

46-50 Gansevoort Street LLC
52-58 Gansevoort Street LLC
60-74 Gansevoort Street LLC
1407 Broadway, 41st Floor
New York, New York 10018

April 22, 2020

NYC Council Speaker Corey Johnson
New York City Council
City Hall Office
New York, NY 10007

Re: Binding Commitment Letter
Application No. M 840260(F) LDM (the “Application”)
46-74 Gansevoort Street, Manhattan (the “Site”)

Dear Speaker Johnson:

As you know, in relation to the above-referenced Application, the owners of the Site, 46-50 Gansevoort Street LLC, 52-58 Gansevoort Street LLC, and 60-74 Gansevoort Street LLC, each a Delaware limited liability company with offices at 1407 Broadway, 41st Floor, New York, New York 10018 (collectively, the “Applicant”) has worked hard with the community for nearly a year now to arrive at a benefits package that provides both quality of life restrictions on the Site and community benefit space. We are pleased to have arrived at an agreement that provides a meaningful benefit to the community and write to memorialize same.

The commitments set forth herein (the “Commitments”) shall become effective immediately following the later to occur of (i) the expiration of the four-month period from the date of the final approval of the Application during which appeals are permitted pursuant to New York Civil Practice Law & Rules Section 217, or (ii) the exhaustion of administrative remedies challenging the final approval of the Application and resulting in the upholding of such approval (the “Effective Date”).

I. Site Restrictions and Community Benefit Space

1.1 Community Benefit Restrictive Declaration. Within 30 days following the Effective Date, Applicant agrees to execute and record a Restrictive Declaration substantially in the form and substance attached herewith as Exhibit A (the “Community Benefit Restrictive Declaration”). As detailed and defined in Exhibit A, the Community Benefit Restrictive Declaration shall provide for on-site Community Space, sound attenuation and visual screening requirements, and restrictions on the use of the Outdoor Premises, liquor and beer and wine licenses, Excess Development Rights, height increases, and the location of mechanical equipment.

1.2 Lease of Community Space. After the Effective Date, the Community Space shall be leased only to a not-for-profit arts or cultural use that provides a benefit to the local community as identified by Community Board 2 (a "Qualifying Tenant"), subject to approval by Applicant, which shall not be unreasonably withheld. In the event Community Board 2 fails to procure a Qualifying Tenant that has entered into a lease for the Community Space within sixty (60) days of the Effective Date or subsequent vacancy date of the Community Space (hereinafter, a "Failure"), Applicant may send notice to Community Board 2 of such Failure and Community Board 2 shall have sixty (60) days from the date of receipt of such notice to cure such Failure by securing a Qualifying Tenant that enters into a lease for the Community Space. In the event Community Board 2 is unable to cure such Failure within sixty (60) days, Applicant shall be entitled to independently procure a Qualifying Tenant. If after ninety (90) days of good faith efforts to lease the Community Space Applicant cannot procure a Qualifying Tenant and no Qualifying Tenant has entered into a lease with Applicant, Applicant shall have the right to lease the Community Space to any not-for-profit or community facility use (as opposed to only those that constitute a Qualifying Tenant). The availability of this space must be appropriately advertised to ensure occupancy consistent with this Section 1.2 and notice of the restrictions set forth in this Section 1.2 must be provided to all tenants of the Community Space. The lease agreement for such Community Space shall be negotiated in good faith and agreed to by both parties thereto. Community Board 2 shall be provided with (i) a copy of the substantially negotiated lease for review, provided that such lease shall not be subject to Community Board 2's approval, and (ii) notice upon the execution or termination of any lease for the Community Space. Any assignment of the lease, as permitted pursuant to the lease agreement, shall be to a Qualifying Tenant consistent with the procedure outlined above in this Section 1.2. The rights and obligations set forth above in this paragraph shall hereinafter be referred to as the "Lease-up Procedure". Any relocation of the Qualifying Tenant to a new space permitted pursuant to the Community Space lease shall be limited to a maximum of two separate spaces, which spaces shall be no less than 750 RSF each. As will be provided in the lease agreement for the Community Space, the Qualifying Tenant occupying the Community Space shall not be required to pay real estate taxes for the Community Space, shall be required to pay a security deposit in the amount of twelve-thousand, five hundred and 00/100 dollars (\$12,500.00), and utilities shall be sub-metered such that the Qualifying Tenant shall be obligated to pay utility charges incurred based only on their usage of same and the rates charged by the applicable utility provider without any additional fees or markup charged by the landlord.

