minimum width of 6'-0" free and clear of all obstructions.

(2) All ramps, stairs and public amenities shall conform to ADA standards.

(d) Planting and trees:

(1) Trees within a *PAPPS*: where trees are planted within a *PAPPS*, they shall measure at least 4" in caliper at the time of planting. They shall be planted in at least 200 cubic feet of soil with a depth of soil of at least 36", and be planted either with gratings flush to grade, or in a planting bed with a continuous area of at least 75 square feet exclusive of bounding walls, and at a maximum spacing of 25' apart. Where trees are planted in individual pits, the exposed surface area for gratings shall be a minimum of 25 square feet. If trees are at grade, they shall be a type suitable to be walked under, with first branches at 7' above the level of the *PAPPS*.

- *Parcel* 8: none permitted
- *Parcel* 10: one tree shall be provided for every 2,000 square feet or a fraction thereof.
- *Parcel* 12: to be determined
- *Parcel* 14: to be determined

(2) Planting: when planting beds are provided, they shall have a soil depth of at least 18" for grass or other ground cover, and 30" for shrubs.

(3) Other requirements: where planting beds or tree pits are over a below grade structure, provision for proper subsurface drainage shall be included. Exterior water source shall be provided at 100' intervals.

(e) Paving: the paving of the *PAPPS* shall be coordinated with the Gantry Plaza and shall be granite, partly or all of the same or compatible colors as the paving of the sidewalk area or Gantry Plaza adjacent to the *parcel*, creating sympathetic design patterns. Materials shall comply with ADA standards (i.e. skid resistance, joint widths, surface irregularities, etc.).

(f) Permitted obstructions:

(1) Permitted obstructions:

- *Parcel* 8: a *PAPPS* shall be unobstructed from its lowest level to the

sky except for the following permitted obstructions: arbors, trellises, benches, seats, litter receptacles; open air cafes; outdoor furniture; lights and lighting stanchions; public telephones; temporary exhibitions; balconies, bay windows; *awnings*, *canopies* and *marquees*; stairs, ramps and bollards.

- *Parcel* 10: a *PAPPS* shall be unobstructed from its lowest level to the sky except for the following permitted obstructions: any features, equipment, and appurtenances normally found in public parks and playgrounds, such as fountains and reflecting pools, waterfalls, sculptures and other works of art, arbors, trellises, benches, seats, trees, planting beds, litter receptacles, drinking fountains, and bicycle racks; open air cafes; kiosks, outdoor furniture; lights and lighting stanchions; flag poles; public telephones; temporary exhibitions; balconies, bay windows; *awnings*, *canopies* and *marquees*; stairs, ramps and bollards.

- *Parcel* 12: to be determined

- *Parcel* 14: to be determined

(2) Maximum percentage of permitted obstruction of *PAPPS*: the area of permitted obstruction shall be measured by outside dimensions. Obstructions that are non-permanent or moveable, such as moveable chairs or open air cafes, shall be confined within gross areas designated on the site plan, and not measured as individual pieces of furniture. Trees do not count as obstructions for the purpose of calculating total area occupied by permitted obstructions. Planting beds and their retaining walls count as obstructions.

- *Parcel* 8: 50%

- *Parcel* 10: 50%

- *Parcel* 12: to be determined

- *Parcel* 14: to be determined

(3) Kiosk: where a kiosk is provided, it shall be a one-story structure, predominantly of light materials, such as metal, glass, plastic, or fabric as approved by the Department of Buildings in conformance with the Building Code. Kiosks, including roofed areas, shall not exceed 3% of the total area of the *PAPPS* and no one kiosk shall occupy an area of more than 250 square feet. A kiosk may be freestanding or may be attached on only one side to a wall of the building. Any area occupied by a kiosk shall be excluded from the definition of *floor area*, and may be occupied by news or magazine stands, candy stands, food preparation for open air cafes, flower stands or public service/information booths.

Lighting and signage of kiosks shall conform to Section 3.10, Retail Guidelines.

(4) Open air cafe: where an open air cafe is provided it shall be an unenclosed restaurant or eating or drinking place, which may have waiter or table service, and is open to the sky except for permitted obstructions such as trees, arbors, *awnings* or *canopies*. An open air cafe shall be accessible from a minimum of two sides where there is a boundary with the remainder of the *PAPPS*. The boundary shall be defined by planters or temporary decorative barricades. Seating may be reserved for customers.

An open air cafe may occupy an aggregate area not more than 20% of the total area of the *PAPPS*. No cooking equipment shall be installed within an open air cafe. Cooking equipment may be contained in a kiosk adjoining the open air cafe.

An open air cafe qualifying as a permitted obstruction shall be excluded from the definition of *floor area*.

Lighting and signage of an open air cafe shall conform to Section 3.10, Retail Design Guidelines.

(5) Service through windows: outdoor eating services or uses occupying kiosks may serve customers on *PAPPS* through open windows.

(g) Prohibition of driveways, parking spaces, loading berths, exhaust vents and building refuse storage areas:

(1) No parking spaces, passenger dropoffs, driveways, or loading berths are permitted as part of a *PAPPS*.

(2) No building refuse storage areas or refuse storage from a kiosk or open air cafe are permitted on any *PAPPS*.

(3) No exhaust vents are permitted on any *PAPPS* or on any building wall of the development fronting upon the *PAPPS* except where such vents are more than 10'-6" above the level of the *PAPPS*.

(h) Seating: there shall be a minimum of one linear foot of seating for each 75 square feet of *PAPPS* excluding the area of an open air cafe. Not more than 50% of the linear seating capacity may be in moveable seats which may be stored between the hours of 7 p.m. and 7 a.m. Seating shall meet the following standards:

(1) Seating without backs shall have a minimum depth of 16". For the benefit of handicapped persons a minimum of 20% of the required seating shall have backs at least 12" high and a minimum depth of 14". Seating 30" or more in depth shall count double provided there is access to both sides.

(2) Seating higher than 36" and lower than 12" above the level of the adjacent walking surface shall not count toward meeting the seating requirements.

(3) The tops of walls including but not limited to those which bound planting beds, fountains and pools may be counted as seating when they conform to the dimensional standards in subparagraphs (1) and (2) above.

(4) Moveable seating or chairs, excluding seating of open air cafes, may be credited as 30" of linear seating per chair. Steps and seating in open air cafes do not count toward meeting the seating requirements.

(i) **Lighting:** a *PAPPS* shall be illuminated throughout with an overall minimum average level of illumination of not less than one maintained footcandle (lumens per square foot) on the horizontal plane at grade. Such level of illumination shall be maintained throughout the hours of darkness. Light sources shall be white light.

(j) **Electrical power:** electrical power shall be supplied by one or more outlets furnishing a total of at least 3,000 watts of power for every 4,000 square feet, or fraction thereof, of a *PAPPS* for maintenance equipment, special events and *retail* uses (kiosks, open air cafes, carts).

(k) **Plaque:** a plaque or other permanent sign with a surface area not less than two nor more than four square feet shall be displayed in a prominent location on a *PAPPS*. Such sign shall indicate the name of the owner and whomever is designated to maintain the *PAPPS*, and the international symbol of access and the statement:

"This space is open to the public and is accessible to the physically disabled."

(l) **Signs:** a *PAPPS* shall be treated as a *street* for the purpose of the applicable sign regulations. Signs are permitted only *accessory* to uses permitted within and adjoining the *PAPPS*.

(m) **Mandatory allocation of frontages for permitted use:** at least 75% of the total frontage of building walls of the development fronting on a *PAPPS* shall be allocated for occupancy by permitted *retail* or service establishments, including libraries, museums, and art galleries. Refer to Section 3.10 Retail Design Guidelines. Such building frontage use requirement shall apply to both the mezzanine, if provided, and the *street* level. All such uses shall be directly accessible from the *PAPPS* with an entrance required every 50' at a minimum. The remaining frontage may be occupied by other uses, vertical circulation elements and building lobbies.

(n) **Maintenance:**

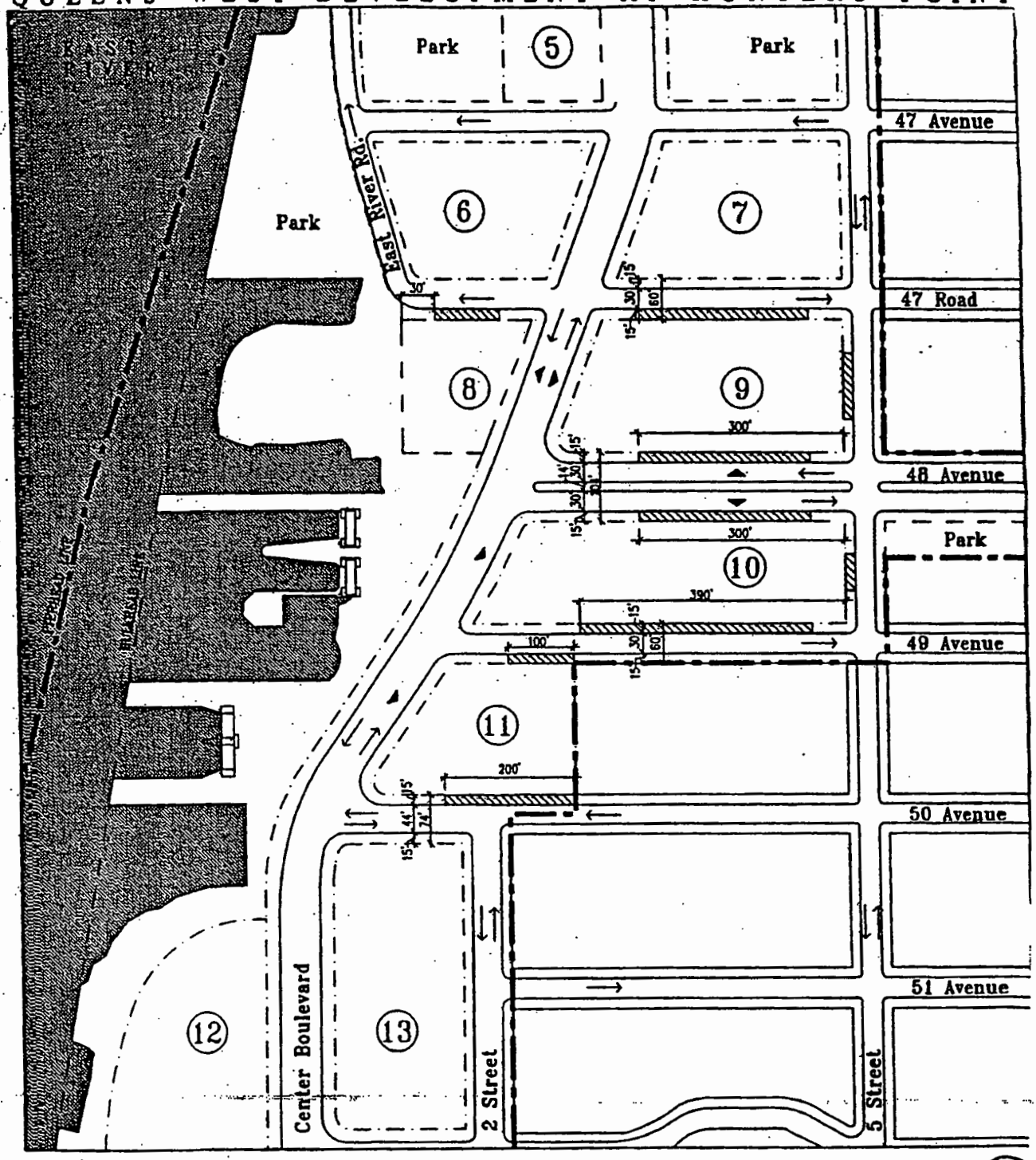
(1) Responsibility: the building owner shall be responsible for the maintenance of the *PAPPS* including, but not limited to, the confinement of permitted obstructions, litter control, and the care and replacement of vegetation within the *parcel* and in the *street* sidewalk area adjacent to the *parcel*.

(2) Litter receptacles: shall be provided with a minimum capacity of one cubic foot for each 2,000 square feet of *PAPPS* area. An additional capacity of one cubic foot of litter receptacle shall be provided for each 2,000 square feet of *PAPPS* in connection with outdoor eating services or other uses permitted on *PAPPS* which generate litter.

(3) Furniture: of *PAPPS* shall be confined within areas designated on buildings plans as available for occupancy by such uses. Encroachment of a *PAPPS* outside an area so designated shall be valid ground for complaint and removal.

(4) Performance bond: prior to obtaining any Certificate of Occupancy from the Department of Buildings, the building owner shall post with QWDC a performance bond, City Securities or fixed income securities at QWDC's discretion to ensure the mandatory tree planting, moveable seating, exclusive of any seating for open air cafes, and the litter-free maintenance of the *PAPPS*, including the replacement of such trees and moveable furniture during the life of the development.

In the event of a failure in the required performance, QWDC shall notify the building owner in writing of such failure and shall stipulate the period of time in which the building owner has to correct the failure. If the failure is not corrected in the stipulated time QWDC may declare the building owner in default in the required performance, and QWDC may enforce the obligation by whatever means may be appropriate to the situation, including letting contracts for doing any required planting, installation or maintenance and paying all labor, materials and other costs connected with such work from the bond or City securities the building owner is required to provide.



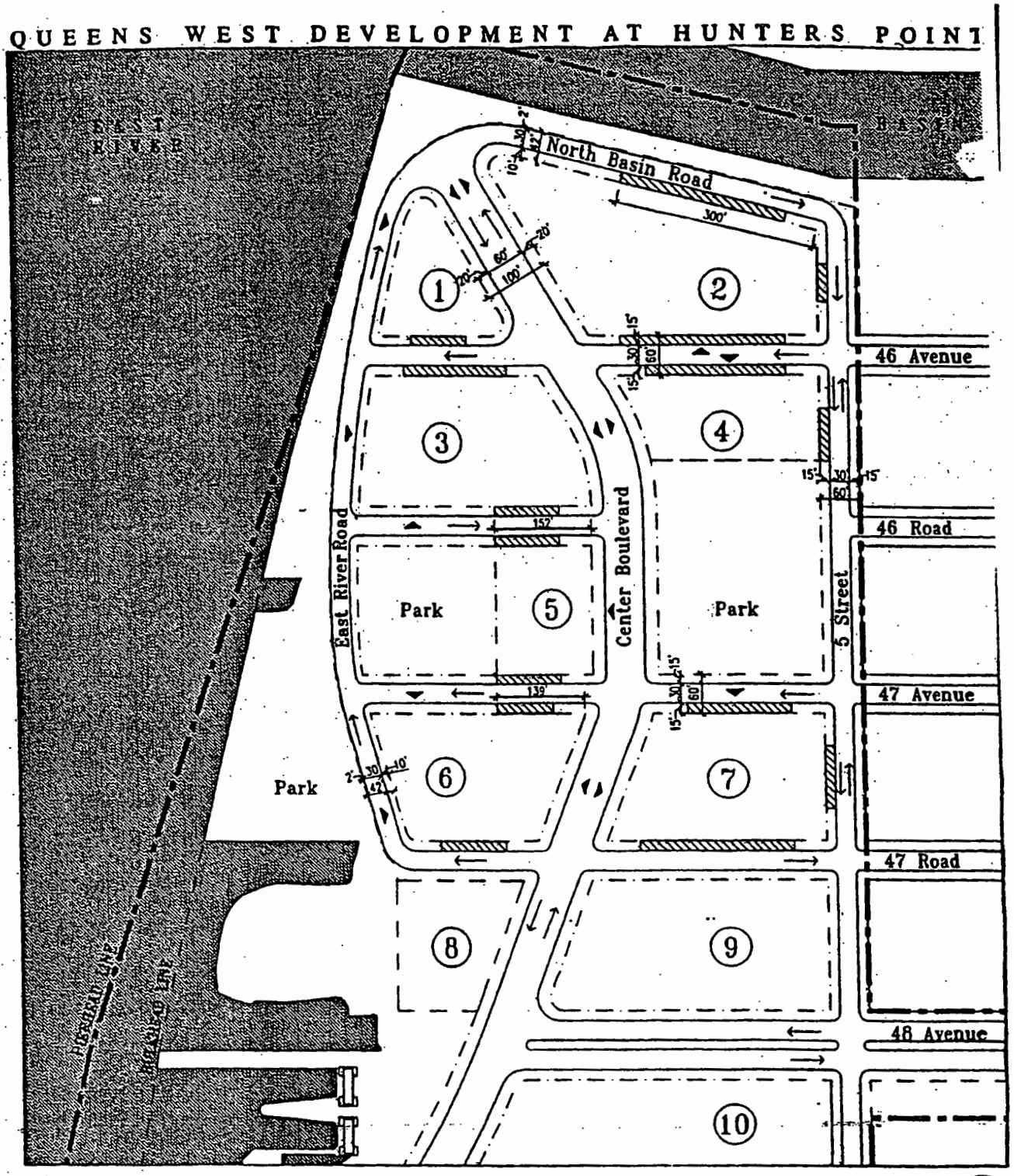
Stage 1
Circulation Controls

- Required Building Entrance Zone
- Curb Cut Zone
- Traffic Direction
- (19) Parcel Number
- Lot Line
- Project Boundary

Figure III-8.1

0 100 200

Note: All Curb Cut Zones Are 50' From Nearest Street Intersection Except As Noted.



Stage 2
Circulation Controls

- Required Building Entrance Zone
- Curb Cut Zone
- Traffic Direction
- (19) Parcel Number
- Lot Line
- Project Boundary

Figure III-8.2

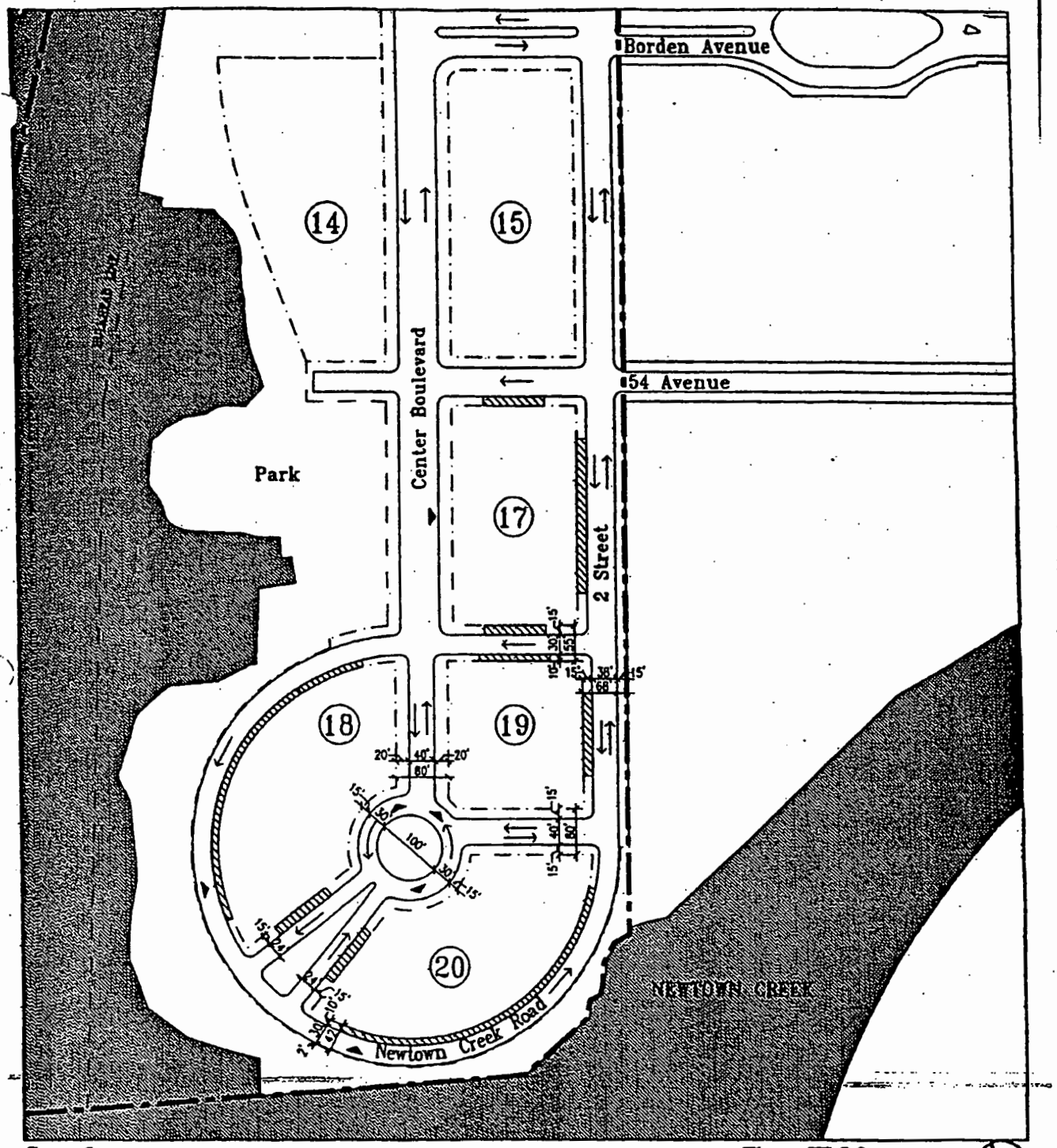
0 100 200

Note: All Curb Cut Zones Are 50' Fr
Nearest Street Intersection Except As
Noted.

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QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Stage 3
Circulation Controls

Figure III-8.3

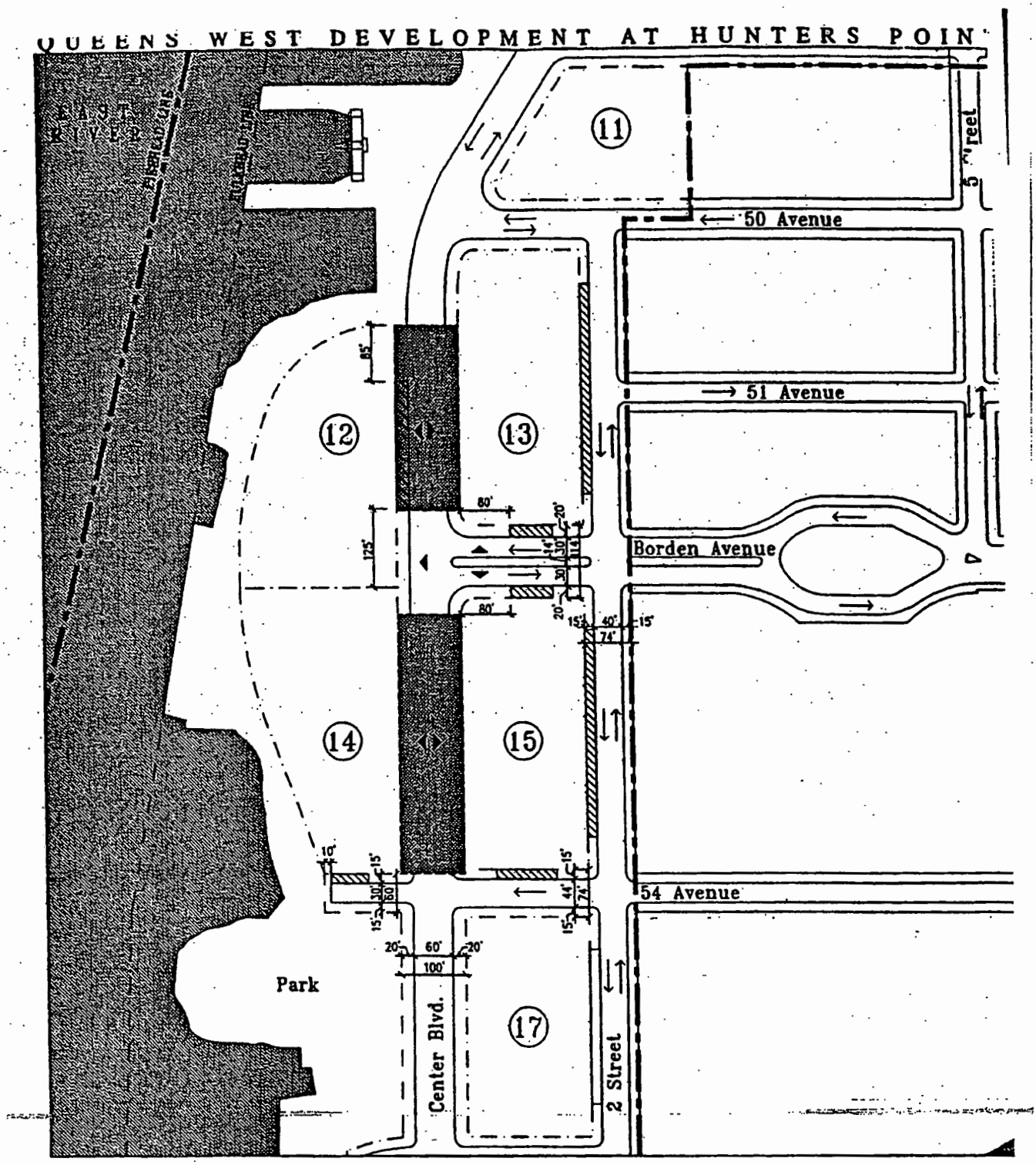
0 100 200

- Required Building Entrance Zone
- Curb Cut Zone
- Traffic Direction
- (19) Parcel Number
- Lot Line
- Project Boundary

Note: All Curb Cut Zones Are 50' From Nearest Street Intersection Except As Noted.

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Stage 4
Circulation Controls

- Required Building Entrance Zone
- Curb Cut Zone
- Traffic Direction
- (19) Parcel Number
- Lot Line
- Project Boundary
- Mandatory Underground Connection

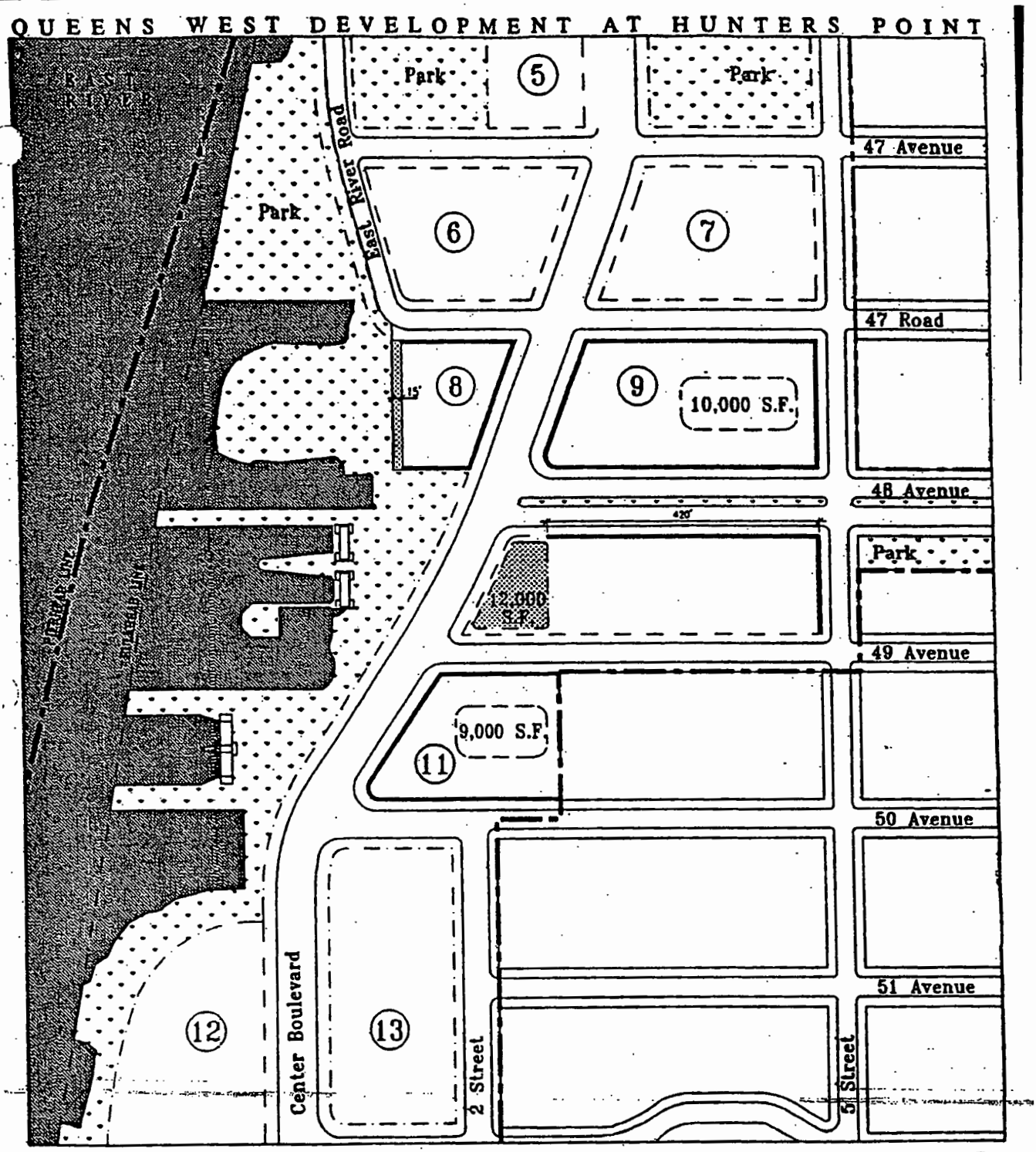
Figure III-8.4

0 100 200

Note: All Curb Cut Zones Are 50' Fr
Nearest Street Intersection Except As
Noted.

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Stage 1
Open Space Controls

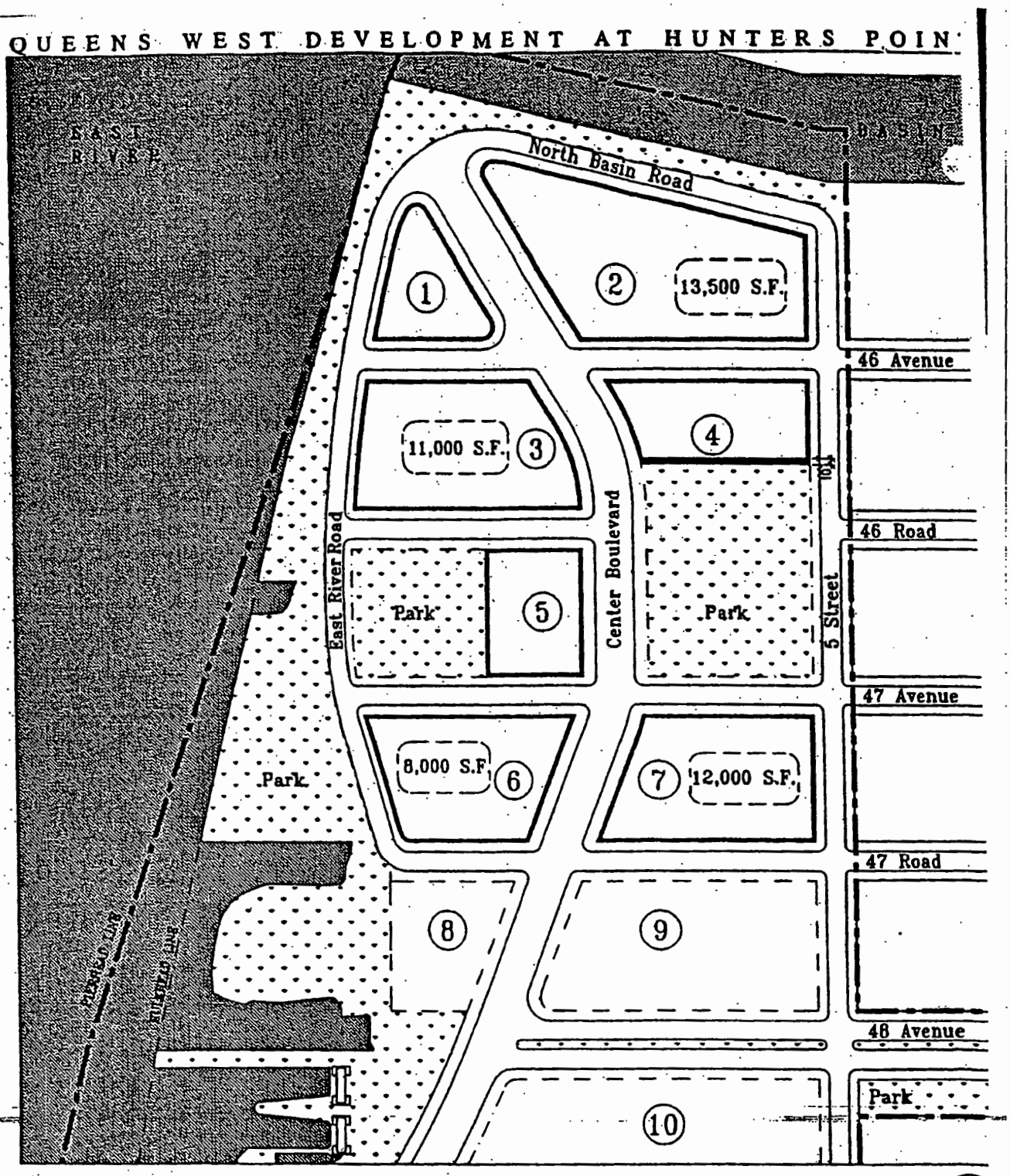
- Public Open Space
- Private Open Space (square feet)
- Publicly Accessible Private Pedestrian Space
- Grade Level Setback
- (19) Parcel Number
- Lot Line
- Project Boundary

Figure III-9.1

0 100 200

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Stage 2
Open Space Controls

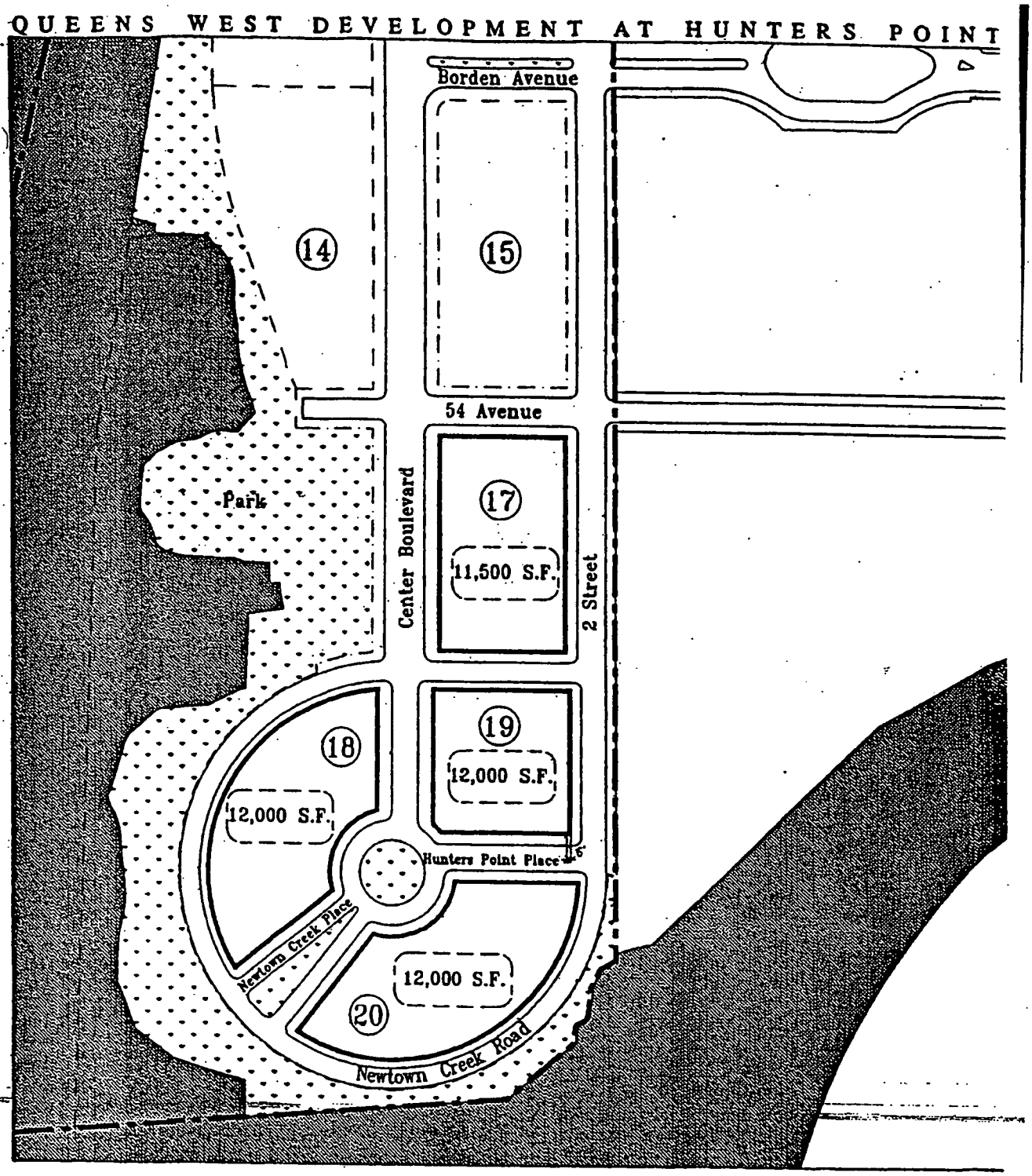
- Public Open Space
- Private Open Space (square feet)
- Publicly Accessible Private Pedestrian Space
- Grade Level Setback
- (19) Parcel Number
- Lot Line
- Project Boundary

Figure III-9.2

0 100 200

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Stage 3
Open Space Controls

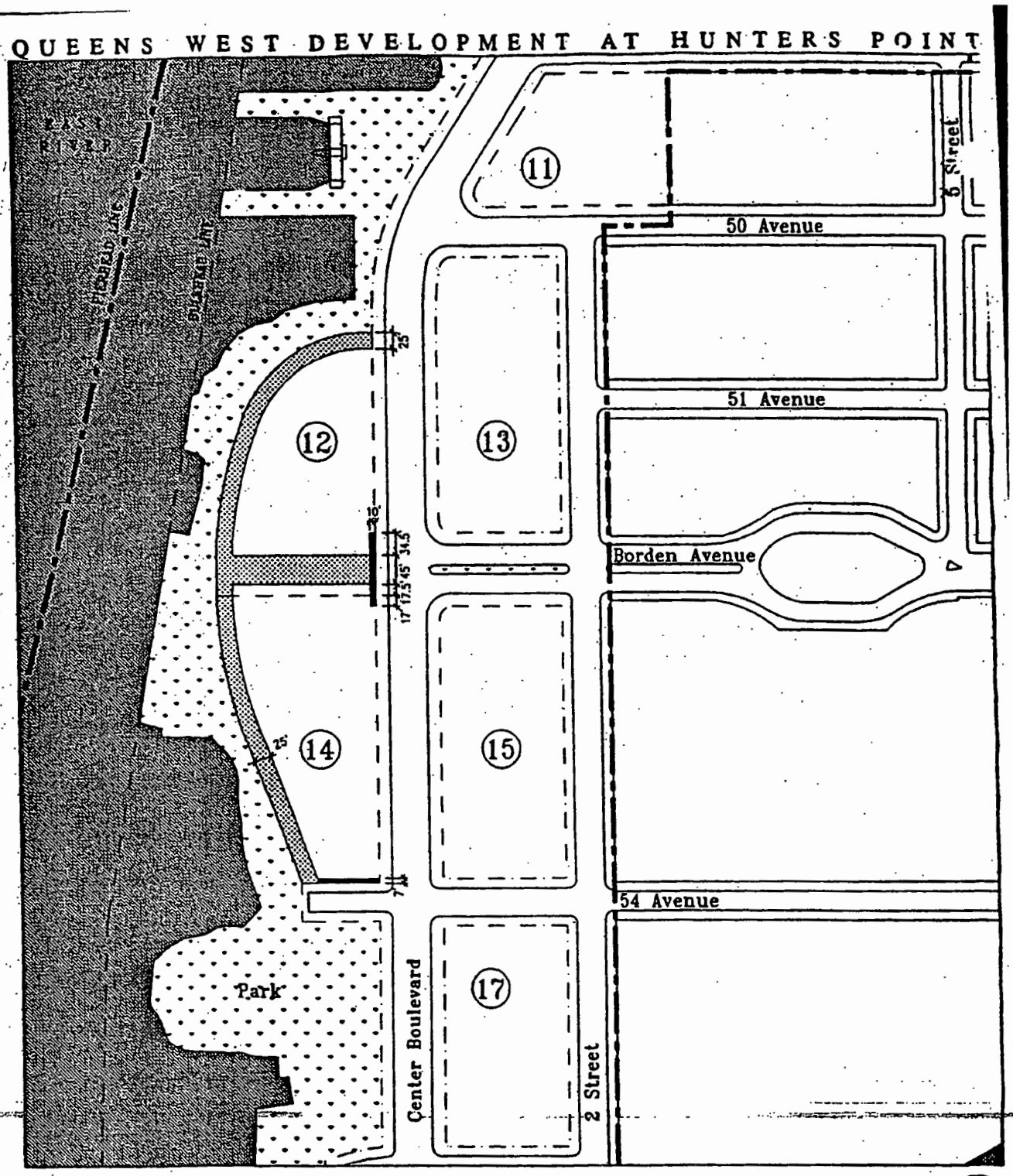
- Public Open Space
- Private Open Space (square feet)
- Publicly Accessible Private Pedestrian Space
- Grade Level Setback
- (19) Parcel Number
- Lot Line
- Project Boundary

Figure III-9.3

0 100 200

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Stage 4
Open Space Controls

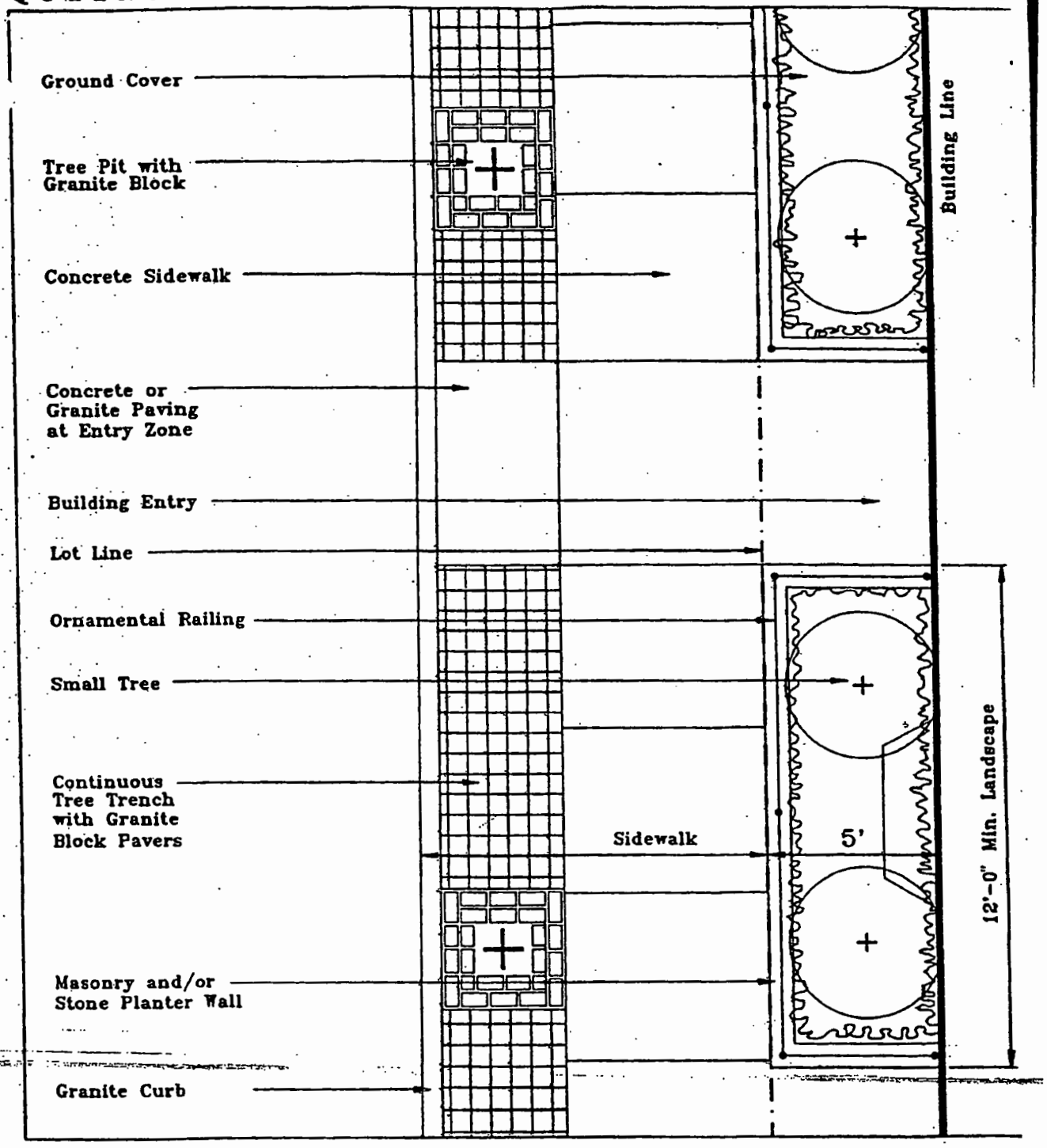
Figure III-9.4

0 100 200

- Public Open Space
- Private Open Space (square feet)
- Publicly Accessible Private Pedestrian Space
- Grade Level Setback
- (19) Parcel Number
- Lot Line
- Project Boundary

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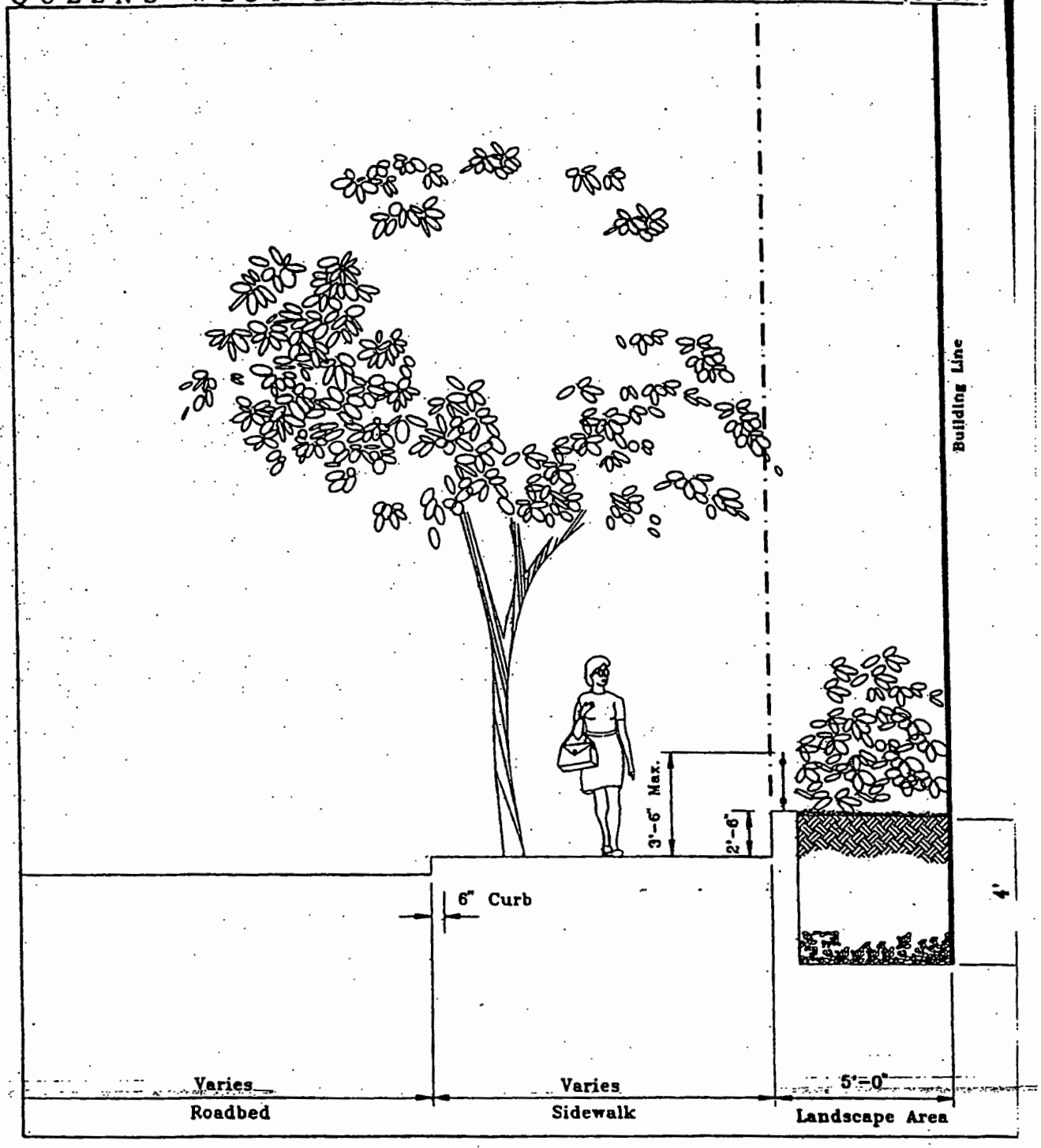


Grade Level Setback Plan

— · — Lot Line

Figure III-10.1

0 10 20



Grade Level Setback Section

— · — Lot Line

Figure III-10.2

0 10 20

2nd Streets shall be paved in NYC DOT standard concrete, unpigmented. The scoring pattern shall be a 5' x 5' square module which aligns with the tree pits.

The curb and pavement materials, which are typical of New York City sidewalks, require low maintenance and are readily matched in case of repairs. The predominant sidewalk materials shall be scored concrete with accent bands of granite block in all tree trenches and in all tree pits. Curbs along *boulevard streets* shall be granite; all others shall be standard steel faced concrete.

The sidewalks throughout the development shall be of sufficient width to allow for a continuous tree trench with granite block paving to accentuate its presence, except on a *secondary street* which shall have tree pits without the granite block paving strip.

Along *boulevard* and *primary streets* there shall be a 4'-6" wide band of granite block on a 4" concrete base between tree pits, running parallel to the 6" curb. Along *waterfront streets* there shall be a 3'-6" wide band of granite block pavers.

(1) Tree trench: the continuous trench shall be comprised of standard New York City granite blocks, 4" x 8" x 4", set on a mortar base with mortar joints over a concrete slab. The maximum joint width between the blocks shall be 3/4".

(2) Top soil: in continuous trench shall be 4'-6" wide, 4'-0" deep, with 85% compaction beneath the concrete slab.

(3) Tree pit surface: shall be covered with 4" x 8" x 4" granite blocks on a sand base with sand joints, level with the curb and sidewalk. The tree pit dimension shall be 4'-6" wide by 6'-0" long.

Each intersection, including those adjacent to the development, shall have standard pedestrian ramps. The reinforced concrete ramps shall be scored in a deeply grooved, non-slip pattern, as per NYC DOT standard. Placement of ramps at corners shall be in accordance with the latest NYC DOT standard detail for pedestrian ramps.

(d) *Street* trees: Figure III-11, Streetscape Plan: Tree Specie Distribution & Curb Types, indicates the tree species for each *street* type. The developer shall be required to use trees from these lists unless otherwise directed by the Department of Parks and Recreation, Central Forestry Division. All planting operations (i.e. topsoil, staking, height to first limbs) shall be in strict accordance with the NYC Department of Parks and Recreation.

(1) Center Boulevard *street* tree (type 1): Center Boulevard shall have trees with a minimum caliper of 3-1/2 - 4" spaced 25' on center along its entire length as indicated in the individual Parcel Controls. Spacing of these trees has been coordinated with required intersection clearance and light pole locations. The specie for Center Boulevard shall be:

- Gleditsia Triacanthos Inermis 'Halka' - Thornless Honey Locust 'Halka'

3.9 STREETSCAPE, SIGNAGE AND LIGHTING

The Streetscape Plan, Figures III-11 through III-16, indicates the types of landscape treatment proposed for *streets* at the Project. There are four types of *streets* which are classified as *boulevard*, *waterfront*, *primary* or *secondary*; refer to Figure III-3, Street Type Plan. Appropriate tree species and curb types are specified for each *street* type. Signage controls are indicated in Figures III-17 (.1-.7) and lighting in Figures III-18 (.1-.3).

3.9.1 *Streets* and sidewalks

(a) **Design review stipulation:** developers are required to provide the finished streetscape work including the sidewalk paving, trees and other items and to prepare final Builders Pavers plans consistent with these guidelines for design review submission to QWDC and subsequently to the NYC DOT and other agencies, as required, for approval. Developers shall maintain the established design pattern for spacing of *street* trees and lights, and coordinate building entrances and utility hook-ups within this pattern. It should be noted that streetscape not adjacent to development *parcels* (medians, 48th Avenue east of 5th Street, 50th Avenue east of 2nd Street, the east side of 5th and 2nd Streets, etc.) also shall be required to follow these guidelines.

(b) **Design intent:** the cohesiveness and variety of public *open spaces* and *streets* are key features of the Project. The combination of parks and landscaped *streets* creates diversity, and at the same time forms a single unified system. Cohesiveness shall be achieved by providing certain uniform elements such as lighting, paving, rhythmic tree plantings and continuous *open spaces* in a consistent palette of materials and furnishings.