II. Off-Site Community Benefit Space

2.1 Lease of Off-Site Community Benefit Space. Following the Effective Date, Applicant agrees to provide 4,000 rentable square feet ("RSF") of space at the site comprised of 7-11 Weehawken Street, 300 West 10th Street, and 171-177 Christopher Street, New York, NY (the "Off-Site Community Benefit Space"), which shall be memorialized in long-term, 99-year, lease(s) at a rental rate of \$25 per RSF with a 10% increase every 5 years. The Off-Site Community Benefit Space shall be made available no later than 36 months following the Effective Date, subject to penalties for a late delivery, as specified in the lease(s). The Applicant shall use commercially reasonable efforts to provide Community Board 2 and the applicable Qualifying Tenant, respectively, with notice that the Off-Site Community Benefit Space will be available for occupancy by the Qualifying Tenant at least sixty (60) days prior to such availability. No more than 50% of the total square footage of the Community Space and Off-Site Community Benefit

Space shall be located below grade. The Off-Site Community Benefit Space shall be allocated as evenly as possible (approximately 2,000 RSF each) between a non-profit social service organization based in Greenwich Village that provides a full range of services to children, adults, and seniors and a non-profit arts organization (respectively, the “Service Community Benefit Space” and the “Arts Community Benefit Space”), provided, however, that the Service Community Benefit Space shall be subject to a right exercisable unilaterally, for any reason whatsoever, by either the service organization or Applicant to instead opt for funding in an amount to be agreed upon by the service organization and Applicant in lieu of the Service Community Benefit Space. The Off-Site Community Benefit Space shall be leased to a Qualifying Tenant pursuant to the Lease-up Procedure set forth in Section 1.2, adjusted to reflect the Service Community Benefit Space or Arts Community Benefit Space, respectively, as the case may be. As will be provided in the lease agreement(s) for the Off-Site Community Benefit Space, the Qualifying Tenant occupying such space shall be required to pay their proportionate share (which shall be three and one-half percent (3.5%)) of the amount by which the real estate taxes for the applicable tax year exceed the applicable base tax year, which shall be automatically reset to the then current New York City fiscal year on each subsequent fifth (5th) anniversary of the initial base tax year. The Qualifying Tenant occupying any Off-Site Community Benefit Space shall be required to pay a security deposit in the amount of sixteen-thousand, six hundred sixty-seven and 00/100 dollars (\$16,667.00) and utilities shall be sub-metered such that the Qualifying Tenant shall be obligated to pay utility charges incurred based only on their usage of same and the rates charged by the applicable utility provider without any additional fees or markup charged by the landlord.

III. Miscellaneous

3.1 Binding Effect. The Commitments provided herein shall inure to the benefit of the fee owners of the properties adjoining the Site and shall bind Applicant and its successors and assigns.

3.2 Liability. The Commitments provided herein shall be binding upon Applicant only for the period during which such party, or any successor or assign thereof or any other party that has an interest in the Site, and only to the extent of such interest. No party shall have personal liability under the Commitments set forth herein.

3.3 Effective Date. The Commitments provided herein shall become effective immediately following the Effective Date, as defined above. In the event that Applicant withdraws the Application before a final determination, the Application is not approved or is materially modified, or the Application is challenged resulting in the reversal of all or part of the approval of the Application, the Commitments herein shall be canceled and have no force or effect.

3.4 Remedies. In the event of any breach, or threatened breach, of the Commitments provided herein (a “Default”), the non-Defaulting parties and/or Community Board 2 (the “Non-Defaulting Party(ies)”) shall notify the party who is allegedly in Default (the “Defaulting Party”) of such alleged Default in writing in accordance with the notice provisions in Section 3.5 hereinafter. The Defaulting Party shall contest or commence a cure of such Default within forty-five (45) days after receiving notice in writing of same from the Non-Defaulting Party, and shall proceed diligently and continuously to make all commercially reasonable efforts to cure. In the event of a contest to the claim of a Default, the Defaulting Party shall provide a written response to the notice of Default. If the Non-Defaulting Party disagrees with respect to the Defaulting Party’s written

response or if the Defaulting Party fails to commence a contest or commence a cure, the Non-Defaulting Party may provide the Defaulting Party with a second notice (“Second Notice”). In the event that the Defaulting and Non-Defaulting Parties are unable in good faith to resolve such disagreement within the following ten (10) business day period after issuing a Second Notice, either party may demand that a meeting take place between the Defaulting Party and the Non-Defaulting Party within twenty (20) days of such demand. In the event that the Defaulting Party and the Non-Defaulting Party are unable in good faith to resolve any disagreement within thirty (30) days after such meeting, either party shall have the right to any remedy available at law or equity, provided, however, that neither party shall have the right to terminate the Commitments without the written consent of Community Board 2, which shall not be unreasonably withheld or delayed.

3.5 Notice. All notices and other communications required or contemplated herein shall be in writing, and shall be delivered by (i) personal hand delivery during normal business hours on business days or (ii) reputable overnight courier (e.g., Federal Express) for next business day delivery, pre-paid by the sender, and shall be deemed delivered on the date of such hand delivery during normal business hours or on the next business day following the date of deposit with such reputable overnight courier for next business day delivery to the parties hereto as follows:

To Applicant:

46-50 Gansevoort Street LLC
52-58 Gansevoort Street LLC
60-74 Gansevoort Street LLC
1407 Broadway, 41st Floor,
New York, New York 10018

Courtesy Copy to Community Board 2:

Community Board 2
3 Washington Square Village, #1A
New York, NY 10012

Courtesy Copy to New York City Council:

NYC Council Speaker Corey Johnson
New York City Council
City Hall Office
New York, NY 10007

Any party hereto may by notice (pursuant hereto) to the other change the address or addressee to which notices and copies of notices to such party shall thereafter be given.

3.6 Amendment. Applicant, its successors, assigns, lessees, and transferees may amend the Commitments herein only with the written consent of Community Board 2, which shall not be unreasonably withheld or delayed.

3.7 Severability. In the event that any of the Commitments herein shall be deemed, decreed, adjudged, or determined to be invalid or unlawful by a court of competent jurisdiction, such

provisions shall be severable and the remainder of such Commitments shall continue to be in full force and effect.

3.8 Governing Law. The Commitments herein shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to principles of conflicts of law.

3.9 Commitments Superseded. The terms of any subsequent agreement, declaration, or other document memorializing any of the Commitments (each a “Commitment Document”), including, without limitation, the Community Benefit Restrictive Declaration, Community Space lease, and Off-Site Community Benefit Space lease(s), and executed by the required parties shall hereby be deemed: (i) to satisfy Applicant’s obligations related to such Commitment as provided for herein; and (ii) to supersede the terms of such Commitment as set forth herein. In the event of any inconsistency between the terms and conditions of the Commitments herein and any such Commitment Document, the terms of the Commitment Document shall control.

3.10 Force Majeure Event. No party hereto shall be in default for any delay or failure to perform the Commitments provided herein where such failure is proximately caused by a Force Majeure Event. A “Force Majeure Event” shall mean an occurrence beyond the control and without the fault or negligence of the party affected and which by exercise of reasonable diligence the said party is unable to prevent or provide against. Without limiting the generality of the foregoing, Force Majeure Events shall include: acts of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), general epidemic, war, invasion, acts of foreign combatants, terrorists acts, bioterrorism, military or other usurped political power or confiscation, nationalization, government sanction or embargo, strikes, labor disputes, unusual delay in delivery of materials, the prolonged failure of electricity or other vital utility service, governmental preemption in connection with a National Emergency, disease (including, without limitation, delays arising out of the spread of COVID-19, such as, without limitation, delays in the responsiveness of, or the unavailability of, governmental authorities to perform governmental functions (such as granting permit applications or signoffs, performing inspections, accepting documents for recordation (i.e. by the Office of the City Clerk), or holding required hearings or meetings), and the unavailability of contractors or laborers), or by reason of any rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been or are affected by any such events. Applicable time periods set forth herein shall be tolled during the Force Majeure Event, provided, however, that the parties shall use commercially reasonable efforts to timely comply with the obligations herein and mitigate the impacts of such Force Majeure Event.