Street trees play a very important role in the Project. To create a strong visual order, trees shall be planted in continuous, uniformly spaced rows along the *streets*. To acknowledge microclimatic variations and to avoid monoculture demise, different tree species shall be required on the designated hierarchy of *street* types, as illustrated in Figure III-11, Streetscape Plan: Tree Specie Distribution & Curb Types. In all cases, the trees shall be planted in a single row along all sidewalks within the development and on sidewalks leading to or abutting the development.

Spacing of the *street* trees is critical to the overall image of the development, so their regular spacing becomes the module for locating all of the other elements on the sidewalks such as light standards, pavement scoring patterns and *curb cut zones*. It is important that building elements affecting tree spacing, such as entrances, *canopies*, and utility connections, be coordinated at the outset to avoid conflict with the established tree planting pattern.

(c) **Sidewalk paving:** Figures III-12 to III-16, Streetscape Type(s) 1 to 4, illustrate sidewalk paving by *street* type. The sidewalk paving materials, trees and curb materials specified herein shall be required within the public right-of-way.

All sidewalks within the development including those along the east sides of 5th and

has been coordinated with required intersection clearance and light pole locations. The specie for 5th Street shall be that listed above under *residential street* trees (type 3).

(7) Commercial street tree (type 4): *commercial street* trees shall be located on the east and west sides of 2nd Street, on a portion of Newtown Creek Road and 54th Avenue. These *streets* shall have trees with a minimum caliper of 3" - 3-1/2" spaced 25' on center where no curb cuts exist along its entire length. Spacing of these trees has been coordinated with required intersection clearance and light pole locations. The specie has been selected for its form and ability to withstand truck traffic. The tree specie shall be:

- Zelkova serrata 'Green Vase' - Green Vase Zelkova

(8) Tree planting guidelines for maintenance by DPR: it is the intent of QWDC to comply with the NYC Department of Parks and Recreation standard guidelines regarding *street* tree locations and planting procedures. Regular spacing of the *street* trees is critical to the overall image of the Project, establishing the module for locating all of the other elements of the streetscape and certain building elements such as entrances, *canopies*, and utility connections.

- Trees shall not be placed directly in front of a building entrance in order to permit easy access by the Fire Department.
- Minimum tree pit size shall be 25 square feet with sand joints between the granite blocks.
- Distance between *street* trees (center to center of tree): 25'-0".
- Distance from *street* light: 25'-0".
- Distance from traffic sign: 6'-0". Trees shall not block visibility of traffic sign in the direction of moving traffic.
- Distance from parking meter: no more than 5'-0" behind meter, to give access to car door and limit damage to tree.
- Distance from gas or water valve in sidewalk: 4'-6" from tree.
- Distance from oil fill pipe in sidewalk: 4'-0" from tree.
- Distance from hydrant: 7'-6" from tree.
- Distance from curb cut or driveway: 7'-0" from tree.
- Distance from *street* intersection to first tree measured from outside face of perpendicular curb: 40'-0".

(2) Major east-west entry *street* trees and median (type 1A): Borden Avenue and 48th Street shall have trees with a minimum caliper of 3" - 3-1/2" spaced 25' on center, paired opposite each other along their lengths as indicated in the individual Parcel Controls. Spacing of these trees has been coordinated with the paired light pole locations. The sidewalk specie for these *streets* shall be:

- Sophora Japonica 'Regent' - Regent Scholar Tree

Within the median along Borden Avenue only, flowering trees are required. They shall be planted 20' on center and shall be a minimum caliper of 2-1/2" - 3". They shall be spaced within the median in accordance with NYC DOT requirements for sight lines at intersections. The tree specie for this median shall be:

- Malus 'Pink Perfection' - Pink Perfection Crab Apple

Additional planting under the trees shall be comprised of low growing evergreen shrubs and seasonal flowers.

(3) *Waterfront street* trees (type 2): all *streets* with direct exposure to the waterfront (East River Road, Newtown Creek Road, and North Basin Road) shall have trees with a minimum caliper of 3" - 3-1/2" spaced 25' on center along its entire length as indicated in the individual Parcel Controls. Spacing of these trees has been coordinated with required intersection clearance and light pole locations. The specie for the *waterfront streets* shall be:

- Fraxinus Americana 'Patmore' or 'Autumn Purple' - Patmore American Ash/Autumn Purple Ash

(4) *Residential street* trees (type 3): except as specified, all *residential* east-west *streets* shall have trees with a minimum caliper of 3" - 3-1/2" spaced 25' on center along its entire length as indicated in the individual Parcel Controls. Spacing of these trees has been coordinated with required intersection clearance and light pole locations. The specie for these *streets* shall be:

- Pyrus Calleryana 'Aristocrat' or 'Whitehouse' - Aristocrat or Whitehouse Callery Pear

(5) 50th Avenue (type 3A): 50th Avenue shall have trees with a minimum caliper of 3" - 3-1/2" spaced 25' on center along its entire length. Spacing of these trees has been coordinated with required intersection clearance and light pole locations. The specie for this *street* shall be:

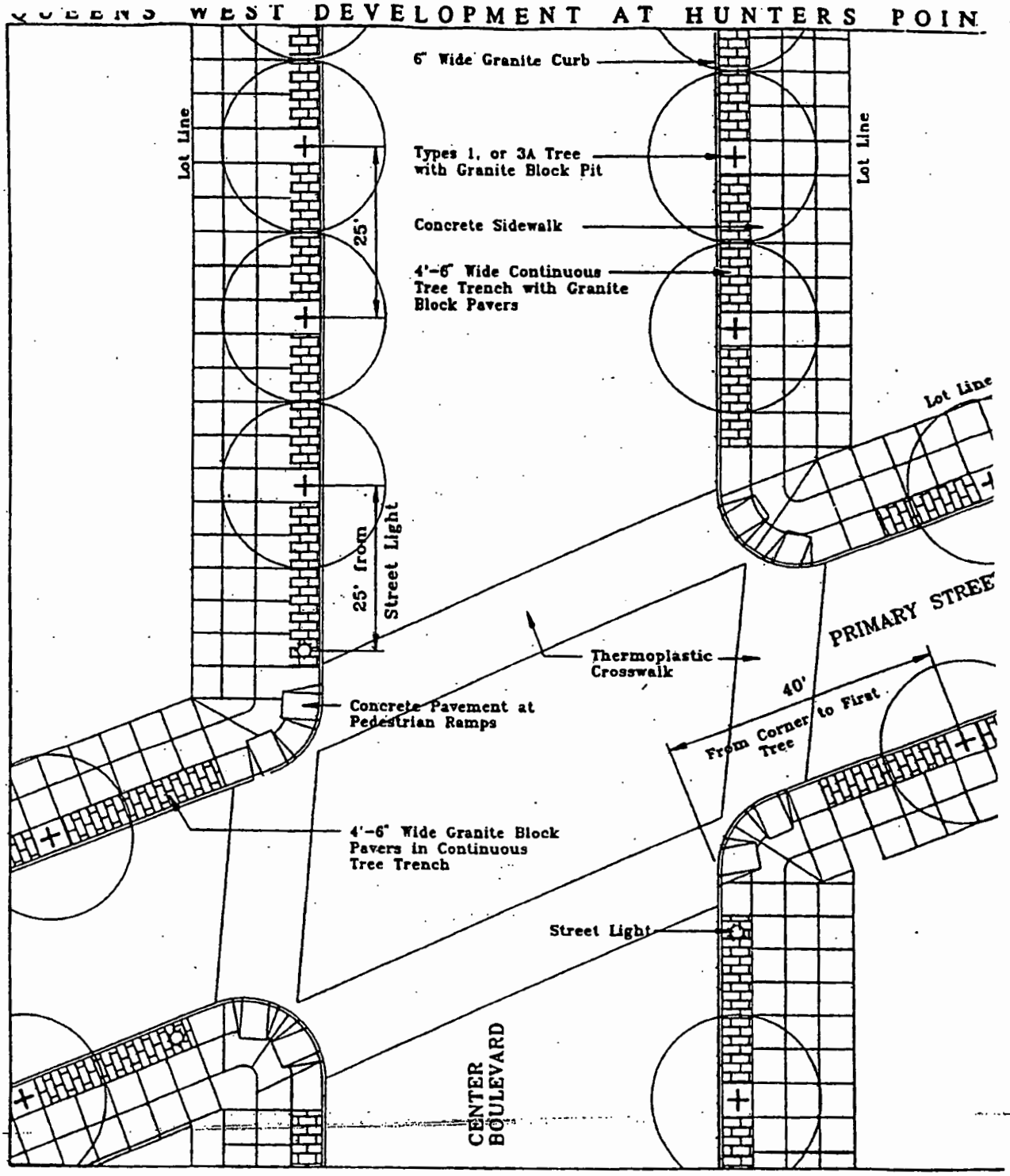
- Koelreutria paniculata 'September' - September Golden Rain Tree

(6) East and west sides of 5th Street: shall have trees with a minimum caliper of 3" - 3-1/2" spaced 25' on center along its entire length. Spacing of these trees

- Sidewalks must remain a minimum of 6'-0" wide between tree pits or trenches and opposite obstruction such as building walls, stoops, railings, etc.

(e) **Curb cuts:** Figure III-8(.1-.4), Circulation Controls, illustrates *curb cut zones* for each *parcel* within which curb cuts shall be located. Because the actual dimension of a curb cut is substantially less than the zone, *street* trees and *street* lights shall be located throughout the unused portions of the zone. Spacing of *street* trees shall commence 25'-0" from the last tree indicated adjacent to the zone and shall otherwise be spaced according to Section 3.9.1 (d) (8) Tree Planting Guidelines for Maintenance by DPR, above. *Street* lights shall be located according to Section 3.9.3 (b) Street Lighting. Refer to Section 3.7.1 for additional curb cut controls.

(f) **Crosswalks:** Figures III-12 to III-16, Streetscape Type(s) 1 to 4, illustrate crosswalks. Crosswalk markings in the roadway are of two types. Along Center Boulevard at four locations, the crosswalks are 15'-0" wide and comprised of granite slabs a minimum of 3" thick on a concrete base and granite block headers. All other crosswalks are standard white thermoplastic markings, in accordance with the latest NYC DOT crosswalk requirements.

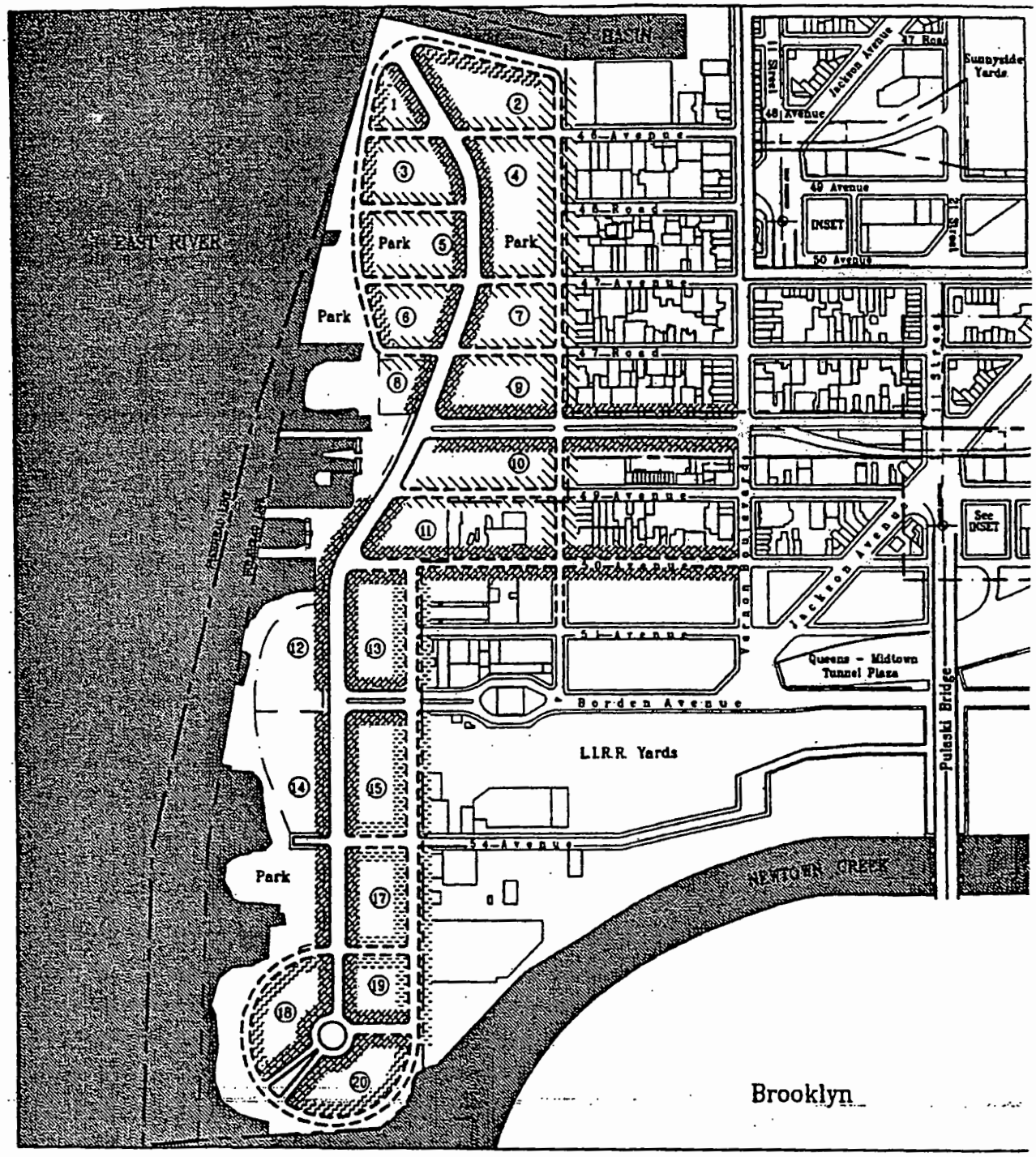


Streetscape - Boulevard Plan

Figure III-12.1

0 10 20

QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Streetscape Plan

Figure III-11

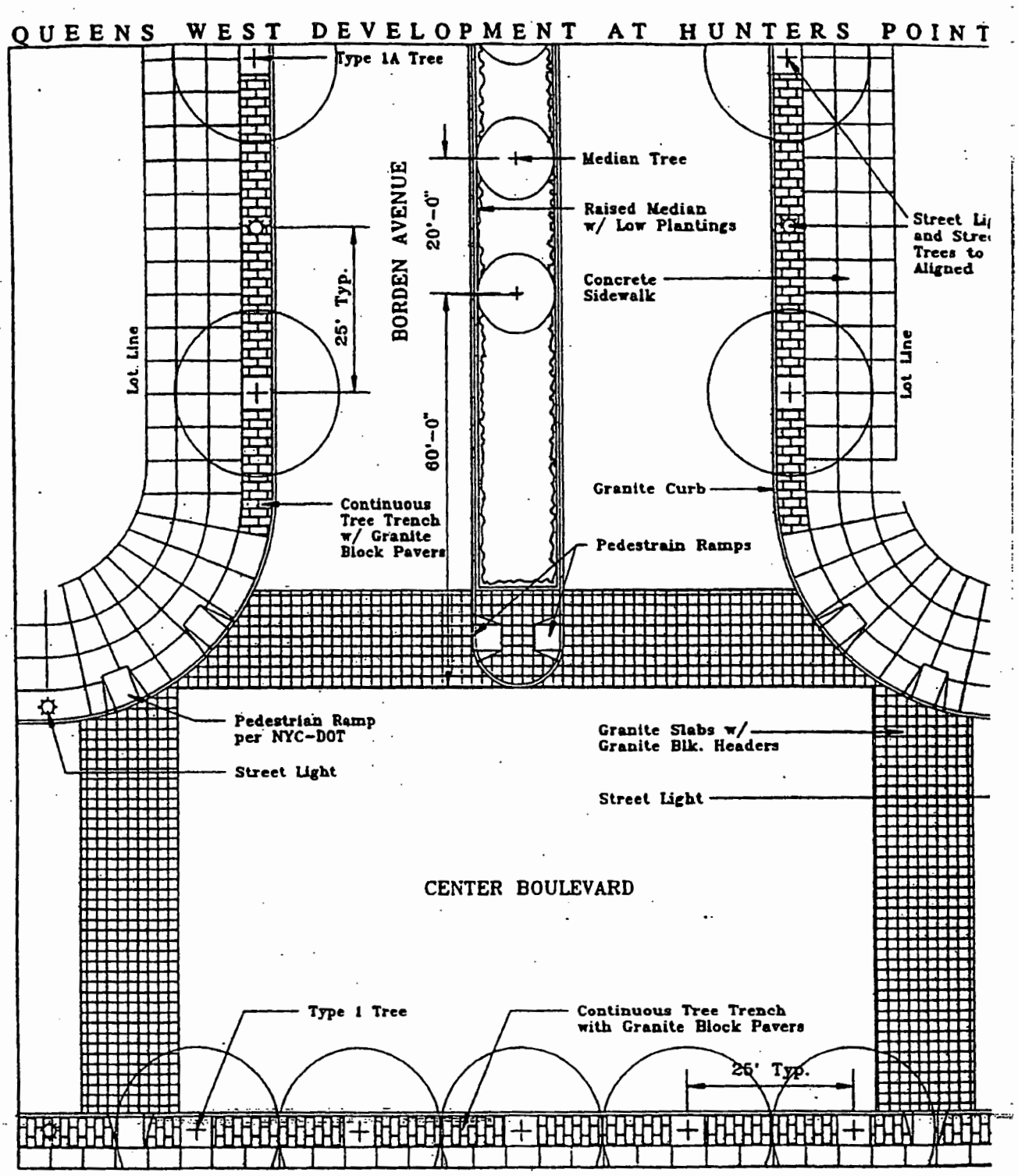
0 250 500

- Granite Curb
- Steel Faced Curb
- (19) Parcel Number
- Project Boundary

- Type 1, 1A, 3A-Center Blvd. & Major Entry Rd.
- Type 2-Waterfront
- Type 3-Residential Street Tree
- Type 4-Commercial

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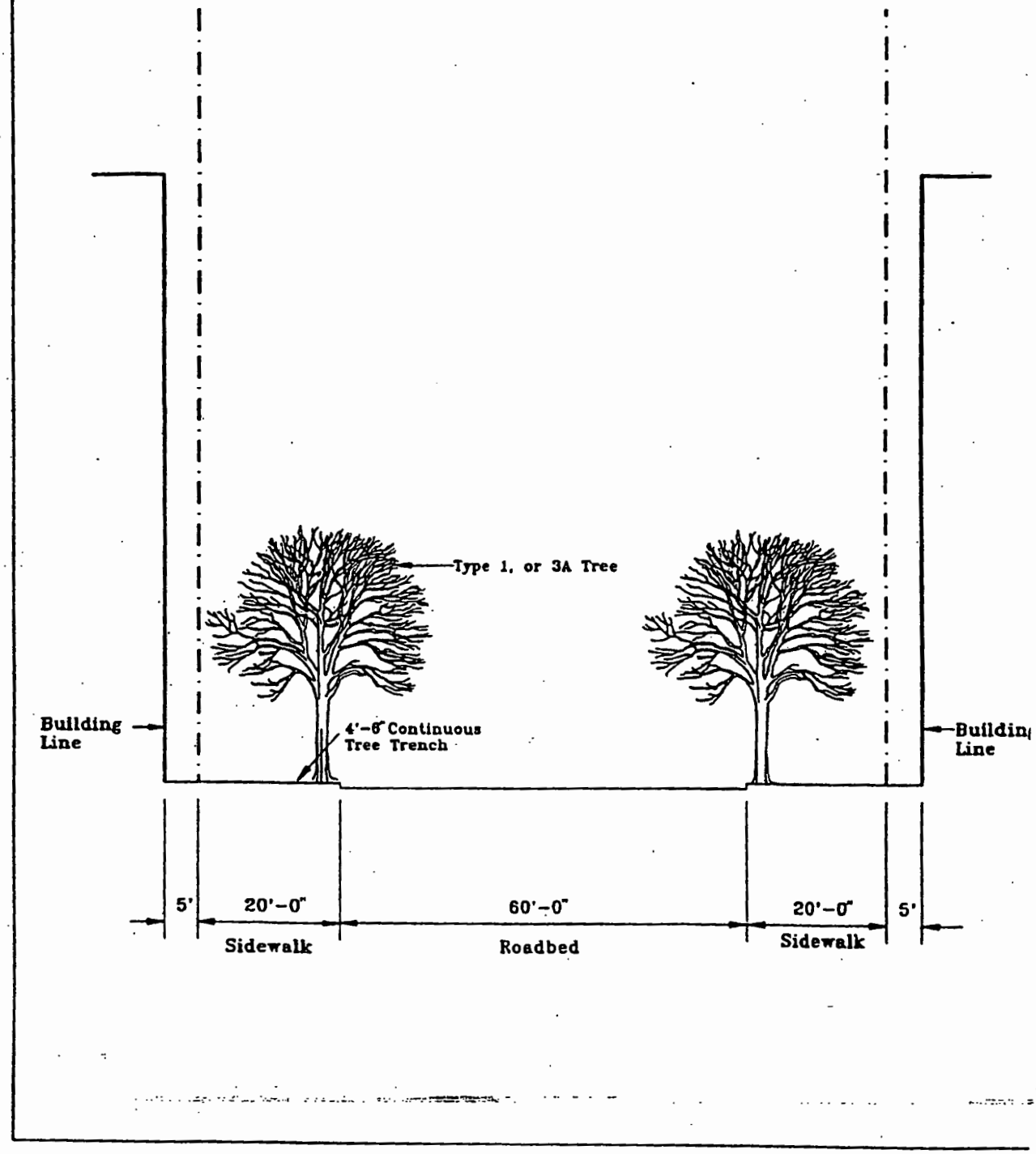
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Streetscape - Boulevard with Median Plan

Figure III-13.1

0 10 20

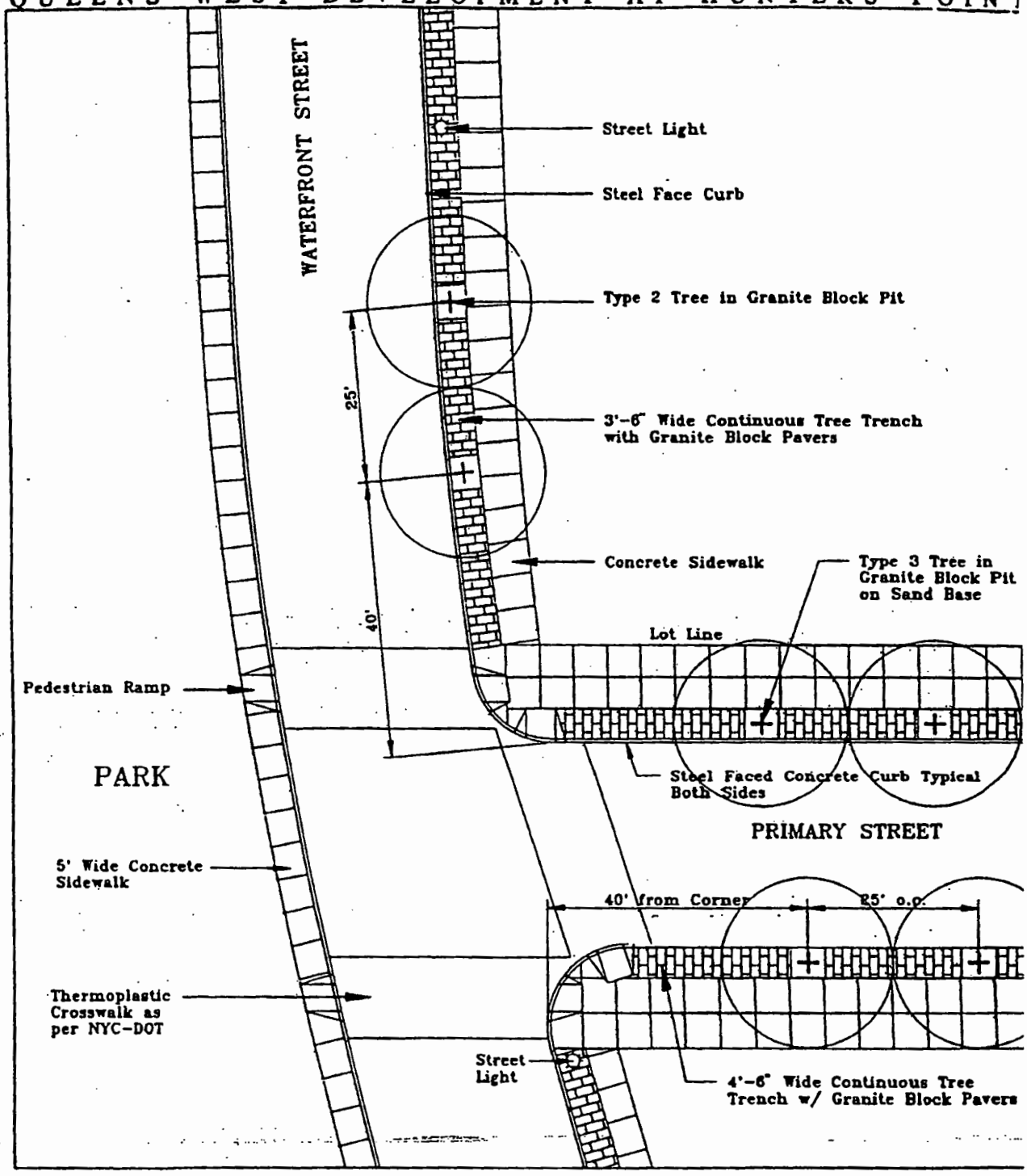


Streetscape - Boulevard Section

— · — Lot Line

Figure III-12.2

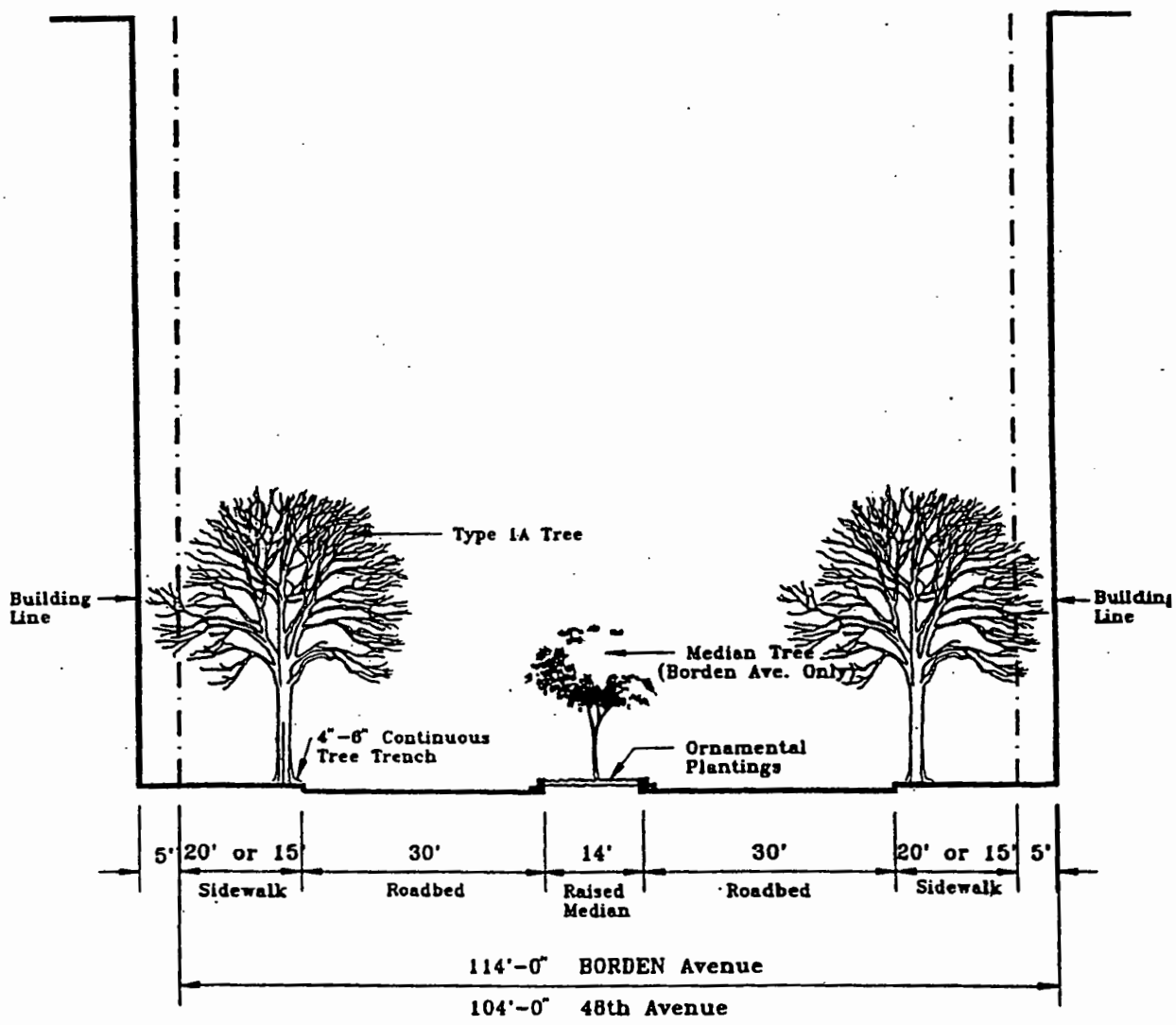
0 10 20



Streetscape - Waterfront Plan

Figure III-14.1

0 10 20

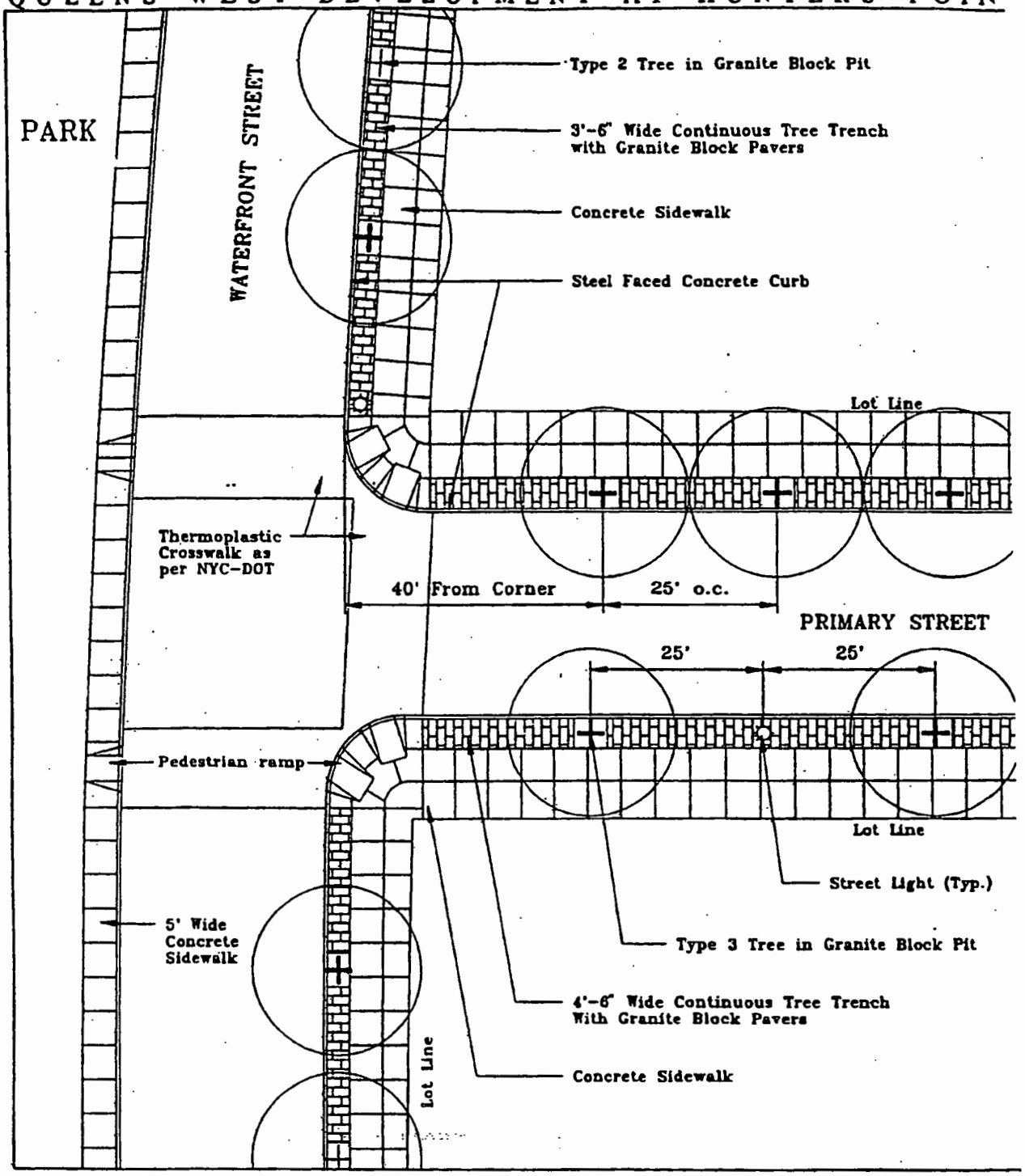


Streetscape - Boulevard with Median Section

Figure III-13.2

0 10 20

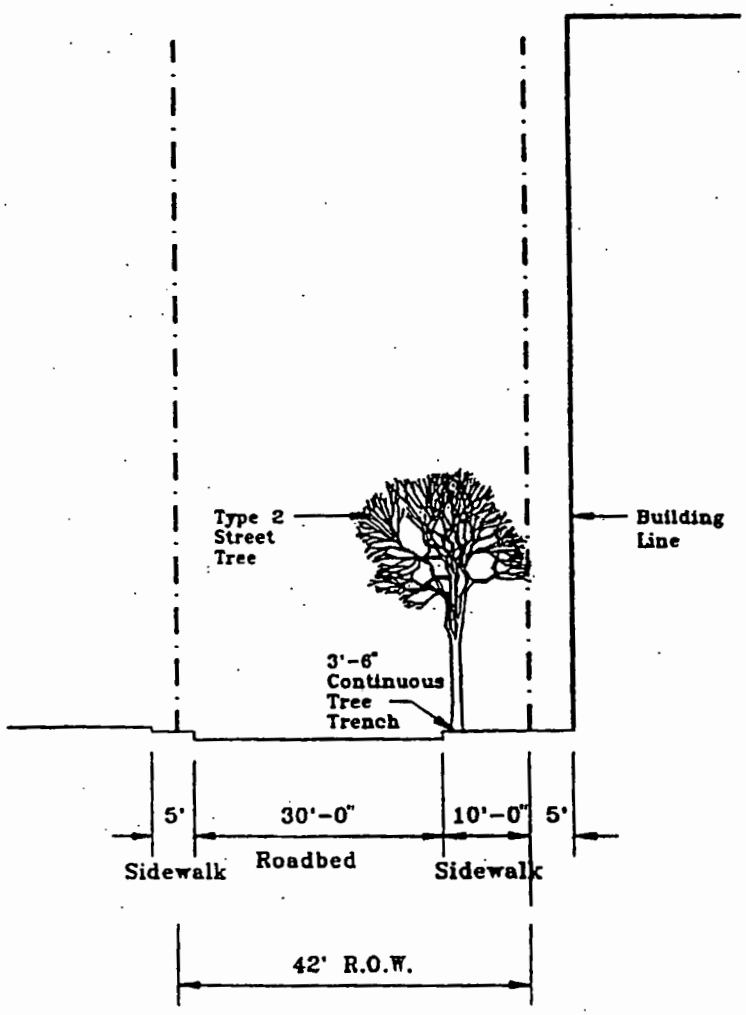
-·- Lot Line



Streetscape - Primary Plan

Figure III-15.1

0 10 20

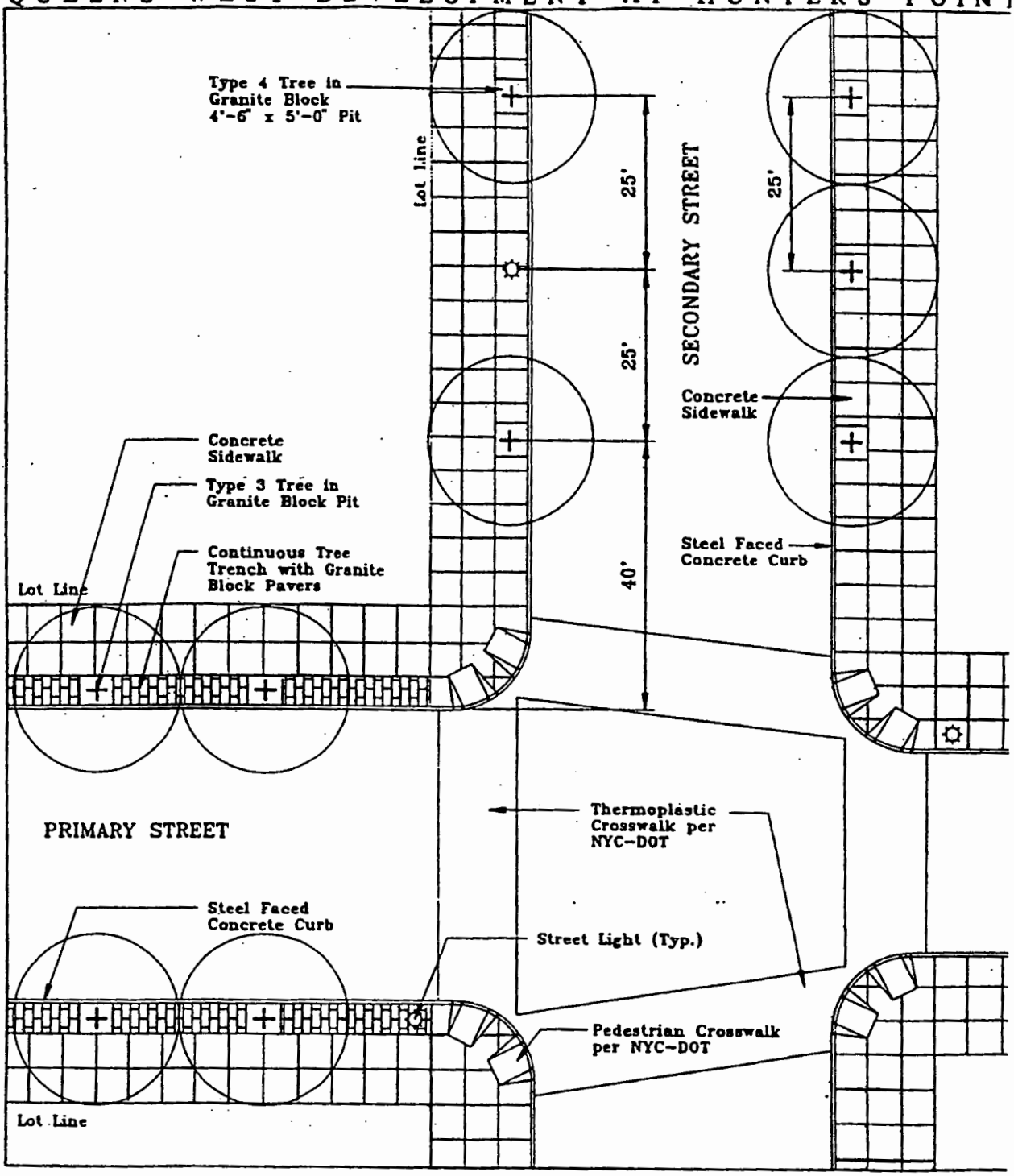


Streetscape - Waterfront Section

Figure III-14.2

0 10 20

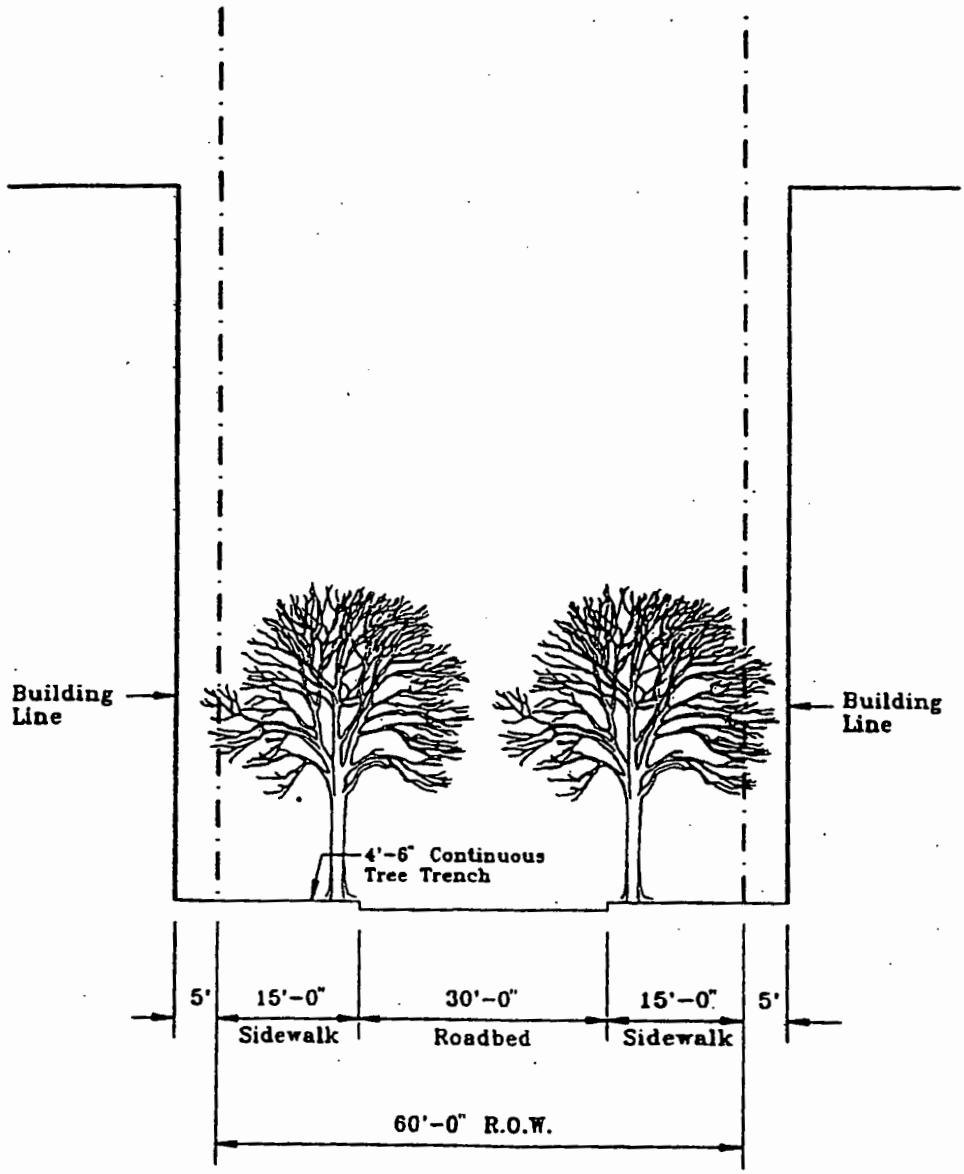
— · — Lot Line



Streetscape Type 4 - Secondary Plan

Figure III-16.1

0 10 20

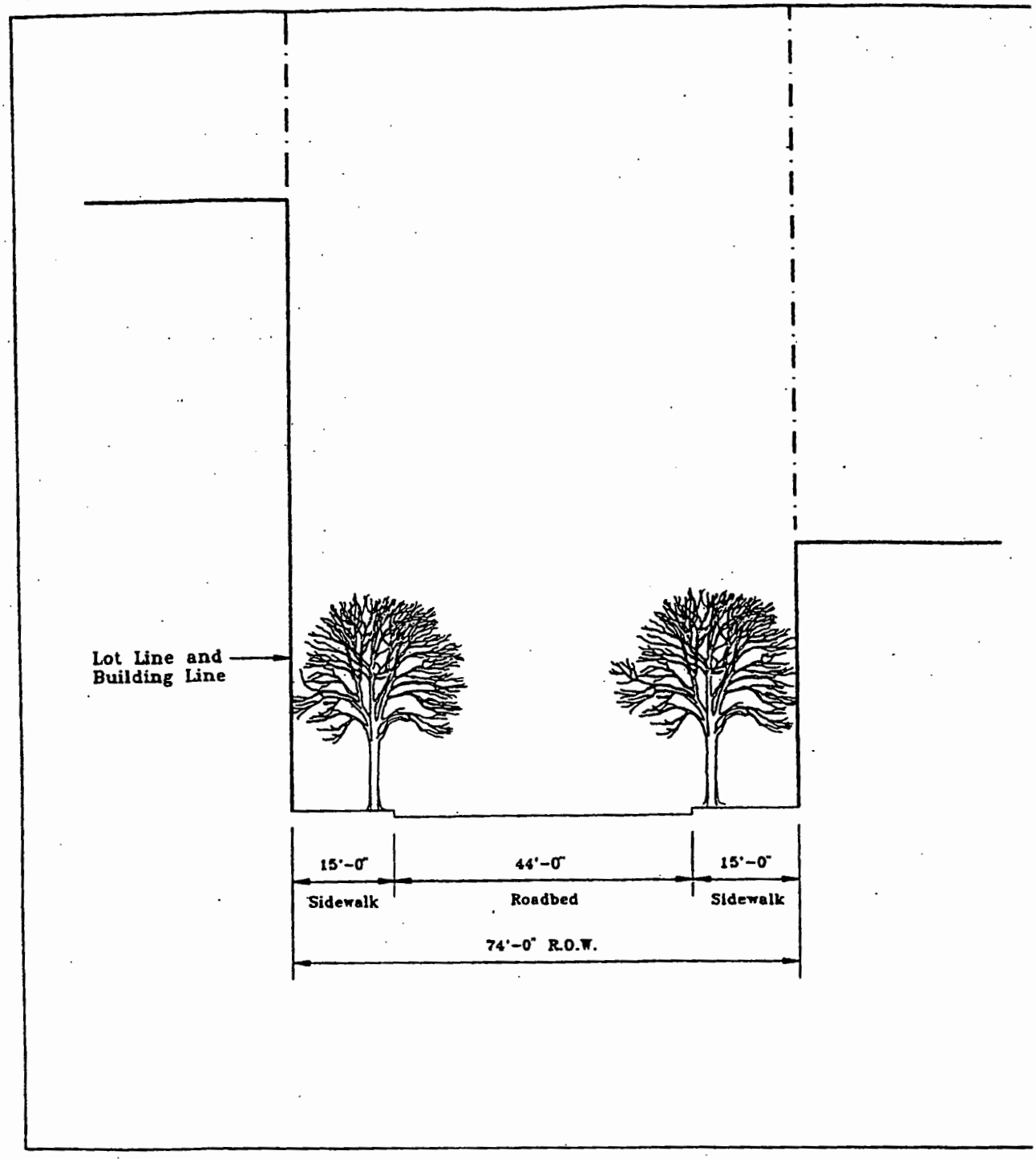


Streetscape Type 3 - Primary Section

Lot Line

Figure III-15.2

0 10 20



Streetscape Type 4 - Secondary Section

Figure III-16.2

0 10 20

— · — Lot Line

3.9.2 Signage

(a) **Design review stipulation:** developers are required to provide signage on *parcels* consistent with these guidelines and submit such signage for design review and approval to QWDC. It should be noted that *street* signage and banners also shall be required to follow these guidelines with submission for design review to QWDC and subsequently to the NYC DOT and other agencies, as required, for approval.

(b) *Street* **signage:** the *street* name sign is part of the infrastructure contract for the Project. For developers, this information is included for reference only.

(1) Design intent: to provide a flavor to the Project streetscape which is part uniquely its own, but which corresponds to federal and NYC standards for *street* name signs, and identifies Queens West as part of New York City.

(2) Specifications: pending approval by New York City Bureau of Traffic.

The sign shall be 8" tall. Total length shall not exceed 36".

The black band, 1" tall and running the length of the sign at the top, shall have the legend "QUEENS WEST AT HUNTERS POINT", in New Century Schoolbook typeface, in white, all caps, tracked (letterspaced) at 170/1000 em. The cap height of this legend shall be 5/8", and the legend shall be vertically and horizontally centered in the black band.

The background color of the major field of the sign shall match *street* sign blue as per Bureau of Traffic specifications. The main text (i.e. "Center Blvd") shall be in Standard Typeface, in white, all caps, and tracked tightly (but with adequate space between letterforms for legibility and not so as to have letters touching). The cap height of the *street* name (i.e. "Center" in "Center Blvd") shall be 5 1/2". The cap height of the *street* type name (i.e. "Blvd" in "Center Blvd") shall be 3 1/2". The *street* name and *street* type name will align along the tops of letters (i.e. share a common hangline). The main text of the sign shall be centered vertically and horizontally in the blue field of the sign.

(c) **Banner, light pole mounted:** For developers, this information is included for reference only.

(1) Design intent: to create a festive and colorful atmosphere along the main *streets* of the Project by utilizing the light poles to support easily seen colorful banners as part of a program set up and maintained by QWDC.

This atmosphere will serve to emphasize the future liveliness and attractiveness of Queens West during the initial stages of its development, and to add to the variety at the streetscape that will not be fully seen until plantings reach full growth and *retail* tenants have begun operations.

After the initial stages of the project are constructed, the banners will add to the overall diversity and liveliness of Queens West while at the same time emphasizing the *streets* that provide the link for all neighborhoods and users of the development.

(2) Banner location: one permanent aluminum blade banner shall be affixed to each light pole facing on 48th Avenue, Borden Avenue and Center Boulevard. There will be approximately 70 banners total.

(3) Specifications: pending approval by NYC DOT Lighting Division.

The intent of these specifications is to build flexibility into the banner to allow for some "give" during windloading situations in this waterfront location.

Aluminum sheet, graphics applied to both sides. Size shall be 5' tall by 2' wide. Banner blade shall be set into a three sided permanent armature frame affixed to the light pole: 3 standard tension band straps around the light pole at top, middle point, and bottom of the banner, with frame of continuous rigid aluminum channel running horizontally along top and bottom edges of banner, and vertically along pole-side edge of banner, 2 corners welded. Bolts shall secure banner to frame.

The banner shall be hung so that no part of it projects below a line 18'-0" above the surface of the roadbed, per NYCDOT regulations involving truck traffic.

(d) Signage at grade: developers are required to provide building identification signage for the predominant use of the building, and may provide additional signage as indicated.

(1) *Commercial use* streetscape signage:

- Design intent: to ensure a high quality of *commercial use* signage and that the "style" of this signage be differentiated at the streetscape from typical *residential use* and *retail use* signage conditions.

- Main sign: at any major entry of any *commercial* building, one main sign is permitted above the entry. It shall be flush with the facade of the building. It shall not project from the face of the building more than 10" at any point, and it shall have only one face.

  The main sign shall not project higher than 5'-0" above the level of the sill height of the 3rd story, and the total area of the sign field shall not exceed 90 square feet. That is, 90 square feet is the maximum area of a bounding rectangle oriented perpendicular to the ground plane which contains all the elements of the sign and its background field.

Construction for the main sign and additional sign, listed below, may be dimensional metal (including channel-illuminated), facelit incised letters in - or dimensional letters on - stone or metal so as to compliment the architectural materials palette of the building, or other methods. Methods not permitted are flashing or animated signs or signs fabricated of plastic materials.

- Additional signs: a total of not more than two (2) additional signs may be used, one to either side of the entry, their total surface area, calculated by the bounding rectangle method described above, not to exceed 3 square feet each. This sign or signs shall also be mounted flush to the face of the building, extending no higher than 8'-0" above grade level at any point, projecting no further than 3" from the face of the building, and no further than 5'-0" from a door that is part of the main entry, except in the case that the entry is very deeply recessed from the sidewalk. In this last case an exception may be made by QWDC to the requirements of location for these additional signs.

(2) *Residential use* streetscape signage:

- Design intent: to ensure a high quality of *residential use* signage that can express the variety and liveliness of the *residential* spirit at Queens West while still differentiating clearly between *residential use* applications as opposed to *commercial use* or *retail use* ones.

- Main sign at *marquee* or *canopy*: at any major entry of any *residential* building, one main sign is permitted above the entry as part of the *marquee* or *canopy* above the entry and projecting over the sidewalk. This signage is a band which wraps around all three (3) sides of the *marquee* or *canopy*. Permitted messages are: name of building (if applicable) and address of building. The signage shall be flush to the face of the *marquee* or *canopy* and none of the graphics shall be taller than 12". That is, the maximum area for graphics is a band 12" tall. Paint or dimensional letters in metal may be used. Methods not permitted are flashing or animated signs or dimensional letters or signs fabricated of plastic materials.

- Additional signs: a total of not more than one (1) additional sign may be used, on one side of the entry, the total surface area of which shall not exceed 2 square feet. This additional sign shall be mounted flush to the face of the building, extending no higher than 8'-0" above grade level at any point, projecting no further than 1" from the face of the building, and no further than 5'-0" from a door that is part of the main entry, except in the case that the entry is very deeply recessed from the sidewalk. In this last case an exception may be made by QWDC to the requirements of location for this additional sign.

Construction for the additional sign may be dimensional metal, incised letters in - or dimensional letters on - stone or metal so as to compliment the architectural materials palette of the building, or other methods. Methods not permitted are flashing or animated signs or signs fabricated of plastic materials.