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Thank you for your hard work and dedication to the community. Please feel free to reach out to us with any questions.

Sincerely,

46-50 Gansevoort Street LLC
52-58 Gansevoort Street LLC
60-74 Gansevoort Street LLC


By: Robert Cayre
Title: Chief Executive Officer

STATE OF New York) ss.:

COUNTY OF New York

On the 22nd day of April, 2020 before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Cayre, 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

Nazario Rodriguez
Notary Public, State of New York
No. 01R08288395
Qualified in Westchester County
Commission Expires December 16, 2021

Encl.

Cc: Manhattan Community Board 2, Attn: Carter Booth, Chair;
Frederica Sigel and Anita Brandt, Co-Chairs, Land Use & Housing Committee

EXHIBIT A

[Form of Restrictive Declaration Attached]

RESTRICTIVE DECLARATION

THIS DECLARATION (“Declaration”) made as of the ___ day of _____, 2020, by 60-74 Gansevoort Street LLC, a Delaware limited liability company with offices at 1407 Broadway, 41st Floor, New York, New York 10018 (the “60-74 Declarant”), 52-58 Gansevoort Street LLC, a Delaware limited liability company with offices at 1407 Broadway, 41st Floor, New York, New York 10018 (the “52-58 Declarant”), and 46-50 Gansevoort Street LLC, a Delaware limited liability company with offices at 1407 Broadway, 41st Floor, New York, New York 10018 (the “46-50 Declarant”) (collectively, “Declarant”).

WITNESSETH:

WHEREAS, 60-74 Declarant is the owner in fee simple of certain real property located in the Borough of Manhattan, City and State of New York, Block 643, Lot 43, which property is designated as 60-74 Gansevoort Street and described in Exhibit A annexed hereto (the “60-74 Gansevoort Property”);

WHEREAS, 52-58 Declarant is the owner in fee simple of certain real property located in the Borough of Manhattan, City and State of New York, Block 643, Lot 49, which property is designated as 52-58 Gansevoort Street and described in Exhibit B annexed hereto (the “52-58 Gansevoort Property”);

WHEREAS, 46-50 Declarant is the owner in fee simple of certain real property located in the Borough of Manhattan, City and State of New York, Block 643, Lot 54, which property is designated as 46-50 Gansevoort Street and described in Exhibit C annexed hereto (the “46-50 Gansevoort Property”, and together with the 60-74 Gansevoort Property and the 52-58 Gansevoort Property collectively referred to as the “Subject Property”);

WHEREAS, the Subject Property is the subject of a declaration dated April 13, 1984, executed by Landmark Restoration Company c/o Rockrose Development Corporation, a predecessor-in-title to the Subject Property, filed in the Office of the Register of the City of New York, New York County at Reel 818, Page 1107 (the “1984 Declaration”);

WHEREAS, the 1984 Declaration, among other things, limited the use of the Subject Property to “Permitted Uses” as defined in the 1984 Declaration and set forth in “Exhibit D” annexed thereto);

WHEREAS, the 1984 Declaration was amended pursuant to an “Amended Declaration” dated May 14, 1998, executed by William Gottlieb Real Estate, a predecessor-in-title to the Subject Property, filed in the Office of the Register of the City of New York, New York County at Reel 2719, Page 1452;

WHEREAS, the Amended Declaration expanded the uses permitted on the 46-50 Gansevoort Property to allow Use Group 6 uses, including office use;

WHEREAS, the Amended Declaration was further amended pursuant to a “Second Amended Declaration” dated October 10, 2013, executed by Gansevoort Street LLC, a

predecessor-in-title to the Subject Property, filed in the Office of the Register of the City of New York, New York County at CRFN #2013000450248;

WHEREAS, the Second Amended Declaration (i) expanded the uses permitted to allow, in addition to the Permitted Uses, Use Groups 6 and 9 on the 60-74 Gansevoort Property and the 52-58 Gansevoort Property and Use Group 9 on the 46-50 Gansevoort Property (as Use Group 6 uses were already permitted on the 46-50 Gansevoort Property pursuant to the Amended Declaration); and (ii) prohibited Use Group 6B uses, eating and drinking establishments with entertainment uses, and eating and drinking establishments of any type in rear yards or on the roof of the Subject Property;

WHEREAS, Declarant has filed an application with the City Planning Commission (the "CPC") under application number M 840260(F) LDM (the "Application") to amend the 1984 Declaration, as amended by the Amended Declaration and Second Amended Declaration, to permit Use Groups 3, 4, and 6B in addition to the uses permitted thereunder;

WHEREAS, the CPC approved the Application on January 22, 2020;

WHEREAS, pursuant to the approved Application, a Third Amended Declaration amending the 1984 Declaration, as amended by the Amended Declaration and Second Amended Declaration, to permit Use Groups 3, 4, and 6B in addition to the uses permitted thereunder is intended to be recorded simultaneously herewith;

WHEREAS, in consultation with Manhattan Community Board 2 or any successor to its jurisdiction ("Community Board 2"), 60-74 Declarant agreed to provide a benefit to the community by leasing approximately 1,775 rentable square feet to be located on the cellar level of the 60-74 Gansevoort Property, as shown in Exhibit D annexed hereto, subject to relocation within the 60-74 Gansevoort Property at the sole and absolute discretion of the 60-74 Declarant (the "Community Space"), for certain specified uses;

WHEREAS, Declarant agreed to limit the use of outdoor space on the second floor terraces ("Terraces") and fifth floor rooftop ("Rooftop") of the Subject Property (collectively, the "Outdoor Premises") to passive recreation beginning at 7:30 a.m. daily and ending on the Terraces by 8 p.m. Sunday through Wednesday and 10 p.m. Thursday through Saturday and ending on the Rooftop by 10 p.m. daily, provided, however, that music and amplified sound, including from speakers, shall be prohibited on the Outdoor Premises;

WHEREAS, Declarant further agreed to limit the Subject Property to (i) three (3) full liquor licenses ("Liquor Licenses") of which only two (2) may be for a ground floor restaurant and none may be for spaces contiguous to or with direct access to any of the Outdoor Premises, and (ii) four (4) Tavern Wine and/or Eating Place Beer Licenses ("Wine and Beer Licenses") ancillary to other uses;

WHEREAS, Declarant agreed that "Floor Area" (as defined in Section 12-10 of the Zoning Resolution of the City of New York (the "ZR")) appurtenant to the Subject Property in excess of that which is currently approved or utilized in any "Building or Other Structure" (as defined in ZR Section 12-10, hereinafter "Buildings") at the Subject Property ("Existing Building") (hereinafter, "Excess Development Rights") shall adhere to this Declaration and that

no such Excess Development Rights shall be transferred to the property located in the Borough of Manhattan, City and State of New York, Block 643, Lot 38, which property is designated as 803-807 Washington Street (“803-807 Washington”), provided however, that Excess Development Rights may be transferred through 803-807 Washington to a different property, as provided in the ZR;

WHEREAS, Declarant agreed that there shall be no increase in the height of any new or Existing Buildings at the Subject Property, respectively, greater than the height present or presently approved as of the date hereof, provided, however, that in the event of the damage or destruction of any such Existing Buildings to the extent of seventy-five (75) percent or more of the total Floor Area of any such Existing Building (hereinafter, a “Casualty”) the height of the future Buildings constructed thereafter at the Subject Property, shall be limited to 5 (five) feet above the total height of any such Existing Buildings, respectively, present or presently approved as of the date hereof.