(3) *Community facility use* streetscape signage:

- Design intent: to ensure a high quality of signage which is closely allied with that of *residential use* signage, but differentiated from *commercial use* or *retail use* signage. The guidelines for *community facility use* signage are the same as those for *residential use* signage, with the following addition:

- Additional sign: directory or bulletin board
One (1) additional sign, either a directory or a bulletin board, or both at once, shall be permitted at the entry to any *community facility* building. The location of this sign shall be limited as in the limitations for the additional sign for *residential* application, and the maximum area of the face of this sign shall be 10 square feet total.

  The directory or bulletin board, if featuring changeable messages, may employ plastic lettering and/or surfaces to the degree that it is necessary to allow for change. The directory or bulletin board may be mounted into the face of the building so that it appears flush, or be freestanding. In the case of a changeable message sign, internal illumination may be provided. Methods not permitted are flashing or animated signs. The casework for a freestanding directory or bulletin board sign may not be fabricated of plastic materials.

(4) Professional office use streetscape signage:

- Design intent: to ensure a high quality of signage that can mark the location and call out the identity of a professional service on the ground floor of a building, i.e. doctor's office, while not detracting from the quality of the streetscape signage of the building as a whole.

- Flush sign at main entry: at the exterior building entry used as the main entry for the offices of a professional service, one (1) sign per professional office (in addition to the signs which identify the building itself) may be used. If the sign identifies only one professional office by the name of that office, the total surface area of the sign shall not exceed two (2) square feet. If the sign is a directory listing various suites or individuals in one professional office location, the total surface area of the sign shall not exceed three (3) square feet.

  Construction may be dimensional metal, incised letters in - or

dimensional letters on - metal so as to compliment the architectural materials palette of the building, or other methods. Methods not permitted are flashing or animated signs or signs fabricated of plastic materials. The professional office streetscape sign shall not be individually illuminated except as a product of the overall illumination of the entry area in which the sign is located.

(5) *Retail use* streetscape signage: see Section 3.10 Retail Design Guidelines

(6) Parking signage:

- Design intent: to provide a consistent identifier at the streetscape to identify *accessory* parking facilities to residents of QWD; and to ensure that *accessory* parking facilities at QWD have an understated presence such that they will not be confused with public parking facilities.

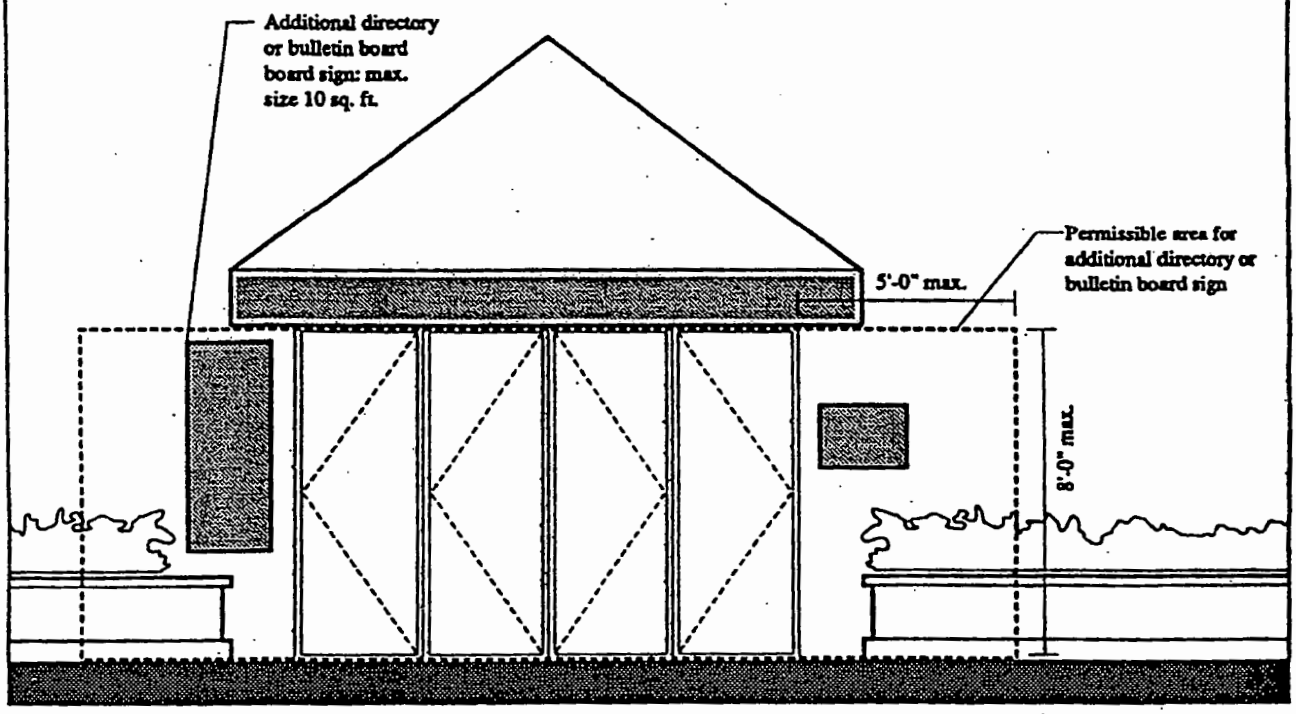
- Required signs: all signs mandated for the operation of a parking facility in New York City, i.e. those quoting rates, noting extent of liability, etc., are required. They shall be sized to the minimum square footage allowable by NYC laws governing such signs. They shall be placed in as discreet a location as permitted by NYC laws governing such sign, such locations to be in the interior of the garage. These signs shall be flat signs, not internally illuminated, and facelit only to the extent that is absolutely necessary.

- Flush mounted overhead sign: one (1) sign may be placed above the entry. This sign shall be mounted flush with the surface of the building, and shall have only one face. The maximum height of letters in this sign shall be 12". The bottom of the letters shall not be more than 2'-0" from the top of the garage entry. The width of the sign shall not exceed the width of the garage entry, and the sign shall be centered over the garage entry. Construction may be dimensional metal or stone, incised letters in - or dimensional letters on - metal or stone so as to compliment the architectural materials palette of the building. Methods not permitted are flashing, animated, internally illuminated or plastic signs.

(e) Portable/movable signs: permitted for short term special events, subject to review and approval by QWDC.

(f) Rooftop signage: permitted on *commercial parcels* for corporate or building identification purposes, subject to review and approval by QWDC. Billboards and other forms of paid advertising are not permitted.

Note:
The signage guideline for community facility signage is the same as that for residential signage, with the addition of one further permissible sign, a directory or bulletin board. Refer to written guidelines for further specifications.

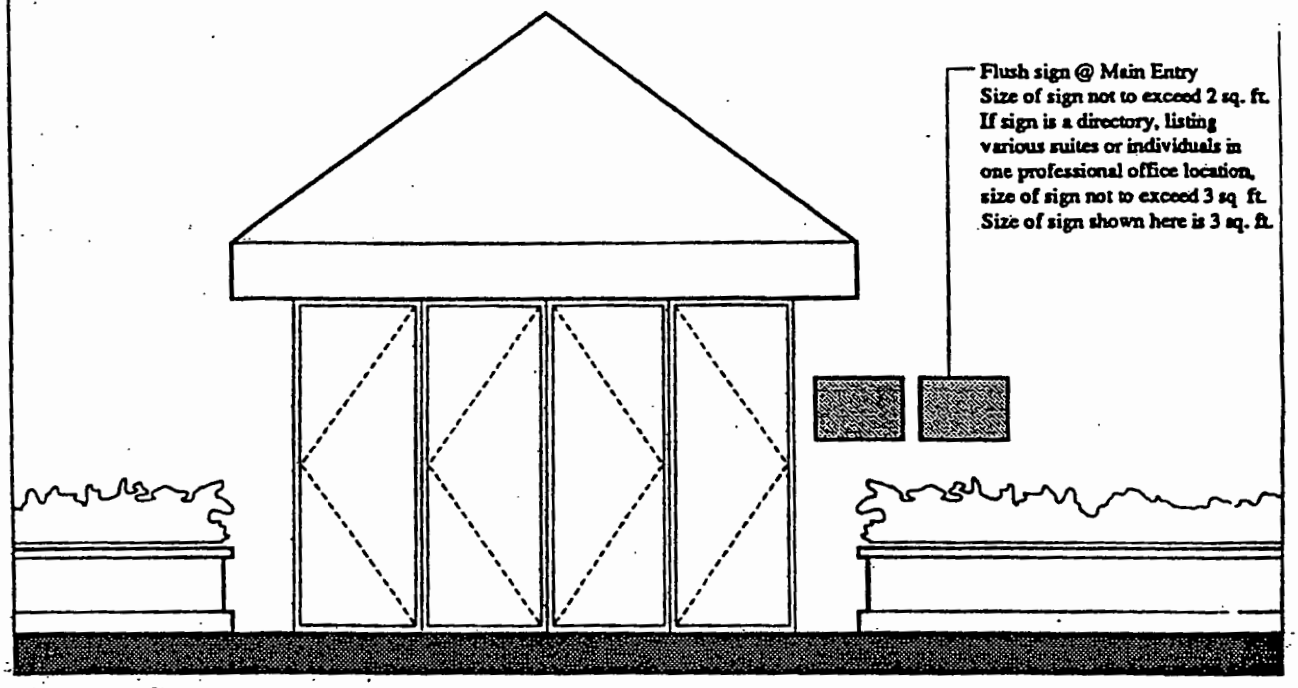


Signage at Grade
Community facility streetscape signage

Figure III-17.5

0 2 4

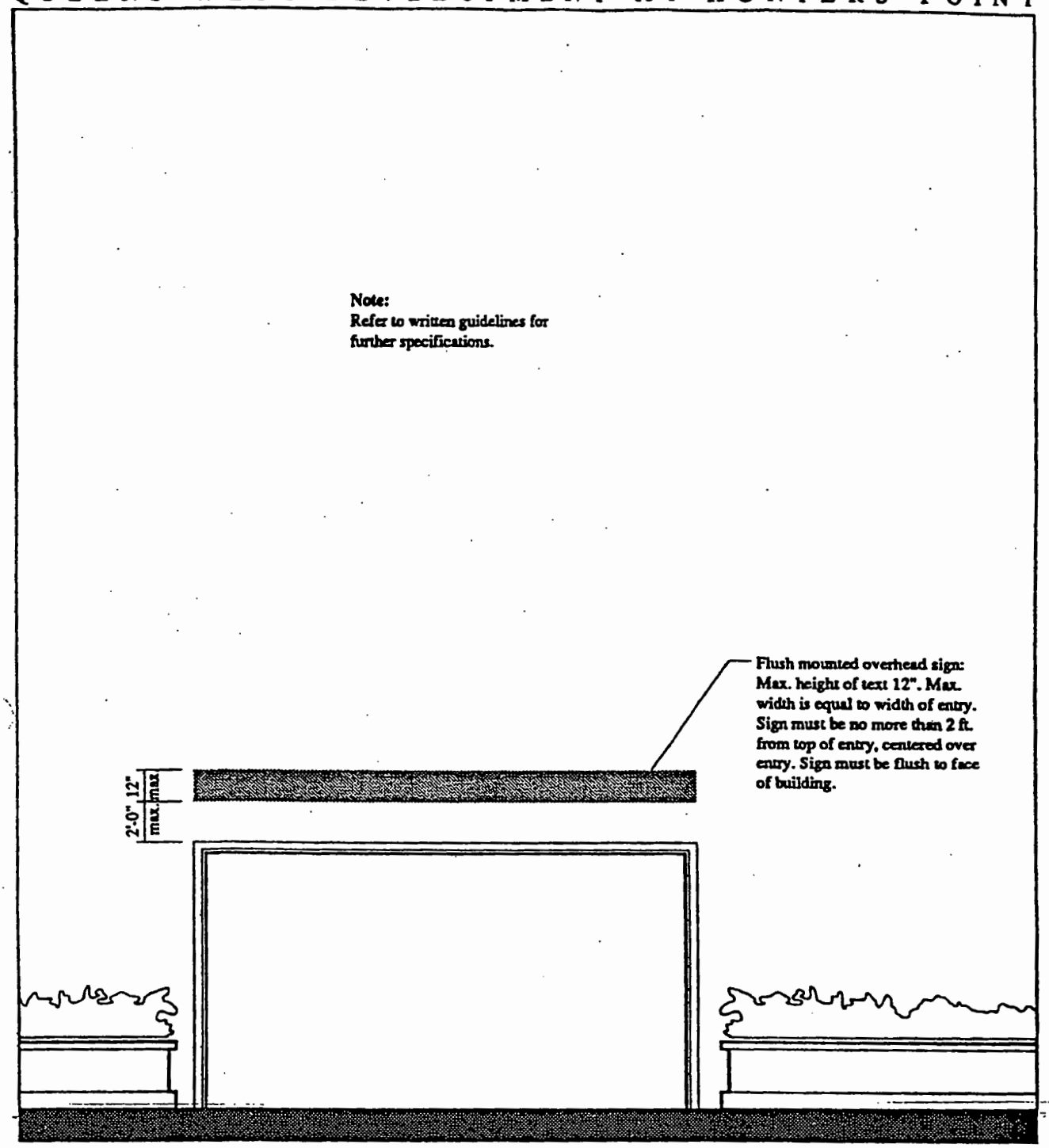
Note:
Configuration shown here is main residential entry doubling as main entry for professional offices on the first floor. Other configurations are possible. Refer to written guidelines for further specifications.



Signage at Grade
Professional office streetscape signage

Figure III-17.6

0 2 4



Signage at Grade
Parking facility streetscape signage

Figure III-17.7

0 2 4

3.9.3 Lighting

(a) **Design review stipulation:** developers are required to provide lighting on *parcels* consistent with these guidelines and submit such lighting for design review and approval to QWDC. It should be noted that *street* lighting and lighting at the water's edge also shall be required to follow these guidelines with submission for design review to QWDC and subsequently to the NYC DOT and other agencies, as required, for approval.

(b) **Lighting standards:** lighting shall meet all applicable codes and standards, including the New York State Energy Code. *Street* lighting shall meet the standards of the New York City Department of Transportation. The use of the most current recommendations of the Illuminating Engineering Society of North America is encouraged.

(c) **Street lighting:** the *street* lighting is part of the infrastructure contract for the Project. For developers, this information is included for reference only.

Street lights shall be the New York City Department of Transportation standard 250 Watt High Pressure Sodium (HPS) lamp and "teardrop" luminaire, mounted on a nominal 8'-0" arm to a nominal 30'-0" pole. The pole style shall be the "Flatbush Avenue" steel pole, as shown in Figure III- 18.1. The base, pole and luminaire shall be factory painted the DOT standard "Hunter Green" color. The foundation shall meet DOT standards.

The foundations of poles located at the intersection of Center Boulevard and 48th Avenue and Center Boulevard and Borden Avenue shall be capable of accepting future New York City approved traffic signal pole and base, with Flatbush Avenue armature above, as illustrated in Figure III - 18.2. The typical Flatbush Avenue pole (Figure III - 18.1) shall be installed at those intersections until such time as traffic density requires traffic signals.

(d) **Lighting within individual *parcels*:** developers are required to provide exterior building lighting, and may provide additional lighting as indicated.

(1) Design intent: lighting located at the perimeter of each *parcel* is required to supplement the *street* lighting. Its purpose is to improve color rendering, fill in shadows, light pedestrians' faces, articulate the building base-level facades, reinforce the *residential* and pedestrian character of the development and adjoining neighborhoods, increase security, and visually activate the nighttime streetscape. Lighting for this purpose shall be energy efficient, attractive, and easy to maintain.

(2) Supplemental lighting shall meet the following minimum requirements:

- Supplemental sidewalk lighting for pedestrians shall be provided on all sides of the *parcel* and designed in conjunction with the *grade level*

setback.

- Lighting shall not be disturbing to any persons occupying their *residential* living space. This includes other *residential* buildings inside and outside the Project.

- Lighting shall be operated nightly from dusk to dawn, and be controlled by photocells or astronomical time clocks.

- Lighting shall utilize a "white" light source with a color rendering index (CRI) of 65 or greater, i.e. metal halide, fluorescent, compact fluorescent, white cold cathode, white neon, or white HPS.

- Face light lighting elements shall provide at least the minimum average maintained illuminance listed below, calculated on an imaginary vertical plane. The required illumination shall fall on the building-side of a pedestrian's face when the pedestrian is walking down the middle of sidewalk. That is, the reference plane runs parallel to the *lot line* and is located midway between the curb and the *lot line*. Average illumination is calculated on the zone from finished walking surface up to 5'-6" high on the *parcel* side of the plane. Sources for face light shall be mounted 6'-0" or higher above finished walking surface.

Type	Min. Maintained Illumination (Vertical Plane)	Average/Min. Ratio
Residential	0.50	10:1
Commercial	0.75	10:1
Retail	1.00	10:1
Community facility	0.75	10:1
Park/*PAPPS*	0.10	10:1
Building entrances	2.00	6:1

- Steps and ramps shall be lighted with a minimum of 1.0 footcandle (maintained), on the horizontal plane, in a uniform manner so as to reinforce the perception of a change in level.

- Lighted elements shall demonstrate a design approach which is consistent for each *parcel*, and occur on a regular frequency, with not more than 30' between elements. Lighted elements may include any of the following:

  - Decorative luminaires mounted to building walls, posts, fences or pedestals;
  - Lighted display cases;
  - Light reflected from building surfaces;

- Lighting attached to *marquees* or *canopies*;
- Lighting transmitted through translucent materials, e.g. glass block;
- Lighting from *retail* display windows (shall be lighted whether or not occupied by a tenant).

• Lighting elements are recommended in the zone of 8-15' above *curb level*, but shall not be located higher than the following height above the *curb level*:

- *Residential* facades	16'-0"
- Inactive *commercial* facades	18'-0"
- Active *commercial* facades	23'-0"
- *Retail* facades	23'-0"

("Active" facades assume other sources of light lower on the wall which will be contributing to the pedestrian lighting until at least midnight, such as service establishments, offices, banks, display cases, *retail*, etc.)

(3) Responsibility for maintenance: building owner is responsible for maintenance of all lighting associated with the property and for the maintenance of tenant lighting used to meet these requirements. The building owner shall obtain and store adequate spares of any custom, modified or difficult to obtain luminaires, equipment or materials associated with the lighted elements. No luminaire or lighted element which is used to meet these requirements shall be out of commission for more than 10 consecutive days.

(4) Additional decorative lighting: may be used on a *parcel*, such as plant lighting, colored lighting, lighted signage, step lights, etc., as long as the above requirements have been met. The hours of operation for such additional lighting are at the discretion of the building owner.

(5) Industrial lighting elements: shall not be used, unless attractive in appearance and well shielded for glare.

(6) Lighting for gardens, roof decks, or other outdoor living spaces: visible from the *street* or other *residential* living spaces shall be decorative in nature and not disturbing to pedestrians or any *residential* occupants.

(7) Lighting for areas located inside the *lot line* and visible from the *street*: such as service yards, loading docks, service or garage entrances, shall be lighted with "white" light sources in attractive and/or concealed luminaires.

(8) Lighting for above-grade parking garage facilities: shall utilize "white" light sources and the luminaires' brightness shall be shielded from view of the *street* or any *residential* living space. This may be accomplished through

architectural screening, luminaire placement, or integral luminaire shielding. Parking garages which are entirely concealed from exterior view are exempt from this requirement.

(e) **Signage, *marquee* and *canopy* lighting:**

(1) Prohibitions: signage lighting shall not disturb any persons occupying their living space, inside or outside of the Queens West Development. Signage lighting shall not flash, pulsate, or otherwise change rapidly, unless concealed from view of *residential* units by *canopies* or other architectural barriers.

(2) *Commercial* identification signage: which is lighted shall utilize concealed sources, e.g. silhouette letters. Large sign boxes with luminous backgrounds are not permitted.

(3) *Retail* signage: which is lighted shall utilize neon, cold cathode, miniature decorative lamps, or concealed sources. Sign boxes with luminous backgrounds which diffuse the source may be used. Exposed fluorescent or exposed High Intensity Discharge (HID) sources are not permitted.

(4) *Retail awnings*: may be lighted internally, or from luminaires associated with the building or *storefront*. If *retail awning* lighting is used to meet the supplemental sidewalk lighting requirements, the lighting must be consistent along any individual facade, and maintained by the building owner. *Awning* lighting shall be attractive and appropriate to the application. Industrial luminaires may be used, but specific care shall be taken to achieve a well designed overall appearance.

(5) *Residential marquees* or *canopies*: with identification signage may be lighted on the vertical sides and or *street* face. Such signage lighting shall utilize concealed sources or cut-out type lettering.

Pedestrian lighting for *residential marquees* or *canopies* at building entrances shall utilize white light sources for any direct illumination. Sources shall typically be well-shielded or concealed unless decorative in nature.

(f) **Building facade lighting:** developers are required to provide exterior building lighting, and may provide additional lighting as indicated.

(1) Design intent: the nighttime lighting of the Queens West Development is intended to be seen as a composition from all vantage points. Towards this end, each *parcel* is categorized based on its height, mass and use. "Type A" and "B" *towers* are intended to have lighting with relatively greater impact and visibility, while "Type C" *towers* will have lighting which is subdued. In keeping with the primarily *residential* character of the development, all lighting effects are intended to be less bright and generally more subtle than the lighting found on typical Manhattan office buildings. Building lighting shall emphasize

architectural form, shapes, special features or elements, rather than emphasize large surface areas. Features and forms emphasized by the night lighting shall be prominent features during the day, so that lighting promotes recognition of buildings from day to night. Building facade lighting shall require design review and approval by QWDC.

(2) General requirements

- Lighting shall not be disturbing to any persons occupying their *residential* living space. This includes other *residential* buildings inside and outside the Project, and extends to other boroughs.

- Light sources shall be appropriate for the application and materials. No light sources are absolutely restricted, but colored sources, including HPS, shall be specially identified and shall require specific design review and approval by QWDC.

- Lighting effects on *towers* are intended to be visible from all vantage points, including Manhattan, the Hunters Point neighborhood and the Queens and Brooklyn.

- The building owner shall be responsible for maintenance of all lighting associated with his/her property. The building owner shall obtain and store spares of all luminaires or components, including lamps and ballasts, which are not readily available. No luminaire or lighted element used for facade lighting shall be out of commission for more than 10 consecutive days.

- Building facade lighting shall be operated from dusk to midnight and controlled by photocell and programmable astronomical time clock.

(3) Building facade lighting types: see Figure III-4 (.1-.4) Bulk Controls and Figure III-6(.1-.2), Tower Controls

- Type A: *Towers* located on *residential parcels* 2, 10, and 19.

  - The building crown shall be lighted.
  - White light sources (CRI 65 or greater) shall be used for major crown surfaces. Additional decorative sources optional.
  - The average maintained luminance at crown shall be at least 3 footlamberts (9.5 cd/square meter).
  - Lighting shall emphasize verticality of *tower* without floodlighting large areas, and emphasize major setbacks occurring 200' or more above *curb level*. Lighting of vertical features may extend below the 200' point.

- Type B: *Towers* located on *commercial parcels* 13 and 15.

- The building crown shall be lighted.
- White light sources (CRI 65 or greater) shall be used for major crown surfaces. Additional decorative sources optional.
- The average maintained luminance at crown shall be at least 5 footlamberts (16.5 cd/square meter).
- The outlining of forms with luminous sources shall be permitted if brightness is controlled.
- Lighting shall emphasize verticality of *tower*, and major setbacks beginning 85' or more above *curb level*.

• Type C: *Towers* 160' and greater in height, located on *residential parcels* 1, 3, 4, 5, 6, 7, 9, 11, 17, 18, and 20 and *commercial parcels* 12 and 14; and *tower* on parcel 8.

- The building crown shall be lighted. The top of the *tower* shall provide a "lantern" type of effect, with a luminous glowing element(s) emitting or reflecting light. This may be accomplished through architectural features with glowing windows, large scale light fixtures, or other decorative icons primarily transmitting light. Luminous glow of "lanterns" shall be warm in tone, nominal 2700 - 3200 Kelvin color temperature or equivalent color filtering. (Exception: white light sources (CRI 65 or greater) shall be used on *parcels* 12 and 14; cool colored materials, such as weathered copper, bronze, terne, stainless steel, etc., may be lighted directly with cooler color temperature sources.)
- Vertical elements shall not be lighted except on *parcels* 5 and 17 where the twin *towers* may be emphasized.
- Luminance at crown shall not exceed a maximum of 4 initial footlamberts (12.5 cd/square meter) at any visible point. These crowns occur at a lower elevation than *residential* units in other buildings, therefore lighting shall not be disturbing to tenants.

• *Waterfront commercial parcels* 12 and 14: building setbacks and/or special features on the facades facing the East River shall be lighted with white light sources.

• All other *towers*:

- The building crown may be lighted, but is not required to be lighted. Luminance and lantern effect shall conform to Type C *towers*.
- Setbacks at any level or special features on facades facing the waterfront park or Gantry Plaza may be lighted, but are not required to be lighted.

(g) **Lighting at water's edge:** the lighting at the water's edge is part of the park contract for Queens West Development. For developers, this information is included for reference only.

(1) Design intent: lighting along the East River edge of the park is intended to enhance and dramatize the overall composition of the Queens West Development as viewed from Manhattan. During the day the lighting elements shall establish a rhythm and boundary for the public park. At night a unified treatment at the water's edge shall produce a striking "necklace" of light visible from Hunters Point and from across the river. The lighting at the water's edge should provide a safe and natural environment for pedestrians on the esplanade, while creating dynamic reflections in the moving waters.

(2) Lighting at the water's edge shall meet the following requirements:

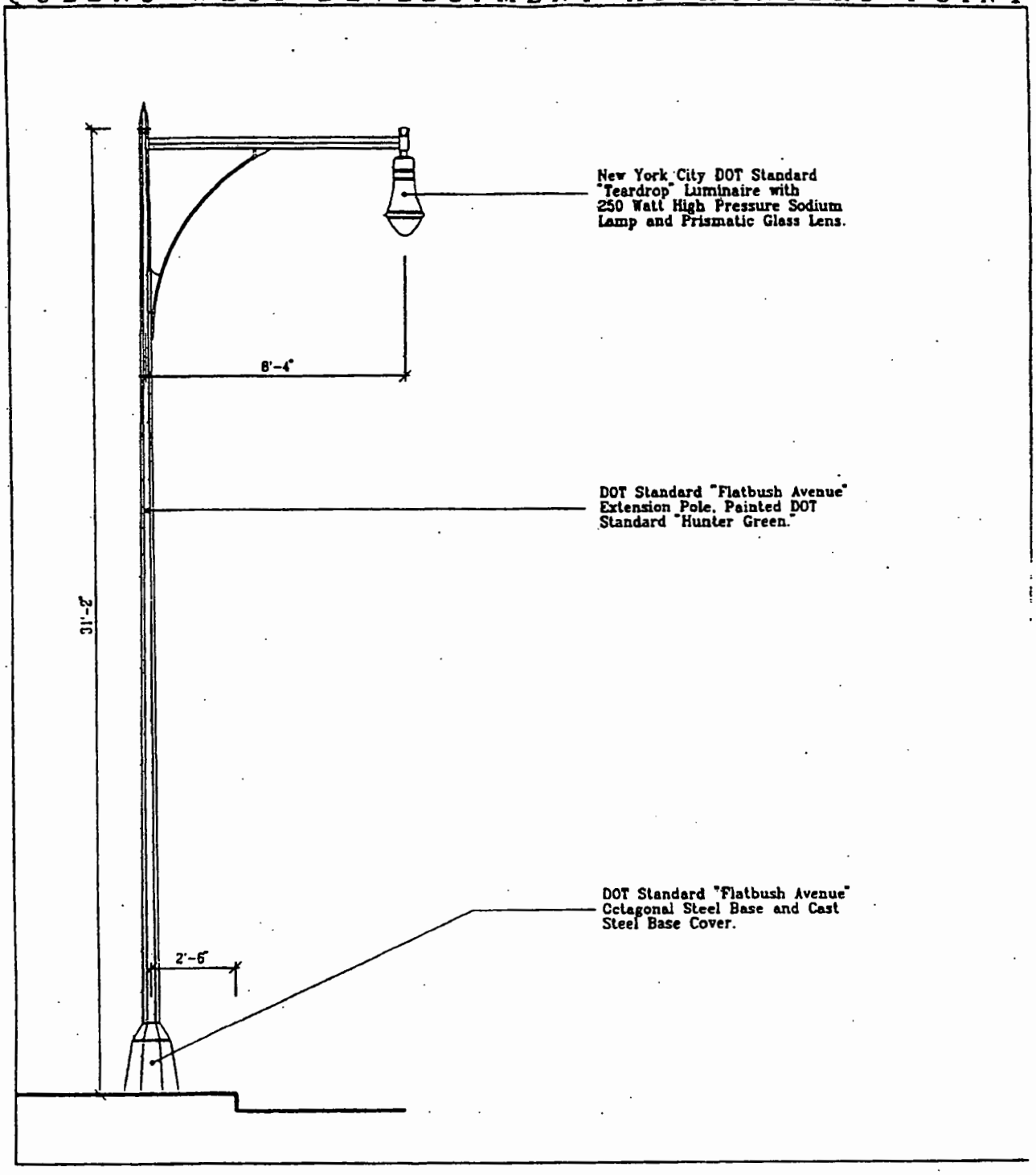
- Lighted elements for pedestrians shall be mounted to posts, fences or pedestals, and shall occur on a regular spacing, not to exceed 40' o.c. Maintenance shall be a primary consideration.

- Sources for pedestrian lighting shall be "white" light sources, with a CRI of 65 or greater. Natural color and direction of light shall be provided for pedestrians. Lamp life shall be rated at a minimum of 12,000 hours. The luminaire shall produce a visible luminance from all sides.

- Additional "marine" lighting elements shall be provided on a regular spacing, not to exceed 20' on center, and related to the pedestrian lighting pattern. The elements shall produce a blue light visible from Manhattan and the East River. In addition, such marine lights shall provide blue reflections on the water and/or rocks. This marine light shall occur in all shore and pier conditions, with the exception of the natural grass and sand shoreline. The blue marine lights may be part of the pedestrian lighting element, or may be separate. The marine lights shall be reasonably accessible for maintenance and relamping without requiring the use of a boat. Sources shall be long-lived and energy efficient. Luminaires shall be heavy-duty, corrosion-resistant and vandal resistant.

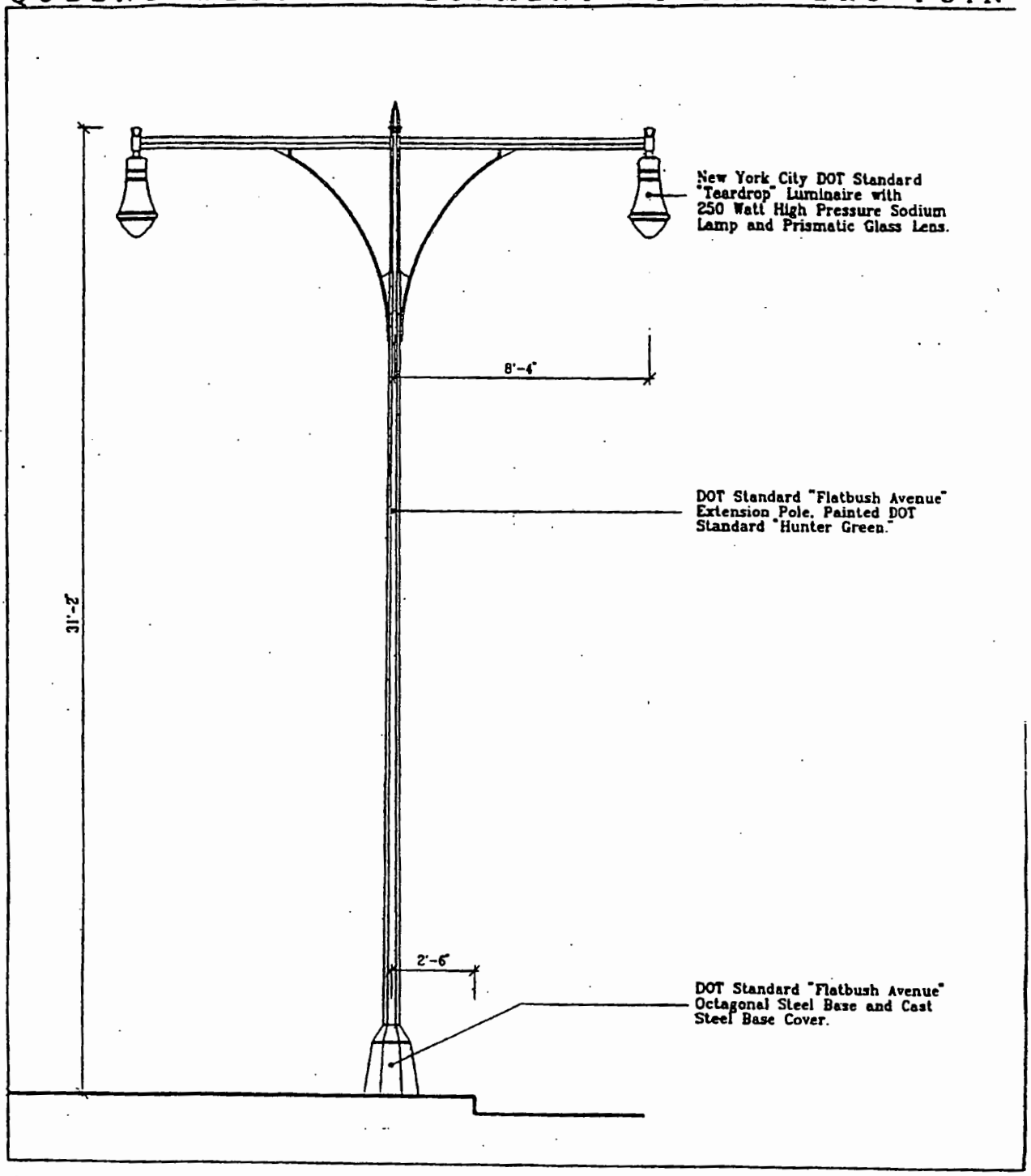
- Pedestrian lighting shall be controlled by photocells and operated from dusk until dawn.

- Marine lighting shall be controlled by a combination of photocell and astronomical time clock, and shall be operated from dusk until midnight.



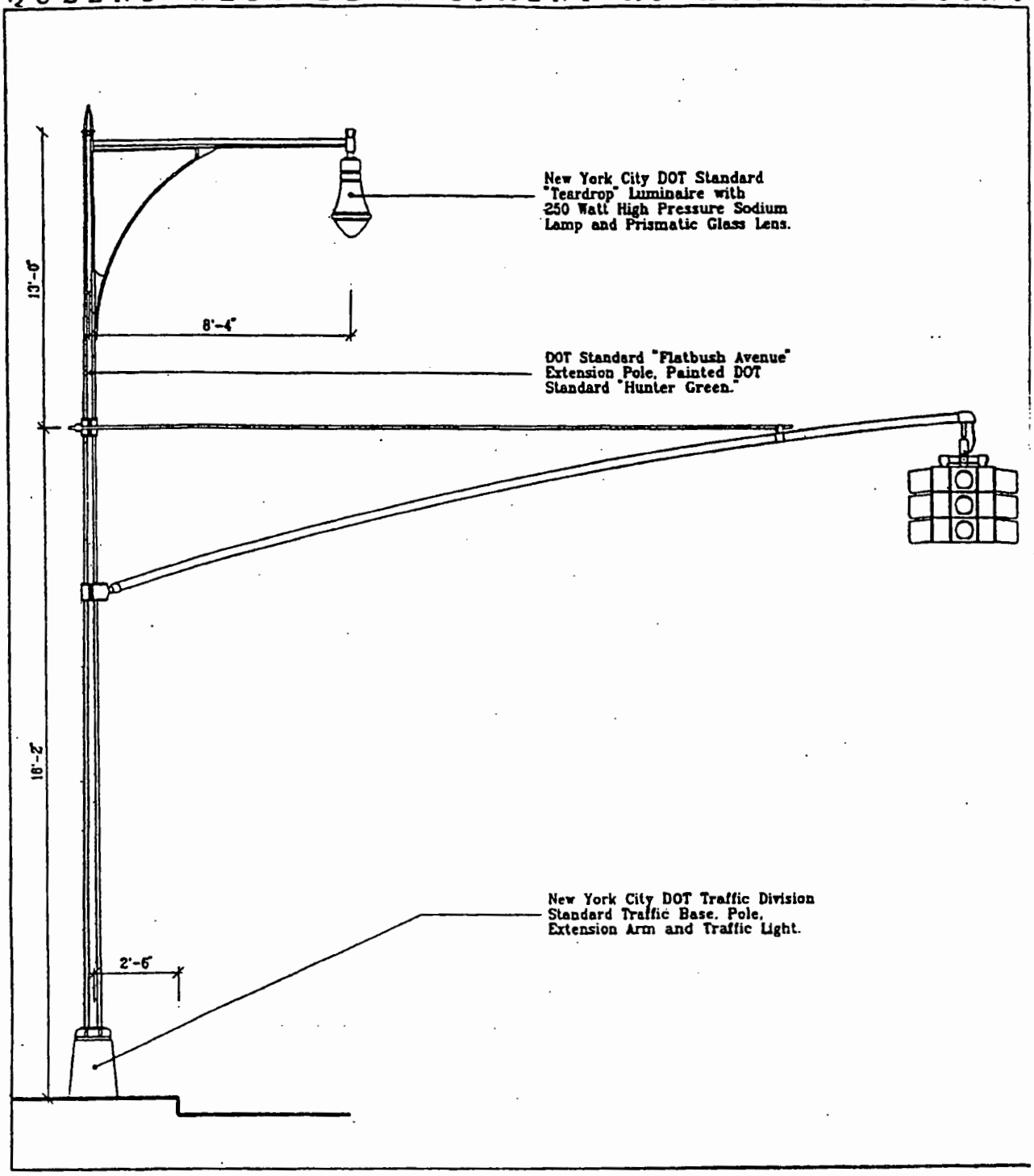
Streetscape Lighting
Typical Street Luminaire

Figure III-18.1



Streetscape Lighting
Typical Double Arm Street Luminaire

Figure III-18.2



Streetscape Lighting
Typical Traffic Signal Pole with Street Luminaire

Figure III-18.3

3.10 RETAIL DESIGN GUIDELINES

The Retail Design Guidelines for the Project have been prepared to establish criteria for Project retailing and to delineate specific controls for *retail use* on each development *parcel*. The Guidelines identify retailing locations, address architectural treatment and *retail* theme programming for the Project's *retail* spaces, and establish guidelines for *retail* development in Stage 1 and future development stages. Merchants are encouraged to exhibit imaginative *storefront*/display solutions and to discuss them at an early stage with QWDC for compliance with the Retail Design Guidelines.

As a mixed-use *residential*, *retail* and *commercial* setting, the identity of the Project will in large measure be derived from the many contributions of designers, developers, merchants and residents over time. Within the criteria set forth, these contributions are essential and required before the vision of a true waterfront district is realized.

3.10.1 Project retail districts

Major *retail* components are located at the Project's main access points of 48th Avenue and Center Boulevard and at Borden Avenue and Center Boulevard. There are three *retail* districts as indicated in Figure III-19, Retail Districts: primary *retail* district, located at *parcels* 8-11; secondary *retail* district, at the office/*hotel commercial* core, on *parcels* 12-15; and, tertiary *retail* district, located within the Project's northern and southern *residential* neighborhoods.

(a) Primary *retail* district: the Project's primary concentration of *retail* shall occur on *parcels* 8-11 and include shops surrounding the *parcel* 10 *PAPPS* at 48th and 49th Avenues and Center Boulevard; shops and restaurants also shall be located on the adjacent waterfront esplanade at the Gantry Plaza. These *storefronts* share highly visible Plaza-facing frontage as well as excellent site and pedestrian access to the esplanade, transportation, visual and recreational amenities.

The *parcel* 10 *PAPPS* creates a major *retail* focus for this first development stage. Centered on axis with the Gantry Plaza, the *PAPPS retail* program shall include flanking *retail*/restaurant uses, and on-site *retail* kiosks and carts. All building lines for surrounding *retail* on adjacent *parcels* shall be placed fully to the sidewalk line to lend a sense of enclosure and create a heightened sense of *retail* presence. As the project's initial development increment, Stage 1 will set the image, theme and standards for all subsequent phases.

Primary *retail* district uses shall consist primarily of business and other services which provide a wide variety of local consumer needs and have a small service area. (NYC Zoning Resolution use group 6; refer to Section 3.3 Permitted Uses.)

(b) Secondary *retail* district: additional *retail* development shall occupy portions of the four *parcels* to the immediate south of the primary *retail* district, centered on the corner of Borden Avenue and Center Boulevard--the main entrance to the Project's office/*hotel* core. *Parcels* 12-15 are included in this secondary *retail* district.

Ground level food service is recommended for the west side of *parcels* 12 and 14 along the curved *PAPPS* overlooking the East River and on *parcels* 13 and 15 at the corners of Center Boulevard at 50th Avenue, Borden Avenue and 54th Avenue. Recommended secondary *retail* district uses also include *parcel* 12 *hotel* shops, restaurants and theme bar.

Secondary *retail* district uses shall consist primarily of business and other services which serve a large area. (NYC Zoning Resolution use groups 6, 9 and 12; refer to Section 3.3 Permitted Uses.)

(c) **Tertiary *retail* district:** later development stages of the Project will accommodate substantial *residential* development in mid- and high-rise buildings which may provide limited neighborhood-oriented *retail*, food service and bar/restaurants for surrounding *residential* populations. Several appropriate locations for *retail* are recommended at park and *open space* nodes in the northern and southern areas of the Project where overlooks to the East River and adjacencies to park/*open spaces* are prominent.

Potential sites for *retail uses* may be found in the north *residential* neighborhood on *parcels* 3, 5, 6 and 7 provided that appropriate visibility and prominent frontage along Center Boulevard are established. Adjacencies to the proposed parks on *parcels* 4 and 5, and corner *retail* concentrations at Center Boulevard and 47 Avenue should be utilized; locations along side *streets* should be avoided. *Parcels* 3 and 6 may also support additional food service operations along East River Road, taking advantage of the adjacency to the waterfront esplanade and dramatic views of the Manhattan skyline. Potential sites for *retail uses* may be also found in the south *residential* neighborhood on *parcels* 17-20 along Center Boulevard and Newtown Creek Road.

Tertiary *retail* district uses shall consist primarily of business and other services which provide a wide variety of local consumer needs and have a small service area. (NYC Zoning Resolution use group 6; refer to Section 3.3 Permitted Uses.)

3.10.2 Retail design guidelines

The Retail Design Guidelines have been developed to establish a consistently high level of quality for *retail uses* within the Project. Recognizing that design diversity encourages a dynamic environment, the Guidelines provide a means of defining the character of important Project elements in advance of specific development. They provide direction with respect to elements affecting *storefronts*, general building exteriors, public spaces and areas viewed by the public and also identify treatments which are not permitted. QWDC shall have right of review and approval over all aspects of tenant presentation and display within the *retail storefronts*, including the following:

- ***Storefront***, encompassing all construction and display within a band 10'-0" deep, measured from the *leaseline* into the leased premises.

- **Window display**, including signage, lights and display for all non-*storefront* public-facing windows.

- **Signage**, including sign types, sizes, locations, fabrication and installation methods.

- **Lighting**, including quantity of lighting, lighting types and level of luminosity permitted for *retail storefront* exterior signage, as well as display lighting within a band 10'-0" deep, measured from the *leaseline* into the leased premises.

(a) **Retail design intent:** *retail storefronts* shall harmonize with the character and spirit of the Project's architecture, provide clear, unobstructed views into *retail* establishments, and where appropriate, utilize historical design elements to successfully build a waterfront district identity. Harmony between uses (*retail, commercial, residential*) should be maintained throughout all stages of development with careful study and application of individual *storefront* details and coordination with QWDC's overall Design Guidelines.

Ground floor elements shall relate to pedestrian traffic with strong visual qualities, balance between solid and open areas, defined door and window details, and a scale which is comfortable and inviting.

Tenants shall make full use of allowable facade areas for merchandise and sign display, utilizing bayfront windows and recessed doorways to provide significant glass area to draw attention and traffic into store interiors. The number and range of elements in *storefront* facades shall exhibit consistency of detail within the retail districts set forth, yet each tenant should seek individual theme merchandising opportunities to differentiate establishments from adjacent retailers within the district.

(b) **General guidelines:** the following guidelines apply in all *retail* districts except as noted; see Figure III-20, Storefront Controls.

- *Storefront* width: openings shall be no wider than 25' and no smaller than 15'. This facilitates the development of well proportioned single and combined multiple shop openings.

- *Storefront* height: openings shall not exceed a height of 15' and be no lower than 10'. *Storefront* openings in excess of this height become too tall for the utility value of flush or in-ceiling lighting fixtures and therefore require extra tenant fit-up expense. Excessively tall shop areas are eventually downscaled by placing a lower "drop ceiling" and opaquing the extra height in the glass area at the top of the *storefront*. This detracts from the architectural character of the streetscape.

- *Retail* arcades: there shall be no *retail* arcades; sidewalks widths are sufficient to accommodate all pedestrian traffic. *Retail* arcades obscure *retail storefront* view corridors and inhibit tenant identity.

- *Awnings*: encouraged for Center Boulevard, side streets, *PAPPS* and public space-facing *storefront* locations. Where no projected bay glass *storefronts* are built on *residential parcels*, all *retail storefronts* should include *awnings* above

all remaining *storefront* openings including display and entrance areas, to differentiate from the *residential* lobby entrances and non-*retail street* level uses. Professionally crafted graphics placed on the *awning* with highly visible and bright colors are encouraged to give a sense of pedestrian scale and a variety of color. Where a tenant has multiple *storefront* openings, all *awnings* shall be of a similar design and uniform color.

- Outdoor seating: encouraged where restaurant/food service uses adjoin, or are in close proximity to, a *PAPPS* or public space amenity.

- Security grilles: all *storefront* security grilles shall have open grillwork for their entire surface to allow maximum visibility into the *retail* tenant space. Hoods for the security grilles shall be concealed from the exterior. No solid metal shutter grilles shall be permitted.

(1) Primary retail district: the following additional guidelines apply to *parcel* 8-11 *retail* spaces:

- Location: all *storefronts* shall be placed on the *required street wall* or *height control line* and may project a maximum of 5'-0" to the *street line*. No *retail storefront* projection is permitted on the *parcel* 8 *PAPPS*. A 5'-0" *retail storefront* projection is permitted on the *parcel* 10 *PAPPS*.

(2) Secondary retail district: the following additional guidelines apply to *parcel* 12-15 *retail* spaces:

- Location: all *storefronts* shall be placed on the *required street wall* or *height control line*. *Retail* and/or theme restaurants/cafes are encouraged to locate main addresses on Center Boulevard. *Storefronts* shall be oriented on *parcels* 12 and 14 to take advantage of views along the esplanade and East River walkways.

- Major architectural features: recommended for the corners at the intersection of Center Boulevard and Borden Avenue. Ground level display and/or feature entrance areas are encouraged for development at these locations.

(3) Tertiary retail district: the following additional guidelines apply to *parcel* 1-7 and 17-20 *retail* spaces:

- Location: all *storefronts* shall be placed on the *required street wall* or *height control line* and may project a maximum of 5'-0" to the *street line*.

(c) Kiosk/cart areas: *open spaces* for pedestrian use and public gathering are planned in all stages of the Project. These spaces, notably the *PAPPS* in the primary and secondary retail districts, have been designed to accommodate passive recreation and support additional *retail uses* in the form of *retail* carts and kiosks. In Stage 1, kiosk and carts may occur on the *parcel* 10 *PAPPS* and the adjacent Gantry Plaza, and in a later stage, on the *parcel* 12 *PAPPS*.

(1) Kiosks: kiosk operations, for the sale of both food and merchandise, are encouraged. Kiosks shall not exceed 15' in height, from roof line to pavement. Kiosk *storefront* openings shall not exceed 12' in height. Kiosks shall be compatible in design and construction with major buildings within each *retail* district and utilize quality materials to create an image of permanence and durability. Easy to maintain materials such as brick, stone, steel and glass are recommended, although quality wood construction will be permitted. *Awnings* made from materials such as glazing or fabric that will not fade or tear easily may also be utilized. Kiosks may require electronic or structural security devices, which must be approved by QWDC.

Cantilevered roofs extending no more than 4'-0" in any one direction around the exterior of the kiosk may be constructed. Signage shall include perpendicular, 3-dimensional blade signs not exceeding 6 square feet in area. Silk screened or applied graphics shall be placed in a band on the glass *storefront* areas at no less than 3'-6" above finished exterior grade. This band of logos and/or graphics shall not exceed 4" in height and shall be of uniform color and design.

(2) Carts: although seasonal in nature, *retail* carts will add to the richness of the Project *retail* mix with temporary displays of food and merchandise and create smaller, flexible merchandise zones that are highly visible and accessible to the public.

Carts shall be placed together in collections, such as at a cart market in the Gantry Plaza and the *PAPPS* across Center Boulevard. Carts shall be of a common design that will be a part of the theme-image for Project *retail* areas, subject to QWDC approval. Carts shall not exceed a height of 9'-0" with *awning* covering. They shall not exceed a width of 4'-0" and a length of 8'-0". Retailers shall be allowed an area of no more than 5'-0" in any one direction from each side of the cart to allow for "cascading" display areas. Cart vendor total lease area shall include the dimension of the cart and 5'-0" maximum in all directions. Cart operations will be undertaken within a defined daily schedule so that the vendor's presence may operate in harmony with fluctuations of visiting and on-site populations. Cart retailing locations shall include common, in-ground electrical servicing to facilitate lighting and operational functions of the cart vendors.

Small removable signs shall be fabricated and suspended from the *awning* structure with a uniform dimension for differing locations as part of the overall

cart architecture. This may include a blade sign placed at one or either end of the short side of the cart or a small horizontal sign from the *awning* along the long side of the cart. Signs may be of a 3-dimensional nature and shall not exceed a height of 3'-0" or a width of 2'-6". Long horizontal signs shall not exceed 1'-0" in height or 5'-0" in length. All signage shall be front lit by a separate source. There shall be no backlit or neon lighting that would detract from the in-line *retail*.

3.10.3 *Retail storefront* sign criteria

The purpose of Project sign criteria is to establish distinctive signage which lends specific character to different *retail* districts and which creates variety in the Project. Tenants shall be required to design, fabricate, install and maintain *storefront* signs which exhibit imagination, high fabrication quality, and compatibility with adjacent and facing *storefronts*. Signage shall be limited to trading name and logo only. No brand names, product names or phrases may be used on *storefront* signs or in any area visible from public areas without written QWDC approval.

(a) General guidelines:

(1) Tenants shall be allowed to install one sign, located on the *storefront* fascia, as a primary exterior trading identity, limited to trade name and logo only. This sign shall be located within the permitted signage band on the *storefront* fascia as indicated on Figure III-20(.1-.2) Storefront Controls. The sign shall not exceed 20 square feet in size. That is, 20 square feet is the maximum area of the bounding rectangle which contains all the elements of the sign and its background field.

(2) All additional signs will be placed or hung so that no part of the sign extends more than 15' above grade. No individual additional sign shall exceed 8 square feet in size. That is, 8 square feet is the maximum area of the bounding rectangle which contains all the elements of the sign and its background field. This includes all *retail* exterior and interior sign types described in the following sections.

(3) Brightness of signs shall be subject to QWDC approval. Hand leafed/painted, or decal signing of display windows shall be permitted.

(4) Signs within the *storefront leaseline* may be externally lit from recessed or specifically approved decorative features with all attachments, wiring, clips, transformers, tubes and other mechanisms concealed. All sign lighting shall be controlled by a time clock with hours of illumination to be determined by QWDC.

(5) Interior signage shall permit an unobstructed view into the shop. In all cases, signs shall not hang lower than 7'-0" from the shop floor.

(6) All signs shall be Underwriter Laboratory listed or labeled. No exposed raceways, ballast, transformers, sign company names or labels shall be permitted.

(b) Sign types permitted:

(1) Panel signs: when used as a principal sign on a building, panel signs shall be horizontal in format, attached to the building facade above an overhang or below a cornice or upper floor window. Such signs may be in a wide range of materials:

- Wood: the most traditional form of panel sign is a painted sign board with an edge molding. The message may be either directly painted on the sign panel surface or applied in three dimensional letters. Current practice usually substitutes MDO plywood for a solid wood face. If plywood is used, its edges shall be sealed and protected with a wood or metal frame and its surface protected with paint. Exterior light sources shall be provided. Wood panel signs may include carved elements.

- Porcelain: panel signs may also be made of porcelain enamel on metal. Porcelain enamel signs, though costlier than wood signs, have major advantages of color permanence, lustrous surface and freedom from maintenance.

- Metal panel: signs may be fabricated of metal, for example, steel mesh with an angle iron frame. Steel signs shall be galvanized and/or painted to prevent rust stains.

- Applied letters: board signs may have dimensional letters, logos or other sculpted elements attached.

- Neon: neon lettering may be attached to a panel sign.

(2) Building surface signs:

- Face lit (or front lit) signs: sculpted, cast or cut-out letters may be applied directly to the building surface. Exterior light sources shall be provided. In addition to overall surface illumination, there are several alternative lighting techniques for applied letters and ornaments which are very effective.

- Halo lit: backlit opaque individual letters with a concealed light source, creating silhouette effect.

- Neon: formed directly from neon tubing and attached to the building surface.