WHEREAS, Declarant agreed that no building systems mechanical equipment shall be installed on the Terraces in the rear yards of the Subject Property and sound attenuation and visual screening shall be installed along the southern perimeter of the Terraces on the Subject Property which face the residential rear yards of the buildings with frontage on Horatio Street, provided that the design of such sound attenuation and visual screening shall be in Declarant’s sole discretion;

WHEREAS, Kensington Vanguard National Land Services of N.Y., as agent for Stewart Title Insurance Company, has certified that, as of _____, 2020, the sole “Parties in Interest” (as defined in subdivision (f) of the definition of the term “zoning lot” in Section 12-10 of the Zoning Resolution of the City of New York) in the Subject Property are set forth in the certification attached to this Declaration as Exhibit E (each a “Party in Interest”); and

WHEREAS, all Parties in Interest have either executed this Declaration or waived their rights to execute this Declaration by written instruments pursuant to the waiver, annexed hereto as Exhibit F, which instrument is intended to be recorded simultaneously with this Declaration.

NOW THEREFORE, in connection with the Application:

60-74 Declarant hereby declares, covenants, and agrees that:

1. Lease of Community Space. After the Effective Date (as hereinafter defined), the Community Space shall be leased at a nominal annual rate of One Dollar (\$1.00) only to a not-for-profit arts or cultural use that provides a benefit to the local community as identified by Community Board 2 (a “Qualifying Tenant”), subject to approval by 60-74 Declarant, which shall not be unreasonably withheld. In the event Community Board 2 fails to procure a Qualifying Tenant that has entered into a lease for the Community Space within sixty (60) days of the Effective Date or subsequent vacancy date of the Community Space (hereinafter, a “Failure”), 60-74 Declarant may send notice to Community Board 2 of such Failure and Community Board 2 shall have sixty (60) days from the date of receipt of such notice to cure such Failure by securing a Qualifying Tenant that enters into a lease for the Community Space. In the event Community Board 2 is unable to cure such Failure within sixty (60) days, 60-74 Gansevoort shall be entitled to independently procure a Qualifying Tenant. If after ninety (90) days of good faith efforts to lease the Community Space 60-74

Declarant cannot procure a Qualifying Tenant and no Qualifying Tenant has entered into a lease with 60-74 Declarant, 60-74 Declarant shall have the right to lease the Community Space to any not-for-profit or community facility use (as opposed to only those that constitute a Qualifying Tenant). The availability of this space must be appropriately advertised to ensure occupancy consistent with this Section 1 and notice of the restrictions set forth in this Section 1 must be provided to all tenants of the Community Space. Community Board 2 shall be provided notice upon the execution or termination of any lease for the Community Space.

Declarant hereby declares, covenants, and agrees that:

2. Outdoor Space Hours. The use of outdoor space at the Outdoor Premises is limited to passive recreation beginning at 7:30 a.m. daily and ending on the Terraces by Eight (8) p.m. Sunday through Wednesday and Ten (10) p.m. Thursday through Saturday and ending on the Rooftop by Ten (10) p.m. daily, provided, however, that music and amplified sound, including from speakers, shall be prohibited on the Outdoor Premises. The restrictions and obligations provided in this Section 2, as applicable to the Rooftop and Terraces, shall be included in any leases that provide for access to the Rooftop and/or Terraces, respectively.
3. Liquor and Beer Licenses. The Subject Property is limited to (i) three (3) Liquor Licenses of which only two (2) may be for a ground floor restaurant and none may be for spaces contiguous to or with direct access to any of the Outdoor Premises, and (ii) four (4) Wine and Beer Licenses ancillary to other uses.
4. Transfer Development Rights. Any Excess Development Rights shall adhere to this Declaration and no such Excess Development Rights shall be transferred to 803-807 Washington, provided however, that Excess Development Rights may be transferred through 803-807 Washington to a different parcel.
5. Height Limitation. There shall be no increase in the height of any new or Existing Buildings at the Subject Property, respectively, greater than the height present or presently approved as of the date hereof, provided, however, that in the event any Existing Building at the Subject Property suffers a Casualty, the height of the future Buildings constructed thereafter at the Subject Property shall be limited to five (5) feet above the total height of any such Existing Buildings, respectively, present or presently approved as of the date hereof.
6. Construction Limitation. No building systems mechanical equipment shall be installed on the Terraces in the rear yards of the Subject Property, sound attenuation and visual screening shall be installed along the southern perimeter of the Terraces on the Subject Property which face the residential rear yards of the buildings with frontage on Horatio Street, provided that the design of such sound attenuation and visual screening shall be in Declarant's sole discretion.