- Edge illuminated signage: etched-glass panel illuminated by enclosed linear light source along top edge, bottom edge, or both.

- Opaque background/cut-out, translucent dimensional rear lit lettering: creating floating effect of letters on background.

(3) Blade signs: blade signs may be constructed like small panel signs, be carved of wood or made of porcelain enamel on metal. Blade signs may have dimensional letters, logos or other sculpted elements.

(4) Medallion signs: object signs, like blade signs, may be used mainly under *awnings*. Their use is encouraged as they contribute to a feeling of variety in *retail* districts. Traditionally, the two or three dimensional "object" relates to the business being transacted: a boot for a cobbler's shop, eyeglasses for an optometrist, etc. The object may stand alone or be supplemented with lettering and decorative devices.

Materials permitted for object signs are wood and metal. Plastic is not allowed. Surfaces should be painted or left natural. Gold or silver leaf highlights are suggested as they add accent and sparkle under *awnings*. Mountings should allow for limited movement of the object sign without encouraging people to tap or swing on signs.

Medallions offer an opportunity for variety in blade sign design and are encouraged. Medallion signs are often constructed like panel signs with the same range of materials and techniques, but in a multitude of shapes. They may also be constructed of wrought or pierced metal, often with paint and gold or silver leaf highlights.

(5) Interior window surfaces:

- Paint, gold/silver leaf: may be directly applied to the inside of *storefront* windows and door glass.

- Neon: neon tubing may be placed behind *storefront* windows. Ballasts shall be inconspicuous in location and color. Neon tubing shall be shielded with clear plastic where customers might be able to touch it.

(6) *Awnings*: store name/logo may be painted or silkscreened directly on *awnings*. Lettering shall be placed in the lower portion of the overhang. When angled or bullnose *awnings* are used, signs shall not be placed on panels sloped more than 30 degrees (from vertical) or on the curved upper portion of *awnings*.

(7) Mesh panel surface signs:

- Applied letters and ornaments: sculpted, cast or cut-out letters may be applied directly to the mesh panel for principal signs. Exterior light

sources shall be provided. Applied three-dimensional letters may be fabricated, cast or cut-out.

- Illuminated letters: individually illuminated dimensional lettering may be applied directly to the mesh panel or to sign boards (principal signs only).
- Halo lit: backlit opaque individual letters with a concealed light source.
- Neon: neon letters may be formed directly from neon tubing.

(c) **Sign restrictions:**

(1) Tenants are forbidden to affix permanent or temporary signing, decals, artwork, or other signage indicating product line. Credit card decals will be permitted subject to QWDC approval.

(2) Permanent or temporary interior signage specifying products and prices shall be designed, constructed and executed with quality and professional standards of fabrication.

(3) Commercially produced graphics for nationally produced and merchandised products shall be permitted subject to QWDC approval. Listing of merchandise shall be forbidden within the first 5'-0" measured inward from the *leaseline*.

(4) Animated signs and signs employing rapidly moving or flashing lights are forbidden.

(5) Other than neon, visible light sources, i.e., small bulbs, are not permitted without specific QWDC approval.

(6) Surface-mounted box or cabinet-type signs are forbidden.

(7) Formed plastic or injection molded signs, or signs comprised of vacuum-formed letters are forbidden.

(8) Simulated material wall coverings, stone or wood-grained plastic laminates are forbidden.

(9) Free-standing signs are forbidden.

3.10.4 *Retail storefront* lighting criteria

The purpose of the lighting criteria is to provide general standards for *retail storefront* illumination which are compatible with the Project's overall exterior lighting concept and to maintain a high degree of clarity and visual balance. All *retail* related lighting, with the exception of internally illuminated signage, will be subject to the following requirements:

(a) **General guidelines:**

(1) All lighting installations shall be reviewed and approved by QWDC.

(2) Lighting shall meet the requirements of the New York State Energy Code and all relevant electrical, energy, fire and other applicable codes.

(3) See Section 3.11.1C Glazing, 3.11.1D Daylighting, 3.11.2C Interior Light for additional *retail* lighting requirements.

(b) **Light sources:**

(1) All sources shall be "white" light sources such as incandescent, quartz-halogen, cold cathode, fluorescent, compact fluorescent, deluxe metal halide or white sodium. Sources used for lighting in merchandising or display areas shall have good color rendering, equivalent to a CRI of 80 or higher for fluorescent, and 65 CRI or higher for metal halide or white sodium, with a correlated color temperature of approximately 3000 Kelvin.

(2) Light sources shall be the most energy efficient within their classification. Incandescent sources shall be quartz-halogen type (if made in similar size or wattage), with infra-red reflectors when available. Low voltage lighting should be considered for tighter beam spreads and high impact on merchandise displays.

(3) Sources slated to be phased out by the National Energy Policy Act of 1992 shall not be used.

(4) Fluorescent lighting shall be of the T-8 or T-5 type. Lamps above 36 watts shall be connected to compatible electronic ballasts. Lamps shall be of the modified triphosphor type with CRI above 80.

(c) **Show window display lighting:**

(1) The show window shall be considered to extend 5'-0" into the store measured from the face of the glazing.

(2) Accent lighting in display windows shall be from reflectorized luminaires or lamps providing a point source distribution. Accent luminaires greater in size than a 5"x5"x5", or higher in wattage than 75 watts, shall not be visible from the *street* or exterior of the *storefront*.

(3) Colored filters on accent lighting, or colored neon lighting is permitted in show windows. Decorative fixtures are permitted in show windows subject to approval by QWDC.

(4) At least 50% of the accent lighting of show windows shall remain lighted from

the time stores are closed until midnight, and shall be controlled by astronomical time clocks or photocells.

(5) If *retail* lighting is used to meet the criteria for face light elements (Section 3.9.3.d(2) supplemental sidewalk lighting) *storefronts* shall contain attractive displays, art work, community exhibits or equivalent elements, and meet the requirements for show window lighting.

(6) In order to increase visibility into the *storefront* and compensate for daylight, show windows may supplement accent lighting with less directional fill lighting. Sources shall be "white" light from energy efficient sources with a lamp/ballast efficacy greater than 50 lumens per watt. Sources shall be concealed from view.

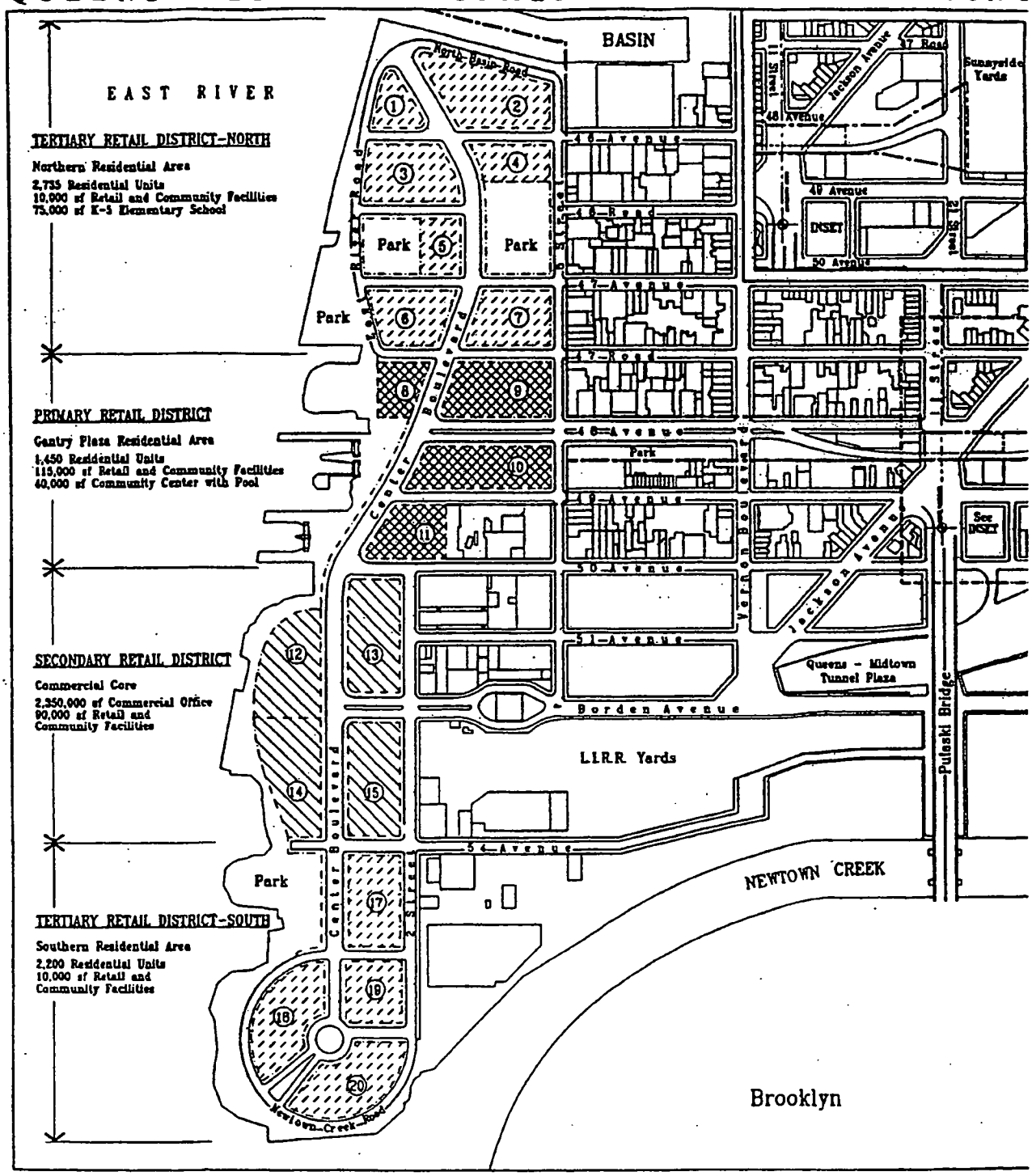
(d) **Interior general lighting**

(1) General lighting for the store interior shall be from luminaires which provide reasonable protection from direct lamp view or glare. Luminaries may be exposed or shielded, pendant or surface mounted on walls or ceilings. Bare fluorescent or High Intensity Discharge lamps shall not be used without special permission from QWDC.

(2) Visible fluorescent luminaires shall not be shielded by patterned acrylic lenses typically used for offices, or straight edged eggregate louvers, or inefficient louvers less than 2" square, such as the parawedge or paracube varieties. Large cell parabolic louvers or decorative lenses may be used.

(3) Surface or pendant-mounted track and track fixtures installed for accent lighting may be used.

QUEENS WEST DEVELOPMENT AT HUNTERS POINT



Retail Districts

Figure III-19

0 250 500

⑲ Parcel Number

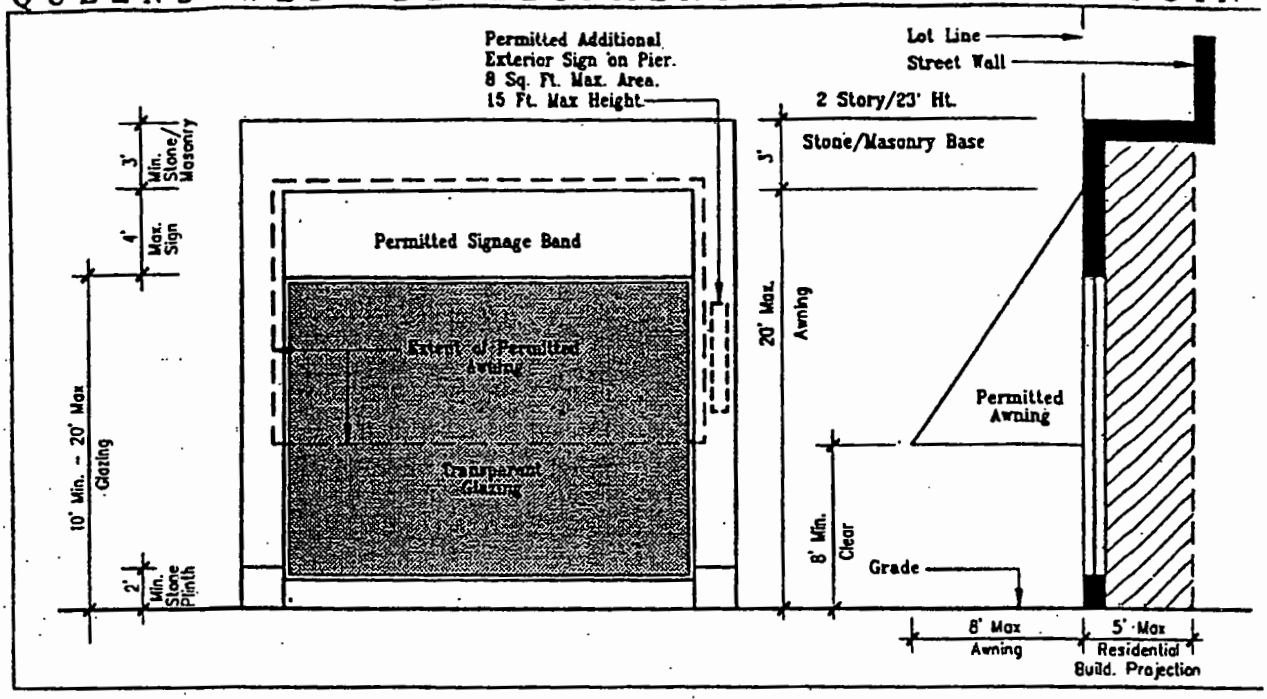
Lot Line

Project Boundary

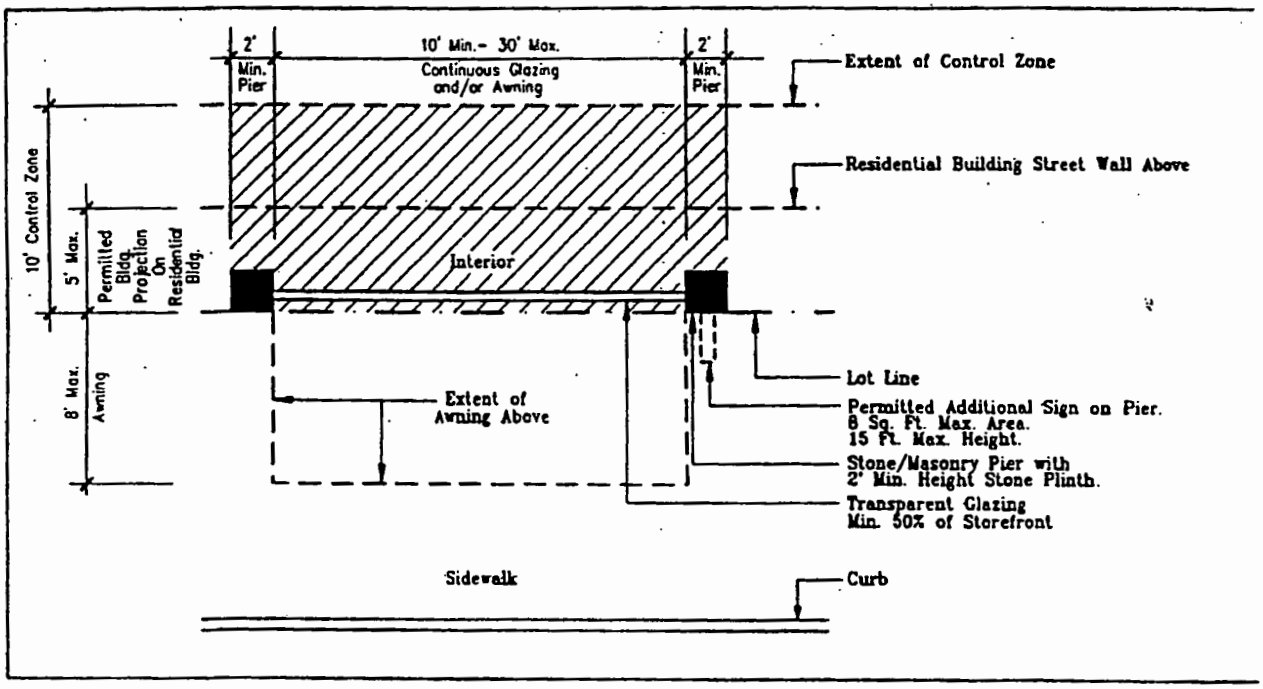
Primary Retail District

Secondary Retail District

Tertiary Retail District



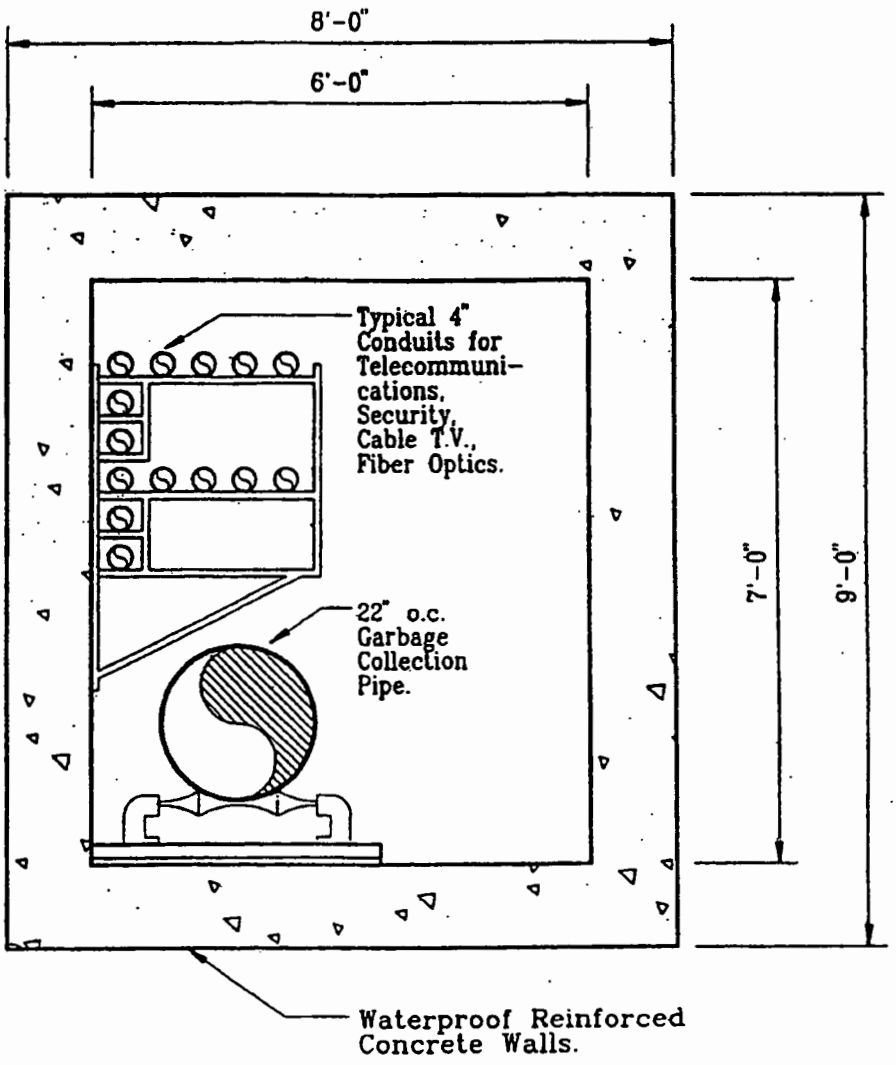
Retail Storefront Controls
Elevation and Section



Retail Storefront Controls
Plan

Figure III-20

0 4 8



Service Tunnel Section

Figure III-21

0 1' 2'

EXHIBIT M

FORM OF COVER LETTER

Queens West Development Corporation
633 Third Avenue, 36th Floor
New York, New York 10017

Re: Parcel 5 of Stage II of the Queens West Development Project

Ladies and Gentlemen:

Reference is hereby made to that certain Agreement of Lease dated as of [_____], 2003 between you, as Landlord, and us, as Tenant (the "Lease"). Capitalized terms used herein without definition shall have meanings ascribed thereto in the Lease.

Pursuant to Section [____] of the Lease, [Insert relevant substantive information].

PURSUANT TO SECTION [____] OF THE LEASE, LANDLORD IS REQUIRED TO RESPOND TO THIS NOTICE WITHIN [_____] [DAYS][MONTHS] [AND LANDLORD'S FAILURE TO RESPOND [WILL][WILL NOT] RESULT IN A DEEMED CONSENT BY LANDLORD TO THE REQUEST CONTAINED IN THIS NOTICE].

Thank you.

Very truly yours,

East Coast 5 L.L.C.

EXHIBIT N

FORM OF AFFIRMATION OF INDEMNITY

AFFIRMATION OF INDEMNITY made as of the [__]th day of [_____], 2003 (this "Agreement") between EAST COAST 5 L.L.C. ("Purchaser"), a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010 and QUEENS WEST DEVELOPMENT CORPORATION ("QWDC"), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York, constituting a public benefit corporation and a political subdivision thereof, having an office at 633 Third Avenue, 36th floor, New York, New York 10017.

W I T N E S S E T H:

WHEREAS, pursuant to that certain Agreement of Lease, dated as of [_____], 2003 (the "Lease"), between QWDC, as landlord, and Purchaser, as tenant, QWDC ground leased the Premises to Purchaser;

WHEREAS, pursuant to the terms of the Lease, Purchaser has exercised its Option to purchase the Premises;

WHEREAS, in accordance with the requirements of the Lease, Purchaser is reaffirming its obligations to indemnify QWDC (the "Indemnification Obligations") pursuant to all indemnity clauses and provisions set forth in the Lease;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Purchaser and QWDC hereby agree as follows:

1. Definitions. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to such terms in the Lease.

2. Incorporation. All of the Indemnification Obligations contained in the Lease made by Purchaser for the benefit of QWDC are hereby incorporated herein as though they were restated in full herein.

3. Reaffirmation. Notwithstanding the fact that as a result of Purchaser's exercise of the Option, the Lease is no longer in effect, Purchaser hereby reaffirms all of the Indemnification Obligations of Purchaser contained in the Lease, including, but not limited to environmental matters, as though such Indemnification Obligations survived the termination of the Lease; provided, however, (i) this Agreement and the Indemnification Obligations shall

terminate and be of no further force and effect upon the Scheduled Expiration Date and (ii) in the event the Premises is transferred to a person or entity which is not an affiliate of Purchaser, Purchaser shall be released from all of the Indemnifications Obligations first arising after the date of such transfer (the "Transferred Obligations") provided the transferee assumes all of the Transferred Obligations by executing and delivering a copy of this Agreement, together with the documentation evidencing the transfer of the Premises, to QWDC.

4. Notices. Whenever it is provided in the Indemnification Obligations incorporated herein that a notice, demand, request, consent, approval or other communication (a "Notice") shall or may be given to or served upon either of the parties by the other and whenever either of the parties shall desire to give or serve upon the other any Notice with respect hereto, each such Notice shall be in writing and, any law or statute to the contrary notwithstanding, shall be effective for any purpose only if given or served as follows:

a. if by QWDC, by hand delivering or by mailing the same to Purchaser by registered or certified mail, postage prepaid, return receipt requested, or by sending the same by nationally recognized overnight courier service,

(a) addressed to Purchaser at:
290 Park Avenue South
New York, NY 10017
Attention: H. Henry Elghanayan

with a copy to:

Kramer Levin Naftalis & Frankel LLP
919 Third Avenue
New York, NY 10022
Attention: Michael Paul Korotkin, Esq.

(b) or to such other parties and address(es) as Purchaser may from time to time designate by notice given as aforesaid; and

b. if by Purchaser, by hand delivering or by mailing the same to QWDC by registered or certified mail, postage prepaid, return receipt requested, or by sending the same by nationally recognized overnight courier service

i. addressed to QWDC at:

Queens West Development Corporation
633 Third Avenue
New York, New York 10017
Attention: President
with copies to:

New York State Urban Development Corporation
d/b/a Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attention: Senior Vice President, Legal/General Counsel

and:

Skadden, Arps, Slate Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attention: Neil L. Rock, Esq.
Telecopy: (212) 735-2000

ii. or to such other parties and address(es) as QWDC may from time to time designate by notice given as aforesaid.

c. Every Notice hereunder shall be deemed to have been given or served only when delivered against a signed receipt, or if mailed, on the earliest to occur of (a) the date of actual receipt thereof and (b) the date of refusal by the addressee to accept such mailing or delivery.

d. Every Notice hereunder delivered by Purchaser to QWDC shall be delivered together with a cover letter in the form of Exhibit A attached hereto. Any Notice which is delivered by Purchaser to QWDC hereunder which does not comply with the requirements set forth herein will be deemed not delivered to QWDC.

5. Binding Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective representatives, successors and assigns.

6. Governing Law. This Agreement shall be governed, enforced and construed under the laws of the State of New York.

7. Amendments. This Agreement shall not be amended or terminated without the written consent of both QWDC and Purchaser.

8. No Third Party Beneficiaries. This Agreement is made and entered into for the sole benefit and protection of the parties hereto, and the parties do not intend to create any rights or benefits under this Agreement for any person who is not a party to this Agreement.

9. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

IN WITNESS WHEREOF, Purchaser and QWDC have executed this Agreement as of the day and year first written above.

QWDC:

QUEENS WEST DEVELOPMENT CORPORATION

_____
Name:
Title:

PURCHASER:

EAST COAST 5 L.L.C.

_____
Name:
Title:

The undersigned hereby assumes responsibility for all of the Transferred Obligations, as of [_____]:

TRANSFEREE:

[_____]

_____
Name:
Title:

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

On this ___ day of _____, 200_, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public
State of

NOTARIAL SEAL

My Commission Expires:

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

On this ___ day of _____, 200_, before me, the undersigned, a Notary Public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public
State of

NOTARIAL SEAL

My Commission Expires:

EXHIBIT A

FORM OF COVER LETTER

Queens West Development Corporation
633 Third Avenue, 36th Floor
New York, New York 100717

Re: Parcel 5 of Stage II of the Queens West Development Project

Ladies and Gentlemen:

Reference is hereby made to that certain Affirmation of Indemnity dated as of [_____], 200__ between you, as QWDC, and us, as Purchaser (the "Agreement"). Capitalized terms used herein without definition shall have the meanings ascribed thereto in the Agreement

Pursuant to Section [____] of the Agreement, [Insert relevant substantive information].

PURSUANT TO SECTION [____] OF THE AGREEMENT, QWDC IS REQUIRED TO RESPOND TO THIS NOTICE WITHIN [_____] [DAYS][MONTHS] [AND OWNER'S FAILURE TO RESPOND [WILL][WILL NOT] RESULT IN A DEEMED CONSENT BY QWDC TO THE REQUEST CONTAINED IN THIS NOTICE].

Thank you.

Very truly yours,

East Coast 5 L.L.C.

EXHIBIT O

CURE COMPLETION LETTER

EAST COAST 5 L.L.C.
290 Park Avenue South
New York, New York 10010

_____, 200_

Queens West Development Corporation
633 Third Avenue, 36th Floor
New York, New York 10017
Attn: President

Re: Parcel 5 of Stage II of the Queens West Development Project

Ladies and Gentlemen:

Reference is hereby made to that certain Agreement of Lease, dated as of _____, 2003 (the "Lease") between you, as landlord ("QWDC"), and the undersigned, as tenant ("Lessee"). Capitalized terms used and not otherwise defined herein shall have the meanings ascribed thereto in the Lease.

Pursuant to Section 34.02(b) of the Lease, the Lessee has exercised its Option to purchase the Premises, notwithstanding the fact that a curable, non-monetary Event of Default, more particularly described on Exhibit A (the "Continuing Event of Default") attached hereto, has occurred and such Event of Default cannot be cured within the ninety (90) day period provided for in the Lease. This letter is being delivered to induce QWDC to transfer title of the Property to Lessee, and Lessee understands that without its agreement to perform the Curing Obligations (as hereinafter defined), QWDC would not be willing to transfer title to Lessee

The Lessee commenced cure of the Continuing Event of Default on _____, 200_ and has taken the steps set forth in detail on Exhibit A to cure such Continuing Event of Default. The Lessee hereby confirms its obligation to diligently prosecute to completion the curative actions with respect to the Continuing Event of Default and will take the additional steps set forth on Exhibit A to complete such cure (the "Curing Obligations").

Should the Lessee fail to perform the Curing Obligations, QWDC shall have the right to seek injunctive relief to specifically enforce Lessee's Curing Obligations.

Please acknowledge your agreement to the foregoing by countersigning the enclosed letter in the space provided below and returning it to the undersigned.

Very truly yours,

EAST COAST 5 L.L.C.

By: _____
Name:
Title:

Accepted and agreed to as of the date first written above

QUEENS WEST DEVELOPMENT CORPORATION

By: _____
Name:
Title:

cc: New York State Urban Development Corporation
d/b/a Empire State Development Corporation
633 Third Avenue
New York, New York 10017
Attn: Senior Vice/President, Legal/General Counsel

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036
Attn: Neil L. Rock, Esq.

EXHIBIT A

Event of Default:

Steps previously taken to cure Event of Default:

Further steps that will be taken to complete cure of Event of Default:

EXHIBIT P

FORM OF APPLIANCE SALES TAX LETTER

[TO COME]

Re: Queens West Development Corporation,
Land Use Improvement Project (the "Project"),
Parcel 5, Long Island City, New York

To whom it may concern:

The Queens West Development Corporation (the "Corporation"), by this notice, hereby advises you as follows:

1. The Corporation is a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation, which is a corporate governmental agency of the State of New York constituting a public benefit corporation and a political subdivision, and therefore, in the exercise of its governmental functions, including the acquisition and control over property, is exempt from the imposition of any New York State or New York City sales and use tax. As an exempt governmental entity, no exempt organization identification number has been issued to the Corporation nor is one required.

2. The Corporation does hereby authorize East Coast 5 L.L.C., a New York limited liability ("Tenant") to act as its agent for and on behalf of the Corporation in connection with the acquisition of appliances (collectively, "Appliances") for installation by Tenant in the apartments to be located within the buildings to be constructed by Tenant pursuant to, and in on the land demised by, that certain Agreement of Lease, dated as of September 19, 2003, between the Corporation, as landlord, and Tenant, as tenant. Such building comprises Lots [__] in Block [__] of the Tax Map of the City of New York, County of Queens (collectively, the "Premises").

3. As agent for the Corporation, Tenant agrees that each contract, invoice, bill and purchase order entered into by Tenant as agent for the Corporation in connection with the Project shall include language in substantially the following form:

"This [contract, invoice, bill or purchase order] is being entered into by East Coast 5 L.L.C., a New York limited liability company (the "Agent"), as agent for and on behalf of the Queens West Development Corporation (the "Corporation") in connection with a certain project of the Corporation which authorized Tenant to

purchase appliances as agent for the Corporation provided such appliances are for use within certain residential facilities leased by the Agent in the City of New York consisting of buildings located at the following locations: Lots [__] in Block [__] of the Tax Map of the City of New York, County of Queens. The appliances which are the subject of this [contract, invoice, bill or purchase order] shall be exempt from the sales and use tax levied by the State of New York and the City of New York if effected in accordance with the terms and conditions set forth in the attached or previously provided Sales Tax Letter of the Corporation, and the Agent hereby represents that this [contract, invoice, bill or purchase order] is in compliance with the terms of the Sales Tax Letter. By execution or acceptance of this [contract, invoice, bill or purchase order], the [vendor] hereby acknowledges the terms and conditions set forth in this paragraph and that the Sales Tax Letters is either attached hereto or has been previously provided to the [vendor].

4. The Appliances shall be exempt from the sales and use tax levied by the State of New York and the City of New York on the condition that, such Appliances shall be acquired for the fit-out of certain residential facilities leased by Tenant in the City of New York consisting of buildings located at the Premises and that such Appliances may only be removed from the Premises for repair or when they are obsolete.

5. The Corporation shall have no liability, for payment or performance obligations, under any contract, invoice, bill or purchase order entered into by Tenant as agent for the Corporation hereunder, either directly or indirectly or contingently, in any manner and to any extent whatsoever, and Tenant shall be the sole party liable thereunder.

6. By execution by the Agent[s] of their acceptances of the terms of this Sales Tax Letter, the Agent[s] agree to accept the terms hereof and represent and warrant to the Corporation that the use of this letter by the Agent[s] is strictly for purposes above stated.

Until the Substantial Completion of the Building (as defined in the Ground Lease) and, with respect to the initial fit-out of apartments used as model apartments or a sales office, until the same have been renovated and made available for rent, subject to the following paragraph, all vendors are hereby authorized to rely on this letter (or on a photocopy or fax of this letter) as evidence that the Appliances relating to the Project, to the extent they are purchased and/or installed by Tenant as agent for the Corporation, are exempt from all New York State and New York City sales and use taxes.

This letter shall be valid from [_____] through and including [_____]. Should the acquisition of Appliances by Tenant pursuant to the Lease progress beyond the termination date of this letter, QWDC shall issue a new letter in accordance with the obligations and requirements under the Lease.

Very truly yours,

QUEENS WEST DEVELOPMENT CORPORATION

By:_____
Name:
Title:

EAST COAST 5 L.L.C.

By:_____
Name:
Title:

EXHIBIT Q

FORM OF RENT ROLL

(see attached)

Residential Rent Roll

UNIT	TENANT	LEASE	SQ. FOOT OCCUPIED	T E R M FROM	TO	BASE RENT	2.2 CHARGE	RENT CONCESSION	TOTAL RENT	SECURITY BAL	MARKET RENT

EXHIBIT R

CONSTRUCTION COMPLETION CERTIFICATE

(see attached)

CERTIFICATE OF SUBSTANTIAL COMPLETION

CONSTRUCTION MANAGER-ADVISER EDITION

AIA DOCUMENT G704/CMa

nstructions on reverse side)

OWNER ☐
CONSTRUCTION MANAGER ☐
ARCHITECT ☐
CONTRACTOR ☐
FIELD ☐
OTHER ☐

PROJECT:
(Name and address)

PROJECT NOS.:

CONTRACT FOR:
CONTRACT DATE:

TO OWNER:
(Name and address)

TO CONTRACTOR:
(Name and address)

DATE OF ISSUANCE:
PROJECT OR DESIGNATED PORTION SHALL INCLUDE:

The Work performed under this Contract has been reviewed and found, to the Construction Manager's and Architect's best knowledge, information and belief, to be substantially complete. Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion of the Project or portion thereof designated above is hereby established as
which is also the date of commencement of applicable warranties required by the Contract Documents, except as stated below:

A list of items to be completed or corrected is attached hereto. The failure to include any items on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

CONSTRUCTION MANAGER	BY	DATE
ARCHITECT	BY	DATE

The Contractor will complete or correct the Work on the list of items attached hereto within days from the above date of Substantial Completion.

CONTRACTOR	BY	DATE

The Owner accepts the Work or designated portion thereof as substantially complete and will assume full possession thereof at (time) on (date).

OWNER	BY	DATE

The responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work and insurance shall be as follows:
(Note—Owner's and Contractor's legal and insurance counsel should determine and review insurance requirements and coverage.)

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G704/CMa-1992

SAMPLE

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INSTRUCTION SHEET

FOR AIA DOCUMENT G704, CERTIFICATE OF SUBSTANTIAL COMPLETION

A. GENERAL INFORMATION

1. Purpose

This document was developed to establish the date of Substantial Completion for the purpose of commencement of applicable warranties and to allow the Owner to occupy or utilize the Work or designated portion thereof.

2. Related Documents

This document was prepared for use under the terms of AIA Document A201, General Conditions of the Contract for Construction; under the general conditions contained in AIA Documents A107 and A117; and under other AIA general conditions beginning with the 1987 editions.

3. Use of Current Documents

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B. COMPLETING THE G704 FORM

1. After the words "Project or Designated Portion shall include:", insert a detailed description of the Project or portion(s) of the Project that have been accepted as being substantially complete.
2. Determine Work to be completed.
   Provide a list of items that are to be completed or corrected.
   Determine dates for completion of the Work.
   Establish an amount to be withheld to complete the Work.

C. EXECUTION OF THE DOCUMENT

The G704 document should be executed in not less than triplicate by the Owner, Architect and Contractor, each of whom retains an original.

EXHIBIT S

ADJACENT STREETS

Those portions of the streets necessary to gain access to the Building and to obtain a temporary Certificate of Occupancy.

EXHIBIT T

FORM OF BILL OF SALE

For $10.00 and other good and valuable consideration, QUEENS WEST DEVELOPMENT CORPORATION, LLC, (the "Seller") a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York, constituting a public benefit corporation and a political subdivision thereof, having an office at 633 Third Avenue, 36th floor, New York, New York 10017, hereby conveys to East Coast 5 L.L.C. ("Purchaser"), having an office at 290 Park Avenue South, New York, New York 10010, all of Seller's right, title and interest in and to Equipment owned by Seller and located on the Premises, as those terms are defined in that certain Agreement of Lease between Queens West Development Corporation and East Coast 5 L.L.C., (the "Lease") dated _____ __, 2003 and further described in Exhibit A attached hereto and made a part hereof. Such transfer shall be effective as of the date hereof.

Seller has not made and does not make any express or implied warranty or representation of any kind whatsoever with respect to the Equipment.

IN WITNESS WHEREOF, Seller has caused this instrument to be executed and delivered as of this ___ day of _____, 200_.

QUEENS WEST DEVELOPMENT CORPORATION

By: _____
Name:
Title:

EXHIBIT A

Legal Description

EXHIBIT U

FORM OF TERMINATION OF ASSIGNMENTS

KNOW ALL MEN BY THESE PRESENTS, that The Queens West Development Corporation ("QWDC"), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York, constituting a public benefit corporation and a political subdivision thereof, having an office at 633 Third Avenue, 36th floor, New York, New York 10017, hereby terminates any interest it may have in the Contracts identified on Exhibit A attached hereto.

THIS TERMINATION OF ASSIGNMENT OF CONTRACTS may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the __ day of _____, 200_.

QUEENS WEST DEVELOPMENT CORPORATION

By:_____
Name:
Title:

EXHIBIT V

INTENTIONALLY DELETED

EXHIBIT W

INTENTIONALLY DELETED

EXHIBIT X

AIG POLICY

The following coverages contained within the AIG policy:

Coverage A - On-site and off-site clean-up of pre-existing conditions

Coverage B - On-site and off-site clean-up of new conditions

Coverage C - Third party claims of on-site bodily injury and property damage

Coverage D - Third party claims for off-site clean-up resulting from pre-existing conditions

Coverage E - Third party claims for off-site clean-up resulting from new conditions

Coverage F - Third party claims for off-site bodily injury and property damage

Coverage G - Third party claims for on-site bodily injury, property damage or clean-up costs - non-owned locations

Coverage H - Third party claims for off-site bodily injury, property damage or clean-up costs - non-owned locations

Coverage I - Pollution conditions resulting from transported cargo

Coverage L - Remediation cost cap

EXHIBIT Y

TRC CONTRACT

See that certain Fixed Price Remediation Contract among TRC Companies Inc., TRC Engineers, Inc., Queens West Development Corporation, PepsiCo, Inc., and Rockrose GC QW Sitework LLC, dated as of date hereof, being executed simultaneously herewith.

EXHIBIT Z

EXCEPTIONS TO VACANT POSSESSION

None.

SCHEDULE 1

STAGE II GROUND LEASES

1. Agreement of Lease, made as of the 19th day of September, 2003 between Queens West Development Corporation ("Landlord"), a subsidiary of the New York State Urban Development Corporation d/b/a Empire State Development Corporation which is a corporate governmental agency of the State of New York, constituting a public benefit corporation and a political subdivision thereof, having an office at 633 Third Avenue, 36th floor, New York, New York 10017, and EAST COAST 1 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

2. Agreement of Lease, made as of the 19th day of September, 2003 between Landlord and EAST COAST 2 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

3. Agreement of Lease, made as of the 19th day of September, 2003 between Landlord and EAST COAST 3 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

4. Agreement of Lease, made as of the 19th day of September, 2003 between Landlord and EAST COAST 4 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

5. Agreement of Lease, made as of the 19th day of September, 2003 between Landlord and EAST COAST 5 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

6. Agreement of Lease, made as of the 19th day of September, 2003 between Landlord and EAST COAST 6 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

7. Agreement of Lease, made as of the 19th day of September, 2003 between Landlord and EAST COAST 7 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010.

SCHEDULE 2

Year	Pilot
1[2]	$ 29,242
2	$ 30,120
3	$ 31,024
4	$ 31,954
5	$ 31,954
6	$ 31,954
7	$ 31,954
8	$ 31,954
9	$ 31,954
10	$ 31,954
11	$ 31,954
12	$ 31,954
13	$ 31,954
14	$ 31,954
15	$ 31,954
16	$ 31,954
17	$ 31,954
18	$ 31,954
19	$ 31,954
20	$ 31,954
21	$ 321,016
22	$ 661,293
23	$1,021,698
24	$1,403,132

[2] Year 1 refers to the period commencing on the date hereof and ending on the date prior to the first anniversary of the date hereof.

DECLARATION

Establishing a Plan for Condominium Ownership of Premises located at 46-30 Center Boulevard, County of Queens, City and State of New York Pursuant to Article 9-B of the Real Property Law of the State of New York.

NAME: **46-30 CENTER BOULEVARD CONDOMINIUM**

DECLARANT: **East Coast 5 L.L.C.**
290 Park Avenue South
New York, New York 10010

DATE OF DECLARATION: **_____, 2007**

The land affected by the within instrument lies in Tax Block 21, Tax Lot formerly known as Lot 100 and now known as Lots _____-_____ inclusive on the Tax Map of the Borough of Queens, in the County of Queens, City and State of New York.

Record and Return to:

SEIDEN & SCHEIN, P.C.

Attorneys for Declarant
570 Lexington Avenue
New York, New York 10022

(212) 935-1400

INDEX TO DECLARATION

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Exhibits

A. Description of the Land

B. Description of the Units

C. Definitions

D. Bylaws

DECLARATION
OF
46-30 CENTER BOULEVARD CONDOMINIUM

East Coast 5 L.L.C., a New York limited liability company, having an office at 290 Park Avenue South, New York, New York 10010 ("Declarant"), does hereby declare as follows:

ARTICLE 1

DEFINITIONS

All capitalized terms used in this Declaration (hereinafter referred to as the "Declaration") that are not otherwise defined in the Articles hereof will have the meanings set forth in **Exhibit C** annexed hereto, unless the context in which they are used will otherwise require.

ARTICLE 2

SUBMISSION OF THE PROPERTY

2.1 Declarant hereby submits Declarant's leasehold interest in the Land and Building (each as hereinafter defined), all other improvements erected and to be erected thereon, all easements, rights and appurtenances belonging thereto and all other property, real, personal or mixed, intended for use in connection therewith (collectively, the "Property") pursuant to that certain Agreement of Lease dated as of September 19, 2003 between Queens West Development Corporation and East Coast 5 L.L.C. (the "Lease"), a memorandum of which is recorded at CRFN 2003000387881 to the provisions of Article 9-B of the Real Property Law of the State of New York (the "Condominium Act"), and pursuant thereto does hereby establish a condominium to be known as "**46-30 CENTER BOULEVARD CONDOMINIUM**" (the "Condominium").

2.2 Attached to this Declaration and made a part hereof are the Bylaws of the Condominium which set forth detailed provisions governing the operation, use and occupancy of the Condominium (said Bylaws, as they may be amended from time to time, are hereinafter referred to as the "Bylaws"). All capitalized terms which are not separately defined herein or in the Bylaws shall have the meanings given to those terms in **Exhibit C** annexed hereto.

ARTICLE 3

THE LAND

Included in the Property described in Article 2 is Declarant's leasehold interest in all that certain tract, plot, piece and parcel of land (the "Land") situate, lying and being in the County of Queens, City and State of New York, commonly known as 46-30 Center Boulevard, and more particularly described in **Exhibit A** annexed hereto and made a part hereof. The Land has an area of approximately 30,529 square feet. Declarant is the tenant of the Land under the Lease with the Queens West Development Corporation ("QWDC")

ARTICLE 4

THE PROPERTY

Included in the Property described in Article 2 is a building (the "Building") consisting of one (1) Commercial Unit, and one-hundred-eighty-four (184) Residential Units (collectively, the "Residential Units" and individually, a "Residential Unit"). The Commercial Units and the Residential Units are sometimes hereinafter collectively referred to as the "Units" and individually as a "Unit." The Residential Units, together with the Residential Common Elements and the Residential Limited Common Elements (as hereinafter defined), are collectively referred to as the "Residential Section." The Commercial Units, together with the Commercial Common Elements and the Commercial Limited Common Elements (as hereinafter defined), are collectively referred to as the "Commercial Section." The owner of a Residential Unit is herein called a "Residential Unit Owner." and all the owners of the Residential Units are herein collectively called the "Residential Unit Owners." The owner of a Commercial Unit at any time, or its designee, is herein called a "Commercial Unit Owner," and all of the owners of the Commercial Units shall collectively be called the "Commercial Unit Owners," The Residential Unit Owners and the Commercial Unit Owners are collectively referred to herein as the "Unit Owners" and individually as a "Unit Owner."

ARTICLE 5

THE BUILDING

The Building consists of one Class 1C structure consisting of 18 stories above grade. The structure is constructed of reinforced concrete slabs, supported by reinforced concrete columns and pile caps, supported on steel piles. The Building does not have a cellar or basement. The Building is located within Queens West.

ARTICLE 6

THE UNITS

6.1 **Exhibit B** annexed hereto and made a part hereof sets forth the following data with respect to each Unit necessary for the proper identification thereof: (i) its Unit designation; (ii) tax lot number; (iii) approximate location in the Building; (iv) approximate square foot area; (v) number of rooms; and (vi) the percentage interest in the Common Elements appurtenant to such Unit. The location of each Unit is shown on the floor plans of the Building (the "Floor Plans") certified by Handel Architects LLC and intended to be approved by the Real Property Assessment Bureau of the City of New York and filed in the Office of the Register of the City of New York, County of Queens (the "Register's Office") following the recording of this Declaration.

6.2 Each Unit includes, and each Unit Owner shall be responsible for, entrance doors to the Unit, the windows (including frames), skylights (including frames), if any, the interior sheetrocked walls and partitions, interior stairways, non-structural flooring, floor coverings and plastered or sheetrocked ceilings affixed, attached or appurtenant to such Unit, smoke detectors, carbon monoxide detectors, all plumbing, gas and heating fixtures and equipment such as refrigerators, dishwashers, heating, ventilating and air conditioning units (HVAC), heating equipment, ranges and other appliances, as may be affixed, attached or appurtenant to such Unit and serving such Unit exclusively. Plumbing, gas and heating fixtures and equipment as used in the preceding sentence shall include exposed gas and water pipes from branch or fixture shut-off valves attached to fixtures, appliances and equipment and the fixtures, appliances and equipment to which they are attached, and any special pipes or equipment which a Unit Owner may install within a wall or ceiling, or under the floor, but shall not include gas, water or other pipes, conduits, wiring or ductwork within the walls, ceilings or floors. Each Unit shall also include (i) all lighting and electrical fixtures and appliances within the Unit, and (ii) any special equipment, fixtures or Facilities (as hereinafter defined) affixed, attached or appurtenant to the Unit by a Unit Owner other than Declarant, to the extent located within a Unit from the panel and serving or benefiting only that Unit including, but not limited to, any delivery entrances servicing a Unit. Notwithstanding anything contained in this Article 6 to the contrary, each Unit Owner will have the right, exercisable at any time, to install, at such Unit Owner's sole cost and expense, decorations, fixtures and coverings (including, without limitation, painting, finishing, wall to wall carpeting, pictures,

mirrors, shelving and lighting fixtures) on the surfaces of the walls, ceilings and floors that face the interior of such Unit Owner's Unit and to a depth of one inch behind such surfaces for the purposes of installing nails, screws, bolts and the like, provided that no such installation shall impair the structural integrity and mechanical and electrical systems of such Unit or of the Building.

6.3 A Residential Unit Owner having ownership and exclusive access to a private garden shall maintain, repair and replace the concrete pavers thereon at such Residential Owner's sole cost and expense.

6.4 Notwithstanding anything to the contrary contained in the Bylaws or this Declaration, a Residential Unit Owner having ownership and exclusive access to a terrace shall be responsible for all normal maintenance, repairs and replacements thereto (including maintaining, repairing and replacing the concrete pavers thereon) at such Unit Owner's own cost and expense, but any structural or extraordinary repairs (which is herein defined as any non-recurring repair which requires more than the usual annual expense for ordinary wear) or replacements to such terrace (including any leaks which are not caused by the negligence of the Unit Owner having access to the same) shall be made by the Board and the cost and expense thereof shall be charged to all Unit Owners as a Residential Common Expense.

6.5 All maintenance, repairs and replacements of any balcony, whether structural or nonstructural, ordinary or extraordinary, shall be the responsibility of the Unit Owner having access to such balcony at such Unit Owner's own cost and expense. Structural and nonstructural repairs and replacements to any balcony shall be made by the Board, at the Board's discretion, and charged to each Unit Owner having access to such balcony.

6.6 As of the date of the filing of this Declaration with the Register's Office, leasehold title shall automatically vest in Declarant in all Units, individually and collectively, without the need to execute specific and particular deeds or indentures for each and every Unit.

ARTICLE 7

DIMENSIONS OF UNITS

7.1 The approximate indoor area of the Commercial Unit has been measured from the exterior side of the Building wall or glass windows at the Building line, or a public hallway, or public space; or from the midpoint of interior party walls separating the Commercial Unit from another Unit, or public stair, or from the mechanical space side of interior party walls and partitions separating the unit from mechanical equipment space or any other Common Elements. The floor area occupied by Common Elements bordering or within the Commercial Unit (such as the Building walls, columns, vents, chase walls or areas, conduits, ducts, shafts, or pipes) have been included in the

computation of the floor area of the Commercial Unit, but such elements are not part of the Commercial Unit. There is no outdoor floor area assigned to the Commercial Unit.

7.2 The approximate indoor floor area of each Residential Unit has been measured from the exterior side of the Building wall or glass windows at the Building line and/or Property line enclosing the Residential Unit, or a public hallway, or public space; or from the midpoint of interior party walls separating the Residential Unit from another Unit, or public stair, or boiler flue, or trash chute, or cooling tower risers, or the two (2) main electrical risers, or the two (2) main communication risers, or building laundry room exhaust, or any other Common Elements. The floor area occupied by Common Elements bordering or within a Residential Unit (such as the Building walls, columns, vents, chase walls or areas, conduits, ducts, shafts, or pipes) have been included in the computation of the floor area of the Residential Unit, but such elements are not part of the Residential Unit. The boiler flue, trash chute, cooling tower risers, the (2) main electrical risers, the (2) main communication risers, and building laundry room exhaust are not included in the Residential Unit's indoor floor area.

7.3 The outdoor balcony, terrace or garden appurtenant to a Unit is not included in the Unit's indoor floor area. For the ground floor (floor 1), the approximate outdoor area has been measured from the exterior side of the Building wall or glass windows at the Building line and/or the Property line enclosing the space; or from the midpoint of the wall, fence, lattice or any other element separating the Unit outdoor area from another outdoor area. For the floors two (2) through nineteen (19), the approximate outdoor floor area has been measured from the exterior side of the Building wall or glass windows at the Building line and/or the exterior side of the terrace or balcony; or from the midpoint of the wall, fence, lattice or any other element separating the Unit outdoor area from another outdoor area.

7.4 Each Unit consists of the approximate height measured vertically from the top of the structural floor to the underside of the structural ceiling or gypsum board drop ceiling.

ARTICLE 8

COMMON ELEMENTS

8.1 The common elements of the Condominium (the "Common Elements") consist of the entire Property, including Declarant's leasehold interest in the Land and all parts of the Building and improvements thereon, other than the Units. The Common Elements include, but are not limited to, those rooms, areas, corridors, spaces and other parts of the Building and all Facilities (defined below) therein for the common use of the Units and the Unit Owners or which are necessary or convenient for the existence, maintenance or safety of the Property. The Common Elements of the Condominium that serve or benefit exclusively (a) the Residential Units or the Residential Unit Owners are called "Residential Common Elements," (b) one or more but not all of the Residential

Units or the Residential Unit Owners are called "Residential Limited Common Elements," (c) the Commercial Units or the Commercial Unit Owners are called "Commercial Common Elements," or (d) one or more but not all of the Commercial Units or the Commercial Unit Owners are called "Commercial Limited Common Elements". The "General Common Elements" are appurtenant to, serve and benefit each Unit to the extent of such Unit's percentage share of the General Common Elements. The General Common Elements are for the common use of all Unit Owners.

8.2 As used in this Declaration, the word "Facility" or "Facilities" includes, but is not limited to, the following items (grouped more or less functionally) which are set forth only for purposes of illustrating the broad scope of that term: system, equipment, apparatus, converter, radiator, heater, heat exchanger, mechanism, device, machinery, motor, pump, control, tank or tank assembly, insulation, induction unit, condenser, compressor, fan, damper, blower, thermostat, thermometer, coil, vent, sensor, shut-off valve or other valve, gong, panel, receptacle, outlet, relay, alarm, sprinkler head, electric distribution facility, wiring, wireway, switch, switchboard, circuit breaker, transformer, fitting, siamese connection, hose, plumbing fixture, lighting fixture, other fixture, bulb, sign, telephone, meter, meter assembly, scaffolding, piping, line, duct, conduit, cable, riser, main shaft, pit, flue, lock or other hardware, rack, screen, strainer, trap, drain, catch basin, leader, filter, canopy, incinerator, closet, cabinet, door, railing, coping, step, furniture, mirror, furnishing, appurtenance, urn, basket, mail box, carpeting, tile or other floor covering, drapery, shade or other window covering, wallpaper or other wall covering, tree, shrubbery, flower or other planting and horticulture tub or box.

8.3 The Common Elements will remain undivided and no Unit Owner or other person will bring or will have the right to bring any action for partition or division thereof except as may be specifically provided for herein and in the Bylaws.

8.4 The General Common Elements consist of the following:

8.4.1 The leasehold interest in the Land (as more particularly described in **Exhibit A** attached to this Declaration), together with all easements, rights and privileges appurtenant thereto;

8.4.2 Any of the following: all foundations, footings, columns, girders, floor slabs and ceilings, beams, and supports and interior load bearing walls, (except to the extent included in Section 8.5 or 8.7 hereof), together with those portions of the exterior walls of the Building beyond the Unit side of the glass or concealed block work or concealed structural members of those walls;

8.4.3 The rooms and Facilities located as follows: the gas meter room, water meter room, electric service room, telephone/cable room, staff area, boiler room, supply closets, superintendent's office and workshop on the first floor;

8.4.4 The mechanical roof and main roof of the Building;

8.4.5 Any other Facilities in the Building which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of all

of the Commercial Section and the Residential Section and are not a part of any Unit, Residential Common Elements, Commercial Common Elements or any Limited Common Element.

8.5 The Residential Common Elements consist of the following:

8.5.1 Any of the following: all columns, girders, floor slabs and ceilings, beams, and supports, and interior load bearing walls from above the slab over the first floor of the Building to the roof (except as otherwise provided in Section 8.7);

8.5.2 Residential electric meters and panels, electric closets, feeders, risers and Facilities, Residential Section water meter, and cables serving exclusively the Residential Section;

8.5.3 Kitchen, bathroom and dryer exhaust ducts, corridor and Residential Unit supply air ducts, if any, steam lines supply and return for heating, water pressure reducing valve system, and all other Facilities in the floor and ceilings serving or benefiting exclusively the Residential Section;

8.5.4 CATV riser and all other Facilities located in the Property serving or benefiting exclusively the Residential Section to the extent that the same are not owned by a third party;

8.5.5 The rooms and Facilities located as follows: the residential lobby, reception area, package storage area, mail room, and bicycle storage room, trash compactor room, laundry room and exercise room, located on the first floor;

8.5.6 The passenger elevator and its shafts, pits, machine rooms and Facilities;

8.5.7 All passages, hallways, stairs and corridors, all mechanical space and all other rooms, areas, spaces and other parts of the Building which are not Residential Units, Residential Limited Common Elements or part of the Commercial Units, Commercial Common Elements, Commercial Limited Common Elements, or General Common Elements;

8.5.8 All other Facilities exclusively serving the Residential Section, excluding the Residential Units, the Residential Limited Common Elements, the Commercial Units, the Commercial Common Elements, the Commercial Limited Common Elements and the General Common Elements, and which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Residential Section.

8.5.9 Notwithstanding anything to the contrary in this Article 8, if a Residential Common Element benefits only certain Residential Unit Owners, then the Residential Section's costs of alteration, addition, repair, replacement and restoration thereto shall be borne solely by those Residential Unit Owners who

benefit from the Residential Common Element in the proportion that the Common Interest of each benefiting Residential Unit Owner bears to the Common Interests of all benefiting Residential Unit Owners. In addition, except as otherwise provided in Subsection 6.9.2.1 of the Bylaws, such Residential Unit Owners shall be responsible for the normal operation, maintenance and repair of any such Residential Common Element at their sole cost and expense.

8.6 The Residential Limited Common Elements consist of the following:

8.6.1 That portion of equipment, fixtures or Facilities serving or benefiting one Residential Unit, to the extent located within another Unit or within a Common Element to which there is direct and exclusive access from the interior of a Residential Unit. Notwithstanding anything to the contrary contained in the Bylaws or this Declaration, the Residential Unit Owner who is so served or benefited by such Residential Limited Common Element shall have the exclusive right to use such Residential Limited Common Element and shall be responsible for its normal operation, maintenance and repair at such Unit Owner's sole cost and expense; and

8.6.2 All Facilities exclusively serving one or more but not all Residential Units, excluding the Residential Units, the Residential Common Elements, the Commercial Units, the Commercial Common Elements, the Commercial Limited Common Elements and the General Common Elements, and which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of one or more but not all of the Residential Units.

8.7 The Commercial Common Elements consist of the following:

8.7.1 Any of the following: all columns, girders, floor slabs and ceilings, beams, and supports and interior load bearing walls located within any Commercial Unit;

8.7.2 Electric meters, water meters, gas meters and other utility meters (if any) serving or available for the exclusive use of the Commercial Section;

8.7.3 Ductwork, and all other HVAC and electric and similar Facilities serving or benefiting exclusively the Commercial Section;

8.7.4 All remaining Facilities exclusively serving the Commercial Units, excluding the Commercial Units, the Commercial Limited Common Elements, the Residential Units, the Residential Common Elements, the Residential Limited Common Elements and the General Common Elements, which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Commercial Units.

8.7.5 Notwithstanding anything to the contrary in this Article 8, if a Commercial Common Element benefits only certain Commercial Unit Owners,

then the Commercial Section's costs of alteration, addition, repair, replacement and restoration thereto (except in connection with a casualty or condemnation) shall be borne solely by those Commercial Unit Owners who benefit from the Commercial Common Element in the proportion that the Common Interest of each benefiting Commercial Unit Owner bears to the Common Interest of all benefiting Commercial Unit Owners. In addition, except as otherwise provided in the Bylaws, such Commercial Unit Owners shall be responsible for the normal operation, maintenance and repair, including but not limited to the cost of staff necessary for such operation, maintenance and repair, of any such Commercial Common Element at their sole cost and expense.

8.8 The Commercial Limited Common Elements consist of the following:

8.8.1 That portion of equipment, fixtures or Facilities serving or benefiting one Commercial Unit, to the extent located within another Unit or within a Common Element to which there is direct and exclusive access from the interior of a Commercial Unit. Notwithstanding anything to the contrary contained in the Bylaws or this Declaration, the Commercial Unit Owner who is so served or benefited by such Commercial Limited Common Element shall have the exclusive right to use such Commercial Limited Common Element and shall be responsible for its normal operation, maintenance and repair at such Unit Owner's sole cost and expense; and

8.8.2 All other Facilities exclusively serving one or more but not all Commercial Units, excluding the Commercial Units, the Commercial Common Elements, the Residential Units, the Residential Common Elements, the Residential Limited Common Elements and the General Common Elements, and which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of one or more but not all of the Commercial Units.

ARTICLE 9

USE OF BUILDING AND UNITS

9.1 As more particularly set forth in the Bylaws, Residential Units may be used only for residential purposes and for any home occupation uses to the extent permitted under applicable zoning law and ordinances and other applicable governmental laws and regulations, but not for retail use. A Residential Unit may also be used for any other lawful purposes (but not for retail use), subject, however, to (1) the terms and conditions of the then existing certificate of occupancy for the Building, (2) applicable governmental laws and regulations, (3) the use of such Unit not adversely affecting the use and enjoyment of neighboring or adjacent Units for residential purposes, (4) compliance with the Bylaws, and (5) the prior written permission of the Condominium

Board, which permission shall in no event be granted unless such Board affirmatively finds that the conditions in (1) through (5) above have not been met.

9.2 Notwithstanding the foregoing or anything contained in the Bylaws or the Rules and Regulations to the contrary, Declarant may, without the permission of the Condominium Board, (1) grant permission for the use of any Unsold Unit (as defined in **Exhibit C**) owned by it for any purpose, provided such use is permitted by law, and does not violate the then existing certificate of occupancy for such Unit or any other governmental regulations, and (2) use any Unsold Units owned by it as models and sales and/or promotion offices in connection with the sale or rental of the Units, subject only to compliance with applicable governmental laws and regulations.

9.3 The Commercial Unit may be used for any lawful purposes, including, without limitation, retail stores and outlets, storage, theaters, banks, restaurants and commercial and professional offices and studios. However, the Commercial Unit may not be used as an Adult Establishment or as an Adult Physical Culture Establishment, as defined in Article I, Chapter 2 of the New York City Zoning Resolution, or for the sale of bail bonds, or as an Off Track Betting facility, or as a check cashing facility, or as a nightclub or as a cabaret.

9.4 Notwithstanding the foregoing or anything contained in the Bylaws or the Rules and Regulations to the contrary, each Unit must be used in accordance with the requirements of the Lease and the QWDC Requirements.

ARTICLE 10

CHANGES IN THE RESIDENTIAL SECTION

Except to the extent prohibited by law, or as otherwise required in accordance with the Lease or the QWDC Requirements, Declarant shall have the right, without the vote or consent of any Condominium Board, other Unit Owners or the Residential Mortgage Representatives, if any, to: (a) make alterations, additions or improvements to any Unsold Residential Units; (b) change the use (subject to Section 9.2 above) or layout of, or number of rooms of any Unsold Residential Units from time to time; (c) change the size and/or number of Unsold Residential Units by subdividing one or more Unsold Residential Units into two or more separate Units, combining separate Unsold Residential Units (including those resulting from such subdivision or otherwise) into one or more Residential Units, converting a Residential Unit or any portion thereof to a Residential Common Element, a Residential Limited Common Element, a Commercial Unit, a Commercial Common Element or a Commercial Limited Common Element, altering the boundary walls between any Unsold Residential Units, or otherwise, including incorporating Common Elements (such as a portion of a hallway used exclusively by the occupant(s) of such Unsold Residential Unit) which exclusively benefit an Unsold Residential Unit into such Unit; (d) designate a General Common Element, a Residential Common Element, Residential Limited Common Element, Commercial Common

Element or a Commercial Limited Common Element as part of a newly created Residential Unit, Residential Limited Common Element, Commercial Unit, Commercial Common Element or Commercial Limited Common Element or designate all or part of a Residential Unit as a newly created Commercial Unit, Residential Common Element, Residential Limited Common Element, Commercial Common Element or Commercial Limited Common Element; and (e) if appropriate, reapportion among the Unsold Residential Units affected by such change in size, use or number pursuant to the preceding clauses (b) and (c) their percentage interests in the Common Elements; provided, however, that (i) the percentage interest in the Common Elements of any other Residential Units (other than Unsold Residential Units) shall not be changed by reason thereof unless the owners of such Residential Units shall consent thereto; (ii) Declarant shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall agree to hold each Condominium Board and all other Unit Owners harmless from any liability arising therefrom. The provisions of this Article 10 may not be added to, amended, modified or deleted without the prior written consent of Declarant. By written permission of the Condominium Board, which permission, shall not be unreasonably withheld, any other Residential Unit Owner may be given, with respect to his Residential Unit, the same rights and be subject to the same limitations and conditions as are set forth in this Article 10 with respect to Unsold Residential Units. Notwithstanding the other provisions of this Article 10, no reapportionment of the interests in the Common Elements appurtenant to any Residential Unit shall be made unless there is first delivered to the Condominium Board a written certification stating that the percentage interests of the respective Units in the Common Elements, immediately after such reapportionment, will be based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use and the overall dimensions of the particular Unit. The certification referred to in the preceding sentence shall be delivered (i) at Declarant's election, by Declarant, the managing agent of the Residential Section or of the Condominium or any other person reasonably acceptable to the Condominium Board in the case of any Unsold Residential Unit, and (ii) by either the managing agent of the Residential Section or of the Condominium, or any other person reasonably acceptable to the Condominium Board in the case of any other Residential Unit.

ARTICLE 11

CHANGES IN THE COMMERCIAL SECTION

Except to the extent inconsistent with Article 15 or the Bylaws or prohibited by law, the Lease or the QWDC Requirements the Commercial Unit Owner shall have the right, without the vote or consent of the Condominium Board, other Unit Owners or the Commercial or Residential Mortgage Representatives, if any, to: (1) make alterations, additions or improvements, whether structural or non-structural, interior or exterior, ordinary or extraordinary, in, to and upon the Commercial Unit; (2) change the layout or number of rooms in the Commercial Unit from time to time; (3) change the Commercial

Unit, by subdividing the same, into any desired number of Commercial Condominium Units, combining any Commercial Units resulting from a subdivision, altering the boundary walls between the Commercial Units, or otherwise; (4) designate an adjacent Residential Unit, a Residential Limited Common Element, or a Commercial Limited Common Element as part of a newly created Commercial Condominium Unit or designate all or part of a Commercial Unit as a newly created Residential Unit, Residential Common Element, Commercial Common Element or Commercial Limited Common Element; (5) reapportion among the newly created Commercial Units and/or Residential Units resulting from any subdivision, combination or otherwise their percentage interests in the Common Elements which shall be based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use and the overall dimensions of the particular Unit, and provided that in no case may such reapportionment result in a greater percentage of Common Interest for the total of the new Commercial Units and/or Residential Units than existed for the original Commercial Unit; (6) change, alter or modify the facade and exterior portion of the Commercial Units provided, however, that the percentage interest in the Common Elements of any portion of the Commercial Unit(s) owned by another Commercial Unit Owner or of any Residential Unit shall not be changed by reason thereof unless the owner of such Unit shall consent thereto, and the Commercial Unit Owner shall comply with all laws, ordinances and regulations of all governmental authorities having jurisdiction and shall agree to hold each Board and all other Unit Owners harmless from any liability arising therefrom, and (7) amend the Certificate of Occupancy with respect to the Commercial Unit (any such amendment to be at the sole cost and expense of the Unit Owner of the Commercial Unit in question) to provide that such Commercial Unit may be used for any purpose which is lawful at the time that such amendment is made, provided, however, that no Commercial Unit may be used for any obscene or pornographic purposes or for any sort of commercial sex establishment, or for any nude or semi-nude live performances, or for the sale of any sex magazines or videos, or for any use that is primarily concerned with lewd or prurient sexual activity.

ARTICLE 12

PERSON TO RECEIVE SERVICE

The Secretary of State of the State of New York is hereby designated to receive service of process in any action which may be brought against the Condominium.

ARTICLE 13

DETERMINATION OF PERCENTAGE INTERESTS IN COMMON ELEMENTS

The percentage interest of each Unit in the Common Elements has been based upon floor space, subject to the location of such space and the additional factors of relative value to other space in the Condominium, the uniqueness of the Unit, the availability of Common Elements for exclusive or shared use and the overall dimensions of the particular Unit.

ARTICLE 14

ENCROACHMENTS

If (a) any portion of the Common Elements encroaches upon any Unit or upon any other Common Element, (b) any Unit encroaches upon any other Unit or upon any portion of the Common Elements or (c) any such encroachments shall hereafter occur as a result of (i) settling or shifting of the Building, (ii) any alteration, repair or restoration of the Common Elements made by or with the consent (when required by the Bylaws) of the Condominium Board, or made by Declarant, in accordance with this Declaration or the Bylaws or (iii) any alteration, repair or restoration of the Building (or any portion thereof) or of any Unit or Common Element after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any Unit or the Common Elements; then, in any such event, a valid easement shall exist for such encroachment and for the maintenance of the same as long as the Building shall stand.

ARTICLE 15

ACCESS TO COMMON ELEMENTS

Each Unit Owner shall have an easement, in common with all other Unit Owners, to use all Common Elements located in the Building, including those located in any of the other Units or elsewhere on the Property, which serve such Unit Owner's Unit, including an easement to connect to existing utilities including, but not limited to, utilities for gas, electricity and steam. Each Unit shall be subject to an easement in favor of all Unit Owners to use all Common Elements located in such Unit or elsewhere on the Property which serve other Units. In addition, the Condominium Board or its agents, to the extent it is permitted to act by the Bylaws for such purposes, shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common Elements contained therein or elsewhere in the Property. All easements and rights of access described in this Article 15 shall be exercised in such a manner, to the extent practicable, as will not unreasonably interfere with the use of the

Units for their permitted purposes. Such entries shall be permitted on not less than three days' notice, except that no notice will be necessary in the case of an "emergency" (i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building).

ARTICLE 16

EASEMENTS AND NAME OF CONDOMINIUM

16.1 Except as set forth in this Declaration, each Residential Unit Owner shall have, in common with all other Residential Unit Owners, an easement for the use of the Residential Common Elements and the General Common Elements and any Facilities located therein, including, but not limited to, such easement as shall be necessary to operate, maintain, repair, rebuild, restore and replace, as necessary, such Residential Unit Owner's Unit.

16.2 Each Unit Owner shall have, in common with all other Unit Owners, an easement for ingress and egress through the Residential Section and the Commercial Section, as the case may be, and for the use of any General Common Element, to the extent necessitated by an emergency.

16.3 The Condominium Board shall have, and each Unit shall be subject to, an easement: (a) to install, utilize, operate, maintain, repair, alter, rebuild, restore and replace the Common Elements or Limited Common Elements located in, over, under, through or upon any Unit, or any other Common Elements or elsewhere on the Property, and (b) to maintain any encroachment on any Unit or Common Elements resulting from the repair, alteration, rebuilding, restoration or replacement of the Units, the Common Elements or the Limited Common Elements; provided that access to any Unit or the Common Elements in furtherance of such easement shall be exercised in such a manner as will not unreasonably interfere, to the extent practicable, with the use of the Units for their permitted purposes. Such entry shall be permitted on not less than three days' notice, except that no notice will be necessary in the case of an emergency.

16.4 Each Unit shall have an easement of support and of necessity and shall be subject to an easement of support and necessity in favor of all other Units and the Common Elements.

16.5 Declarant, and its successors and assigns, shall, to the extent permitted bylaw, have an easement to erect, maintain, repair and replace, from time to time, one or more signs on the Property for the purpose of advertising the sale or lease of any Unsold Residential Unit.

16.6 Declarant, and its successors and assigns, and the Commercial Unit Owner, shall, to the extent permitted by law, the Lease and QWDC Requirements, have

an easement to erect maintain, repair and replace, form time to time, one or more signs on the Property for the purposes of advertising (i) the sale or lease of all or any portion of the Commercial Unit, and (iii) the operation of any business of a tenant or occupant of any Unsold Residential Units or of all or a portion of the Commercial Unit, as the case may be. Declarant and the Commercial Unit Owner have an easement and the right to change the facade of the Building and alter, replace, restore, renovate, remodel and reconstruct the existing facade of the Building through and including the bottom of the second floor of the Building without the consent of the Condominium Board, provided that such penetration does not materially weaken the structural soundness of the Building and is otherwise in accordance with the Lease and the QWDC Requirements.

16.7 Declarant and the Commercial Unit owner, and their successors and assigns, shall, to the extent permitted by law, and in accordance with the Lease and the QWDC Requirements, have an easement to use, maintain, repair and replace (i) all mechanical equipment and associated piping and controls; (ii) all electrical risers, feeders, lines and equipment, including incoming service, main switch changer and distribution panel boards, conduits, wires, meters, transformers and panel boards; (iii) all storm and sanitary sewer equipment and pipes (including vent lines, ejectors, interceptors, filters and valves); (iv) all other facilities of the Building (including shafts, pipes, wiring, ducts, vents, flues, cables, conduits and lines) which serve or benefit or are necessary or convenient for the existence, maintenance, operation or safety of the Commercial Unit now or in the future.

16.8 Declarant has an easement to use the sidewalks surrounding portions of the Building for purposes permitted by law and the Lease. The Commercial Unit owner shall have an easement to use the sidewalk in front of the Commercial Unit for purposes permitted by law and the Lease.

16.9 Declarant and the Condominium Board shall have the right to grant such additional electric, gas, telephone, Internet, cable, television, steam, ventilation or other easements for utilities or services or otherwise or relocate any easements in any portion of the Property, as Declarant or the Condominium Board, as the case may be, shall deem necessary or desirable for the proper operation and maintenance of the Building or any portion thereof, or to complete the Building as described in the Plan or for the general health or welfare of the owners, tenants and occupants of the appropriate Units, provided that such additional utilities or relocation of existing utilities will not prevent or unreasonably interfere with the use of the Units for their permitted purposes, and shall not result in the imposition of any mechanic's liens against any of the Units. Any company providing the utilities or services and its employees and agents shall have the right of access to any Unit or the General Common Elements in furtherance aforementioned easements in order to install, maintain, operate, repair, replace and service such utilities and services provided such right of access shall be exercised in such manner as shall not unreasonably interfere with the use of the Units for their permitted purposes.

16.10 Declarant and its assignee and licensees shall have, and the Units and Common Elements shall be subject to, an easement, (a) to install, utilize, operate,

maintain, repair, alter, rebuild, restore and replace satellite dishes and similar equipment on the roof and facade of the Building and elsewhere on the General Common Elements and the conduit and Facilities relating thereto, other than those portions of the roof which constitute Residential Common Elements or Residential Limited Common Elements and to retain any and all income derived therefrom, and (b) to maintain any encroachment on any Unit, or any Common Elements or elsewhere on the Property resulting from the installation, operation, maintenance, alteration, rebuilding, restoration or replacement thereof. The Condominium shall not be entitled to any portion of fees, compensation or other profits received by Declarant, its assignees or licensees for the use of the aforesaid easements or equipment. Any satellite dish or other facilities placed upon the roof and the facade of the Building and elsewhere on the Common Elements by Declarant, its assignees or licensees shall be the exclusive property of Declarant, its assignees or licensees and neither the Condominium nor other Unit Owners shall have any rights with respect thereto. Notwithstanding the foregoing, additional facilities or the relocation of existing utilities cannot be installed in the Commercial Unit without the consent of the Commercial Unit Owner and provided further that access to a Unit or Common Element in furtherance of such easement shall be exercised in a manner so as to not unreasonably interfere with the normal conduct of business of the tenant(s) and occupant(s) of the Commercial Section or with the use of the Residential Units for their permitted purposes. Such entry shall be permitted on not less than one day's notice, except that no notice is necessary in the case of an emergency.

16.11 Any rights of access to the Commercial Unit granted pursuant to this Article or elsewhere in this Declaration and the Bylaws shall be exercised only upon reasonable notice, but in no event less than three (3) days notice, except in cases of emergency. The Board shall use best reasonable efforts to schedule access to the Commercial Unit so as to minimize disruptions to the business operations of the occupants of such Unit, but shall not be required to schedule their right of access at times when overtime or holiday wage rates shall be payable to employees or employees of contractors as a result of such scheduling.

16.12 The Board of Managers or its contractors, sub-contractor, agents, or employees shall have an easement through Unit 105, and through the garden terrace appurtenant thereto, to access a manhole, which is located in the garden, for the purpose of performing inspections, repairs, maintenance or replacements to the storm sewer pipe located under the garden. Such entries shall be permitted on not less than three days' notice, except that no notice will be necessary in the case of an "emergency" (i.e., a condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building).

16.13 The Board of Managers or its contractors, sub-contractor, agents, or employees shall have an easement through Unit PH-A, and across the terrace appurtenant to Unit PH-A, in order to access the service stair to the roof for the purpose of performing inspections, repairs, maintenance or replacements on the roof and the mechanical equipment located theron. Such entries shall be permitted on not less than three days' notice, except that no notice will be necessary in the case of an "emergency" (i.e., a

condition requiring repair or replacement immediately necessary for the preservation or safety of the Building or for the safety of occupants of the Building, or other persons, or required to avoid the suspension of any necessary service in the Building). The stairs described in this section 16.13 shall only be used with the consent of the Board of Managers.

16.14 The publicly accessible private pedestrian spaces, as described in the Lease, shall be accessible to the public, subject to reasonable rules and regulations that may be established by the Board of Managers. In no event shall any rule or regulation established by the Board of Managers violate the terms of the Lease.

16.15 The Condominium and the Building shall be designated and known as "**46-30 CENTER BOULEVARD CONDOMINIUM.**" For so long as Declarant owns any Units in the Building, Declarant shall own and control all rights and interests, and shall be responsible for all obligations and liabilities, appurtenant to the name of the Condominium and/or the Building. For so long as Declarant owns any Units in the Building, only Declarant shall have the right to change or assign the name of the Condominium and/or the Building.

ARTICLE 17

POWER OF ATTORNEY

17.1 Each Unit Owner hereby grants to the persons who shall from time to time constitute the Condominium Board an irrevocable power of attorney, coupled with an interest (in such form and content as the Condominium Board shall determine) following due authorization (if required) from the Unit Owners (a) to acquire or lease any Unit, together with its Appurtenant Interests (as defined hereinafter), whose owner desires to sell, convey, transfer, assign, lease or surrender the same, or which becomes the subject of a foreclosure or other similar sale, on such terms and at such price or rental, as the case may be, as the attorneys-in-fact deem proper, in the name of the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, and after any such acquisition or leasing, to convey, sell, lease, sublease, mortgage or otherwise deal with (but not vote the interest appurtenant thereto) any such Unit so acquired, or to sublease any Unit so leased, without the necessity of further authorization by the Unit Owners, on such terms as the attorneys-in-fact may determine, (b) to commence, pursue, appeal, settle and/or terminate administrative and certiorari proceedings to obtain reduced PILOT or real estate tax assessments, as the case may be, with respect to Units, including retaining counsel and taking any other actions which the Condominium Board deems necessary or appropriate and (c) to execute, acknowledge and deliver any declaration or other instrument affecting the Condominium which the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Condominium or any

consent, covenant, restriction, easement or declaration, or any amendment thereto, affecting the Condominium or the Common Elements which the Condominium Board deems necessary or appropriate.

17.2 Each Unit Owner hereby grants to Declarant an irrevocable power of attorney, coupled with an interest, to amend the Condominium Declaration to effectuate the rights granted to Declarant under the Declaration. This provision shall be self-operative, but each Unit Owner shall execute and deliver to the Declarant, upon demand, any additional powers of attorney reasonably requested for such purpose.

17.3 Each Unit Owner hereby grants to the Commercial Unit Owners an irrevocable power of attorney, coupled with an interest, to amend the Condominium Declaration to effectuate the rights granted to the Commercial Unit Owners under the Declaration. This provision shall be self-operative, but each Unit Owner shall execute and deliver to the Commercial Unit Owners, upon demand, any additional powers of attorney reasonably requested for such purpose.

ARTICLE 18

ACQUISITION OF UNITS BY THE BOARD

If (a) any Unit Owner surrenders such Unit Owner's Unit, together with (i) the undivided interest in the Common Elements and Limited Common Elements appurtenant thereto, (ii) the interest of such Unit Owner in any other Units theretofore acquired by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners or the proceeds of the sale or lease thereof, if any, and (iii) the interest of such Unit Owner in any other assets of the Condominium (such interests in (i), (ii) and (iii) being hereinafter collectively called the "Appurtenant Interests"), pursuant to the provisions of Section 339-x of the Condominium Act, (b) the Condominium Board, pursuant to Article 8 of the Bylaws, acquires or leases a Unit, together with the Appurtenant Interests, or (c) the Condominium Board purchases, at a foreclosure or other similar sale, a Unit, together with the Appurtenant Interests, then, in any such event, title to any such Unit, together with the Appurtenant Interests, shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective interests in the Common Elements. The lease or sublease covering any Unit leased or subleased by the Condominium Board or its designee shall be held by the Condominium Board or its designee, corporate or otherwise, on behalf of all Unit Owners, in proportion to their respective interest in the Common Elements.

ARTICLE 19

COVENANTS RUNNING WITH THE LAND

19.1 All provisions of this Declaration, the Bylaws and the Rules and Regulations which are annexed hereto and made a part hereof, including, without limitation, the provisions of this Article, shall, to the extent applicable and unless otherwise expressly herein or therein provided to the contrary, be perpetual and be construed to be covenants running with the Land and with every part thereof and interest therein, and all of the provisions hereof and thereof shall be binding upon and inure to the benefit of the owner of all or any part thereof, or interest therein, and such Unit Owner's heirs, executors, administrators, legal representatives, successors and assigns, but the same are not intended to create, nor shall they be construed as creating, any rights in or for the benefit of the general public or any other third party. All present and future owners, tenants, subtenants, licensees, and other occupants of Units shall be subject to the provisions of this Declaration, the Bylaws and the Rules and Regulations, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or sublease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, the Bylaws and the Rules and Regulations, as they may be amended from time to time, are accepted and ratified by such owner, tenant, subtenant, or occupant, and all of such provisions shall be deemed and taken to be covenants running with the Land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease or use and occupancy agreement thereof.

19.2 If any provision of this Declaration or the Bylaws is invalid under, or would cause this Declaration and the Bylaws to be insufficient to submit the Property to the provisions of, the Condominium Act, such provision shall be deemed deleted from this Declaration or the Bylaws, as the case may be, for the purpose of submitting the Property to the provisions of the Condominium Act, but shall nevertheless be valid and binding upon and inure to the benefit of the owners of the Property and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under other applicable law to the extent permitted under such applicable law with the same force and effect as if, immediately after the recording of this Declaration and the Bylaws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land. If any provision which is necessary to cause this Declaration and the Bylaws to be sufficient to submit the Property to the provisions of the Condominium Act is missing from this Declaration or the Bylaws, then such provision shall be deemed included as part of this Declaration or the Bylaws, as the case may be, for the purposes of submitting the Property to the provisions of the Condominium Act.

19.3 If this Declaration and the Bylaws are insufficient to submit the Property to the provisions of the Condominium Act, the provisions of this Declaration and the Bylaws shall nevertheless be valid and binding upon and inure to the benefit of the

owners of the Property, and their heirs, executors, administrators, legal representatives, successors and assigns, as covenants running with the Land and with every part thereof and interest therein under applicable law to the extent permitted under such applicable law with the same force and effect as if, immediately after the recording of this Declaration and the Bylaws, all Unit Owners had signed and recorded an instrument agreeing to each such provision as a covenant running with the Land.

ARTICLE 20

AMENDMENTS OF DECLARATION

20.1 Subject to the provisions contained herein or in the Bylaws or the Lease with respect to amendments, modifications, additions or deletions affecting Declarant or any Unsold Units, any provision of this Declaration may be added to, amended, modified or deleted by the vote of at least 80% in number and in Common Interest of all Unit Owners taken in accordance with the provisions of the Bylaws. Subject to the provisions contained herein or in the Bylaws with respect to amendments, modifications, additions or deletions affecting Declarant, or any Unsold Units, no amendment, modification, addition or deletion pursuant to the provisions of the immediately preceding sentence shall be effective without (a) the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives, if any, and (b) the written consent of Declarant, until such time as Declarant has conveyed title to all Units, provided that in no event shall Declarant's consent be required more than five years after the date fee title to a Unit is first conveyed to a purchaser by Declarant pursuant to an offering plan. In addition, no such amendment, modification, addition or deletion shall be effective until recorded in the Register's Office. Subject to the provisions contained herein or in the Bylaws with respect to amendments, modifications, additions or deletions affecting Declarant, or any Unsold Units, any such amendment, modification, addition or deletion shall be executed by the Condominium Board as attorney-in-fact for the Unit Owners, coupled with an interest, which Condominium Board is hereby authorized by such Unit Owners so to act as their attorney-in-fact.

20.2 If the number of rooms in an Unsold Unit is changed, or the use, size and/or number of Unsold Units is changed (whether as a result of a subdivision or combination of Unsold Units or alteration of boundary walls between Unsold Units, or otherwise) and the appurtenant percentage interests of Units in the Common Elements are reapportioned as a result thereof, all in accordance with Article 10 or 11 hereof, then Declarant causing such changes shall have the right to execute, or (upon its request) to require any other Unit Owner or any Board to execute, and record in the Register's Office and elsewhere, if required by law, an amendment to this Declaration (together with such other documents as Declarant causing such changes deems appropriate to effectuate the same) reflecting such change in the number of rooms in an Unsold Unit or in the use, size and/or number of Unsold Units (whether as a result of said subdivision, combination, alteration or otherwise) and the reapportionment of the percentage interests of Units in the Common Elements resulting therefrom, all without the approval of the Board, the

Unit Owners or the Mortgage Representatives, if any. In addition, if any Unit Owner other than Declarant causing such changes is given the right by the Condominium Board to make the changes described in this Section 20.2 with respect to such Unit Owner's Unit or Units, all in accordance with Article 10 or 11 hereof, then such Unit Owner shall have the right to require the Condominium Board to execute, and record in the Register's Office and elsewhere, if required by law, any amendment to this Declaration and other documents which are necessary or appropriate (in the reasonable judgment of the Condominium Board) to reflect the changes made by the Unit Owner, all without the approval of the Condominium Board, other Unit Owners or the Mortgage Representatives, if any. Nothing contained in this Section shall be construed to mean that the Common Interest appurtenant to any Unit not subject to any change may be reapportioned without the written consent of the Owner of such Unit.

20.3 The provisions of Sections 20.1 and 20.2 hereof may not be modified, amended, added to or deleted, in whole or in part, without the consent of Declarant or its designee. Notwithstanding anything to the contrary set forth above, no amendment to the Declaration or Bylaws can be made except in compliance with the terms of the Lease and this Declaration shall not be amended without the consent of QWDC in any matter that does not conform to the Lease or is materially adverse to any of rights, interests or obligations of the Landlord under the Lease, including, without limitation, any such amendment which would purport to (i) limit the obligations of the Condominium Board as Tenant under the Lease or the obligations of the Board of Managers under the Lease; (ii) modify the obligations of Unit Owners to pay the Rent due, as a portion of the Common Charges; (iii) change the number of Board members; (iv) change the method of allocation of Common Charges; (v) permit any Unit in the Condominium, other than those specified herein; (vi) modify the rights of Landlord as regards a Unit Owner Default.

20.4 Amendments, modifications, additions or deletions of or to this Declaration are subject in all respects to Section 13.2 of the Bylaws, which is incorporated herein by reference.

ARTICLE 21

TERMINATION OF CONDOMINIUM

The Condominium shall continue and the Property shall not be subject to an action for partition (unless terminated by casualty loss, condemnation or eminent domain, as more particularly provided in the Bylaws) until such time as withdrawal of the Property from the provisions of the Condominium Act is authorized by a vote of at least 80% in number and in Common Interest of all Unit Owners. No such vote shall be effective, however, (a) without the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives, if any, and (b) without the written consent of Declarant, until such time as Declarant has conveyed title to all Units, provided that in no event shall Declarant's consent be required more than

five years after the date fee title to a Unit is first conveyed to a purchaser by Declarant pursuant to an offering plan. In the event said withdrawal is authorized as aforesaid, the Property shall be subject to an action for partition by any Unit Owner or lienor as if owned in common, in which event the net proceeds of sale shall be divided among all Unit Owners in proportion to their respective Common Interests; provided, however, that no payments shall be made to a Unit Owner until there has first been paid from out of such Unit Owner's share of such net proceeds all liens on such Unit Owner's Unit (other than mortgages which are not Permitted Mortgages), in the order of priority of such liens.

ARTICLE 22

WAIVER

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

ARTICLE 23

CAPTIONS

The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provision hereof.

ARTICLE 24

CERTAIN REFERENCES

24.1 A reference in this Declaration to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural and vice versa, unless the context otherwise requires.

24.2 The terms "herein", "hereof", "hereunder", or similar terms used in this Declaration refer to this entire Declaration and not to the particular provision in which the terms are used, unless the context otherwise requires.

24.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of this Declaration.

ARTICLE 25

SEVERABILITY

Subject to the provisions of Sections 19.2 and 19.3 hereof, if any provision of this Declaration is invalid or unenforceable as against any person or under certain circumstances, the remainder of this Declaration and the applicability of such provision to other persons or circumstances shall not be affected thereby. Each provision of this Declaration shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law.

ARTICLE 26

COVENANT OF FURTHER ASSURANCES

26.1 Any party which is subject to the terms of this Declaration, whether such party is s Unit Owner, a lessee or sublessee of a Unit Owner, an occupant of a Unit, a member or officer of any Board or otherwise, shall, upon prior reasonable written request at the expense of any such other party requesting the same, execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for herein, and take such other action as such other party may reasonably request to effectuate the provisions of this Declaration or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

26.2 If a Unit Owner, the Condominium Board or any other party which is subject to the terms of this Declaration fails, within 10 days after request therefor, to execute, acknowledge or deliver any instrument, or to take any action which the Condominium Board, Unit Owner or party is required to execute, acknowledge and deliver or to take pursuant to this Declaration, then the Condominium Board which represents such Unit Owner, Condominium Board or other party is hereby authorized as attorney-in-fact for such Unit Owner, Condominium Board or other party, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action in the name of such Unit Owner, Condominium Board or other party and such document or action shall be binding on such Unit Owner, Condominium Board or other party.

26.3 If a Unit Owner, the Condominium Board or any other party which is subject to the terms of this Declaration fails, within 10 days after request therefor, to execute, acknowledge or delivery any instrument, or to take any action which such Unit Owner, Condominium Board or party is required to execute, acknowledge and deliver pursuant to this Declaration at the request of Declarant, then Declarant is hereby authorized, as attorney-in-fact for such Unit Owner, Condominium Board or other party, coupled with an interest, to execute, acknowledge and deliver such instrument or to take such action in the name of such Unit Owner, Condominium Board or other party and

such document or action shall be binding on such Unit Owner, Condominium Board or other party, as the case may be.

ARTICLE 27

SUCCESSORS AND ASSIGNS

Except as set forth herein or in the Bylaws to the contrary, the rights and/or obligations of Declarant as set forth herein shall inure to the benefit of and be binding upon any successor or assign of Declarant (not including Purchasers of Units pursuant to the Plan), or, with the consent of Declarant, any transferee of some or all of the then Unsold Units then owned by Declarant, as the case may be. Subject to the foregoing, Declarant, as the case may be, shall have the right, at any time, in their sole discretion, to assign or otherwise transfer their respective interests herein, whether by sale, merger, consolidation, lease, assignment or otherwise.

ARTICLE 28

CONSENTS

Whenever the consent, approval, satisfaction or permission of Declarant is required under this Declaration or the Bylaws, such consent, approval, satisfaction or permission will not be required when Declarant no longer owns any Unsold Units.

ARTICLE 29

INCORPORATION BY REFERENCE

The terms, covenants, conditions, descriptions and other information contained in (i) the Property Description annexed hereto as **Exhibit A**; (ii) the Description of the Units annexed hereto as **Exhibit B**; (iii) the Definitions annexed hereto as **Exhibit C**; (iv) the Bylaws annexed hereto as **Exhibit D**; and (v) the Floor Plans, are each incorporated herein by this reference and made a part of this Declaration as if set forth at length in the text hereof.

ARTICLE 30

LEASE AND QWDC REQUIREMENTS

Notwithstanding anything herein to the contrary, in the event that any covenant or term of the Lease or the QWDC Requirements creates a requirement, obligation or

limitation upon the Declarant, the Board, the Unit Owners, or any lessee or sublesee of any of the foregoing, which is inconsistent with the requirements, obligations, limitation or limitations of this Declaration, the terms of the Lease or the QWDC Requirements shall prevail. The terms covenants and provisions of this Declaration and the documents incorporated herein by reference are, and shall remain, subject and subordinate to the terms, covenants, conditions and provisions of the Lease. No consent by QWDC to the terms and provisions of this Declaration, or any amendment thereto, shall be deemed a waiver or subordination of any provisions of the Lease.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed as of the _____day of _____, 2007.

EAST COAST 5 L.L.C.

By:_____

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

On the __ day of _____ in the year 2007, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____
Notary Public

Exhibit A

Description of the Land

ALL that certain plot, piece or parcel of land situate, lying and being in the County of Queens, City and State of New York bounded and described as follows:

BEGINNING at the corner formed by the intersection of the northerly side of 47th Avenue (60 feet wide) with the westerly side of Center Boulevard (100 feet wide) said point being on the prolongation westerly of the northerly side of 47th Avenue as said street is mapped east of 5th Street (60 feet wide) and distant 345.82 feet westerly from the westerly side of 5th Street, said prolongation being at right angles to the westerly side of 5th Street;

RUNNING THENCE westerly along the northerly side of 47th Avenue, along the aforementioned prolongation and at right angles to the westerly side of 5th Street, 151.86 feet to the easterly boundary of a Park;

RUNNING THENCE northerly along the easterly boundary of the aforementioned Park at right angles to the northerly side of 47th Avenue and parallel with the westerly side of 5th Street, 199.99 feet to the southerly side of 46th Road (60 feet wide), said point being on a line drawn parallel with the northerly side of 47th Avenue and 199.99 feet northerly therefrom;

RUNNING THENCE easterly along the southerly side of 49th Road, at right angles to the last mentioned course and along a line drawn parallel with the northerly side of 47th Avenue and 199.99 feet northerly therefrom, 152.68 feet to the westerly side of Center Boulevard, said point being on a line drawn parallel with the westerly side of 5th Street and 345.00 feet westerly therefrom;

RUNNING THENCE southerly along the westerly side of Center Boulevard at right angles to the last mentioned course and along a line drawn parallel with the westerly side of 5th Street and 345.00 feet westerly therefrom, 179.74 feet to a point of curvature;

RUNNING THENCE southwesterly along the northwesterly side of Center Boulevard and along a curve bearing to the right having a radius of 250.00 feet, an arc length of 20.28 feet to the northerly side of 47th Avenue at the point or place of BEGINNING.

The above-mentioned streets and park being as shown on New York City Alteration Map No.4876.

Exhibit B

Description of the Units

Exhibit B
ESTABLISHING
46-30 Center Boulevard Condominium

Location	Unit Designation		No of Bedrooms	No of Baths	Tax Lot No	Approximate Floor Area in SF			Common Elements to Which Unit has Immediate Access	% of General Common Interest	Residential % of Common Interest	Commercial % of Common Interest
	Residential Unit No.	Commercial Unit				Approx Indoor Area SF	Approx Outdoor Area SF					
1st Floor		1		1/2	TBD	800			N/A	0.3025%		100%
1st Floor	101		1	1	TBD	777	299	Terrace	Lobby, Mail rm, Laundry rm, Exercise rm.,Public Hall, Stair, & Elevator	0.3761%	0.3773%	
1st Floor	102		2	2	TBD	1,153	192	Terrace	Lobby, Mail rm, Laundry rm, Exercise rm.,Public Hall, Stair, & Elevator	0.4980%	0.4995%	
1st Floor	103		3	3	TBD	1,653	941	Garden	Lobby, Mail rm, Laundry rm, Exercise rm.,Public Hall, Stair, & Elevator	0.8287%	0.8312%	
1st Floor	104		2	2	TBD	1,204	1,551	Garden	Lobby, Mail rm, Laundry rm, Exercise rm.,Public Hall, Stair, & Elevator	0.6863%	0.6883%	
1st Floor	105		1	1	TBD	838	1,409	Garden	Lobby, Mail rm, Laundry rm, Exercise rm.,Public Hall, Stair, & Elevator	0.5291%	0.5307%	
1st Floor	106		2	2	TBD	1,437	1,441	Garden	Lobby, Mail rm, Laundry rm, Exercise rm.,Public Hall, Stair, & Elevator	0.7598%	0.7621%	
1st Floor	107		3	3	TBD	1,842	1,184	Garden	Lobby, Mail rm, Laundry rm, Exercise rm.,Public Hall, Stair, & Elevator	0.8789%	0.8816%	
						9,704						
2nd Floor	201		3	3	TBD	1,492	64	Terrace	Public Hall, Stair, & Elevator	0.6020%	0.6038%	
2nd Floor	202		2	2	TBD	1,159	64	Terrace	Public Hall, Stair, & Elevator	0.4761%	0.4776%	
2nd Floor	203		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3196%	0.3206%	
2nd Floor	204		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4617%	0.4631%	
2nd Floor	205		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.6508%	0.6528%	
2nd Floor	206		1	1	TBD	762	365	Terrace	Public Hall, Stair, & Elevator	0.3829%	0.3841%	
2nd Floor	207		1	1	TBD	746	728	Terrace	Public Hall, Stair, & Elevator	0.4455%	0.4468%	
2nd Floor	208		2	2	TBD	1,196	1,165	Terrace	Public Hall, Stair, & Elevator	0.6322%	0.6341%	
2nd Floor	209		1	1	TBD	777	1,117	Terrace	Public Hall, Stair, & Elevator	0.4674%	0.4688%	
2nd Floor	210		1	1 1/2	TBD	877	196	Terrace	Public Hall, Stair, & Elevator	0.3944%	0.3956%	
2nd Floor	211		3	3	TBD	1,627			Public Hall, Stair, & Elevator	0.6413%	0.6433%	
2nd Floor	212		3	3	TBD	1,563	875	Terrace	Public Hall, Stair, & Elevator	0.7822%	0.7845%	
2nd Floor	213		3	3	TBD	1,781	357	Terrace	Public Hall, Stair, & Elevator	0.7667%	0.7690%	
						15,563						
3rd Floor	301		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6077%	0.6096%	
3rd Floor	302		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.4806%	0.4820%	
3rd Floor	303		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3351%	0.3361%	
3rd Floor	304		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4661%	0.4675%	
3rd Floor	305		3	3	TBD	1,653	66	Balcony	Public Hall, Stair, & Elevator	0.6696%	0.6716%	
3rd Floor	306		1	1	TBD	762	66	Balcony	Public Hall, Stair, & Elevator	0.3294%	0.3304%	
3rd Floor	307		1	1	TBD	746	66	Balcony	Public Hall, Stair, & Elevator	0.3233%	0.3242%	
3rd Floor	308		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.4825%	0.4839%	
3rd Floor	309		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3225%	0.3235%	
3rd Floor	310		1	1 1/2	TBD	863			Public Hall, Stair, & Elevator	0.3553%	0.3564%	
3rd Floor	311		3	3	TBD	1,629	74	Balcony	Public Hall, Stair, & Elevator	0.6615%	0.6636%	
3rd Floor	312		2	2	TBD	1,272	357	Terrace	Public Hall, Stair, & Elevator	0.5796%	0.5814%	
3rd Floor	313		2	2	TBD	1,416	357	Terrace	Public Hall, Stair, & Elevator	0.6346%	0.6366%	
						14,895						

Location	Unit Designation		No of Bedrooms	No of Baths	Tax Lot No	Approximate Floor Area in SF			Common Elements to Which Unit has Immediate Access	% of General Common Interest	Residential % of Common Interest	Commercial % of Common Interest
	Residential Unit No.	Commercial Unit				Approx Indoor Area SF	Approx Outdoor Area SF					
4th Floor	401		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6134%	0.6153%	
4th Floor	402		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.4850%	0.4865%	
4th Floor	403		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3381%	0.3392%	
4th Floor	404		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4704%	0.4718%	
4th Floor	405		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.6632%	0.6652%	
4th Floor	406		1	1	TBD	762			Public Hall, Stair, & Elevator	0.3196%	0.3206%	
4th Floor	407		1	1	TBD	746			Public Hall, Stair, & Elevator	0.3135%	0.3144%	
4th Floor	408		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.4870%	0.4884%	
4th Floor	409		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3254%	0.3264%	
4th Floor	410		1	1 1/2	TBD	877			Public Hall, Stair, & Elevator	0.3640%	0.3651%	
4th Floor	411		3	3	TBD	1,629	74	Balcony	Public Hall, Stair, & Elevator	0.6678%	0.6698%	
4th Floor	412		1	1	TBD	930	357	Terrace	Public Hall, Stair, & Elevator	0.4532%	0.4546%	
4th Floor	413		1	1 1/2	TBD	1,056	357	Terrace	Public Hall, Stair, & Elevator	0.5018%	0.5033%	
						14,207						
5th Floor	501		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6191%	0.6210%	
5th Floor	502		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.4895%	0.4910%	
5th Floor	503		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3412%	0.3422%	
5th Floor	504		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4747%	0.4761%	
5th Floor	505		3	3	TBD	1,653	66	Balcony	Public Hall, Stair, & Elevator	0.6822%	0.6843%	
5th Floor	506		1	1	TBD	762	66	Balcony	Public Hall, Stair, & Elevator	0.3353%	0.3363%	
5th Floor	507		1	1	TBD	746	66	Balcony	Public Hall, Stair, & Elevator	0.3291%	0.3301%	
5th Floor	508		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.4914%	0.4929%	
5th Floor	509		1	1	TBD	795			Public Hall, Stair, & Elevator	0.3353%	0.3363%	
5th Floor	510		1	1 1/2	TBD	877			Public Hall, Stair, & Elevator	0.3672%	0.3684%	
5th Floor	511		3	3	TBD	1,583	74	Balcony	Public Hall, Stair, & Elevator	0.6697%	0.6718%	
5th Floor	512		2	2	TBD	1,443	715	Terrace	Public Hall, Stair, & Elevator	0.7135%	0.7157%	
						13,636						
6th Floor	601		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6248%	0.6267%	
6th Floor	602		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.4939%	0.4954%	
6th Floor	603		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3442%	0.3452%	
6th Floor	604		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4790%	0.4805%	
6th Floor	605		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.6755%	0.6776%	
6th Floor	606		1	1	TBD	762			Public Hall, Stair, & Elevator	0.3253%	0.3263%	
6th Floor	607		1	1	TBD	746			Public Hall, Stair, & Elevator	0.3190%	0.3200%	
6th Floor	608		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.4959%	0.4974%	
6th Floor	609		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3312%	0.3322%	
6th Floor	610		1	1 1/2	TBD	935	174	Terrace	Public Hall, Stair, & Elevator	0.4275%	0.4288%	
6th Floor	611		2	2	TBD	1,207			Public Hall, Stair, & Elevator	0.4975%	0.4990%	
6th Floor	612		2	2	TBD	1,142	307	Terrace	Public Hall, Stair, & Elevator	0.5378%	0.5394%	
						12,999						

Location	Unit Designation		No of Bedrooms	No of Baths	Tax Lot No	Approximate Floor Area In SF			Common Elements to Which Unit has Immediate Access	% of General Common Interest	Residential % of Common Interest	Commercial % of Common Interest
	Residential Unit No.	Commercial Unit				Approx Indoor Area SF	Approx Outdoor Area SF					
7th Floor	701		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6305%	0.6324%	
7th Floor	702		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.4984%	0.4999%	
7th Floor	703		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3472%	0.3483%	
7th Floor	704		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4833%	0.4848%	
7th Floor	705		3	3	TBD	1,653	66	Balcony	Public Hall, Stair, & Elevator	0.6948%	0.6969%	
7th Floor	706		1	1	TBD	762	66	Balcony	Public Hall, Stair, & Elevator	0.3413%	0.3423%	
7th Floor	707		1	1	TBD	746	66	Balcony	Public Hall, Stair, & Elevator	0.3349%	0.3359%	
7th Floor	708		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5004%	0.5019%	
7th Floor	709		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3341%	0.3351%	
7th Floor	710		2	2	TBD	1,206	304	Terrace	Public Hall, Stair, & Elevator	0.5647%	0.5664%	
7th Floor	711		3	3	TBD	2,024	239	Terrace	Public Hall, Stair, & Elevator	0.8763%	0.8790%	
						12,945						
8th Floor	801		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6362%	0.6382%	
8th Floor	802		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5029%	0.5044%	
8th Floor	803		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3503%	0.3513%	
8th Floor	804		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4876%	0.4891%	
8th Floor	805		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.6879%	0.6900%	
8th Floor	806		1	1	TBD	762			Public Hall, Stair, & Elevator	0.3310%	0.3320%	
8th Floor	807		1	1	TBD	746			Public Hall, Stair, & Elevator	0.3246%	0.3256%	
8th Floor	808		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5049%	0.5064%	
8th Floor	809		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3370%	0.3381%	
8th Floor	810		2	2	TBD	1,090	397	Terrace	Public Hall, Stair, & Elevator	0.5419%	0.5436%	
8th Floor	811		2	2	TBD	1,459	310	Terrace	Public Hall, Stair, & Elevator	0.6723%	0.6743%	
						12,264						
9th Floor	901		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6419%	0.6439%	
9th Floor	902		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5073%	0.5089%	
9th Floor	903		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3533%	0.3544%	
9th Floor	904		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4920%	0.4934%	
9th Floor	905		3	3	TBD	1,653	66	Balcony	Public Hall, Stair, & Elevator	0.7074%	0.7096%	
9th Floor	906		1	1	TBD	762	66	Balcony	Public Hall, Stair, & Elevator	0.3472%	0.3483%	
9th Floor	907		1	1	TBD	746	66	Balcony	Public Hall, Stair, & Elevator	0.3408%	0.3418%	
9th Floor	908		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5093%	0.5109%	
9th Floor	909		1	1	TBD	795			Public Hall, Stair, & Elevator	0.3472%	0.3483%	
9th Floor	910		2	2	TBD	1,090			Public Hall, Stair, & Elevator	0.4665%	0.4679%	
9th Floor	911		2	2	TBD	1,459	74	Balcony	Public Hall, Stair, & Elevator	0.6306%	0.6325%	
						12,282						