Declarant hereby declares, covenants, and agrees that:

7. Binding Effect. These restrictions, obligations, and agreements shall be real covenants running with the land and shall inure to the benefit of the fee owners of the properties adjoining the Subject Property and shall bind Declarant and its successors, assigns, lessees, and transferees, including, without limitation, any fee owner and/or users of the Subject Property and/or Community Space.
8. Liability. This Declaration shall be binding upon Declarant, fee owners, and users of the Subject Property and/or Community Space or any other party for the period during which such Declarant, or any successor or assign thereof or any other party has an interest in the Subject Property and/or Community Space, and only for such period and to the extent of such interest. No party shall have personal liability under this Declaration.
9. Effective Date. This Declaration shall become effective immediately following the later to occur of (i) the expiration of the four-month period from the date of the final approval of the Application during which appeals are permitted pursuant to New York Civil Practice Law & Rules Section 217, or (ii) the exhaustion of administrative remedies challenging the final approval of the Application and resulting in the upholding of such approval (the “Effective Date”). Declarant shall file and submit for recording this Declaration in the Office of the City Register, County of New York, indexing it against the Subject Property as of such Effective Date. This Declaration and its obligations are in contemplation of Declarant receiving approval of the Application. In the event that the Declarant withdraws the Application before a final determination, the Application is not approved or is materially modified, or the Application is challenged resulting in the reversal of all or part of the approval of the Application, the obligations and agreements pursuant to this Declaration shall have no force and effect and this Declaration shall be canceled.
10. Remedies. In the event of any breach, or threatened breach, of this Declaration (a “Default”), the non-Defaulting parties and/or Community Board 2 (the “Non-Defaulting Party(ies)”) shall notify the party who is allegedly in Default (the “Defaulting Party”) of such alleged Default in writing in accordance with the notice provisions in Section 11 hereinafter. The Defaulting Party shall contest or commence a cure of such Default within forty-five (45) days after receiving notice in writing of same from the Non-Defaulting Party, and shall proceed diligently and continuously to make all commercially reasonable efforts to cure. In the event of a contest to the claim of a Default, the Defaulting Party shall provide a written response to the notice of Default. If the Non-Defaulting Party disagrees with respect to the Defaulting Party’s written response or if the Defaulting Party fails to commence a contest or commence a cure, the Non-Defaulting Party may provide the Defaulting Party with a second notice (“Second Notice”). In the event that the Defaulting and Non-Defaulting Parties are unable in good faith to resolve such disagreement within the following ten (10) business day period after issuing a Second Notice, either party may demand that a meeting take place between the Defaulting Party and the Non-Defaulting Party within twenty (20) days of such demand. In the event that the Defaulting Party and the Non-Defaulting Party are unable in good faith to resolve any disagreement within thirty (30) days after such meeting, either party shall have the right to any remedy available at law or equity, provided, however, that neither party shall have the right to terminate this Declaration without the written consent of Community Board 2, which shall not be

unreasonably withheld or delayed. All notices given by any party (the “Notifying Party”) pursuant to this Section 10 shall, in the event the Subject Property is encumbered by a mortgage (a “Mortgage”), also be sent to the mortgagee thereunder (the “Mortgagee”), provided the Notifying Party has notice that the Subject Property is encumbered by a Mortgage and the address for notices to such Mortgagee. All notices under this Section 10 shall be given in the same manner as provided in Section 11 hereof.

11. Notice. All notices and other communications required or contemplated herein shall be in writing, and shall be delivered by (i) personal hand delivery during normal business hours on business days or (ii) reputable overnight courier (e.g., Federal Express) for next business day delivery, pre-paid by the sender, and shall be deemed delivered on the date of such hand delivery during normal business hours or on the next business day following the date of deposit with such reputable overnight courier for next business day delivery to the parties hereto as follows:

To Declarant:

46-50 Gansevoort Street LLC
52-58 Gansevoort Street LLC
60-74 Gansevoort Street LLC
1407 Broadway, 41st Floor,
New York, New York 10018

To Community Board 2:

Community Board 2
3 Washington Square Village, #1A
New York, New York 10012

To Mortgagee:

J.P. Morgan
237 Park Avenue, 6th Floor
New York, New York 10017

Any party hereto may by notice (pursuant hereto) to the other change the address or addressee to which notices and copies of notices to such party shall thereafter be given.