Location	Unit Designation		No of Bedrooms	No of Baths	Tax Lot No	Approximate Floor Area in SF			Common Elements to Which Unit has Immediate Access	% of General Common Interest	Residential % of Common Interest	Commercial % of Common Interest
	Residential Unit No.	Commercial Unit				Approx Indoor Area SF	Approx Outdoor Area SF					
10th Floor	1001		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6476%	0.6496%	
10th Floor	1002		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5118%	0.5133%	
10th Floor	1003		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3563%	0.3574%	
10th Floor	1004		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.4963%	0.4978%	
10th Floor	1005		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.7003%	0.7024%	
10th Floor	1006		1	1	TBD	762			Public Hall, Stair, & Elevator	0.3367%	0.3378%	
10th Floor	1007		1	1	TBD	746			Public Hall, Stair, & Elevator	0.3302%	0.3312%	
10th Floor	1008		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5138%	0.5154%	
10th Floor	1009		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3429%	0.3439%	
10th Floor	1010		2	2	TBD	1,090			Public Hall, Stair, & Elevator	0.4706%	0.4720%	
10th Floor	1011		2	2	TBD	1,459	74	Balcony	Public Hall, Stair, & Elevator	0.6362%	0.6382%	
						12,264						
11th Floor	1101		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6534%	0.6553%	
11th Floor	1102		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5162%	0.5178%	
11th Floor	1103		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3594%	0.3604%	
11th Floor	1104		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.5006%	0.5021%	
11th Floor	1105		3	3	TBD	1,653	66	Balcony	Public Hall, Stair, & Elevator	0.7201%	0.7222%	
11th Floor	1106		1	1	TBD	762	66	Balcony	Public Hall, Stair, & Elevator	0.3532%	0.3542%	
11th Floor	1107		1	1	TBD	746	66	Balcony	Public Hall, Stair, & Elevator	0.3466%	0.3476%	
11th Floor	1108		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5183%	0.5199%	
11th Floor	1109		1	1	TBD	777			Public Hall, Stair, & Elevator	0.3458%	0.3468%	
11th Floor	1110		2	2	TBD	1,090			Public Hall, Stair, & Elevator	0.4746%	0.4761%	
11th Floor	1111		2	2	TBD	1,459	74	Balcony	Public Hall, Stair, & Elevator	0.6418%	0.6438%	
						12,264						
12th Floor	1201		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6591%	0.6611%	
12th Floor	1202		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5207%	0.5223%	
12th Floor	1203		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3624%	0.3635%	
12th Floor	1204		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.5049%	0.5064%	
12th Floor	1205		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.7127%	0.7148%	
12th Floor	1206		1	1	TBD	762			Public Hall, Stair, & Elevator	0.3424%	0.3435%	
12th Floor	1207		1	1	TBD	746			Public Hall, Stair, & Elevator	0.3358%	0.3368%	
12th Floor	1208		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5228%	0.5244%	
12th Floor	1209		1	1	TBD	795			Public Hall, Stair, & Elevator	0.3562%	0.3572%	
12th Floor	1210		2	2	TBD	1,090			Public Hall, Stair, & Elevator	0.4787%	0.4802%	
12th Floor	1211		2	2	TBD	1,459	74	Balcony	Public Hall, Stair, & Elevator	0.6474%	0.6494%	
						12,282						

Location	Unit Designation		No of Bedrooms	No of Baths	Tax Lot No	Approximate Floor Area in SF			Common Elements to Which Unit has Immediate Access	% of General Common Interest	Residential % of Common Interest	Commercial % of Common Interest
	Residential Unit No.	Commercial Unit				Approx Indoor Area SF	Approx Outdoor Area SF					
14th Floor	1401		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6648%	0.6668%	
14th Floor	1402		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5252%	0.5267%	
14th Floor	1403		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3654%	0.3665%	
14th Floor	1404		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.5092%	0.5108%	
14th Floor	1405		3	3	TBD	1,653	66	Balcony	Public Hall, Stair, & Elevator	0.7327%	0.7349%	
14th Floor	1406		1	1	TBD	762	66	Balcony	Public Hall, Stair, & Elevator	0.3591%	0.3602%	
14th Floor	1407		1	1	TBD	746	66	Balcony	Public Hall, Stair, & Elevator	0.3524%	0.3535%	
14th Floor	1408		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5272%	0.5288%	
14th Floor	1409		1	1	TBD	795			Public Hall, Stair, & Elevator	0.3591%	0.3602%	
14th Floor	1410		2	2	TBD	1,090			Public Hall, Stair, & Elevator	0.4828%	0.4843%	
14th Floor	1411		2	2	TBD	1,459	74	Balcony	Public Hall, Stair, & Elevator	0.6530%	0.6550%	
						12,282						
15th Floor	1501		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6733%	0.6754%	
15th Floor	1502		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5318%	0.5335%	
15th Floor	1503		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3700%	0.3711%	
15th Floor	1504		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.5157%	0.5173%	
15th Floor	1505		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.7281%	0.7303%	
15th Floor	1506		1	1	TBD	762			Public Hall, Stair, & Elevator	0.3496%	0.3506%	
15th Floor	1507		1	1	TBD	746			Public Hall, Stair, & Elevator	0.3428%	0.3438%	
15th Floor	1508		2	2	TBD	1,196			Public Hall, Stair, & Elevator	0.5340%	0.5356%	
15th Floor	1509		1	1	TBD	795			Public Hall, Stair, & Elevator	0.3636%	0.3647%	
15th Floor	1510		2	2	TBD	1,090			Public Hall, Stair, & Elevator	0.4869%	0.4884%	
15th Floor	1511		2	2	TBD	1,459	74	Balcony	Public Hall, Stair, & Elevator	0.6614%	0.6634%	
						12,282						
16th Floor	1601		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6819%	0.6839%	
16th Floor	1602		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5385%	0.5402%	
16th Floor	1603		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3745%	0.3757%	
16th Floor	1604		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.5222%	0.5238%	
16th Floor	1605		3	3	TBD	1,653	66	Balcony	Public Hall, Stair, & Elevator	0.7516%	0.7539%	
16th Floor	1606		1	1	TBD	762	66	Balcony	Public Hall, Stair, & Elevator	0.3681%	0.3692%	
16th Floor	1607		1	1	TBD	746	66	Balcony	Public Hall, Stair, & Elevator	0.3612%	0.3623%	
16th Floor	1608		1	1 1/2	TBD	1,036	501	Terrace	Public Hall, Stair, & Elevator	0.5796%	0.5814%	
16th Floor	PHA		3	3	TBD	2,107	1,147	Terrace	Public Hall, Stair, & Elevator	1.1899%	1.1933%	
						10,885						

Location	Unit Designation		No of Bedrooms	No of Baths	Tax Lot No	Approximate Floor Area in SF			Common Elements to Which Unit has Immediate Access	% of General Common Interest	Residential % of Common Interest	Commercial % of Common Interest
	Residential Unit No.	Commercial Unit				Approx Indoor Area SF	Approx Outdoor Area SF					
17th Floor	1701		3	3	TBD	1,492	64	Balcony	Public Hall, Stair, & Elevator	0.6904%	0.6925%	
17th Floor	1702		2	2	TBD	1,159	64	Balcony	Public Hall, Stair, & Elevator	0.5452%	0.5469%	
17th Floor	1703		1	1	TBD	777	66	Balcony	Public Hall, Stair, & Elevator	0.3791%	0.3802%	
17th Floor	1704		2	2	TBD	1,153			Public Hall, Stair, & Elevator	0.5286%	0.5302%	
17th Floor	1705		3	3	TBD	1,653			Public Hall, Stair, & Elevator	0.7467%	0.7490%	
17th Floor	1706		1	1	TBD	762			Public Hall, Stair, & Elevator	0.3581%	0.3592%	
17th Floor	1707		1	1	TBD	746			Public Hall, Stair, & Elevator	0.3512%	0.3522%	
17th Floor	1708		1	1 1/2	TBD	1,036	127	Balcony	Public Hall, Stair, & Elevator	0.5053%	0.5068%	
						8,778						
18th Flr./19th Flr.	PH1		3	3	TBD	908/971	131	Terrace	Public Hall, Str., & Elev./ E. Stair	1.3361%	1.3400%	
				PH1 Total		*1,879*	*131*					
16th Flr./19th Flr.	PH2		2	3	TBD	683/801	222	Terrace	Public Hall, Str., & Elev./ E. Stair	1.1005%	1.1039%	
				PH2 Total		*1,484*	*222*					
18th Flr./19th Flr.	PH3		2	3	TBD	722/777	197/31	Terr/Bal	Public Hall, Str., & Elev./ E. Stair	1.1126%	1.1160%	
				PH3 Total		*1,499*	*228*					
18th Flr./19th Flr.	PH4		2	3	TBD	944/819	99/31	Terr/Bal	Public Hall, Str., & Elev./ E. Stair	1.2575%	1.2613%	
				PH4 Total		*1,763*	*130*					
18th Flr./19th Flr.	PH5		3	4	TBD	998/1262	169/41	Terr/Bal	Public Hall, Str., & Elev./ E. Stair	1.6193%	1.6243%	
				PH5 Total		*2,260*	*210*					
18th Flr./19th Flr.	PH6		2	3	TBD	866/813	543/71	Terr/Bal	Public Hall, Str., & Elev./ E. Stair	1.3641%	1.3680%	
				PH6 Total		*1,679*	*614*					
18th Flr./19th Flr.	PH7		2	3	TBD	680/752	214/31	Terr/Bal	Public Hall, Str., & Elev./ E. Stair	1.0732%	1.0765%	
				PH7 Total		*1,432*	*245*					
18th Flr./19th Flr.	PH8		2	3	TBD	763/732	237/31	Terr/Bal	Public Hall, Str., & Elev./ E. Stair	1.1234%	1.1268%	
				PH8 Total		*1,495*	*268*					
18th Flr./19th Flr.	PH9		2	3	TBD	726/1079	163/244	Balconies	Public Hall, Str., & Elev./ E. Stair	1.3791%	1.3833%	
				PH9 Total		*1,839*	*407*					
										100.0000%	100.0000%	100.0000%
						15,330						
Total						214,862	24,820					

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Exhibit C

Definitions

DEFINITIONS

"Agreement"	The agreement to purchase a Unit pursuant to the Offering Plan.
"Appurtenant Interest"	With respect to any Unit, the undivided interest of the owner thereof, pursuant to the terms of Section 339-x of the Condominium Act, in and to: (i) the Common Elements; (ii) any other Units owned or leased at the time in question by the Board of Managers or its designee, corporate or otherwise, on behalf of all Unit Owners; (iii) any proceeds of the sale or lease of Units of the nature described in subdivision (ii) above; and (iv) any other assets of the Condominium.
"Assessments"	The charges allocated and assessed by the Board of Managers to the Unit Owners, pro rata, in accordance with their respective Common Interests (except as otherwise provided in the Declaration or in the Bylaws).
"Board", "Board of Managers" or "Condominium Board"	The Board of Managers of the Condominium.
"Building"	The structure located at 46-30 Center Boulevard, Long Island City, New York
"Closing"	The time, place and procedure by which fee title to the Unit in question is conveyed to a Purchaser pursuant to a fully executed Agreement.
"Closing Date"	The date upon which a Closing occurs.
"Commercial Common Charges"	Assessments payable to the Board by the Commercial Unit Owner for the purpose of meeting (a) Commercial Common Expenses and (b) the Commercial Unit Owner's pro rata share of General Common Expenses.
"Commercial Common Elements"	Those Common Elements which serve or benefit exclusively the Commercial Unit and/or the Commercial Unit Owner.
"Commercial Common Expenses"	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and

	operation of, and any alteration, addition or improvement to, the Commercial Common Elements.
"Commercial Common Interest"	The proportionate undivided interest, expressed as a numerical percentage, of the Commercial Common Elements appertaining to each Commercial Unit determined in accordance with the Declaration. The Commercial Common Interest is the basis of determining a Unit Owner's liability for a share of the Commercial Common Expenses.
"Commercial Limited Common Elements"	Those Commercial Common Elements which serve or benefit one or more, but not all, Commercial Units and/or the Commercial Unit Owners.
"Commercial Section"	The Commercial Unit, the Commercial Common Elements and the Commercial Limited Common Elements.
"Commercial Unit"	A Unit designated as a Commercial Unit in the Declaration.
"Commercial Unit Owner"	Any owner of the Commercial Unit.
"Common Charges"	Each Unit's proportionate share of the Common Expenses in accordance with its Common Interest.
"Common Elements"	All portions of the Property, other than Units. Common Elements are comprised of Residential Common Elements, Commercial Common Elements, and General Common Elements.
"Common Expenses"	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Common Elements.
"Common Interest"	The proportionate, undivided interest in the Common Elements appertaining to each Unit as expressed in the Declaration.
"Condominium"	A form of ownership of real property in which individual Units as component parts of a whole are owned as a leasehold with the right of exclusive use, by separate individuals or entities, which separate individuals and/or entities jointly own those parts of the whole designated as Common Elements. In the context of this Declaration, the

	term "Condominium" specifically refers to 46-30 Center Boulevard Condominium.
"Condominium Act"	Article 9-B of the Real Property Law of the State of New York, as the same may be amended from time to time.
"Condominium Documents"	The Declaration and all Schedules thereto, the Bylaws, the Rules and Regulations, the Floor Plans, the form of Unit Deed and the form of Unit Owner's Power of Attorney.
"Declarant"	The Sponsor of this Offering Plan, or its designee. References to Declarant's rights throughout the Offering Plan, including the Declaration, are valid for so long as the Declarant has a leasehold interest the Property.
"Declaration" or "Declaration of Condominium"	The instrument, as may be amended from time to time, by which the Property is submitted to the provisions of the New York State Condominium Act, consistent with the provisions of the New York Condominium Act and the Bylaws.
"Department of Law"	The New York State Department of Law.
"Filing Date"	The date that the Plan is accepted for filing by the Department of Law.
"First Unit Closing"	The first Closing of title with a bona fide Purchaser of a Unit.
"Floor Plans"	The floor plans of the Units certified by a registered architect or licensed professional engineer, and filed in the Register's Office simultaneously with the recording of the Declaration, together with any supplemental floor plans thereto.
"GBL"	Section 352-e of the New York State General Business Law.
"General Common Charges"	Assessments payable to the Condominium Board by the Unit owners for the purpose of meeting General Common Expenses.
"General Common Elements"	The Land and all parts of the Building, including its foundations, support and main roof, other than the Units, the Residential Common Elements, the Residential Limited Common Elements, the Commercial Common Elements, and the Commercial Limited Common Elements.

"General Common Expenses"	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration, and operation of, and any alteration, addition, or improvement to the General Common Elements.
"Improvements"	The Building, Equipment (as defined in the Lease), sidewalks, landscaping, utilities, vaults (other than utilities outside the Improvements and vaults which are maintained by a utility company), and all other improvements and appurtenances of every kind and description erected, constructed, or placed upon the Land.
"Insurance Trustee"	A bank, a trust company or savings and loan association, having an office in the City of New York, from time to time appointed to serve as such by the Condominium Board.
"Land"	All that certain tract, plot, piece and parcel of land situate, lying and being in the County of Queens, City and State of New York, as more particularly described in Exhibit A to the Declaration.
"Law"	The laws and ordinances of any or all of the Federal, New York State, New York City, and Queens County governments, the rules, regulations, orders and directives of any or all departments, subdivisions, bureaus, agencies, or offices thereof or of any other governmental, public, or quasi-public authorities having jurisdiction over the Property and/or the Condominium, and/or the direction of any public officer pursuant to law.
"Landlord"	Queens West Development Corporation or the landlord at the time in question under the Lease.
"Lease"	The Agreement of Lease between Queens West Development Corporation and East Coast 5 L.L.C., dated September 19, 2003.
"Majority"	Majority of Unit Owners means more than fifty percent (50 %) in Common Interest in the aggregate, as may be specified herein or in the Declaration or the Bylaws with respect to any matter or matters. Any specified percentage of Unit Owners means such percentage in Common Interest in the aggregate, as may be specified herein or in the Declaration or the Bylaws with respect to any matter or

matters, provided, however, that different percentages in interest and in number of Units may be so specified.

"Managing Agent" — A person employed by the Condominium Board pursuant to Article 2, Section 2.3 of the Bylaws, who shall undertake to perform the duties and services that the Condominium Board shall direct and who shall have whatever powers the Condominium shall delegate, subject to the limitations contained in such Section of the Bylaws.

"Offering Plan" or "Plan" — The document filed with the New York State Department of Law which describes the Condominium property and pursuant to which individual Units in the Condominium are offered for sale, as the same may be amended from time to time.

"Permitted Mortgage" — A mortgage placed on a Unit made to a bank, a trust company, an insurance company, a federal savings and loan association, a pension fund or other institutional lender, the Sponsor, a Sponsor-designee, or the Seller of the Unit.

"Permitted Mortgagee" — The holder of a Permitted Mortgage.

"Operation of the Property" — The administration and operation of the Property and the maintenance, repair and replacement of, and the making of any additions and improvements to, the Common Elements.

"Person" — A natural person, corporation, partnership, limited liability company, association, trustee, or other legal entity.

"Power of Attorney" — The document, signed by Unit Owners, which appoints:

(i) the Board of Managers as attorney-in-fact, to acquire, on behalf of all Unit Owners, any Unit that the Unit Owner of which wishes to sell or abandon, together with the Appurtenant Interest thereto, and to deal with any such Units so acquired as they may determine; and

(ii) the Sponsor, as attorney-in-fact, to amend the Declaration, the Bylaws, and the Rules and Regulations of the Condominium, or any of said documents under certain conditions set forth in the Power of Attorney.

"Property" — Means and includes the Land, the Building and all other improvements thereon, and all easements, rights and appurtenances belonging thereto, and all other property, personal or mixed, intended for use in connection

	therewith, which have been or are intended to be submitted to the provisions of the New York State Condominium Act.
"Purchaser"	Any Person who has entered into an agreement with Sponsor to purchase a Unit and is not in default thereunder.
"QWDC"	Queens West Development Corporation and its successors and assigns.
"QWDC Requirements"	Requirements imposed upon the Tenant under the terms of the Lease and Design Controls (as defined in the Lease) as same may be amended from time to time.
"Recording officer", "Recording" and "Recorded"	The meanings stated in section two hundred ninety of the New York State Real Property Law.
"Rent"	Collectively, payments of base rent, PILOT, the Public Maintenance Amount (as described in Schedule B herein), Impositions (as defined in the Lease), and all other sums due and payable by Tenant to or on behalf of Landlord under the terms of the Lease.
"Residential Common Charges"	Assessments payable to the Board by the Residential Unit Owners for the purpose of meeting (a) Residential Common Expenses and (b) each Residential Unit Owner's pro rata share of General Common Expenses.
"Residential Common Elements"	Those Common Elements which serve or benefit exclusively the Residential Units and/or the Residential Unit Owners.
"Residential Common Expenses"	Costs and expenses incurred or projected in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the Residential Common Elements and/or the Residential Limited Common Elements (to the extent that such expenses are not the obligation of the Residential Unit Owners owning the Residential Units to which the Residential Limited Common Elements are appurtenant) or in connection with any services or facilities exclusively benefiting the Residential Section or the Residential Unit Owners.

"Residential Common Interest"	The proportionate undivided interest, expressed as a numerical percentage, of the Residential Common Elements appertaining to each Residential Unit determined in accordance with the Declaration. The Residential Common Interest is the basis of determining a Unit Owner's liability for a share of the Residential Common Expenses.
"Residential Limited Common Elements"	Those Common Elements which serve or benefit exclusively one or more but not all the Residential Units and/or the Residential Unit Owners including, but not limited to, all gardens, terraces and balconies appurtenant to a Residential Unit. See Exhibit B of the Declaration of Condominium in Part II of this Plan for more information.
"Residential Section"	The Residential Units, the Residential Common Elements and the Residential Limited Common Elements.
"Residential Unit"	Any Unit designated as a Residential Unit in the Declaration, and all such Residential Units, are, collectively, referred to as the "Residential Units".
"Residential Unit Owner"	Any owner of a Residential Unit, and all such owners are collectively referred to as "Residential Unit Owners".
"Rules and Regulations"	The rules and regulations of the Condominium, which are annexed as an addendum to the Bylaws, as any of the same may be amended, modified, added to, or deleted from time to time pursuant to the terms of the Bylaws, provided that they are not in conflict with the terms of the Condominium Act, the Declaration, or the Bylaws.
"Selling Agent"	Metropolitan Living Ltd., or any successor selling agent at the time in question.
"Sponsor"	The promoter of the project and/or Offering Plan to convert a particular parcel of property to Cooperative or Condominium ownership.
"Sponsor-designee"	Any Person designated by Sponsor to hold title to any Unit. Sponsor's statement in writing that a Person is a Sponsor-designee shall be conclusive evidence of such status so as to entitle such Person to all the rights of a Sponsor-designee under the Offering Plan. A Sponsor-designee shall have the right to designate a Person to succeed to its rights and any such designee shall also be deemed a "Sponsor-designee".

"Tenant"	The tenant under the Lease, which is the Sponsor, and shall be the Board from and after the First Unit Closing.
"Unit"	Any space in the Building designated as a Unit, and all such Units are collectively referred to as the "Units".
"Unit Owner"	The person or persons, or entity owning a leasehold interest in a Unit, and all such owners are collectively referred to as the "Unit Owners".
"Unit Designation"	The number, letter or combination thereof or other official designations conforming to the tax lot number, if any, designating the unit in the Declaration and on the Floor Plans.
"Unsold Residential Units"	Any Residential Unit owned by Sponsor or its designee at the time in question.
"Unsold Units"	Any Unit owned by Sponsor or its designee at the time in question.

Exhibit D

Bylaws

BYLAWS

OF

46-30 CENTER BOULEVARD CONDOMINIUM

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SCHEDULE A - RULES AND REGULATIONS OF THE CONDOMINIUM

ARTICLE 1

GENERAL

1.1 Purpose. The purpose of these Bylaws is to set forth the rules and procedures concerning the conduct of the affairs of **46-30 CENTER BOULEVARD CONDOMINIUM** (the "Condominium"). The Condominium covers the leasehold interests in the property (the "Property") consisting of approximately 30,529 square feet of land (the "Land") which forms a part of Block 21 on the Tax Map of the Borough of Queens and County of Queens, City and State of New York (the building and other improvements now or hereafter to be constructed thereon or therein, as the case may be, are hereinafter collectively called the "Building"), including, without limitation, the Units and the Common Elements, all easements, rights and appurtenances belonging thereto, and all other property, real, personal or mixed, intended for use in connection therewith, all of which have been submitted to the provisions of Article 9-B of the Real Property Law of the State of New York by the recording of a Declaration (which, as the same may be amended from time to time, is herein called the "Declaration") in the Queens County Office of the Register of The City of New York ("City Register's Office"), together with these Bylaws. All terms used herein including, but not limited to, "Declarant" and "Declarant or a designee of Declarant", which are not separately defined herein, shall have the meanings given to those terms in the Declaration.

1.2 Applicability of Bylaws. These Bylaws are applicable to the Property and to the use and occupancy thereof. All present and future Unit Owners, mortgagees, lessees, sublessees and other occupants of Units and employees and guests of Unit Owners, as well as all other persons who may use the facilities of the Property, are and shall be subject to the Declaration, these Bylaws and the Rules and Regulations (as hereinafter defined). The acceptance of a deed or conveyance, or the succeeding to title to, or the execution of a lease or sublease for, or the act of occupancy of, a Unit shall constitute an agreement that the provisions of these Bylaws, the Rules and Regulations and the Declaration. as they may be amended from time to time, are accepted and ratified.

1.3 Principal Office of Condominium. The principal office of the Condominium shall be located within the Property or at such other place within the Borough of Queens reasonably convenient thereto, as may be designated from time to time by the Condominium Board (as hereinafter defined).

ARTICLE 2

CONDOMINIUM BOARD

2.1 Number, Term and Qualification.

2.1.1 As more particularly set forth in Section 2.2 hereof, the affairs of the Condominium shall be governed by a board of managers of the Condominium (hereinafter referred to as either the "Condominium Board", the "Board of Managers", or the "Board"). From and after the first annual meetings of Unit Owners as provided in Section 3.1 hereof, the Condominium Board shall consist of five (5) persons, subject to Declarant's rights under Subsection 3.9.3 hereof. Four (4) managers shall be elected by the Residential Unit Owners. One (1) manager shall always be elected by the Commercial Unit Owner.

2.1.2 Each member of the Board, except for the first Board as provided in Section 2.4 hereof, and except as otherwise provided herein, shall be elected at the annual meetings of Unit Owners and shall serve until the next annual meeting thereof or until successors have been elected and qualified. There shall be no limit on the number of successive terms a Board member may serve.

2.1.3 Except for Board members elected or designated by Declarant, all members of the Board shall be either Unit Owners or officers, directors, shareholders, partners, principals, members, trustees, employees or beneficiaries of corporations, partnerships, limited liability companies fiduciaries or any other entities which own Units, Permitted Mortgagees (hereinafter defined), or family members of any of the foregoing. Other than Board members elected or designated by Declarant, no Board member shall continue to serve after such member ceases to be qualified as set forth above. As used herein, the term "Permitted Mortgagee" means the holder of any mortgage (a "Permitted Mortgage") of a Unit or Units which is permitted to be placed thereon pursuant to these Bylaws.

2.2 Powers and Duties.

2.2.1 The Board shall have the powers and duties necessary for or incidental to the administration of the affairs of the Condominium (except such powers and duties which by law, the Declaration, these Bylaws or the Lease may not be delegated to the Board by the Unit Owners). Any obligations of the Tenant under the Lease shall be the obligation of the Board to perform and the Board shall have all of the powers and authorities necessary to act in accordance with the Lease.

2.2.2 Subject to the provisions of Subsection 2.2.1 hereof, and without limiting the generality thereof, the Board shall have all powers and duties expressly set forth elsewhere in the Declaration and Bylaws and shall be entitled to make such determinations and take such

actions and incur such liabilities as may be required to effectuate the Board's obligations under the Declaration and Bylaws.

2.2.2.1 The Condominium Board shall be entitled to make determinations with respect to the following matters:

2.2.2.1(a) Operating, caring for, keeping up, maintaining, repairing and replacing of the Common Elements, including contracts for utilities, services and supplies;

2.2.2.1(b) Determining the amount of Common Charges (as hereinafter defined);

2.2.2.1(c) Collecting Common Charges from Unit Owners;

2.2.2.1(d) Employing and dismissing personnel necessary for the maintenance and operation of the Common Elements;

2.2.2.1(e) Adopting, amending or adding to, the Rules and Regulations (as hereinafter defined);

2.2.2.1(f) Making additions and improvements to, or alterations of, the Common Elements;

2.2.2.1(g) Making repairs and restorations of Common Elements or parts thereof damaged or destroyed by fire or other casualty or necessitated as a result of condemnation or eminent domain proceedings;

2.2.2.1(h) Enforcing obligations of Unit Owners;

2.2.2.1(i) Levying fines against Unit Owners for violations of the Rules and Regulations (any such fines shall constitute Common Charges payable by the Unit Owner against which they are levied);

2.2.2.1(j) Opening and maintaining bank accounts on behalf of the Condominium (with respect to matters within its jurisdiction as provided in these Bylaws) and designating signatories therefor;

2.2.2.1 (k) Adjusting and settling insurance claims (and executing and delivering releases in connection therewith) if the loss involves the Common Elements, as set forth in Section 6.2 hereof;

2.2.2.1(l) Borrowing money on behalf of the Condominium, when required in connection with the operation, care, upkeep and maintenance of, or the making of repairs, replacements, restorations or additions to or alterations of the Residential and Commercial Common Elements; provided, however, that

(i) the consent of Unit Owners owning at least 66 + 2/3% in Common Interest of all Unit Owners shall be required for any borrowings in excess of the aggregate amount of $50,000 in any one fiscal year (regardless of the balance of any loans outstanding from previous years), and (ii) no lien to secure repayment of any sum borrowed may be created on any Unit or its appurtenant interest in the Common Elements without the consent of the owner of such Unit. If any sum borrowed by the Condominium Board pursuant to the authority contained in this Subparagraph 2.2.2.1(l) is not repaid by said Board, a Unit Owner who pays to the creditor such proportion thereof as such Unit Owner's interest in the Common Elements bears to the interest of all the Unit Owners in the Common Elements shall be entitled to obtain from the creditor a release of any judgment or other lien which said creditor has filed or has the right to file against such Unit Owner's Unit;

2.2.2.1(m) Bringing actions on behalf of the Unit Owners, as their interests may appear, with respect to any cause of action relating to the Common Elements, as the Condominium Board deems advisable;

2.2.2.1(n) Organizing corporations or limited liability companies to act as designees of the Condominium Board with respect to such matters as the Board may determine, including without limitation, in connection with the acquisition of title to or the leasing or subleasing of Units by the Board on behalf of Unit Owners;

2.2.2.1(o) Executing, acknowledging and delivering of (i) any declaration or other instrument affecting the Property which the Condominium Board deems necessary or appropriate to comply with any law, ordinance, regulation, zoning resolution or requirement of the Department of Buildings, the City Planning Commission, the Board of Standards and Appeals, or any other public authority, applicable to the maintenance, demolition, construction, alteration, repair or restoration of the Building, or (ii) any consent, covenant, restriction, easement or declaration affecting the Property which the Condominium Board deems necessary or appropriate;

2.2.2.1(p) Preparing, executing and recording, on behalf of all Unit Owners, as their attorney-in-fact, coupled with an interest, a restatement of the Declaration and/or these Bylaws whenever in the Condominium Board's estimation, it is advisable to consolidate and restate all amendments, modifications, additions and deletions theretofore made to the Declaration and/or these Bylaws;

2.2.2.1(q) Obtaining and reviewing insurance for the Property, including the Units, pursuant to the provisions of Section 6.2 hereof;

2.2.2.1(r) Leasing or purchasing an apartment for use as the residence of the building superintendent, and amending, modifying, extending, renewing, and otherwise dealing in any way with respect to any such apartment;

2.2.2.1(s) Subject to Section 8.2. hereof, purchasing, leasing and otherwise acquiring in the name of the Board or its designee, on behalf of all Unit Owners, Units offered for sale or lease or surrendered by their owners to the Board;

2.2.2.1(t) Purchasing Units at foreclosure or other similar sales, in the name of the Board or its designee, on behalf of all Unit Owners;

2.2.2.1(u) Selling, leasing, subleasing, mortgaging and otherwise dealing with (but not voting the interests appurtenant to) Units acquired by, and subleasing Units leased by, the Board or its designee, on behalf of all Unit Owners;

2.2.2.1(v) Executing, acknowledging and delivering any documents or other instruments necessary to commence, pursue, compromise or settle certiorari proceedings to obtain reduced PILOT or real estate tax assessments with respect to Units for the benefit and on behalf of (i) all Unit Owners, or (ii) for individual Unit Owners, provided that each such Unit Owner indemnifies the Board from and against all claims, costs and expenses (including, without limitation, reasonable attorneys' fees) resulting from such proceedings;

2.2.2.1(w) Purchasing or leasing, in the name of the Board, space for the storage of personal property of Unit Owners, and in connection therewith the promulgation of conditions, rules and regulations for the operation and supervision thereof;

2.2.2.1(x) Imposition of move in fees and charges, and transfer fees in connection with the sale or lease of a Unit, provided that no such fees or charges or any other conditions of transfer or lease may be imposed upon the Declarant;

2.2.2.1(y) Complying with Tenant's obligations under the Lease and with respect to QWDC Requirements.

2.2.3 Any act with respect to a matter determinable by the Board and deemed necessary or desirable by the Board in connection therewith shall be done or performed by the Board or shall be done on its behalf and at its direction by the agents, employees or designees of the Board.

2.2.4 Notwithstanding anything to the contrary contained in these Bylaws, so long as Declarant or its designee shall continue to own at least one (1) Unit, but in no event later

than five years from the First Unit Closing of a sale made under the Offering Plan, the Condominium Board may not, without Declarant's prior written approval: (i) make any addition, alteration or improvement to the Common Elements, the Limited Common Elements or to any Unit; (ii) increase or decrease the number, or change the kind of employees initially hired for the Condominium; (iii) enter into any service or maintenance contract for work not covered in the initial projected budget for the Condominium, or otherwise provide services in excess of those contemplated by such projected budget, except as is required to reflect normal annual increases in operating services; (iv) borrow money on behalf of the Condominium; (v) assess any Common Charges for the creation of, addition to or replacement of all or part of a reserve, contingency or surplus fund, or (vi) exercise a right of first refusal to lease or purchase a Unit; provided that Declarant's written consent is not necessary to perform any function or take any action described in items (i) through (vi) above if and only if the performance of such function or the carrying out of such an action is necessary and no other alternative is available to enable the Condominium Board to comply with laws, rules or regulations of any governmental authority having jurisdiction over the Condominium or to comply with the Lease requirements or QWDC Requirements.

2.2.5 As long as the Sponsor or any Sponsor-designee shall continue to own one (1) Unit, the Board of Managers may not, without the Sponsor's or Sponsor-designee's prior written consent, (i) amend the Declaration or the Bylaws so as to in any way adversely affect the Sponsor or its designees, or (ii) interfere with: the offer, sale or leasing of Units at the Property; the operations of general or sales or leasing offices at the Property; or actions necessary for renovation, repair or correction at the Property, as required by Sponsor.

2.2.6 As long as the Sponsor or any Sponsor-designee shall continue to own one (1) Unit, the Board of Managers may not, without the Sponsor's or Sponsor-designee's prior written consent, exercise the option to purchase the Property from QWDC pursuant to the terms of the Lease.

2.3 Managing Agents and Managers. With respect to matters the determinations concerning which the Board is entitled to make, the Board may employ a managing agent and/or a manager at a compensation established by the Board to perform such duties and services as the Board shall authorize. The Board may delegate to such managing agent or manager other powers granted to the Board by these Bylaws, except the powers set forth in Subsections 2.2.2.1(b), (e), (g), (h), (m), (n), (o), (p) and (r) hereof.

2.4 First Board. The Condominium Board shall initially consist of three (3) persons designated by Declarant to initially comprise the Board. The Board members shall be deemed to have been "elected" as members of the Board for the purposes of these Bylaws. Within 180 days after the date of the First Unit Closing, the Board will call for the first annual meetings of Unit Owners for the purpose of electing a new Board in accordance with the provisions of Section 3.1 hereof. The terms of each such member of the Board shall expire annually.

2.5 Resignation and Removal; Compliance with Lease.

2.5.1 Any Board member may resign at any time by written notice delivered or sent by certified mail, return receipt requested to the Board. Such resignation shall take effect at the time specified therein and, unless specifically requested, acceptance of such resignation shall not be necessary to make it effective. Subject to the provisions of Subsection 3.9.3 hereof, any Board member may be removed, with or without cause, by the vote of a Majority of Unit Owners, present in person or by proxy at a regular or special meeting of Unit Owners, at which a quorum is present. Any Board member whose removal has been proposed shall be given an opportunity to be heard at the meeting. Notwithstanding the above, Board members designated by Declarant may only be removed by the vote of a Majority of Unit Owners with cause and replaced as described in Section 2.6 hereof. However, any member of the Board who is designated as such by Declarant, may be removed by such designating party at any time, with or without cause, and the party making such removal shall have the right to designate the replacement for such member.

2.5.2 Notwithstanding anything herein to the contrary, the Board shall be liable to QWDC for any failure of the Board to comply with the terms of the Lease. However, no member of the Board shall have any personal liability as a result of a default by the Board in the performance of any of the Lease terms.

2.6 Vacancies. Subject to the provisions of Section 3.9.3 hereof, any vacancy on the Board for whatever reason shall be filled by the members of the Board then in office, at a special meeting of the Board held for that purpose promptly after the occurrence of any such vacancy even though the members present at such meeting may constitute less than a quorum, and any person so elected shall be a member of the Board until the next annual meeting of the Unit Owners, when a successor shall be elected for the remainder of the term of the member creating such vacancy. Notwithstanding anything to the contrary contained in these Bylaws, in the case of a vacancy on the Board created by the resignation, removal or any other cause which results in the Board member designated by Declarant ceasing to be a member of the Board, Declarant shall have the sole right to designate a replacement for such member.

2.7 Organizational Meeting of the Board. The first meetings of the Board following each annual meeting of the Unit Owners shall be held immediately following each such annual meeting.

2.8 Regular Meetings of the Board. Regular meetings of the Board may be held at such time and place in the Borough of Queens as shall be determined from time to time by a majority of the members thereof, provided that at least four (4) such meetings shall be held during each fiscal year. Notice of regular meetings shall be given to each member thereof, by personal delivery, mail, facsimile or email, at least five business days prior to the day named for such meeting.

2.9 Special Meetings of the Board. Special meetings of the Board may be called by the respective President or Vice President of the Board by giving five business days' prior notice

to each member of the Board by personal delivery, mail, facsimile or email, which notice shall state the time, place (in the Borough of Queens) and purpose of the meeting. Special meetings of the Board shall be called in like manner and on like notice on the written request of at least two members of the Board.

2.10 Waiver of Notice. Any Board member may at any time waive notice of any Board meeting in writing and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board at any meeting thereof shall constitute a waiver of notice by him of the time and place thereof. If all the members are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

2.11 Determinations by Board; Quorums.

2.11.1 Except as otherwise set forth in Subsection 2.11.4 hereof, all determinations by the Board shall be made at a meeting of the Board at which a quorum thereof is present. At the Board meeting, a majority of the members thereof shall constitute a quorum, and the votes of a majority of such members present shall constitute the decision of the Board.

2.11.2 When the Board, acting in accordance with the provisions of this Article 2, has made the same determination as to any matter which is required or permitted to be determined by the Condominium Board, such determination shall constitute the determination of the Condominium Board. No meeting of the Condominium Board as such shall be necessary for any determination by it to be made. However, in the event any meeting of the Condominium Board is held, a majority of the members of the Condominium Board shall constitute a quorum for the transaction of business and a majority of the votes cast at any meeting at which a quorum is present shall constitute the decision of the Board.

2.11.3 If at any Board meeting there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

2.11.4 Members of the Board may participate in a meeting thereof by means of a conference telephone or similar communications equipment by means of which all persons participating in such meeting can hear each other and such participation shall constitute presence at such meeting. Notwithstanding anything to the contrary contained herein, action permitted or required to be taken at a meeting of the Board may be taken without a meeting if all members of the Board consent in writing to the adoption of a Resolution authorizing such action and the writing or writings are filed with the minutes of the Board.

2.12 Compensation. No member of the Board shall receive any compensation for acting as such.

2.13 Liability of Board and Unit Owners.

2.13.1 To the extent permitted by applicable law, no member of the Board shall have any personal liability with respect to any contract, act or omission of the Board or of any managing agent or manager in connection with the affairs or operation of the Condominium, any Common Element or any Limited Common Element (except in their capacities as Unit Owners) and the liability of any Unit Owner with respect thereto shall be limited as hereinafter set forth. Subject to the provisions of the Lease, every contract made by the Board or by any managing agent or manager thereof shall state that it is made by the Board, managing agent or manager only as agent for all Unit Owners, that the Board members or managing agent or manager shall have no personal liability thereon (except in their capacities as Unit Owners) and shall also state the applicable limitations of liability of Unit Owners provided for in the next sentence. The liability of any Unit Owner with respect to any contract, act or omission with respect to the Condominium or any Limited Common Element shall be limited to such proportionate share of the total liability as the interest of such Unit Owner bears to the aggregate Common Interests of all Unit Owners, and, unless expressly stated to the contrary in such contract (as determined by the relevant Board in its sole and absolute discretion), to the extent permitted by applicable law, shall be limited to such Unit Owner's interest in such Unit Owner's Unit and such Unit Owner's appurtenant Common Interest so that such Unit Owner shall have no personal liability for such contract, act or omission. Nothing in the preceding sentence shall limit a Unit Owner's liability for the payment of Common Charges (including PILOT). Any such contract or agreement may also provide that it covers the assets, if any, of the Board on whose behalf the contract or agreement is made. Board members shall have no liability to Unit Owners except that a Board member shall be liable to such Unit Owner for the Board Member's own bad faith or willful misconduct. All Unit Owners shall severally, to the extent of their respective interests in their Units and their appurtenant Common Interests, indemnify each Condominium Board member against any liability or claim except those arising out of such member's own bad faith or willful misconduct. The Board may contract or effect any transaction with any Board member, any Unit Owner, Declarant, Declarant's designee or any affiliate of any of them without, except in cases of bad faith or willful misconduct, incurring any liability for self-dealing.

2.13.2 Neither the Board nor any member thereof shall be liable for either (i) any failure or interruption of any utility or other service to be obtained by, or on behalf of, the Board or to be paid for as a Common Expense, except when any such failure or interruption is caused by the acts of bad faith or willful misconduct of the Board or any member thereof or (ii) any injury, loss or damage to any individual or property, occurring in or about either a Unit or any Common Element or Limited Common Element.

2.14 Fidelity Bonds. The Board shall obtain or ensure maintenance of fidelity bonds or insurance, in amounts deemed appropriate by it, for all of its members, officers and employees and for the managing agent or manager, if any, employed by it and the premiums on such bonds or insurance shall constitute General Common Expenses, Residential Common Expenses, or Commercial Common Expenses, as the case may be.

2.15 Committees. The Board may, subject to such limitations and exceptions as the Board may prescribe, appoint an Executive Committee and such other committees as the Board may deem appropriate, each to consist of as many members as the Board shall deem appropriate for the purpose of making such reports and studies as the Board deems appropriate. For so long as Declarant is entitled to designate members to the Board, any committee appointed by the Board shall have as at least one of its members a member appointed by Declarant.

2.16 Principal Office of the Board. The principal offices of the Board shall located within the Property or at such other place in the Borough of Queens reasonably convenient thereto as may be designated from time to time by the Board.

2.17 Status of the Board. In addition to the status conferred upon the Board under or pursuant to the provisions of the Condominium Act, the Board shall, to the extent permitted by applicable law, be deemed to constitute a separate association for all purposes under and pursuant to the provisions of the General Associations Law of the State of New York. In the event of the incorporation of the Board pursuant to the provisions of 2.18, the provisions of this Section 2.18 shall no longer be applicable to the Board.

2.18 Incorporation of the Board. To the extent and in the manner provided in the Condominium Act, the Board may, by action of the Board as provided in this Article 2, be incorporated under the applicable statutes of the State of New York. In the event that the Board so incorporates, it shall have, to the extent permitted by applicable law, the status conferred upon it under such statutes in addition to the status conferred upon the Board under or pursuant to the provisions of the Condominium Act. The certificate of incorporation and Bylaws of any such resulting corporation shall conform as closely as practicable to the provisions of the Declaration and these Bylaws and the provisions of the Declaration and these Bylaws shall control in the event of any inconsistency or conflict between the provisions hereof and the provisions of such certificate of incorporation and Bylaws.

2.19 Board as Agent of Unit Owners. In exercising their power and performing their duties under the Declaration and these Bylaws, the Board shall act in good faith as, and shall be, the agent of the Unit Owners, subject to and in accordance with the provisions of the Declaration and these Bylaws.

ARTICLE 3

UNIT OWNERS

3.1 Annual Meetings. The first annual meeting of Unit Owners shall be called no more than 180 days after the First Unit Closing. Such meeting shall be held not less than 10 days nor more than 40 days after such date. At such meeting, the incumbent Board shall resign and the Unit Owners shall elect (in accordance with the provisions of Section 2.1 hereof and as otherwise provided in these Bylaws) a Board. The Condominium Board shall consist of five (5)

persons, subject to Declarant's rights under Subsection 3.9.3 hereof. Four (4) managers shall be elected by the Residential Unit Owners. One (1) manager shall always be elected by the Commercial Unit Owner. Thereafter, annual meetings of Unit Owners shall be held within approximately thirty (30) days of each anniversary of the first annual meeting. At such meetings, the incumbent Board members shall resign and the members of the Board shall be elected and there shall also be transacted such other business as may properly come before such meetings.

3.2 Place of Meetings. Meetings of all or any Unit Owners shall be held at the principal office of the Condominium or, at such other suitable and convenient place in the Borough of Queens, as may be designated by the Board.

3.3 Special Meetings. The President of the Board shall call a special meeting of Unit Owners, if so directed by resolution of the Board or upon a petition signed and presented to the Secretary of the Board by the Unit Owners owning not less than 25% in Common Interest of all Unit Owners.

3.4 Notice of Meetings and Actions Taken. Notice of each annual or special meeting shall be given by the Secretary to all Unit Owners of record entitled to vote thereat. Each such notice shall state the purposes of the meeting and the time and place where it is to be held and no business shall be transacted thereat except as stated in the notice. All notices hereunder shall be given by personal delivery, mail or telegram, at least ten (10) but no more than thirty (30) business days prior to the day named for the meeting and shall be given or sent to the Unit Owners at their address at the Property or at such other address at the Property or elsewhere as any Unit Owner has designated by notice in writing to the Secretary at least ten (10) days prior to the giving of notice of the applicable meeting. However, if the business to be conducted at any meeting of the Unit Owners shall include consideration of a proposed amendment to the Declaration or to these Bylaws, the notice of such meeting shall be given to all Unit Owners as provided above at least thirty (30) days prior to the day fixed for such meeting, and such notice shall be accompanied by a copy of the text of such proposed amendment.

3.5 Adjournment of Meetings. If any meeting of Unit Owners cannot be held because a quorum is not present, a Majority of Unit Owners who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than 48 hours from the time fixed for the original meeting.

3.6 Order of Business. The order of business at all meetings of Unit Owners shall be as follows:

(a) Call to order;

(b) Roll call;

(c) Proof of notice of meeting;

(d) Reading of minutes of preceding meeting;

(e) Reports of officers;

(f) Reports of members of the Board;

(g) Reports of committees;

(h) Election of inspectors of election (when so required);

(i) Election of members of the Board (when so required);

(j) Unfinished business;

(k) New business; and

(l) Adjournment.

3.7 Title to Units. Title to Units may be taken by any individual, corporation, partnership, association, limited liability company, trust or other entity, or any two or more of such owners as joint tenants, tenants in common, or tenants by the entirety, as may be appropriate, but not as owners in severalty.

3.8 Voting.

3.8.1 Each Unit Owner or a person designated by such Unit Owner to act as proxy on such Unit Owner's behalf and who need not be a Unit Owner, shall be entitled to cast the votes appurtenant to such Unit as set forth herein and in the Declaration at all meetings of Unit Owners. The designation of any such proxy shall be made in writing to the Secretary of the Board and shall be revocable at any time by written notice to the Secretary by the Unit Owner so designating; provided, however, that no designation to act as a proxy shall be effective for a period in excess of six months except a designation of a Permitted Mortgagee to act as the proxy of its mortgagor. A fiduciary shall be the voting member with respect to any Unit owned in a fiduciary capacity. Neither the Board nor its designee shall be entitled to vote the interest appurtenant to any Unit owned by the Board and the Common Interest of such Unit shall be excluded from the total Common Interests when computing the interest of Unit Owners for voting purposes.

3.8.2 Except as otherwise set forth herein or in the Declaration, at all meetings of Unit Owners, each Unit Owner (or such Unit Owner's proxy) entitled to vote thereat (including Declarant with respect to Units owned by Declarant) shall be entitled to cast one vote for each .0001% (rounded off to the nearest .0001%) of Common Interest attributable to such Unit Owner's Unit.

3.9 Election of Board Members; Rights of Declarant.

3.9.1 All elections of Board members shall be determined by plurality vote.

3.9.2 When voting for members of the Board, the voting shall be by ballot and each ballot shall state the name of the Unit Owner voting, the percentage of Common Interests owned by such Unit Owner, and, if applicable, the name of the proxy if such ballot is cast by a proxy. Each Unit Owner shall be entitled to cast the number of votes determined in accordance with Subsection 3.8.2 hereof for each member to be elected by the Unit Owners. Nothing contained in these Bylaws shall be deemed to permit cumulative voting.

3.9.3 Notwithstanding any other provision of this Section 3.9 or any other provision of these Bylaws to the contrary, commencing with the first annual meeting of Unit Owners, Declarant shall have the right to vote all of the Common Interests attributable to Unsold Units owned by it until Declarant has closed title to all of the Unsold Units owned by it. Declarant shall hold a majority of seats on the Board until the earlier to occur of (i) five (5) years from the date of the First Unit Closing or (ii) the date upon which Declarant shall own Unsold Units having an aggregate interest in the Common Elements of twenty five (25%) percent or less. In addition, for so long as Declarant owns Unsold Units having a percentage of Common Interest in the aggregate of at least fifteen (15%) percent as the case may be, (a) Declarant shall have the right to vote all of the Common Interests attributable to Unsold Units owned by it to designate at least two members of the Board or one less than a majority of the Board as the case may be, and (b) for so long as Declarant owns at least one of the Unsold Units, Declarant shall have the right to vote all of the Common Interests attributable to Unsold Units owned by it to designate at least one member of the Board. For so long as Declarant owns at least one of the Unsold Units, the number of members of the Board may not be increased without the consent of Declarant.

3.9.4 A meeting of the Unit Owners shall be held within approximately thirty (30) days of the expiration of Declarant's control period, as described in the second sentence of section 3.9.3 hereof, to elect new Board members unrelated to Declarant.

3.10 Majority of Unit Owners. Except as may otherwise be provided by law, as used in these Bylaws, the term "Majority of Unit Owners" means those Unit Owners having more than 50% of the total authorized votes of all Unit Owners, determined in accordance with the provisions of Section 3.8, who are present in person or by proxy and voting at any meeting at which a quorum is present.

3.11 Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Unit Owners owning more than 50% of the Common Interests attributable to all Units shall constitute a quorum at all meetings of Unit Owners.

3.12 Majority Vote. Except where otherwise provided by law, the Declaration or these Bylaws, at all meetings of Unit Owners, the affirmative vote of a Majority of Unit Owners shall be binding upon all Unit Owners for all purposes.

ARTICLE 4

OFFICERS

4.1 Designation. The principal officers of the Condominium shall be a President, Vice President, Secretary and Treasurer thereof, all of whom shall be elected by the Board. The Board may appoint an Assistant Treasurer, Assistant Secretary and such other officers as in the Board's judgment may be desirable. None of the officers of the Board need be Unit Owners or have any interest therein or be Board members until the first organizational meeting of the Board after the first annual meeting of Unit Owners. Thereafter, the President and Vice President of the Board must be members of the Board.

4.2 Election of Officers. The officers of the Board shall be elected annually by the members of the Board, at the organizational meeting thereof, except that the initial officers of the Board shall be elected by the initial Board members and shall hold office at the pleasure of the Board and until their successors are elected.

4.3 Resignation and Removal of Officers. Any officer may resign at any time by written notice to the Board delivered or sent by certified mail, return receipt requested. Such resignation shall take effect at the time specified therein and, unless specifically requested, acceptance of such resignation shall not be necessary to make it effective. Upon the affirmative vote of a majority of the members of the Board, any officer may be removed, either with or without cause. A successor officer may be elected at any regular Board meeting or at any special Board meeting called for such purpose.

4.4 President. The President of the Condominium shall be the chief executive officer of the Condominium and shall preside at all meetings of Unit Owners and at all meetings of the Board. The President shall have all of the general powers and duties which are incident to the office of president of a stock corporation organized under the Business Corporation Law of the State of New York, including, but not limited to, the power to appoint committees from among Unit Owners from time to time as the President decides is appropriate to assist in the conduct of the affairs of the Condominium.

4.5 Vice President. The Vice President of the Condominium shall take the place of the President and perform the duties of the President whenever the President shall be absent or unable to act. If both the President and the Vice President of the Condominium are unable to act, the Board shall appoint some member of the Board to act in the place of the President and Vice President on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board or by the President.

4.6 Secretary. The Secretary of the Condominium shall keep the minutes of all meetings of Unit Owners and of the Condominium Board. The Secretary shall have charge of such books and papers as the Board shall direct and shall in general perform all the duties

incident to the office of secretary of a stock corporation organized under the Business Corporation Law of the State of New York.

4.7 Treasurer. The Treasurer shall have the care and custody of the funds and securities of the Condominium, and shall be responsible for keeping full and accurate financial records and books of account thereof showing all receipts and disbursements necessary for the preparation of all required financial data. The Treasurer shall be responsible for the deposit of all funds and other securities in the name of the Board (or in the name of the managing agent appointed by the Board) in such depositories as may from time to time be designated by the Board and shall in general perform all of the duties incident to the office of treasurer of a stock corporation organized under the Business Corporation Law of the State of New York.

4.8 Execution of Documents. Unless otherwise delegated by the Board, all agreements, contracts, deeds, leases, checks and other instruments of the Condominium shall be executed by any officer thereof or by such other person or persons as may be designated by the Board. However, the Board can, by resolution, determine that an expenditure in excess of a specified amount by the Board must be countersigned by two members of the Board.

4.9 Compensation of Officers. Except as otherwise provided by the Board, no officer shall receive any compensation for acting as such.

ARTICLE 5

NOTICES

5.1 Notices. All notices required or desired to be given hereunder to the Board shall be personally delivered or sent by registered or certified mail to the office of the Board or to such other address as the Board may designate from time to time, by notice in writing to all Unit Owners and to all Permitted Mortgagees, as the case may be, and if there is a managing agent, a duplicate shall be sent in like manner to such managing agent. All notices to any Unit Owner shall, except as otherwise provided herein, be personally delivered or sent by registered or certified mail to the Property address of such Unit Owner or to such other address as may have been designated by such Unit Owner from time to time, in writing, to the Condominium Board. All notices to Permitted Mortgagees shall be personally delivered or sent by mail to their respective addresses, as designated by them from time to time, in writing to the Condominium Board. All notices shall be deemed to have been given when personally delivered or mailed in a postage prepaid sealed wrapper, except notices of change of address which shall be deemed to have been given when received.

5.2 Waiver of Service of Notice. Whenever notice is required to be given by law, the Declaration or these Bylaws, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent thereof.

ARTICLE 6

OPERATION OF THE PROPERTY

6.1 Determination of Common Expenses and Fixing of Common Charges.

6.1.1 Except as otherwise provided herein, all costs and expenses attributable to the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, the General Common Elements ("General Common Expenses") shall be determined by the Condominium Board as set forth below. General Common Expenses shall also include all such other items provided for in the Declaration or these Bylaws to be General Common Expenses. General Common Expenses shall include Rent due from and payable by each Unit Owner in accordance with the Lease terms. General Common Expenses shall also include such amounts as the Condominium Board may deem proper for a general operating reserve or for a reserve for working capital or for replacements with respect to the General Common Elements. The Condominium Board shall from time to time and at least annually prepare a budget to meet General Common Expenses and shall allocate and assess to the Unit Owners, pro rata in accordance with the aggregate respective Common Interests of the Unit Owners (except as otherwise provided in the Declaration or these Bylaws or to the extent a different method of allocation is described in Schedule B, Projected Budget for First Year of Condominium Operation, as set forth in the Plan) charges ("General Common Charges") to meet General Common Expenses. In addition to basing General Common Charges on Common Interests, the Condominium Board may also make allocations and assessments of General Common Expenses in accordance with submetering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of the law. To the extent practicable, the Condominium Board shall allocate costs based upon metered or submetered usage.

6.1.2 Except as otherwise provided herein, all costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of and any alteration, addition or improvement to, Residential Common Elements or the Residential Limited Common Elements ("Residential Common Expenses") shall be determined by the Board and shall be borne solely by the Residential Unit Owners in proportion to their respective Common Interests. Notwithstanding anything to the contrary in this Subsection 6.1.2, if a Residential Common Element or Residential Limited Common Element benefits only certain Residential Unit Owners, then the costs of alteration, addition, repair, replacement and restoration thereto (except in connection with a casualty or condemnation) shall be borne solely by those Residential Unit Owners who benefit from the Residential Common Element or Residential Limited Common Element in the proportion that the Common Interest of each benefiting Residential Unit Owner bears to the Common Interest of all benefiting Residential Unit Owners. In addition, except as otherwise provided in the By-Laws, such Residential Unit Owners shall be responsible for the normal operation, maintenance and repair, including but not limited to the cost of staff necessary for such operation, maintenance and repair, of any such Residential Common Element or Residential Limited Common Element at their sole cost and expense. Residential Common

Expenses shall include, without limitation, such amounts as the Board may deem proper for a general operating reserve or for a reserve for working capital or for replacements with respect to the Residential Common Elements or the Residential Limited Common Elements and the rental or purchase of an apartment to be used as the residence of the Building resident manager and all costs and expenses associated therewith. Residential Common Expenses shall also include all such other items provided for in the Declaration or these By-Laws to be Residential Common Expenses. The Board shall from time to time and at least annually prepare a budget to meet Residential Common Expenses and shall allocate and assess to the Residential Unit Owners, pro rata in accordance with their respective Residential Common Interests (except as otherwise provided in the Declaration or these By-Laws), charges ("Residential Common Charges") to meet (a) Residential Common Expenses and (b) the Residential Unit Owners' pro rata share of General Common Charges. From time to time the Board may increase or decrease the amount of Residential Common Charges payable for a fiscal year or any portion thereof to meet a revised estimate or determination of Residential Common Expenses for such fiscal year or any portion thereof. During the Condominium's initial two fiscal years but not thereafter, the Board's authority shall include the right to base the amount of Residential Common Charges on actual costs and expenditures and/or to make retroactive adjustments to the amount of Residential Common Charges payable by Residential Unit Owners for any period to reflect actual operating costs for such period. In addition to basing charges on Common Interests, the Board may also make allocations and assessments of Residential Common Expenses in accordance with submetering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of law. The Board shall advise all Residential Unit Owners promptly in writing of the amount of Residential Common Charges payable by each of them and shall furnish copies of each annual budget to all Residential Unit Owners and Permitted Mortgagees thereof. In the event that the annual receipts levied against Unit Owners during the first year of Condominium operation commencing on the date of First Closing exceed the actual expenses less income from sources other than Unit Owners for that period accounted for on an accrual basis by an amount in excess of $100,000, the receipts from Unit Owners over and above such amount may be rebated to the Unit Owners by the Condominium Board in proportion to each Unit's percentage of Common Interest. Rebates, if any, attributable to Units purchased from Declarant during the first year of condominium operation will be distributed by the Condominium Board to Declarant and the Residential Unit Owner(s) in proportion to the amount of time Declarant and each Residential Unit Owner owned such Unit.

6.1.3 Except as otherwise provided herein, all costs and expenses in connection with the repair, maintenance, replacement, restoration and operation of, and any alteration, addition or improvement to, Commercial Common Elements or Commercial Limited Common Elements ("Commercial Common Expenses") shall be determined by the Board and shall be borne solely by the Commercial Unit Owner. Notwithstanding anything to the contrary in this Section 6.1.3, if a Commercial Common Element or Commercial Limited Common Element benefits only certain Commercial Unit Owners, then the Commercial Section's costs of alteration, addition, repair, replacement and restoration thereto (except in connection with a casualty or condemnation) shall be borne solely by those Commercial Unit Owners who benefit

from the Commercial Common Element or Limited Common Element in the proportion that the Common Interest of each benefiting Commercial Unit Owner bears to the Common Interest of all benefiting Commercial Unit Owners. In addition, except as otherwise provided in the By-Laws, such Commercial Unit Owner shall be responsible for the normal operation, maintenance and repair, including but not limited to the cost of staff necessary for such operation, maintenance and repair, of any such Commercial Common Element or Commercial Limited Common Element at their sole cost and expense. Commercial Common Expenses shall also include such amounts as the Board may deem proper for a general operating reserve or for a reserve for working capital or for replacements with respect to the Commercial Common Elements, and such amounts, determined by the Board as may be required for the purchase, lease or sublease by the Board or its designee, corporate or otherwise, on behalf of the Commercial Unit Owner, of any portion of a Commercial Unit whose owner has elected to sell, lease, transfer or convey such portion of the Unit or which is to be sold at a foreclosure or other sale. Commercial Common Expenses shall also include all such other items provided for in the Declaration or these By-Laws to be Commercial Common Expenses. The Board shall from time to time and at least annually prepare a budget to meet Commercial Common Expenses and shall allocate and assess to the Commercial Unit Owner, pro rata in accordance with his respective Common Interests (except as otherwise provided in the Declaration or these By-Laws), charges ("Commercial Common Charges") to meet (a) Commercial Common Expenses, and (b) the Commercial Unit Owners' pro rata share of General Common Charges. Such budgets shall include such amounts for reserves as the Board deems appropriate. In addition to basing charges on Common Interests, Board may also make allocations and assessments of Commercial Common Expenses in accordance with sub-metering, contract allocations and usage (both projected and actual) so long as such allocations are reasonable under the circumstances and are in accordance with applicable provisions of law. The Board shall advise the Commercial Unit Owner promptly in writing of the amount of Commercial Common Charges payable by each of them and shall furnish copies of each budget on which such Commercial Common Charges are based to the Commercial Unit Owner and Permitted Mortgagees thereof.

6.1.4 The excess of all rents, profits and revenues derived from the rental or use of any space or facility forming part of or included in any Common Element remaining after the deduction of any non-capital expenses paid or incurred in connection therewith shall be collected by the Condominium Board as agent for and on behalf of the Unit Owners. Notwithstanding any provision contained in these Bylaws or in the Declaration to the contrary, in no event shall any rent, profit or revenue derived from the rental or use of any space in the Building be deemed to be derived from the rental or use of any floor slabs, ceilings or walls delineating or enclosing such space or the incidental use of any portion of any Common Elements appurtenant to such space.

6.1.5 Common Expenses shall include PILOT on the Property under the terms of the Lease.

6.1.6 Common Expenses shall include Rent and any other charges that become due and payable by Tenant to or on behalf of Landlord, pursuant to the terms of the Lease. The Condominium Board shall have the right to assess any Rent under the Lease which is due and

owing for more than ten days under the Lease unless the payment of said Rent is provided for from other sources.

6.1.7 Notwithstanding anything to the contrary herein, no part of the net earnings of the Condominium may inure (other than by acquiring, constructing, or providing management, maintenance, and care of association property, and other than by a rebate of excess membership dues, fees, or assessments) to the benefit of any Unit Owner or individual.

6.1.8 The Board of Managers my impose a special Assessment as it deems necessary to meet unanticipated or extraordinary expenses, including, but not limited to, expenses incurred for major capital improvements. The special Assessment to be paid by each Unit Owner shall be determined in accordance with the Unit Owner's percentage of Common Interest.

6.2 Insurance.

6.2.1 The Condominium Board shall be required to obtain and maintain, to the extent obtainable, the following insurance: (a) fire insurance with all risk extended coverage, vandalism and malicious mischief endorsements and increased cost of construction endorsements, insuring the entire Building, together with all service machinery contained therein and covering the interests of the Condominium, the Board and all Unit Owners and their Permitted Mortgagees, as their respective interests may appear, in an amount equal to the full replacement value of the Building (exclusive of foundation and footings), said policies shall contain a New York standard mortgagee clause in favor of each Permitted Mortgagee which shall provide that the loss, if any, thereunder shall be payable to such Permitted Mortgagee as its interest may appear, subject however, to the loss payment provisions hereinafter set forth; (b)rent insurance in an amount equal to Common Charges for one year; (c) worker's compensation and New York State disability benefits insurance; (d) boiler and machinery insurance; (e) plate glass insurance to the extent, if any, determined by the Condominium Board; (f) water damage insurance to the extent, if any, determined by the Condominium Board; (g) fidelity insurance covering the Board and all officers, directors, managing agents and employees of the Condominium; (h) directors and officers liability insurance; and (i) such other insurance as the Condominium Board may determine. For so long as the Unsold Units are owned by Declarant, the Condominium Board shall also maintain war risk insurance (to the extent obtainable from the United States of America or any agency thereof at reasonable rates), flood insurance and insurance against loss or damages from leakage of sprinkler systems, steam boilers, air conditioning equipment, pressure vessels or similar apparatus or such other insurance as may be required by a Permitted Mortgagee holding a mortgage on the Unsold Units. The premiums for all insurance referred to above and for the liability insurance referred to below shall be a Common Expense and shall be borne by the Unit Owners in proportion to their respective Common Interests.

6.2.2 All such policies shall provide that adjustment of loss shall be made exclusively by the Condominium Board in accordance with the terms of the Lease. Insurance proceeds with respect to any loss shall be payable to the Board, except that the proceeds of all policies of physical damage insurance, if in excess of $1,000,000, shall be payable to a New York City bank or trust company designated by the Condominium Board as Insurance Trustee (as defined in Section 12.5 hereof) pursuant to the provisions of Section 12.5 hereof.

6.2.3 All policies of physical damage insurance shall contain, to the extent obtainable, waivers of subrogation and waivers of any defense based on (i) co-insurance, (ii) other insurance, (iii) invalidity arising from any acts of the insured, or (iv) pro rata reduction of liability, and shall provide that such policies may not be canceled or substantially modified without at least ten days' prior written notice to all of the insureds, including all Unit Owners and Permitted Mortgagees. The Condominium Board shall provide copies of insurance certificates to any Permitted Mortgagee upon request.

6.2.4 The Condominium Board shall also be required to obtain and maintain, comprehensive general liability insurance against claims for personal injury, death or property damage occurring upon, in or about the Property, in such limits as the Board may from time to time determine, covering (i) the Board, the managing agent thereof, each Board member, and each officer and employee of the Condominium, (ii) Declarant and its members and the officers of its members, and (iii) Unit Owners, except that such policy will not cover liability of a Unit Owner arising from occurrences within such Unit Owner's own Unit or within the Limited Common Elements, if any, appurtenant to such Unit Owner's Unit. The Condominium Board shall review such limits once each year. The insurance required in accordance with this Subsection 6.2.4 shall also cover cross-liability claims of one insured against another.

6.2.5 Any insurance maintained by the Condominium Board may provide for such deductible amounts as the Board determines.

6.2.6 The Condominium Board is not required to obtain or maintain any insurance with respect to any personal property contained in a Unit. A Unit Owner shall, at the Unit Owner's own cost and expense, obtain and keep in full force and effect: (a) comprehensive personal liability insurance against any and all claims for personal injury, death or property damage (including, but not limited to, loss due to water damage) occurring in, upon, or from the Unit or any part thereof, with minimum combined single limits of liability of $1,000,000 for bodily injury or death arising out of any one occurrence including $1,000,000 for damage to property and (b) tenant's "all-risk" property insurance in respect of property damage occurring in, upon, or from the apartment or any part thereof (including, but not limited to appropriate coverage for additions, alterations improvements and betterments and loss due to water damage). The limits of liability set forth in (a) and (b) above may be increased by the Condominium Board from time to time. The insurance required above shall be written in form reasonably satisfactory to the Condominium Board by good and solvent insurance companies of recognized standing, admitted to do business in the State of New York. Upon ten (10) days' written notice from the Condominium Board or the Managing Agent, the Unit Owner shall deliver to the Condominium Board a duplicate original of the aforesaid policies, certificates evidencing such insurance or

such other confirmation satisfactory to the Condominium Board. To the extent either party is insured for loss or damage to property, each party will look to their own insurance policies for recovery.

6.2.7 The Board shall comply with the requirements and obligations of Tenant under the Lease regarding insurance coverage for the Property, including, without limitation, those obligations governing the terms of all insurance policies and the applications of the proceeds thereof, and those obligations, if any, requiring the prior consent or approval of QWDC under the terms of the Lease. Any inconsistency between the terms of the Lease and the terms of this section of the Declaration shall be resolved in favor of the Lease.

6.3 Repair or Reconstruction after Fire or Other Casualty.

6.3.1 In the event that the Building or any part thereof is damaged or destroyed by fire or other casualty (unless 80% or more of the Building is destroyed or substantially damaged and 80% of all Unit Owners do not duly and promptly resolve to proceed with repair or restoration), the Condominium Board with respect to any damage to or destruction of the Common Elements, will arrange for the prompt repair and restoration thereof and the Board or the Insurance Trustee, as the case may be, shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any deficit or surplus in insurance proceeds shall be borne as a Common Expense or profit, respectively, as provided in Section 6.1.1 hereof, or shared by all Unit Owners in proportion to their Common Interests. Any surplus payable to any Unit Owner pursuant to this Subsection 6.3.1 shall be lessened by such amounts as may be required to reduce unpaid liens (other than mortgages which are not Permitted Mortgages) on any such Unit in the order or priority of such liens.

6.3.2 Unless the Unit Owners have elected not to restore the Building as provided in Subsection 6.3.3 hereof, damage or destruction to a Unit or a Limited Common Element as a result of fire or other casualty shall be promptly repaired and reconstructed by the Unit Owner of the affected Unit(s) where such repair or reconstruction does not involve the Common Elements for which the repair or reconstruction is the obligation of the Condominium Board, as provided in Subsection 6.3.1 hereof. If a Unit Owner fails to repair or reconstruct such Unit Owner's Unit, the Board may cause the Unit to be repaired or reconstructed and the costs incurred in connection therewith shall be a charged to the defaulting Unit Owner as an Assessment.

6.3.3 If 80% or more of the Building is destroyed or substantially damaged and if 80% of all Unit Owners do not promptly resolve to proceed with the repair or restoration thereof, the Building will not be repaired and the Property shall be subject to an action for partition instituted by any Unit Owner or lienor, as if owned in common, in which case the net proceeds of sale, together with the net proceeds of insurance policies, shall be divided among all Unit Owners in proportion to their respective Common Interests; provided, however, that no payment shall be made to a Unit Owner until there has first been paid out of such Unit Owner's share of such funds, such amounts as may be necessary to discharge or reduce all unpaid liens on

such Unit Owner's Unit (other than mortgages which are not Permitted Mortgages) in the order of the priority of such liens. As used in this Section 6.3, the phrase "promptly resolve" means resolve as promptly as practical under the circumstances but in any event, not more than 60 days from the date of such damage or destruction.

6.3.4 The Board shall comply with the requirements and obligations of Tenant under the terms of the Lease regarding repair or reconstruction after fire or other casualty. Any inconsistency between the terms of the Lease and the terms of this section of the Declaration shall be resolved in favor of the Lease.

6.4 Payment of Common Charges.

6.4.1 The Unit Owners shall be obligated to pay to the Condominium Board the Common Charges assessed to them by the Board at such time or times as the Board determines. Unless otherwise determined by the Board, Common Charges shall be payable monthly, in advance, on the first day of each month.

6.4.2 No Unit Owner shall be liable for the payment of any part of the Common Charges assessed against such Unit Owner's Unit subsequent to a sale or other conveyance by him (made in accordance with these Bylaws) of such Unit together with its appurtenant Common Interests. Any Unit Owner may, subject to the terms and conditions of these Bylaws and provided that (a) such Unit is free and clear of liens and encumbrances other than Permitted Mortgages and the statutory lien for unpaid Common Charges, and (b) no violation of any provision of the Declaration, these Bylaws or the Rules and Regulations then exists with respect to such Unit, convey for no consideration such Unit together with its appurtenant Common Interests, to the Condominium Board or their designees, corporate or otherwise, and in such event (except as hereinafter set forth), be exempt from Common Charges, thereafter accruing. A purchaser of a Unit shall be liable for the payment of Common Charges accrued and unpaid against such Unit prior to the acquisition by him of such Unit, except that, to the extent permitted by law, a purchaser of a Unit at a foreclosure sale of a Permitted Mortgage shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Charges accrued and unpaid against such Unit prior to the acquisition by said purchaser of such Unit. However, in the event of a foreclosure sale of a Unit by a Permitted Mortgagee, the owner of such Unit prior to the foreclosure sale shall remain liable for the payment of all unpaid Common Charges which accrued prior to such sale. Except to the extent prohibited by law, the Board, on behalf of all Unit Owners, shall have a lien on each Unit for unpaid Common Charges, together with interest thereon, assessed against such Unit.

6.4.3 All liens provided for in Subsection 6.4.2 hereof, to the extent permitted by applicable law, shall be subordinate to the lien of any first Permitted Mortgage of record and to liens for PILOT on the Unit.

6.4.4 Notwithstanding Subsection 6.4.2 hereof, neither the seller nor the purchaser of a Unit shall be liable for, nor shall the Unit be conveyed subject to a lien for, any

unpaid Common Charges against such Unit accrued prior to such conveyance in excess of the amount set forth in a written statement from the Board.

6.4.5 The Board shall be responsible for making PILOT payments to Landlord under the terms of the Lease on behalf of Unit Owners and, therefore, the Board shall have a lien (as provided in Subsection 6.4.2) for any such accrued and unpaid amounts.

6.5 Collection of Common Charges. The Board shall take prompt action to collect any Common Charges due to the Board which remain unpaid for more than thirty days after the due date for payment thereof.

6.6 Default in Payment of Common Charges. In the event any Unit Owner fails to make payment of Common Charges when due, such Unit Owner shall be obligated to pay (a) a "late charge" equal to the greater of $150.00 or one (1%) percent of such amounts which remain unpaid for more than ten days from their due date (although nothing herein shall be deemed to extend the period within which such amounts are to be paid), and (b) interest at the rate of 1.5% per month (but in no event in excess of the maximum rate permitted by law) on such unpaid amounts computed from the due date thereof, together with all costs and expenses, including, without limitation, attorneys' fees paid or incurred by any Board or by any managing agent in any proceeding brought to collect such unpaid Common Charges or in any action to foreclose the lien on such Unit arising from said unpaid Common Charges as provided in Section 339-z of the New York Condominium Act, in the manner provided in Section 339-aa thereof or in any other manner permitted by law. All such "late charges", interest, costs and expenses shall be added to and shall constitute Common Charges payable by such Unit Owner. Notwithstanding the foregoing, the Board may establish its own alternate fees for late payments, whether such fees are more or less than the charges set forth herein.

6.7 Foreclosure of Liens for Unpaid Common Charges. In any action brought by the Board to foreclose a lien on a Unit because of unpaid Common Charges, the Unit Owner shall be required to pay a reasonable rental for the use and occupancy of such Unit Owner's Unit and the plaintiff in such foreclosure action shall be entitled to the appointment, without notice, of a receiver to collect the same. The Board, acting on behalf of all Unit Owners, shall have the power to purchase any such Unit, at the foreclosure sale thereof and to acquire, hold, lease, mortgage, convey or otherwise deal with such Unit (but not to vote the votes appurtenant to such Unit or portion thereof). A suit to recover a money judgment for unpaid Common Charges shall be maintainable without foreclosing or waiving the lien securing such charges. In the event the net proceeds received on such foreclosure sale (after deduction of all legal fees, advertising costs, brokerage commissions and other costs and expenses incurred in connection therewith) are insufficient to satisfy the defaulting Unit Owner's obligations, such Unit Owner shall remain liable for the deficit.

6.8 Statement of Common Charges. The Board shall promptly provide any Unit Owner who so requests, with a written statement of all unpaid Common Charges due to it from Unit Owners.

6.9 Maintenance and Repairs.

6.9.1 Except as otherwise provided in the Declaration or these Bylaws, all painting, decorating, maintenance, repairs and replacements, whether structural or nonstructural, ordinary or extraordinary, (a) in or to any Unit (excluding Common Elements included therein except as otherwise provided in these Bylaws) shall be made by the owner of such Unit at such Unit Owner's sole cost and expense, (b) in or to the Common Elements or Limited Common Elements shall be made by the Condominium Board and the cost and expense thereof shall be charged to the Unit Owners as a Common Expense, (c) in or to the Residential Common Elements or the Residential Limited Common Elements shall be made by the Board and the cost and expense thereof shall be charged to all Residential Unit Owners as a Residential Common Expense, (d) in or to the Commercial Common Elements or the Commercial Limited Common Elements shall be made by the Board and the cost and expense thereof shall be charged to all Commercial Unit Owners as a Commercial Common Expense.

6.9.2 The Board shall maintain those portions of the Building which is the obligation of the Board to maintain, in accordance with the Lease and the QWDC Requirements.

6.9.3 Notwithstanding the provisions of Subsection **6.9.1**:

6.9.3.1 In the event that any painting, decorating, maintenance, repairs or replacements to the Property or any part thereof is necessitated by the negligence, misuse or neglect of (a) any Unit Owner or any guest, agent, licensee, tenant or invitee of a Unit Owner, the entire cost thereof shall be borne by such Unit Owner, (b) the Condominium Board, the entire cost thereof shall be charged to the Unit Owners as a Common Expense, except in all such cases to the extent such cost is covered by the proceeds of any insurance maintained pursuant to the provisions hereof.

6.9.3.2 The interior and exterior glass surfaces of all windows located in any Unit shall not be colored or painted and no neon or colored lights may emanate therefrom and neither the windows, window frames nor mullions may be modified, altered or replaced without the consent of the Board

6.9.3.3 The Board shall cause the exterior surface of all façade spandrel glass to be washed and cleaned, and the cost and expense thereof shall be a General Common Expense. The exterior of all Residential Unit glass windows shall be washed or cleaned at the cost and expense of the Unit Owners, and only by a Board-approved window washing contractor. The Board of Managers shall have the option of cleaning the exterior Residential Unit windows concurrently with the cleaning of the façade spandrel glass and charging each Unit Owner for the pro-rata cost thereof. The interior glass surfaces of all windows located in any Unit shall be washed and cleaned by the Unit Owner or occupant thereof at such Unit Owner's sole cost and expense. No Unit Owner or occupant shall clean or permit to be cleaned any window or require, permit or allow it to be cleaned, from the outside, in violation of Section 202 of the Labor Law of the State of New York, or any future law of like import, or (if applicable) in violation of the rules

of the Board of Standards and Appeals of the City of New York or any other governmental authority having jurisdiction over the Land or the Building. Each Unit Owner shall indemnify the Condominium Board and the other Unit Owners, and their respective agents and employees, for all losses, damages, or fines suffered by any of the them as a result of a violation of the aforesaid, laws, ordinances, regulations or rules.

6.9.3.4 All normal maintenance, repairs and replacements of any terrace (including maintaining, repairing and replacing the concrete pavers thereon) shall be made by the Unit Owner having access to such terrace at such Unit Owner's own cost and expense, but any structural or extraordinary repairs (which is herein defined as any non-recurring repair which requires more than the usual annual expense for ordinary wear) or replacements to such terrace (including any leaks which are not caused by the negligence of the Unit Owner having access to the same) shall be made by the Board and the cost and expense thereof shall be charged to all Unit Owners as a Residential Common Expense. All maintenance, repairs and replacements of any balcony, whether structural or nonstructural, ordinary or extraordinary, shall be the responsibility of the Unit Owner having access to such balcony at such Unit Owner's own cost and expense. Structural and nonstructural repairs and replacements to any balcony shall be made by the Board, at the Board's discretion, and charged to each Unit Owner having access to such balcony. The Board may require a Unit Owner to remove plants and other installations placed on terraces or balconies by said Unit Owners if the Board determines, in its reasonable discretion, that such plants and other installations adversely affect the integrity of the terraces or balconies or any part of the Building appurtenant thereto. Further, the Board may direct a Unit Owner to remove all personal items from a terrace or balcony for maintenance, repairs and replacements thereto.

6.9.3.5 A Residential Unit Owner having ownership and exclusive access to a private garden shall maintain, repair and replace the concrete pavers thereon at such Residential Owner's sole cost and expense.

6.9.3.6 The exterior of all front doors of Units shall not be painted or decorated other than with the consent of the Board.

6.9.3.7 It shall be the obligation of the Condominium Board to clean the sidewalks surrounding the Building and to remove the snow therefrom. The cost of such cleaning and snow removal, and the cost of repairing and replacing the sidewalks, shall be a General Common Expense.

6.9.3.8 It shall be the obligation of the Condominium Board to maintain and, when necessary, replace the hedge appurtenant to Unit 107.

6.9.3.9 The Board may establish such other rules and regulations it deems necessary to protect the Common Elements and the Units and the Condominium Board may establish such rules and regulations as it deems necessary to protect the health and safety of the occupants.

6.9.4 Each Unit and all portions of the Common Elements and Limited Common Elements shall be kept in first-class condition (and with respect to any terrace, balcony, roof or other part of the Property exposed to the elements, free of snow, ice and accumulation of water) by the Unit Owner or Board, whichever is responsible for the maintenance thereof as set forth herein, and such Unit Owner or Board, as the case may be, shall promptly make or perform, or cause to be made or performed, all maintenance work, repairs and replacements necessary in connection therewith. In addition, the public areas of the Building and the Common Elements shall be kept in good, clean and neat appearance, in conformity with the dignity and character of the Building, by (a) the Board with respect to such parts of the Building required to be maintained by it, and (b) each Unit Owner with respect to the windows and shades, Venetian or other blinds, drapes, curtains or other window decorations in or appurtenant to such Unit Owner's Unit.

6.9.5 Notwithstanding anything to the contrary set forth in this Declaration or the Bylaws, the Condominium Board shall not, without the consent of the Declarant and the Commercial Unit Owner, decrease the level of services available to the Commercial Unit as of the date of the filing of the Declaration, including, but not limited to, heat and cooling which shall be made available to the Commercial Unit 365 days a year (or 366 in a leap year), 24 hours a day.

6.10 Violations of Maintenance Obligations.

6.10.1 In the event that any Unit Owner, within a reasonable time after receipt of written notice from the Board, fails to perform any of its obligations with respect to the painting, decorating, maintenance, repair or replacement of its Unit as provided in this Article 6 or of any Limited Common Element for which such Unit Owner is responsible under the Declaration or these Bylaws, the Board may, but shall not be obligated to, perform or cause to be performed such painting, decorating, maintenance, repair or replacement unless such Unit Owner, within thirty (30) days after receiving notice of such default from the Board (or sooner in the case of emergency), cures such default, or in the case of a default not reasonably susceptible to cure within such period, commences and thereafter prosecutes to completion, with due diligence, the curing of such default. All sums expended and all costs and expenses incurred in connection with the making of any such painting, decorating, maintenance, repair or replacement by the Board, together with 10% for overhead and interest thereon at the rate of 2% per month from the date on which the Board first incurs any cost or expense (but in no event in excess of the maximum rate permitted by law), shall be immediately payable by such Unit Owner to the Board and shall, for all purposes hereunder, constitute a Residential or Commercial Common Charge, as the case may be, payable by such Unit Owner.

6.11 Structural and Non-Structural Alterations, Additions, Improvements and Repairs of Units.

6.11.1 Except as otherwise provided in the Declaration, no Residential Unit Owner shall make any non-structural alteration, addition, improvement or repair in or to such Unit Owner's Unit without the prior written approval of the Board, which consent shall not be

unreasonably withheld or delayed. Prior to, and as a condition of, the granting of its consent to the making of a non-structural alteration, addition, improvement or repair in or to a Residential Unit, the Board may exercise the right to reasonably approve the Unit Owner's contractors and suppliers, and may, at its option, require the Residential Unit Owner to execute an agreement in form and substance satisfactory to the Board setting forth the terms and conditions under which such alteration, addition, improvement or repair may be made, including, without limitation, the days and hours during which any work may be done. Minor cosmetic work, such as painting, shall require the consent of the Board of Managers, which consent shall not be unreasonably withheld or delayed. Notwithstanding anything to the contrary contained in this Subsection 6.11.1, neither Declarant, nor a Permitted Mortgagee (or its designee) of Declarant or its assignee shall be required to obtain the approval of the Board for any non-structural alteration, addition, improvement or repair in or to Unsold Units, to the extent permitted by law and applicable governmental regulations, or to enter into any alteration agreement with respect thereto. The Commercial Unit Owner shall not be required to obtain the approval of the Board or other Unit Owners for any non-structural alteration, addition, improvement or repair in or to the Commercial Unit, to the extent permitted by law and applicable governmental regulations, or to enter into any alteration agreement with respect thereto.

6.11.2 Except as otherwise provided in the Declaration, no Residential Unit Owner shall make any structural alteration, addition, improvement or repair in or to such Unit Owner's Unit without the prior written approval of the Board. The Board shall have the obligation to answer any written request by their respective Unit Owners for approval of a proposed structural alteration, addition, improvement or repair in or to such Unit Owner's Unit within 45 days after such request is received, and the failure to do so within the stipulated time shall constitute the Board's consent to the proposed alteration, addition, improvement or repair. Prior to, and as a condition of, the granting of its consent to the making of a structural alteration, addition, improvement or repair in or to a Residential Unit, the Board may exercise the right to reasonably approve the Unit Owner's contractors and suppliers, and may, at its option, require the Residential Unit Owner to execute an agreement in form and substance satisfactory to the Board setting forth the terms and conditions under which such alteration, addition, improvement or repair may be made, including, without limitation, the days and hours during which any work may be done. The Board may impose fees upon a Residential Unit Owner to reimburse the Board for its costs incurred in reviewing or supervising the aforesaid work. Notwithstanding anything to the contrary contained in this Subsection 6.11.2, neither Declarant, nor a Permitted Mortgagee (or its designee) of Declarant or its assignee shall be required to obtain the approval of the Board for any structural alteration, addition, improvement or repair in or to Unsold Units, to the extent permitted by law and applicable governmental regulations, or to enter into any alteration agreement with respect thereto. The Commercial Unit Owner shall not be required to obtain the approval of the Board or other Unit Owners for any structural alteration, addition, improvement or repair in or to the Commercial Unit, to the extent permitted by law and applicable governmental regulations, or to enter into any alteration agreement with respect thereto.

6.11.3 All structural and non-structural alterations, additions, improvements and repairs by Unit Owners shall be made in compliance with all laws, rules, ordinances and regulations of all governmental authorities having jurisdiction thereof, as well as the Lease. A Unit Owner making or causing to be made any structural or non-structural alteration, addition, improvement or repair shall agree, and shall be deemed to have agreed, to hold the Board and all other Unit Owners harmless from any costs or liability arising therefrom.

6.11.4 Any application to any department of The City of New York or to any other governmental authority having jurisdiction thereof for a permit to make a structural alteration, addition, improvement or repair in or to any Unit so approved by the Board (if such approval is required) shall, if required by law or such department or authority, be executed by the Board, provided that the Board shall not incur any liability, cost or expense in connection with such application or to any contractor, subcontractor, material man, architect or engineer on account of such alteration, addition, improvement or repair or to any person having any claim for injury to person or damage to property arising therefrom. Notwithstanding anything to the contrary set forth above, Declarant is hereby authorized on behalf of the Board to execute such applications, permits or other documents as may be required to undertake, perform and complete such work to the Unsold Units, and Common Elements as Declarant is entitled to perform in accordance with the terms of the Declaration and these Bylaws or the Lease and to obtain such certificates of completion as may then be required by Law (collectively the "Required Documentation") and, the Board, if requested by Declarant, shall execute the Required Documentation.

6.12 Alterations, Additions, Improvements or Repairs to Common Elements. Except as otherwise provided in the Declaration, these Bylaws or the Lease, all alterations, additions, improvements or repairs in or to any Common Element or Limited Common Element shall be made by the Board or the Unit Owner(s) required to maintain such Common Element or Limited Common Element and the cost and expense thereof shall be charged to the Residential Unit Owners or Commercial Unit Owner as a Common Expense, or to the Unit Owner(s) responsible therefor, as the case may be. Whenever in the judgment of the Board, the cost of any alteration, addition, improvement or repair would exceed $50,000 in the aggregate in any calendar year (except if such alteration, addition, improvement or repair is provided for in a duly approved budget), then such proposed alteration, addition, improvement or repair shall not be made unless first approved by a Majority of Unit Owners, who shall be required to bear the cost and expense thereof as aforesaid and by the Mortgage Representatives (as hereinafter defined), if any, with respect to alterations, additions, improvements or repairs made by the Board. Except as otherwise provided in the Declaration or these Bylaws, all such alterations, additions, improvements or repairs costing in the aggregate $50,000 or less in any calendar year may be made as aforesaid without the approval of the Unit Owners or said Mortgage Representatives.

6.13 Alterations of Certain Common Elements.

6.13.1 In the event that pursuant to any of the provisions of these Bylaws, any consent by the Board, Mortgage Representative or Unit Owner is required as a condition precedent to any alteration, addition or improvement to any Common Element (sometimes

collectively referred to in this Section 6.13 as an "Alteration") proposed to be made by Declarant, Unit Owners or the Board (sometimes collectively referred to herein as the "Proponent"), such consent shall not be unreasonably withheld or delayed by the Board, Mortgage Representative or any Unit Owner (referred to in this Section 6.13 as the "Opposing Party") whose consent is so required. The Proponent shall give to the Opposing Party notice setting forth in reasonable detail the material aspects of such proposed Alteration. If the Opposing Party does not give notice of any objection to the Proponent within 30 days after the Proponent gives its notice, then the Opposing Party shall be deemed to have consented to the making of the proposed Alteration. If the Opposing Party does give notice of objection (which notice of objection shall set forth in reasonable detail the specific objections of the Opposing Party) within such 30-day period and the Proponent considers such objection unreasonable, then (i) in such cases where the Alteration involves an issue of compliance under the Lease, the matter shall be resolved by the Board and (ii) in all other cases, the Proponent may submit to Arbitration the question of whether or not the Opposing Party unreasonably withheld its consent. If in such Arbitration it is determined that the Opposing Party unreasonably withheld its consent, the Proponent, as its sole remedy, may make the proposed Alteration. In no event shall any arbitrator in such Arbitration determine that the Opposing Party reasonably withheld its consent to such proposal if (a) the Proponent makes or causes to be made reasonable provisions providing (i) for the costs and expenses of the Alteration to be paid by it, and (ii) that all costs and expenses for maintaining and repairing such Alteration after its completion will not be charged to Unit Owners represented by the Opposing Party as Common Expenses (b) the proposed Alteration would not materially interfere with the use and enjoyment of the owners, tenants and occupants of those Units represented by the Opposing Party; and (c) the proposed Alteration would not materially weaken the structure of the Building.

6.13.2 Nothing contained in Subsection 6.13.1 hereof shall in any way be deemed to limit (a) the Proponent's right to modify any proposal made by it thereunder in such a manner as such Proponent believes will meet the objections of the Opposing Party or of any arbitrator, or (b) any party's right, pursuant to the other applicable provisions of these Bylaws or the Declaration, to make any Alteration to a Common Element without the Opposing Party's approval.

6.14 Restrictions on Use of Units.

6.14.1 In order to provide for congenial occupancy of the Property and for the protection of the values of the Units, each Residential Unit shall be used only for residential purposes and for any home occupation uses to the extent permitted under applicable zoning law and ordinances and other applicable governmental laws and regulations but not for retail use and not otherwise herein expressly provided. Except as otherwise provided in the Declaration, the Commercial Section may be used for any lawful purpose including, without limitation, department and other retail stores, health clubs, theaters, banks, restaurants, commercial and professional offices; and no sale, lease, sublease or lawful use of all or any portion of the Commercial Section shall be deemed to adversely affect the Residential Section. However, neither the Commercial Section nor any Unsold Units may be used as an Adult Establishment or as an Adult Physical Culture Establishment, as defined in Article I, Chapter 2 of the New York

City Zoning Resolution, or for the sale of bail bonds, or as an Off Track Betting facility, or as a check cashing facility, or as a nightclub or as a cabaret, or for any purpose that violates the terms of the Lease or any QWDC Requirements.

6.14.1.1 The Board, may, in its discretion, grant permission for the use of a Residential Unit for any other purpose (but not for retail use), provided such use (1) is permitted by law, (2) does not violate the then existing certificate of occupancy for such Unit, (3) does not adversely affect the use and enjoyment of neighboring or adjacent Units for purposes, and (4) complies with all applicable governmental regulations. Such permission by the Board shall be in writing and shall be personal to the Unit Owner. Any successor in title to such Residential Unit shall be required to obtain the prior written approval of the Board before using such Residential Unit for any purpose other than stated in Subsection 6.14.1 hereof.

6.14.1.2 No portion of a Residential Unit (other than the entire Unit) may be sold, conveyed, leased or subleased, and no transient occupant (other than a guest permitted under this Subsection 6.14.1) may be accommodated therein.

6.14.1.3 Each Residential Unit has windows equipped with safety "stops" in lieu of window guards. No Residential Unit Owner shall remove the "stops" from the windows for any reason. Each Residential Unit Owner is responsible for the maintenance, repair and replacement of the windows (including frames) located in his Residential Unit. All replacement windows must have safety "stops" designed specifically to prevent a child from falling out of the window, as approved by the New York City Department of Health and Mental Hygiene.

6.14.2 Notwithstanding the provisions of Subsection 6.14.1 hereof, Declarant may, without the permission of the Board, (a) grant permission for the use of any Unsold Unit for any purpose, provided such use is permitted by law, does not violate the then existing certificate of occupancy for such Unit and the user of such Unit complies with all applicable governmental regulations, and (b) use any Unsold Units as models and sales and/or promotion offices in connection with the sale or rental of the Units or for any other purpose, subject only to the provisions of the Declaration and these Bylaws and in compliance with applicable governmental laws and regulations.

6.14.3 No Residential Unit Owner shall use, store, generate, treat, transport, handle or dispose of within its Unit or elsewhere in the Building any Hazardous Substances, other than ordinary cleaning fluids which are used, stored, generated, treated, transported, handled and disposed of by an Occupant in strict compliance with applicable Law. For the purposes hereof, "Hazardous Substances" means any pollutants, contaminants, toxic or hazardous substances, materials, wastes, constituents, compounds or chemicals (including, without limitation, petroleum or any by-products or fractions thereof, any form of natural gas, lead, asbestos and asbestos-containing materials, building construction materials and debris, polychlorinated biphenyls ("PCBs") and PCB-containing equipment, radon and other radioactive elements, ionizing radiation, electromagnetic field radiation and other non-ionizing radiation,

infectious, carcinogenic, mutagenic, or etiologic agents, pesticides, defoliants, explosives, flammables, corrosives and urea formaldehyde foam insulation) that are regulated by, or may now or in the future form the basis of liability under, any Law.

6.14.4 Notwithstanding the foregoing, or anything contained in these Bylaws to the contrary, no Unit can be used for any unlawful, illegal or extra hazardous business use or purpose, or in such a manner as to constitute a nuisance of any kind which violates the provisions of the Lease or the QWDC Requirements.

6.15 Use of Common Elements.

6.15.1 Common Elements may be used only for the furnishing of the services and facilities and for the other uses for which they are reasonably suited.

6.15.2 No furniture, packages or objects of any kind shall be placed in the lobbies, vestibules, public halls, stairways or any other parts of the Common Elements or Limited Common Elements, other than in Residential Limited Common Elements for the exclusive use of a particular Residential Unit Owner, without the prior consent of the Board. The lobbies, vestibules, public halls and stairways shall be used only for normal passage through them.

6.15.3 In the event that the Condominium Board erects a sidewalk bridge or other scaffolding at the Building, the Condominium Board shall give due regard to the use of the Commercial Unit at the time in question and shall use best efforts to (i) minimize any disruption to the use of such Commercial Unit and (ii) not restrict ingress or egress through the exterior doorways to the Commercial Unit. In furtherance thereof, the Condominium Board agrees to consult with the Commercial Unit Owner prior to the installation of such sidewalk bridge or other scaffolding and to permit the Commercial Unit Owner to install, as a General Common Expense, signs upon the sidewalk bridge and scaffolding. Any sidewalk bridge or other scaffolding installed shall be a "two-story" structure with adequate lighting.

6.15.4 Except pursuant to rules adopted by the Condominium Board, which may not be adopted or amended without the Commercial Unit Owner's consent, and the terms and provisions of the Declaration and these By-Laws, in no event shall the Condominium Board or Unit Owners impair, restrict or impede the use of the General Common Elements described in the Declaration, by the Commercial Unit Owner or anyone claiming by, through or under the Commercial Unit Owner including, but not limited to, the tenants and occupants of any portion of the Commercial Unit or their respective licensees or invitees.

6.16 Other Provisions as to Use. No nuisance shall be allowed in the Building nor shall any use or practice be allowed in the Building which is a source of annoyance to the residents or occupants of the Property or which interferes with the peaceful possession or proper use of the Property by its residents or occupants. No nuisance, immoral, improper or offensive use (whether or not unlawful) and no unlawful use shall be allowed in the Building or any portion thereof. All valid laws, zoning ordinances and regulations of governmental bodies

having jurisdiction thereof, relating to any portion of the Property shall be complied with at the full expense of the respective Unit Owners or the Board, whoever shall have the obligation to maintain or repair such part of the Property. No lawful use of the Commercial Section shall be deemed to be a nuisance.

6.17 Right of Access. Each Unit Owner grants a right of access to such Unit Owner's Unit to the Board, the managing agent, managers, superintendents and/or any other person authorized by any of the foregoing. The Unit Owners grant a right of access to their respective Units to the Board, the managing agent, managers, superintendents and/or any other person authorized by any of the foregoing for the purpose of making inspections of, or for the purpose of removing violations noted or issued by any governmental authority against, the Common Elements or Limited Common Elements or any other part of the Property, or for the purpose of curing defaults hereunder or under the Declaration or Rules and Regulations by such Unit Owner or correcting any conditions originating in such Unit Owner's Unit and threatening another Unit or all or any part of the Common Elements or Limited Common Elements, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services or other portions of the Common Elements or Limited Common Elements within such Unit Owner's Unit or elsewhere in the Building, or for the purpose of reading, maintaining or replacing utility meters relating to the Common Elements or Limited Common Elements, Unit or any other Unit in the Building or to correct any condition which violates the provisions of any Permitted Mortgage covering another Unit, provided that requests for such entry are made not less than three (3) days in advance and that any such right shall be exercised in such a manner as will not unreasonably interfere with the use of the Units for their permitted purposes. In case of an emergency, such right of entry shall be immediate, without advance notice, whether or not the Unit Owner is present.

6.18 Rules and Regulations. Annexed hereto as Schedule A and made a part hereof are rules and regulations (the "Rules and Regulations") concerning the use of the Residential Common Elements and the Residential Limited Common Elements. The Board may, from time to time, modify, amend or add to the Rules and Regulations except that a Majority of Unit Owners may overrule the Board with respect to any such modification, amendment or addition. The Board shall also have the authority to promulgate special rules and regulations concerning the use of storage space, if any, for the personal property of the Unit Owners. Copies of any newly adopted Rules and Regulations, or any modifications, amendments or additions thereto, shall be furnished by the Board responsible therefor to each affected Residential Unit Owner not less than 30 days prior to the effective date thereof.

6.19 PILOT, Water Charges and Sewer Rents. Water and sewer services shall be supplied to and for all of the Units and the Limited Common Elements through one or more building systems by the City of New York or such other utility servicing the Unit. Except to the extent Unit Owners are billed directly by the City Collector, the Condominium Board shall pay all such charges, together with all related sewer rents arising therefrom, promptly after the bills for the same shall have been rendered. The costs for water and sewer services for the Residential Section of the Building will be paid by the Residential Unit Owners and included in Residential Common Charges. The Commercial Unit shall be separately metered for water. However, the

Commercial Unit Owner shall pay the Board for condenser water used in the Commercial Unit in accordance with the budget for the first year of Condominium operation (Schedule B). The Unit Owners shall pay their respective pro rata share of all PILOT with respect to the Property (in the proportion that the Common Interest of each Unit, bears to the Common Interests of all Units) to the Condominium Board as Common Charges, which will in turn pay such PILOT to Landlord. In the event of a proposed sale of any Unit, the Board, on request of the selling Unit Owner, shall execute and deliver to the purchaser of such Unit or to such purchaser's title insurance company, a letter agreeing to pay all charges for water, sewer rents and PILOT (so long as the Board is still collecting and paying such charges) affecting such owner's Unit to the date of the closing of title to such Unit, promptly after such charges have been billed by the proper authorities.

6.20 Gas. Gas for the Residential Section will be supplied by the utility company servicing the gas distribution system and charges therefor shall be paid by the Board. The cost of gas consumed for heat, hot water and cooking in the Residential Section will be borne by the Residential Unit Owners as a Common Charge. There shall be separate meters for gas utilized for heating and gas utilized for cooking in the Residential Section. The cost of gas consumed for heating and supplying hot water to the Commercial Section will be borne by the Commercial Unit Owner as a Common Charge. Gas utilized for cooking gas in the Commercial Unit shall be separately metered and paid by the Commercial Unit Owner to the utility company. The Commercial Unit Owner and the Board of Managers reserve the right to install gas submeters or separate gas meters in the Commercial Unit.

6.21 Electricity. Electricity for each Unit shall be separately metered or submetered for each Unit (or portion thereof). Each Unit Owner shall be required to pay the bills for electricity consumed or used in such Unit Owner's Unit (or portion thereof) and the Limited Common Elements to which such Unit has exclusive access, directly to the utility company as directed by the Board except that in the event that the Units are submetered, such Unit Owner shall be required to pay bills for electricity consumed or used in such Unit Owner's Unit either to the Board or to the utility company or company engaged by the Board to perform such services as directed by the Board. The Common Expenses shall include fees for administering and servicing the submeters. In the event that a Unit Owner fails to pay for its submetered electricity, the Board shall be obligated therefor and such electricity charges shall be deemed Common Charges allocable to the defaulting Unit Owner for which the Board shall have a lien as provided in Section 6.6. hereof. Electricity for the Common Elements shall be supplied through one or more separate meters therefor and the cost thereof will be paid by the Board and will be borne by the Unit Owners as Common Charges.

6.22 Utilities Serving the General Common Elements. Except as otherwise provided in this Article 6, the cost and expense of water, sewer facilities, steam, electricity and gas serving or benefiting any General Common Element shall be (a) considered part of the expense of maintaining such General Common Element, (b) determined by the Condominium Board, and (c) charged to the Unit Owners as a General Common Expense. Any dispute as to the amount of such cost or expense shall be determined by Arbitration.

6.23 Abatement and Enjoinment of Violations by Unit Owners.

6.23.1 The violation of any of the Rules and Regulations or the breach of any Bylaw contained herein, or the breach of any provision of the Declaration, shall give the Condominium Board, the right, in addition to such other rights set forth in these Bylaws, (i) to enter any Unit or Common Element or Limited Common Element in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition resulting in such violation or breach and the Board shall not thereby be deemed guilty or liable in any manner of trespass, or (ii) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach.

6.23.2 The violation or breach of any of the provisions of these Bylaws, any of the Rules and Regulations or the Declaration with respect to any rights, easements, privileges or licenses granted to Declarant shall give to Declarant the right, in addition to any other rights set forth in these Bylaws or the Declaration, to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such violation or breach.

ARTICLE 7

MORTGAGES

7.1 Notice to Board. A Unit Owner who mortgages such Unit Owner's Unit, or the holder of any mortgage encumbering such Unit, shall notify the Board in the case of a Unit, of the name and address of the mortgagee and shall file a conformed copy of the note and mortgage with the Board. Such Unit Owner shall, prior to making such mortgage, satisfy all unpaid liens against such Unit Owner's Unit other than Permitted Mortgages. A Unit Owner who satisfies a mortgage covering such Unit Owner's Unit shall so notify the Board and shall file a conformed copy of the satisfaction of mortgage with the Board. The Board shall maintain such information in a book entitled "Mortgages of Units".

7.2 Notice of Default and Unpaid Common Charges. Whenever so requested in writing by a Permitted Mortgagee, the Board with respect to Permitted Mortgagees of Units, shall promptly report to such Permitted Mortgagee any default in the payment of Common Charges, or any other default by the Unit Owner of such Unit under the provisions of the Declaration or these Bylaws of which the Board may have received notice. The Board, when giving notice to a Unit Owner of any such default, shall, if requested, also send a copy of such notice to any Permitted Mortgagee thereof. Any Permitted Mortgagee holding a mortgage on an Unsold Unit shall be deemed to have requested the notice referenced in the first sentence of this Section.

7.3 Performance by Permitted Mortgagees. The Board, shall accept, by any Permitted Mortgagee of a Unit Owner, payment of any sum or performance of any act required

to be paid or performed by such Unit Owner pursuant to the provisions of the Declaration, these Bylaws or the Rules and Regulations, with the same force and effect as though paid or performed by such Unit Owner, in which event the Permitted Mortgagee shall be subrogated to the rights and interests of the Condominium Board upon such payment or performance.

7.4 Examination of Books. Each Unit Owner and Permitted Mortgagee shall be permitted to examine the books of account of the Condominium at reasonable times, on business days, but not more than once a month.

7.5 Representatives of Mortgagees.

7.5.1 In the manner more particularly set forth in Subsection 7.5.2 hereof, the holders of Institutional Mortgages (as hereinafter defined) may, at their election, designate one or more (but not more than three) representatives ("Mortgage Representatives") who shall be empowered to act on behalf of all holders of Institutional Mortgages, with respect to any matter requiring their consent or approval under the Declaration or these Bylaws. If any Mortgage Representatives are so designated and notice thereof is given to the Board, the act of any such Representative (or a majority of such Mortgage Representatives if more than one is so designated) shall be deemed binding upon the holders of all Institutional Mortgages. As used herein, the terms "Institutional Mortgage" and "Permitted Mortgage" each mean any first mortgage covering a Unit or Units, the initial holder of which is (i) Declarant, (ii) a savings bank, savings and loan association, bank or trust company, insurance company, real estate investment trust, investment or finance company, mortgage trust or entity which is in the business of providing loans secured by condominium units, or (iii) a federal, state, municipal, teacher's or union employee, welfare, pension or retirement fund or system.

7.5.2 Any designation of a Mortgage Representative made by the holders of Institutional Mortgages, constituting a majority in principal amount of all Institutional Mortgages shall be binding upon the holders of all Institutional Mortgages. Any such designation of any Mortgage Representative shall remain effective until (a) any subsequent designation thereof is made pursuant to the provisions hereof, and (b) notice of such subsequent designation is given to the Board. Unless otherwise required by law, all Permitted Mortgagees other than holders of an Institutional Mortgage, shall have no right to participate in the selection of Mortgage Representatives, but such Permitted Mortgagees shall be subject to all determinations made by such Mortgage Representatives pursuant to the Declaration or these Bylaws.

7.6 Consent of Mortgagees. Except as otherwise expressly provided for herein or in the Declaration, no consent or approval by any mortgagee shall be required with respect to any determination or act of any Board, officer or Unit Owner; provided, however, that nothing contained herein shall be deemed to limit or affect the rights of any mortgagee against such Unit Owner's mortgagor.

7.7 Compliance with Terms of Lease. Notwithstanding anything to the contrary set forth herein, no Unit Owner shall mortgage, pledge or encumber any Unit in violation of the terms of the Lease, and all of the terms and provisions of the Lease applicable to the mortgaging

or encumbering of any Unit shall control to the extent inconsistent with any of the terms of these Bylaws and the Declaration.

ARTICLE 8

SELLING, LEASING AND MORTGAGING OF UNITS

8.1 Selling and Leasing. No Residential Unit Owner, other than Declarant may sell or lease such Residential Unit Owner's Unit except by complying with the following provisions.

8.1.1 Any Residential Unit Owner who receives a bona fide offer to (a) purchase such Unit Owner's Residential Unit together with its appurtenant Common Interest, or (b) lease such Unit Owner's Residential Unit (such offer to purchase or lease a Residential Unit, as the case may be, is called an "Outside Offer"), the party making any such Outside Offer is called an "Outside Offeror" and the Unit Owner to whom the Outside Offer is made is called an "Offeree Unit Owner"), which the Offeree Unit Owner intends to accept, shall give notice by certified or registered mail, return receipt requested, to the Board of the receipt of such Outside Offer. Said notice shall include the name and address of the Outside Offeror, the terms of the proposed transaction (including, but not limited to, the intended closing date in the event of a purchase or intended occupancy date in the event of a lease) and such other information as the Board may reasonably require. The giving of such notice to the Board, on behalf of all the Unit Owners represented by the Board, shall constitute an offer by the Offeree Unit Owner to sell such Unit Owner's Residential Unit together with its appurtenant Common Interest or to lease such Unit Owner's Residential Unit to the Board, or its designee, corporate or otherwise, upon the same terms and conditions as contained in such Outside Offer and shall also constitute a representation and warranty by the Offeree Unit Owner to the Board acting on behalf of all Unit Owners that the Offeree Unit Owner believes the Outside Offer to be bona fide in all respects. The Offeree Unit Owner shall submit in writing such further information with respect thereto as the Board may reasonably request. Not later than thirty (30) days after receipt of such notice together with such information as may have been requested, the Board may elect, by sending written notice to such Offeree Unit Owner before the expiration of said thirty (30) day period, by hand delivery or by certified or registered mail, return receipt requested, to purchase such Unit together with its appurtenant Common Interest or to lease such Unit, as the case may be (or to cause the same to be purchased or leased by its designee, corporate or otherwise), on behalf of all Unit Owners represented by the Board, upon the same terms and conditions as contained in the Outside Offer and as stated in the notice from the Offeree Unit Owner.

8.1.2 In the event the Board shall timely elect to purchase a Residential Unit together with its appurtenant Common Interest or to lease such Residential Unit or to cause the same to be purchased or leased by its designee, corporate or otherwise, then (a) with respect to a purchase, title shall close at the office of the attorneys for the Board, in accordance with the terms of the Outside Offer, within 45 days after the giving of notice by the Board of its election to accept such offer and (b) with respect to a lease, the lease, upon the terms set forth in the

Outside Offer, shall be executed and deemed effective on the date the Board elects to accept such offer. Notwithstanding the foregoing, in the event that the closing date with respect to a purchase or the commencement date of the term of the lease, as the case may be, set forth in the Outside Offer, shall be later than 45 days after the giving of notice by the Board of its election to accept the aforesaid offer, the Board shall be required to perform or cause to be performed all of the terms of the Outside Offer (except as otherwise expressly set forth in this Article 8) including, but not limited to, payment of a down payment or advance rentals and security deposits, as the case may be, and such closing of title or the commencement of the term of the lease shall be the date set forth in the notice to the Board referred to in Subsection 8.1.1 hereof as the intended closing date or commencement date, as the case may be. If, pursuant to such Outside Offer, the Outside Offeror was to assume or take title to the Residential Unit subject to the Offeree Unit Owner's existing mortgage or mortgages, the Board may purchase the Residential Unit and assume or take title to the Unit subject to said existing mortgage or mortgages, as the case may be. At the closing, the Offeree Unit Owner, if such Residential Unit together with its appurtenant Common Interest is to be sold, shall convey the same to the Board, or to its designee, corporate or otherwise, on behalf of all Unit Owners, by deed in the form required by Section 339-o of the Real Property Law of the State of New York, with all tax and/or documentary stamps affixed at the expense of such Offeree Unit Owner, who shall also pay all other taxes arising out of such sale. Real estate taxes (including water charges and sewer rents if separately assessed), mortgage interest, if any, and Common Charges (including PILOT, if applicable) shall be apportioned between the Offeree Unit Owner and the Board, or its designee, corporate or otherwise, as of the closing date. In the event such Residential Unit is to be leased, the Offeree Unit Owner shall execute and deliver to the Board, or to its designee, corporate or otherwise, a lease between the Offeree Unit Owner, as landlord, and the Board, or its designee, corporate or otherwise, as tenant, covering such Residential Unit, for the rental and term contained in such Outside Offer.

8.1.3 In the event the Board or its designee shall fail to accept such offer within 20 days after receipt of notice, as aforesaid, the Offeree Unit Owner shall have an additional 60 days to accept the Outside Offer by executing and delivering a contract or lease, as the case may be. In the event the Offeree Unit Owner shall not, within such 60-day period, accept in writing the Outside Offer, or if the Offeree Unit Owner shall accept the Outside Offer within such 60-day period but such sale or lease, as the case may be, shall not be consummated within an additional 60 days following the expiration of such 60-day period, then, should such Offeree Unit Owner thereafter elect to sell such Unit together with its appurtenant Common Interest or to lease such Unit, as the case may be, the Offeree Unit Owner shall be required to again comply with all the terms and provisions of this Section 8.1. Notwithstanding the foregoing, the Board, in its discretion, may waive the Offeree Unit Owner's obligation to comply with either or both of the 60 day periods described herein or may extend either or both such periods, provided that such waiver or extension shall only be effective if in writing.

8.1.4 Any deed to an Outside Offeror shall be deemed to provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of the

Declaration, these Bylaws and the Rules and Regulations, as the same may be amended from time to time.

8.1.5 Any lease executed in connection with the acceptance of any Outside Offer to lease a Residential Unit shall be consistent with these Bylaws and shall provide that it may not be materially modified, amended or extended without the prior consent in writing of the Board, that the tenant shall not assign its interest in such lease or sublet the Residential Unit or any part thereof without the prior consent in writing of the Board and that the Board, if permitted by applicable law, shall have power to terminate such lease and/or to bring summary proceedings to evict the tenant in the name of the landlord thereunder (i.e., the Residential Unit Owner), in the event of (i) a default by the tenant in the performance of its obligations under such lease, or (ii) a foreclosure of the lien granted by Section 339-z of the Real Property Law of the State of New York.

8.1.6 Except as hereinbefore set forth, the form of any such lease executed by the Board or an Outside Offeror shall be a printed, reasonably applicable form of residential lease which is generally approved by the Board and is accepted in New York City, such as an appropriate Real Estate Board of New York, Inc. or Blumberg form, and shall contain such modifications as shall be approved in writing by the Board. Any lease executed by the Board as tenant shall provide that the Board may enter into a sublease of the Residential Unit without the consent of the Residential Unit Owner.

8.1.7 The foregoing restrictions of this Section 8.1 shall not apply to Unsold Residential Units (including the lease of a Residential Unit to Declarant), or to Residential Units acquired by a Permitted Mortgagee in foreclosure or by deed in lieu of foreclosure, or to the Commercial Unit (or any Commercial Units into which the Commercial Units may hereafter by divided). Declarant, any Permitted Mortgagee who has acquired Units by foreclosure or by deed in lieu of foreclosure, and the Commercial Unit Owner, shall have the right to freely sell their respective Units, or to freely lease all or any part of the Unsold Units, or the Commercial Unit without having to first offer the same for sale or lease to the Board.

8.1.8 Declarant shall not be required to pay any transfer fees to the Condominium upon the sale of any Unsold Units.

8.2 Consent of Unit Owners to Purchase or Lease of Units by the Board. The Board shall not exercise any option hereinabove set forth to purchase or lease any Unit without the prior approval of a Majority of Unit Owners. However, the Board shall have the right to release or waive such option without the prior approval of a Majority of Unit Owners.

8.3 No Severance of Ownership. No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to such Unit Owner's Unit without including therein its appurtenant Common Interest, it being the intention to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests without including all such interests shall be deemed and taken to include the interest or interests so omitted even though the latter shall not be expressly mentioned or

described therein. No part of the Common Interest appurtenant to any Unit may be sold, conveyed or otherwise disposed of, except as part of a sale, conveyance or other disposition of the Unit to which such interest is appurtenant or as part of a sale, conveyance or other disposition of such part of the appurtenant Common Interests of all Units. Nothing in this Section 8.3 shall permit the lease of any Unit without the simultaneous lease of its appurtenant Common Interest.

8.4 Release by Board of Right of First Refusal. The right of first refusal contained in Section 8.1 may be released or waived by the Board only in the manner provided in Section 8.5 hereof. In the event the Board shall release or waive its right of first refusal as to any Residential Unit, such Residential Unit together with its appurtenant Common Interest may be sold, conveyed or leased, free and clear of the provisions of Subsections 8.1 .1 and 8.1.2 hereof, provided that such sale, conveyance or lease occurs within any applicable time periods required pursuant to Subsection 8.1.3 hereof.

8.5 Certificate of Termination of Right of First Refusal. A certificate executed by an officer of the Condominium stating that the provisions of Subsection 8.1 .1 hereof have been met by a Residential Unit Owner or stating that the right of first refusal contained therein has been duly released or waived by the Board, and that as a result thereof the rights of the Board thereunder have terminated (provided that any sale, conveyance or lease occurs within any applicable time periods required pursuant to Subsection 8.1.3 hereof), shall be conclusive upon the Board and the Residential Unit Owners in favor of all persons who rely on such certificate in good faith. The Board shall furnish such certificate upon request to any Unit Owner with respect to whom the provisions of Subsection 8.1.1 hereof have, in fact, terminated.

8.6 Financing of Purchase of Units by Board. The purchase of any Residential Unit by the Board or its designee, on behalf of all Residential Unit Owners, may be made from the funds deposited in the capital and/or expense accounts of the Board. If the funds in such accounts are insufficient to effectuate any such purchase, the Board may levy an assessment against each Residential Unit Owner in proportion to such Residential Unit Owner's respective Common Interest, as a Common Charge, and/or the Board may, in its discretion, finance the acquisition of such Residential Unit; provided, however, that no such financing may be secured by an encumbrance or hypothecation of any portion of the Property other than the Residential Unit to be purchased together with its (their) appurtenant Common Interest(s).

8.7 Exceptions. The provisions of Section 8.1 hereof shall not apply with respect to any lease, sale or conveyance of any Residential Unit together with its appurtenant Common Interest by (a) the Unit Owner thereof to such Unit Owner's spouse, domestic partner, adult children or grandchildren, parents, grandparents, adult siblings or to any one or more of them or to any affiliate of the Unit Owner thereof, (b) Declarant, (c) the Board, (d) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of such foreclosure, or (e) a Permitted Mortgagee or such Unit Owner's nominee, who has acquired title to any Residential Unit at any foreclosure sale of such Unit Owner's Permitted Mortgage or by deed in lieu thereof delivered in a bona fide transaction; provided, however, that each succeeding Residential Unit Owner shall be bound by, and such Unit Owner's Residential Unit subject to, the provisions of this Article 8. In addition,

the provisions of section 8.1 shall not apply to any lease, sale or conveyance of the Commercial Unit or any part thereof. The term "affiliate" shall be deemed to be an individual or entity which owns more than 50% of the beneficial interest of such Unit Owner, or an entity with respect to which such Unit Owner owns more than 50% of the legal and beneficial interest.

8.8 Gifts and Devises, etc. Any Unit Owner shall be free to convey or transfer such Unit Owner's Unit by gift, or may devise such Unit Owner's Residential Unit by will or have such Unit Owner's Residential Unit pass by intestacy, without being subject to the restrictions of Section 8.1 hereof; provided, however, that each succeeding Residential Unit Owner shall be bound by, and such Unit Owner's Residential Unit shall remain subject to, the provisions of this Article 8.

8.9 Unauthorized Sales or Leases of Units. Any purported sale or lease of a Residential Unit consummated in violation of Sections 8.1 or 8.3 hereof shall be voidable at the election of the Board and if the Board shall so elect, the Residential Unit Owner shall be deemed to have authorized and empowered the Board to institute legal proceedings to eject the purported purchaser (in case of an unauthorized sale) or to evict the purported tenant (in case of an unauthorized leasing), in the name of the said Residential Unit Owner as the owner or landlord, as the case may be. Said Residential Unit Owner shall reimburse the Board for all expenses (including attorneys' fees and disbursements) incurred in connection with such proceedings.

8.10 Charges Imposed on Sale or Lease of Units. If permitted by law, the Board shall be entitled to fix by resolution and collect, before any sale or lease of a Residential Unit is consummated, a reasonable charge to cover its expenses, and any fees due the Managing Agent or any attorney retained by the Board, in connection with the sale or lease. If such charge is adopted, it shall be added to, and constitute a portion of, Common Charges payable by the selling or leasing Unit Owner. The aforementioned charge shall not apply to the lease of a Residential Unit to Declarant, to the sale or lease of Unsold Residential Units by Declarant, or to the sale or lease of Unsold Residential Units by a Permitted Mortgagee of Declarant that acquires title to Unsold Residential Units.

8.11 Power of Attorney. At the time of acquiring title to a Unit and as a condition thereof, the new Unit Owner shall duly execute, acknowledge and make arrangements for recording in the City Register's Office, the Power of Attorney required by Article 17 of the Declaration.

8.12 Notices Concerning Unit Occupancy. Within five (5) days following acquisition of a Residential Unit or the commencement of a lease relating thereto, the new Unit Owner or lessor, as the case may be, shall notify the Managing Agent of the Unit involved, the name of the purchaser or lessee and the names of the individuals, as permitted by the Bylaws, who will be using or occupying the Unit. The individuals so designated may be changed by the purchaser or lessor, from time to time, by further notice to the Managing Agent.

8.13 Waiver of Right of Partition with Respect to Units Acquired on Behalf of Unit Owners as Tenants-in-Common. In the event that any Unit shall be acquired by the

Board, or its respective designees, corporate or otherwise, on behalf of all Unit Owners, as tenants-in-common, all such Unit Owners shall be deemed to have waived all rights of partition with respect to such acquired Unit as herein provided.

8.14 Payment of Assessments. No Unit Owner shall be permitted to convey, mortgage, pledge, hypothecate or lease such Unit Owner's Unit unless and until the Unit Owner shall have paid in full to the Board all unpaid Common Charges theretofore assessed by said Board against such Unit and until such Unit Owner shall have satisfied all unpaid liens against such Unit Owner's Unit other than Permitted Mortgages.

8.15 Mortgage of Units. Subject to Article 7 and Section 8.14 hereof, each Unit Owner shall have the right to mortgage such Unit Owner's Unit to a Permitted Mortgagee, provided that, with respect to any mortgage covering a Unit, the Unit Owner making such mortgage shall notify in writing the appropriate Board of the making of such mortgage.

8.16 Lease or Purchase of Residential Section Unit or Other Apartment for Superintendent's Residence. The Condominium Board shall have the right to lease or purchase a Residential Section Unit or other apartment for the residence of the superintendent and shall have the right to amend, modify, extend, renew and otherwise deal in any way with respect to any such lease without the approval of a Majority of Unit Owners.

8.17 Compliance with Terms of Lease. Notwithstanding anything to the contrary set forth herein, any conveyance, mortgage, pledge or lease of a Unit must comply with the terms of the Lease.

ARTICLE 9

CONDEMNATION

In the event of the taking in condemnation or by eminent domain of all or any part of the Common Elements or Limited Common Elements, the Board, subject to the provisions set forth below, will arrange, in accordance with the terms of the Lease, for the prompt repair and restoration of such part of the Common Elements or Limited Common Elements so taken which, pursuant to the provisions of these Bylaws, are required to be maintained by the Board. The award made for any such taking shall be payable to the Board responsible for the repair and restoration thereof, as aforesaid; provided, however, that if any such award exceeds $1,000,000, such award shall be payable to the Insurance Trustee and shall be disbursed to the contractors engaged in such repair and restoration, if any, in appropriate progress payments. If the net proceeds of any such award are insufficient to cover, or if such net proceeds exceed the cost of any repairs and restorations, the deficit or surplus, as the case may be, will be (a) borne and shared by all Unit Owners with respect to any taking of the Common Elements pro rata, as follows: first, to the Unit Owners in accordance with their respective Common Interests; thereafter, the Board shall allocate such deficit or surplus, as the case may be, pro rata, to the

Unit Owners, in accordance with their respective Common Interests; and (b) borne and shared by all Unit Owners having exclusive access to the Limited Common Elements pro rata in accordance with their respective interest in such Limited Common Interests. Notwithstanding any provisions contained herein to the contrary, in the event that "Substantially all of the Premises," as that term is defined in the Lease, is taken or condemned as determined under the Lease, then such repairs or restorations of the Limited Common Elements and/or Common Elements shall not be made and the net proceeds of any such award with respect thereto shall be distributed first in accordance with the terms of the Lease, with the balance divided among the Unit Owners pro rata in the same manner as is set forth in (a) and (b) above, after first paying out of the share of each Unit Owner the amount of any unpaid liens on such Units other than mortgages which are not Permitted Mortgages. As used in this Article 9, the phrase "promptly resolve" means not more than 60 days from the date of such taking.

ARTICLE 10

RECORDS AND AUDITS

10.1 Records. The Board or the managing agent for the Board, if any, shall keep detailed records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Unit Owners for whom the Board serves and financial records and books of account with respect to the activities of the Board, including a listing of all receipts and expenditures. In addition, the Board shall keep a separate account for each Unit, which, among other things, shall contain the amount of each assessment of Common Charges made by the Board against each such Unit, the date when due, the amounts paid thereon and the balance, if any, remaining unpaid.

10.2 Audits. Within four months after the end of each fiscal year, an annual report of receipts and expenditures prepared and certified by an independent certified public accountant shall be submitted by the Board to all Unit Owners, and, if so requested, to any Permitted Mortgagee, as the case may be. The cost of such report submitted by the Board, shall be paid by the Unit Owners as a Common Expense.

10.3 Availability of Documents. Copies of the Declaration, these Bylaws, the Rules and Regulations and the Floor Plans, as the same may be amended from time to time, shall be maintained at the office of the Condominium Board and shall be available for inspection by Unit Owners and their authorized agents during reasonable business hours.

ARTICLE 11

ARBITRATION

11.1 General Procedure. All arbitration provided for in these Bylaws shall be conducted before one arbitrator in New York City, who shall be Oliver A. Rosengart, currently residing at [redacted]. Should Oliver A. Rosengart be unwilling or unable to arbitrate a dispute pursuant to these Bylaws, then any arbitration provided for in these Bylaws shall be conducted by the American Arbitration Association or any successor organization thereof, in accordance with its rules then in effect and the decision rendered in such arbitration shall be binding upon the parties and may be entered in any court having jurisdiction. In the event that the American Arbitration Association is not then in existence and has no successor, any arbitration hereunder shall be conducted in New York City before one arbitrator appointed, on application of any party, by any justice of the highest court of appellate jurisdiction located in the County of Queens having jurisdiction over the matter. The decision of the arbitrator so chosen shall be given within 10 days after such arbitrator's appointment. Any arbitrator appointed or selected in connection with any arbitration under this Article 11 shall be a lawyer or real estate owner, developer, or manager familiar with condominium properties and having general legal or real estate experience, as the case may be, of not less than fifteen years.

11.2 Costs and Expenses. The fees, costs and expenses of the arbitrator will be borne by the losing party in the arbitration or, if the position of neither party to the dispute will be substantially upheld by the arbitrator, such fees, costs and expenses will be borne equally by the disputants unless otherwise set by the arbitrator. Each disputant will also bear the fees and expenses of such disputant's counsel and expert witnesses. All costs and expenses paid or incurred by the Condominium Board, in connection with any arbitration held hereunder, including, without limitation, the fees and expenses of counsel and expert witnesses, will constitute General Common Expenses, Residential Common Expenses or Commercial Common Expenses, as the case may be.

11.3 Agreement by Parties. The parties to any dispute required or permitted to be submitted to arbitration hereunder may, by mutual agreement between them, vary any of the provisions of Section 11.1 with respect to the arbitration of such dispute, or may agree to resolve their dispute in any other manner, including, without limitation, the manner set forth in Section 3031 of the New York Civil Practice Law and Rules and known as the "New York Simplified Procedure for Court Determination of Disputes".

ARTICLE 12

MISCELLANEOUS

12.1 Waiver. No provision contained in these Bylaws or the Rules and Regulations shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

12.2 Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Bylaws nor the intent of any provision hereof.

12.3 Certain References.

12.3.1 A reference in these Bylaws to any one gender, masculine, feminine or neuter, includes the other two, and the singular includes the plural, and vice versa, unless the context otherwise requires.

12.3.2 The terms "herein", "hereof" or "hereunder" or similar terms used in these Bylaws refer to these entire Bylaws and not to the particular provision in which the terms are used, unless the context otherwise requires.

12.3.3 Unless otherwise stated, all references herein to Articles, Sections or other provisions are references to Articles, Sections or other provisions of these Bylaws.

12.4 Severability. Subject to the provisions of the Declaration, if any provision of these Bylaws is invalid or unenforceable as against any person, party or under certain circumstances, the remainder of these Bylaws and the applicability of such provision to other persons, parties or circumstances shall not be affected thereby. Each provision of these Bylaws shall, except as otherwise herein provided, be valid and enforced to the fullest extent permitted by law. In the event any provision of these Bylaws or the Rules and Regulations conflicts with the provisions of the Declaration, the provisions of the Declaration shall control.

12.5 Insurance Trustee. The "Insurance Trustee" shall be a bank or trust company in The City of New York, designated by the Condominium Board and approved by Landlord (which approval shall not be unreasonably withheld, conditioned or delayed), which qualifies as an "Institutional Lender" under the Lease. In the event that the Board does not designate an Insurance Trustee within ten (10) days after request of the Landlord, the Insurance Trustee shall be the mortgagee holding the mortgage of highest priority, but if there is no such mortgagee, Landlord shall have the right to designate such Insurance Trustee if Tenant or a mortgagee fail to timely do so. In the event the Insurance Trustee resigns or the Condominium Board wishes to replace it, the Condominium Board shall promptly appoint a new Insurance Trustee. The Condominium Board shall pay the fees and disbursements of any Insurance Trustee and such fees and disbursements shall constitute a General Common Expense. The Insurance Trustee shall

hold all such proceeds in accordance with Section 254(4) of the Real Property Law of the State of New York. If required by Declarant's construction or permanent lender, such lender shall be the Insurance Trustee until its release of all Units from the lien of its mortgage.

12.6 Successors and Assigns. Except as set forth herein or in the Declaration to the contrary, the rights and/or obligations of Declarant as set forth herein shall inure to the benefit of and be binding upon any successor or assign of Declarant or, with the consent of Declarant, any transferee of some or all then Unsold Residential Units then owned by Declarant, as the case may be (but not to Purchasers of Residential Units pursuant to the Plan). The rights and/or obligations of the Commercial Unit Owner as set forth herein shall inure to the benefit of and be binding upon any successors or assigns of the Commercial Unit Owner. Subject to the foregoing, Declarant and/or the Commercial Unit Owner, as the case may be, shall have the right, at any time in their sole discretion, to assign or otherwise transfer their respective interests herein, whether by sale, merger, consolidation, lease, assignment or otherwise.

12.7 Covenant of Further Assurances.

12.7.1 Any party which is subject to the terms of these Bylaws, whether such party is a Unit Owner, a lessee or sublessee of a Unit Owner, an occupant of a Unit, a member or officer of the Board, or otherwise, shall, upon prior reasonable written request at the expense of any such other party requesting the same, execute, acknowledge and deliver to such other party such instruments, in addition to those specifically provided for herein, and take such other action, as such other party may reasonably request to effectuate the provisions of these Bylaws or of any transaction contemplated herein or to confirm or perfect any right to be created or transferred hereunder or pursuant to any such transaction.

12.7.2 If any Unit Owner, the Board or any other party which is subject to the terms of these Bylaws fails, within ten days after request therefor, either (i) to execute, acknowledge or deliver any instrument, or to take any action which such Unit Owner, the Board or party is required to execute, acknowledge and deliver or to take pursuant to these Bylaws, or (ii) to deliver a written notice to the party requesting such execution, acknowledgment or delivery, and to the Board, stating the reasons why such Unit Owner, the Board or other party refuses to execute, acknowledge or deliver such instrument or take such action, then the Board is hereby authorized, as attorney-in-fact for such Unit Owner, the Board or other party, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take such action in the name of such Unit Owner, the Board or other party and such document or action shall be binding on such Unit Owner, the Board or other party.

12.7.3 If any Unit Owner, the Board or other party which is subject to the terms of these Bylaws fails, within ten days after request therefor to execute, acknowledge or deliver any instrument, or to take any action which such Unit Owner, the Board or party is required to execute, acknowledge and deliver or to take pursuant to these Bylaws at the request of Declarant, then Declarant is hereby authorized, as attorney-in-fact for such Unit Owner, the Board or other party, coupled with an interest, to execute, acknowledge and deliver such instrument, or to take

such action, in the name of such Unit Owner, the Board or other party and such document or action shall be binding on such Unit Owner, the Board or other party as the case may be.

12.8 Notice to Non-Purchasing Tenants. Non-Purchasing Tenants under this Plan will be promptly notified of changes in ownership of the Unit in which they reside by any Purchasers of such Unit, and the Board of Managers will retain and make available such information.

12.9 Performance of Terms, Covenants and Conditions of the Lease. Each Unit Owner hereby appoints the Condominium Board as such Unit Owner's attorney-in-fact for the purpose of paying, performing and observing all of the terms, covenants and conditions of the Lease.

12.10 Lease and QWDC Requirements to Control. Notwithstanding anything herein to the contrary, in the event that any covenant or term of the Lease or the QWDC Requirements by their nature of effect create a requirement, obligation or limitation upon Declarant, the Board, the Unit Owners or any mortgagee, lessee or sublesee of any of the foregoing, which is different from or greater than the requirements, limitations or obligations of these Bylaws, the terms of the Lease and the QWDC Requirements shall prevail.

ARTICLE 13

AMENDMENT TO BYLAWS

13.1 Amendments by Unit Owners. Except as specifically provided herein or in the Declaration with respect to amendments, modifications, additions or deletions affecting Declarant, or any Unsold Units, or the Commercial Unit or any Commercial Owner, any provision of these Bylaws may be added to, amended, modified or deleted by the vote of at least 80% in number and in Common Interest of all Unit Owners taken in accordance with the provisions of these Bylaws, provided, however, that the Common Interest appurtenant to each Unit as expressed in the Declaration shall not be altered without the written consent of all Unit Owners directly affected. Subject to the provisions contained herein or in the Declaration with respect to amendments, modifications, additions or deletions affecting Declarant, Permitted Mortgagees, any Unsold Units, or the Commercial Unit or any Commercial Owner, any such amendment, modification, addition or deletion shall be executed by the Board, as attorney-in-fact for the Unit Owners, coupled with an interest, which Board is hereby authorized by such Unit Owners so to act as their attorney-in-fact. Notwithstanding the foregoing and subject to the provisions contained herein or in the Declaration with respect to amendments affecting Declarant, any Unsold Units, the Commercial Unit or any Commercial Unit Owner, (i) no amendment, modification, addition or deletion pursuant to the provisions above shall be effective without the written consent (which consent shall not be unreasonably withheld or delayed) of the Mortgage Representatives, if any, and (ii) the provisions of this Section 13.1 may not be amended, modified, added to or deleted unless (in addition to the consent, if required, of the Mortgage Representatives), 80% in number and in Common Interest of all Unit Owners affected

thereby approve such amendment, modification, deletion or addition in the manner set forth above.

13.2 Amendments Affecting Declarant or Commercial Unit Owners. Notwithstanding any provision contained herein to the contrary, no amendment, modification, addition or deletion of or to these By-Laws, the Declaration or the Rules and Regulations shall be effective in any way (a) without the prior written consent of the affected Residential Unit Owner(s) with respect to any amendment, modification, addition or deletion of or to these by-laws, the Declaration or the Rules and Regulations modifying the permitted uses of any Residential Unit or affecting the rights, privileges, easements, licenses or exemptions granted to any Residential Unit Owner, (b) without the prior written consent of Declarant or the owner of any Unsold Residential Unit, as the case may be, with respect to any amendment, modification, addition or deletion of or to these by-laws, the Declaration or the Rules and Regulations modifying the permitted uses of the Building or any portion thereof or affecting the rights, privileges, easements, licenses or exemptions granted to Declarant or the owner of any Unsold Residential Unit, as the case may be, or otherwise adversely affecting Declarant or the owner of any Unsold Residential Unit, as the case may be, or (c) without the prior written consent of the holder of any present or future mortgage, pledge, or other lien or security interest covering any Unsold Residential Unit or Commercial Unit, with respect to any amendment, modification, addition or deletion of or to these by-laws, the Declaration, or the Rules and Regulations modifying the permitted uses of such Unsold Residential Unit or Residential Unit, or affecting the rights, privileges, easements, licenses or exemptions granted to the owner of such Unsold Residential Unit or Commercial Unit.

13.3 Amendments Affecting Permitted Mortgagees. Notwithstanding any provision contained herein to the contrary, no modification, addition, amendment or deletion of or to Article 7 or Sections 6.1, 6.2, 6.4.2, 6.4.3, 8.7(d) or (e), or 8.10 hereof shall be effective as against the holder of any Permitted Mortgage theretofore made unless such holder has given its prior written consent thereto, which consent shall not be unreasonably withheld or delayed.

13.4 Compliance with Terms of Lease. Notwithstanding anything in these Bylaws to the contrary, no amendment to these Bylaws can be made except in compliance with the terms of the Lease, and no amendment to these Bylaws shall be materially adverse to any rights, interests or obligations of the Landlord, including, without limitation, any such amendment which would purport to (i) limit the obligations of the Board as Tenant under the Lease; (ii) modify the obligations of the Unit Owners to pay as a portion of Common Charges, Rent due and owning under the Lease or change any payment or the priority thereof, required to be made to Landlord under the Lease or the manner in which the Board is obligated to make or maintain payments due to Landlord; (iii) change the method of allocation of Common Charges.

SCHEDULE A

RULES AND REGULATIONS OF THE RESIDENTIAL SECTION

1. The sidewalks, entrances, passages, public halls, elevators, vestibules, corridors and stairways of the Residential Section shall not be obstructed or used for any other purpose than ingress to and egress from the Residential Units.

2. No article (including, but not limited to, garbage cans, bottles or mats) shall be placed in any of the passages, public halls, vestibules, corridors, stairways or fire tower landings of the Residential Section, nor shall any fire exit thereof be obstructed in any manner. Nothing shall be hung or shaken from any doors, windows or roofs or placed upon the window sills of the Residential Section.

3. Neither occupants nor their guests shall play in the entrances, passages, public halls, elevators, vestibules, corridors, stairways or fire towers of the Residential Section.

4. No public hall or public elevator vestibule of the Residential Section shall be decorated or furnished by any Residential Unit Owner in any manner.

5. Each Residential Unit Owner shall keep such Unit Owner's Unit and any Limited Common Elements appurtenant thereto (including the surface and drains of any terrace or balcony that is part of a Residential Unit) in a good state of preservation and cleanliness, and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance. Any determination as to what constitutes a good state of preservation and cleanliness for any Unit Owner's terrace or balcony shall be within the sole but reasonable discretion of the Board.

6. No window guards, window shades or window decorations shall be used in or about any Residential Unit, unless otherwise required by law, except such as shall have been approved in writing by the Board or the managing agent of the Residential Section. No clothes, sheets, blankets, laundry or other articles of any kind shall be hung on or out of a Unit or its appurtenant Limited Common Elements. No window frames or mullions may be removed, altered or replaced without the written consent of the Board.

7. No radio, television aerial, satellite dish or similar device shall be attached to or hung from the exterior of the Residential Section and no sign, notice, advertisement or illumination shall be inscribed or exposed on or at any door or window or other part of the Residential Section except such as are permitted pursuant to the Declaration or the By-Laws or shall have been approved in writing by the Board or the managing agent of the Residential Section, nor shall anything be projected from any door or window of the Residential Section without similar approval, except as may otherwise be required by law.

8. No heat, ventilator or air conditioning device or window fan shall be installed in any Residential Unit without the prior written approval of the Board, which approval may be granted or refused in the sole discretion of the Board.

9. All radio, television or other electrical equipment of any kind or nature installed or used in each Residential Unit shall fully comply with all rules, regulations, requirements or recommendations of the New York Board of Fire Underwriters and the public authorities having jurisdiction and the Residential Unit Owner alone shall be liable for any damage or injury caused by any radio, television or other electrical equipment in such Residential Unit Owner's Unit.

10. The service entrance must be used for ingress and egress by all residents who transport velocipedes, bicycles, scooters or similar vehicles into the Building, unless otherwise determined by the Board.

11. No velocipedes, bicycles, scooters or similar vehicles shall be allowed in any of the elevators other than the elevators designated by the Board or the managing agent of the Residential Section for that purpose, and no baby carriages or any of the above-mentioned vehicles or other equipment, furniture or other personal articles shall be allowed to stand in the passages, public halls, vestibules, corridors or other public areas of the Residential Section.

12. No Residential Unit Owner shall make or permit any disturbing noises or activity in the Residential Section, or do or permit anything to be done therein, which will interfere with the rights, comfort or convenience of other Unit Owners or the tenants or occupants of the Residential Section. No Residential Unit Owner shall play or suffer to be played any musical instrument, or practice or suffer to be practiced vocal music, or operate or permit to be operated a phonograph, radio, television computer, stereo or other loud speaker in such Unit Owner's Unit between 11:00 P.M. and the following 7:00 A.M., if the same shall disturb or annoy other occupants of the Building, unless the same shall have the prior written consent of the Board. No construction or repair work or other installation involving noise shall be conducted in any Residential Unit except on weekdays (not including legal holidays) and only between the hours of 8:00 A.M. and 5:00 P.M., unless such construction or repair work is necessitated by an emergency or unless such work is performed by Declarant.

13. No pets other than dogs, caged birds, cats and fish (which do not cause a nuisance, health hazard or unsanitary condition) shall be permitted, kept or harbored in any Residential Unit unless the same in each instance be expressly permitted in writing by the Board. Any such consent, if given, shall be revocable at any time by the Board. In no event shall any Unit Owner maintain more than two (2) pets (other than fish, and dogs, as stated below) in a Residential Unit without the consent of the Board and in no event shall any animal be permitted in any of the public portions of the Building unless carried or on a leash. In no event shall any Residential Unit Owner maintain more than one (1) dog, with a maximum weight of 60 pounds, in his Residential Unit without the consent of the Board. The individual Residential Unit Owners who keep an animal in the Building shall each indemnify the Board of Managers and hold it harmless against any

loss or liability of any kind or character whatsoever arising from or as a result of having any animal in the Building. No pigeons or other birds or animals shall be fed from the window sills, or other public portions of the Building or on the sidewalk or street adjacent to the Building. Each Residential Unit Owner who keeps any type of pet in such Unit Owner's Residential Unit may be required to enter into an agreement with the Board setting forth such other rules regarding pets as the Board shall deem suitable and indemnifying and holding harmless the Condominium, all Unit Owners and the managing agent from all claims and expenses resulting from acts of such pet.

14. Servants, messengers and tradespeople visiting or residing in the Residential Section may be required to use the elevators designated by the Board or the managing agent of the Residential Section for that purpose, for ingress and egress, and shall not use any of the other elevators for any purpose, except that nurses in the employ of Residential Unit Owners or their guests or tenants may use any of the other elevators when accompanying said Unit Owners, guests or tenants. However, a guest or visitor of a Residential Unit Owner may use any of the elevators freely, if authorized by such Unit Owner.

15. All service and delivery persons may be required to use the entrances designated by the Condominium Board. All packages, whenever feasible, will be required to be delivered by outside personnel to the package room in the lobby where such packages will be held for pick-up by Residential Unit Owners. Deliveries, if made, will be made from the package room to individual Residential Units only by building personnel or as otherwise directed by building personnel. Such deliveries will be made only at such times as a Unit is occupied by the resident thereof or an authorized person and said resident or authorized person is willing to accept delivery. If the Residential Unit is not so occupied or delivery is declined, the package will be held in the package room until the resident or authorized person returns or requests delivery. In the case of packages containing perishable food items, service or delivery persons who are registered with building personnel will be permitted to make deliveries directly to individual Residential Units after such service or delivery persons have received approval for such delivery from the Residential Unit Owner.

16. Trunks and heavy baggage shall be taken in or out of the Residential Section by the elevators designated by the Board or the managing agent of the Residential Section for that purpose, and through a designated entrance only.

17. No Unit Owner or any visitor, guest, patient, employee or any client of a Unit Owner shall be allowed in the heating, electrical or mechanical equipment areas without the express permission of the Board of Managers.

18. All damage to the Building or Common Elements caused by the moving or carrying of any article therein shall be paid by the Unit Owner responsible for the presence of such article.

19. No refuse from the Residential Units shall be sent to the below grade levels of the Building except at such times and in such manner as the Board or the managing agent of the Residential Section may direct.

20. Water-closets and other water apparatus in the Residential Section shall not be used for any purpose other than those for which they were designed, nor shall any sweepings, rubbish, rags or any other article be thrown into the same. Any damage resulting from misuse of any water-closets or other apparatus in a Residential Unit shall be repaired and paid for by the Owner of such Unit.

21. No occupant of the Residential Section shall engage any employee of the Residential Section or of the managing agent thereof out of the Building for any private business without the prior written consent of the Board.

22. The agents of the Board or the managing agent, and any contractor or worker authorized by the Board or the managing agent of the Residential Section, may enter any room or Residential Unit at any reasonable hour of the day, on at least one day's prior written notice to the Residential Unit Owner, for the purpose of inspecting such Residential Unit for the presence of any vermin, insects or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects or other pests; however, such entry, inspection and extermination shall be done in a manner so as not to unreasonably interfere with the use of such Residential Unit for its permitted purposes.

23. Corridor doors shall be kept closed at all times except when in actual use for ingress or egress to and from public corridors.

24. The Board or the managing agent of the Residential Section must retain a passkey to each Residential Unit. If any lock is altered or a new lock is installed, the Board or the managing agent of the Residential Section shall be provided with a key thereto immediately upon such alteration or installation. If the Residential Unit Owner is not personally present to open and permit an entry to such Unit Owner's Unit at any time when an entry therein is necessary or permissible under these Rules and Regulations or under the By-Laws and has not furnished a key to such Board or such managing agent, then the Board or such managing agent or their agents (but, except in an emergency, only when specifically authorized by an officer of the Board or an officer of the managing agent) may forcibly enter such Unit without liability for damages or trespass by reason thereof (if during such entry reasonable care under the circumstances is given to such Unit Owner's property).

25. No vehicle belonging to a Residential Unit Owner or to a member of the family guest, tenant or employee of a Residential Unit Owner shall be parked in such manner as to or prevent ready access to any entrance to or exit from the Building by another vehicle.

26. Complaints regarding the services of the Residential Section shall be in writing to the Board or to the managing agent of the Residential Section.

27. Any consent or approval given under these Residential Rules and Regulations may be granted, refused, added to, amended or repealed, in the sole discretion of the Board at any time by resolution of the Board. Further, any such consent or approval of the discretion of the Board, be conditional.

28. Residential Unit Owners will faithfully observe the following procedures with respect to the use of the compactor: (a) wrap dust, floor and powdered waste in compact packages before depositing the same; (b) thoroughly drain and wrap in paper all garbage before depositing the same; (c) refrain from forcing large bundles into the chute; (d) crush into tight bundles all papers before placing the same in the hopper door; (e) deposit all bundles of waste into the hopper(f) refrain from depositing waste of an explosive nature (i.e. aerosol cans) therein; (g) observe all Laws regarding recycling of refuse then imposed by governmental agencies having jurisdiction thereover and (h) observe any additional recycling rules established by the Condominium Board or the Board.

29. Except as permitted under the Declaration and Bylaws, Residential Unit Owners, their families, guests, servants, employees, agents, visitors, tenants, sublessees or licensees shall not at any time or for any reason whatsoever enter upon or attempt to enter upon the roof of the Building.

30. Residential Unit Owners, their guests, servants, employees, agents, visitors, tenants, sublessees or licensees shall not cause or permit any unusual or objectionable noise or odors to be produced upon or to emanate from their Units or any public portions of the Building.

31. No Residential Unit Owner or any of such Unit Owner's agents, servants, employees, licensees, tenants, sublessees or visitors shall at any time bring into or keep in such Unit Owner's Unit any inflammable, combustible or explosive fluid, material, chemical or substance, except as shall be necessary and appropriate for the permitted uses of such Unit.

32. If any key or keys are entrusted by a Residential Unit Owner or by any member of such Unit Owner's family or by such Unit Owner's agent, servant, employee, tenant, sublessee, licensee or visitor to an employee of the Board or the managing agent of the Residential Section, whether for such Unit Owner's Unit or an automobile, trunk or other item of personal property, the acceptance of the key shall be at the sole risk of such Unit Owner, and neither the Board nor the managing agent of the Residential Section shall be liable for injury, loss or damage of any nature whatsoever, directly or indirectly resulting therefrom or connected therewith.

33. Nothing shall be done or kept in any Residential Unit or in the General or Limited Common Elements which will increase the rate of insurance of the Building or contents thereof without the prior written consent of the Condominium Board. No Residential Unit Owner shall permit anything to be done or kept in such Unit Owner's Unit or in the General or Limited Common Elements which will result in the cancellation

of insurance on the Building or which would be in violation of any law. No waste shall be committed in the General or Limited Common Elements.

34. The Board shall have the right from time to time to relocate any portion of the Common Elements devoted to storage or service purposes.

35. No group tour or exhibition of any Residential Unit or its contents shall be conducted, nor shall any auction sale be held in any Residential Unit, without the prior consent of Board or the managing agent of the Residential Section.

36. In the event that any Residential Unit is used for home occupation purposes which are permitted by law and the Bylaws, in no event shall any patients, clients or other invitees be permitted to wait in any lobby, public hallway or vestibule.

37. Unless expressly authorized by the Board in each case, at least 80% of the floor area of each Residential Unit (excepting only kitchens, pantries, bathrooms, closets and foyers) must be covered with rugs, carpeting or equally effective noise-reducing material.

38. There will be no barbecuing in the Residential Units (including gardens, terraces and balconies), or the General Common Elements, except for those areas (if any) specifically designated for barbecuing by the Board. The use of propane on the Property (including gardens, terraces and balconies) is strictly prohibited. All barbecuing (if any) on the Property shall conform to 3 RCNY §24-04 and 3 RCNY §25-01.

39. The Board reserves the right to rescind, alter, waive or add, as to one or more or all occupants, any rule or regulation at any time prescribed for the Residential Section when, in the reasonable judgment of the Board, the Board deems it necessary or desirable for the reputation, safety, character, security, care, appearance or interests of the Residential Section, or the preservation of good order therein, or the operation or maintenance of the Residential Section, or the equipment thereof, or the comfort of Unit Owners, occupants or others in the Residential Section. No rescission, alteration, waiver or addition of any rule or regulation in respect of one Residential Unit Owner or other occupant shall operate as a rescission, alteration or waiver in respect of any other Residential Unit Owner or other occupant.

40. No article, including, but not limited to, bicycles and similar vehicles, shall be stored or allowed to stand on terraces or balconies, other than furniture of the kind usually maintained in outdoor areas.

41. Plantings on any terrace or balcony shall be contained in boxes of wood, lined with metal or other materials impervious to dampness and standing on supports at least two inches from the terrace or balcony surface, and, if adjoining a wall, at least three inches from such wall. Suitable weep holes shall be provided in the boxes to draw off water. In special locations, such as a corner abutting a parapet wall, plantings may be contained in masonry or hollow tile walls which shall be at least three inches from the parapet and flashing, with the floor of drainage tiles and suitable weep holes at the sides to draw off water. Such masonry planting beds shall not, however, rest directly upon the

surface of such terrace or balcony, but shall stand on supports at least two inches above the surface. It shall be the responsibility of the Residential Unit Owner to maintain the containers in good condition, and the drainage tiles and weep holes in operating condition. Such Residential Unit Owner shall pay the cost of any repairs rendered necessary, or damage caused, by such plantings. The Board may require a Unit Owner to remove plants and other installations placed on terraces or balconies by said Unit Owners if the Board determines, in its reasonable discretion, that such plants and other installations adversely affect the integrity of the terraces or balconies or any part of the Building appurtenant thereto.

42. No Residential Unit Owner or any of his family members, agents, servants, employees, licensees, or visitors shall, at any time, bring into or keep in his Unit or Residential Limited Common Elements any inflammable, combustible, or explosive fluid, material, chemical, or substance, except as shall be necessary and appropriate for the permitted uses of such Unit or Residential Limited Common Elements.

43. No edible vegetation of any kind shall be planted anywhere in the earth located within the Land, including in private gardens.

CERTIFICATION OF SPONSOR AND PRINCIPALS OF SPONSOR PURSUANT TO PART 20 OF THE REGULATIONS ISSUED UNDER GENERAL BUSINESS LAW ARTICLE 23-A, AS AMENDED

New York State Department of Law
120 Broadway
23rd Floor
New York, New York 10271

Attention: Investment Protection Bureau

Re: Condominium Offering Plan
46-30 Center Boulevard Condominium
46-30 Center Boulevard, Long Island City, New York

Gentlemen:

The undersigned certify as follows:

We are the Sponsor and the principals of the Sponsor of the Condominium Offering Plan for the captioned property.

We understand that we have primary responsibility for compliance with the provisions of Article 23-A of the General Business Law, the regulations promulgated by the Attorney General in Part 20 and such other laws and regulations as may be applicable.

We have read the entire Offering Plan. We have investigated the facts set forth in the Offering Plan and the underlying facts. We have exercised due diligence to form a basis for making this certification. We jointly and severally certify that the Offering Plan does, and that all documents submitted hereafter by us which amend or supplement the Offering Plan will:

(i) set forth the detailed terms of the transaction and be complete, current and accurate;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment;

(iii) not omit any material fact;

(iv) not contain any untrue statement of a material fact;

(v) not contain any fraud, deception, concealment, suppression, false pretense or fictitious or pretended purchase or sale;

(vi) not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) not contain any representation or statement which is false, where we: (a) knew the truth; (b) with reasonable effort could have known the truth; (c) made no reasonable effort to ascertain the truth; or (d) did not have knowledge concerning the representation or statement made.

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

SPONSOR:

EAST COAST 5 L.L.C.

By: _____
Kamran T. Elghanayan,
President and Chief Operating Officer

Sworn to before me this
16th day of October, 2007

_____
Notary Public

SOFIA ESTEVEZ
Notary Public, State of New York
No. 31-4847039
Qualified in New York County
Commission Expires August 19, 2010

PRINCIPALS OF SPONSOR:

_____
Kamran T. Elghanayan

Sworn to before me this
16th day of October, 2007

_____
Notary Public

SOFIA ESTEVEZ
Notary Public, State of New York
No. 31-4847039
Qualified in New York County
Commission Expires August 19, 2010

H. Henry Elghanayan

Sworn to before me this
16th day of October, 2007

Notary Public

SOFIA ESTEVEZ
Notary Public, State of New York
No. 31-4847039
Qualified in New York County
Commission Expires August 19, 2010

Frederick Elghanayan

Sworn to before me this
16th day of October, 2007

Notary Public

SOFIA ESTEVEZ
Notary Public, State of New York
No. 31-4847039
Qualified in New York County
Commission Expires August 19, 2010

CERTIFICATION OF SPONSOR'S ARCHITECT / ENGINEER PURSUANT TO PART 20 OF THE REGULATIONS ISSUED UNDER GENERAL BUSINESS LAW ARTICLE 23-A, AS AMENDED

New York State Department of Law
120 Broadway
23rd Floor
New York, New York 10271
Attention: Investment Protection Bureau

Re: Condominium Offering Plan
46-30 Center Boulevard Condominium
46-30 Center Boulevard, Long Island City, New York

Gentlemen:

The Sponsor of the offering to convert the captioned property (the "Property") to condominium ownership retained our firm to prepare a report describing the construction and renovation of the Property (the "Report"). We examined the building plans and specifications that were prepared by our office, dated January 17, 2007, and the Report, dated April 16, 2007, a copy of which is intended to be incorporated into the Offering Plan so that prospective Purchasers may rely on the Report.

The undersigned is an architect registered in New York State.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to the Report.

We have read the entire Report and investigated the facts set forth in the Report and the facts underlying it with due diligence in order to form a basis for this certification. This certification is made for the benefit of all persons to whom this offer is made.

We certify that the Report:

(i) sets forth in narrative form the physical condition of the entire Property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications that we have examined;

(ii) in our professional opinion, affords potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the physical condition of the Property as it will exist upon completion of construction, provided that construction is in accordance with the plans and specifications that we examined;

(iii) does not omit any material fact;

(iv) does not contain any untrue statement of a material fact;

(v) does not contain any fraud, deception, concealment or suppression;

(vi) does not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) does not contain any representation or statement which is false, where we:

(a) knew the truth;

(b) with reasonable effort could have known the truth;

(c) made no reasonable effort to ascertain the truth; or

(d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by and have no beneficial interest in the Sponsor and that our compensation for preparing the Report is not contingent on the conversion of the Property to a condominium or on the profitability or price of the offering. This statement is not intended as a guarantee or warranty of the physical condition of the Property.

HANDEL ARCHITECTS LLP

By: _____
Gary Handel

REGISTERED ARCHITECT
GARY EDWARD HANDEL
No. 016994
STATE OF NEW YORK

Sworn to before me
this 17th day of APRIL, 2007

_____
Notary Public

DIN E. TOLBERT
NOTARY PUBLIC-STATE OF NEW YORK
No. 01TO6144443
Qualified in Queens County
My Commission Expires April 24, 2010

BROWN HARRIS STEVENS

Established 1873

PART 20: CERTIFICATION BY EXPERT
AS TO ADEQUACY OF CONDOMINIUM BUDGET

New York State Department of Law
Investment Protection Bureau
120 Broadway - 23rd Floor
New York, New York 10271

April 10, 2007

Re: Condominium Offering Plan
46-30 Center Boulevard Condominium
Long Island City, New York

The sponsor of the condominium offering plan for the captioned property retained our firm to review Schedule B and Schedule B-1 to the Offering Plan ("the Schedules"), containing projections of income and expenses for the first year of condominium operation. With over 70 years in the industry, our experience in this field includes current management of the operation of 200 condominium and cooperative buildings in Manhattan.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to Schedule B and Schedule B-1.

We have reviewed the Schedules and investigated the facts set forth in the Schedules and the facts underlying them with due diligence in order to form a basis for this certification. We also have relied on our experience in managing and appraising residential buildings.

We certify that the projections in Schedule B and Schedule B-1 appear reasonable and adequate under existing circumstances, and the projected income appears to be sufficient to meet the anticipated operating expenses for the projected first year of condominium operation.

We certify that the Schedules:

(i) set forth in detail the projected income and expenses for the first year of condominium operation;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the first year of condominium operation;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) do not contain any representation or statement which is false, where we:

(a) knew the truth;

(b) with reasonable effort could have known the truth;

(c) made no reasonable effort to ascertain the truth; or

(d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the sponsor. We understand that a copy of this certification is intended to be incorporated into the offering plan. This statement is not intended as a guarantee or warranty of the income or expenses for the first year of condominium operation. This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made.

BROWN HARRIS STEVENS

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We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

BROWN HARRIS STEVENS

By: _____
Name: Sharon Locatell
Title: Executive Director

Sworn to before me this
10th day of April, 2007

_____
Notary Public

VALERIE TOMLINSON
NOTARY PUBLIC, State of New York
No. 01TO6160821
Qualified in Kings County
Commission Expires February 12, 20 11

BROWN HARRIS STEVENS

Established 1873

PART 20: CERTIFICATION BY EXPERT CONCERNING ADEQUACY OF COMMON CHARGES PAYABLE BY THE NON-RESIDENTIAL UNIT OWNERS

New York State Department of Law
Investment Protection Bureau
120 Broadway
23rd Floor
New York, New York 10271

April 10, 2007

Re: Condominium Offering Plan
46-30 Center Boulevard Condominium
Long Island City, New York

The sponsor of the condominium offering plan for the captioned property retained our firm to review Schedule B which includes projections of common charges payable by the owner of the Commercial Unit. With over 70 years in the industry, our experience in this field includes current management of the operation of 200 condominium and cooperative buildings in Manhattan.

We understand that we are responsible for complying with Article 23-A of the General Business Law and the regulations promulgated by the Department of Law in Part 20 insofar as they are applicable to the Commercial Unit listed in Schedule B.

We have reviewed Schedule B as it impacts upon the Commercial Unit and investigated the facts underlying it with due diligence in order to form a basis for this certification. We also have relied on our experience in managing and appraising residential buildings.

We certify that the projections in Schedule B for the common charges payable by the owner of the Commercial Unit appear reasonable and adequate under existing circumstances to meet the anticipated operating expenses fairly attributable to such Commercial Unit for the projected first year of condominium operation, and that the allocation of common charges attributable to the Commercial Unit also reflects special or exclusive use or availability or exclusive control of particular common areas.

BROWN HARRIS STEVENS

Established 1873

We certify that the estimates in Schedule B for the common charges payable by the owner of the Commercial Unit:

(i) set forth in detail the projected common charges for the Commercial Unit for the first year of condominium operation;

(ii) afford potential investors, purchasers and participants an adequate basis upon which to found their judgment concerning the common charges payable by the owner of the Commercial Unit;

(iii) do not omit any material fact;

(iv) do not contain any untrue statement of a material fact;

(v) do not contain any fraud, deception, concealment or suppression;

(vi) do not contain any promise or representation as to the future which is beyond reasonable expectation or unwarranted by existing circumstances;

(vii) do not contain any representation or statement which is false, where we:

(a) knew the truth;

(b) with reasonable effort could have known the truth;

(c) made no reasonable effort to ascertain the truth; or

(d) did not have knowledge concerning the representation or statement made.

We further certify that we are not owned or controlled by the sponsor. We understand that a copy of this certification is intended to be incorporated into the offering plan. This statement is not intended as a guarantee or warranty of the common charges attributable to the Commercial Unit for the first year of condominium operation.

BROWN HARRIS STEVENS

Established 1873

This certification is made under penalty of perjury for the benefit of all persons to whom this offer is made. We understand that violations are subject to the civil and criminal penalties of the General Business Law and Penal Law.

BROWN HARRIS STEVENS

By: _____
Name: Sharon Locatell
Title: Executive Director

Sworn to before me this
10th day of April, 2007

Valerie Tomlinson
Notary Public

VALERIE TOMLINSON
NOTARY PUBLIC, State of New York
No. 01TO6160821
Qualified In Kings County
Commission Expires February 12, 2011