12. Amendment. Declarant, its successors, assigns, lessees, and transferees, including, without limitation, any fee owner of the Subject Property, may amend this Declaration only with the written consent of Community Board 2, which shall not be unreasonably withheld or delayed.
13. Severability. In the event that any of the provisions of this Declaration shall be deemed, decreed, adjudged, or determined to be invalid or unlawful by a court of competent jurisdiction, such provisions shall be severable and the remainder of this Declaration shall continue to be in full force and effect.

14. Governing Law. This Declaration shall be governed by, and construed in accordance with, the laws of the State of New York, without regard to principles of conflicts of law.
15. Exhibits. All Exhibits to this Declaration are hereby incorporated into this Declaration.
16. Force Majeure Event. No party hereto shall be in default for any delay or failure to perform the rights and obligations provided in this Declaration where such failure is proximately caused by a Force Majeure Event. A “Force Majeure Event” shall mean an occurrence beyond the control and without the fault or negligence of the party affected and which by exercise of reasonable diligence the said party is unable to prevent or provide against. Without limiting the generality of the foregoing, Force Majeure Events shall include: acts of nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), general epidemic, war, invasion, acts of foreign combatants, terrorists acts, bioterrorism, military or other usurped political power or confiscation, nationalization, government sanction or embargo, strikes, labor disputes, unusual delay in delivery of materials, the prolonged failure of electricity or other vital utility service, governmental preemption in connection with a National Emergency, disease (including, without limitation, delays arising out of the spread of COVID-19, such as, without limitation, delays in the responsiveness of, or the unavailability of, governmental authorities to perform governmental functions (such as granting permit applications or signoffs, performing inspections, accepting documents for recordation (i.e. by the Office of the City Clerk), or holding required hearings or meetings), and the unavailability of contractors or laborers), or by reason of any rule, order or regulation of any department or subdivision thereof of any government agency or by reason of the conditions of supply and demand which have been or are affected by any such events. Applicable time periods set forth in this Declaration shall be tolled during the Force Majeure Event, provided, however, that the parties shall use commercially reasonable efforts to timely comply with the obligations herein and mitigate the impacts of such Force Majeure Event.

(Signature pages follow)

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

60-74 Gansevoort Street LLC

By: _____

Name:

Title:

STATE OF _____)

) ss.:

COUNTY OF _____)

On the ____ day of _____, 2020 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

(Additional signature pages follow)

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

52-58 Gansevoort Street LLC

By: _____

Name:

Title:

STATE OF _____)

) ss.:

COUNTY OF _____)

On the ____ day of _____, 2020 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

(Additional signature page follows)

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the date first written above.

46-50 Gansevoort Street LLC

By: _____

Name:

Title:

STATE OF _____)

) ss.:

COUNTY OF _____)

On the ____ day of _____, 2020 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

Legal Description of the 60-74 Gansevoort Property

Lot 43

ALL those eight (8) lots known and distinguished on a map entitled, "Map of land belonging to Francis B. Cutting situate in the 9th Ward of the City of New York surveyed and laid out by Daniel Smith, C.S.", bearing date 7/2/1834 filed in Office of the Register of the County of New York by Lot Nos. 74, 75, 76, 77, 78, 79, 80, 81 and also known by Street No. 809, 811, 813 Washington Street and 64, 66, 68 Gansevoort Street and which said lots, when taken together, are bounded and described as follows:

BEGINNING at a point formed by the intersection of the southerly side of Gansevoort Street, (formerly known as Great Kill Road) and easterly side of Washington Street;

THENCE easterly along the southerly side of Gansevoort Street, 201 feet 8 inches, more or less, to the easterly or outer face of independent wall of the front building erected upon said premises, 60 Gansevoort Street;

THENCE southerly at right angles or nearly so with the southerly side of Gansevoort Street and along said outer or easterly face of said independent wall and of the independent wall of the rear building upon said last mentioned premises, 87 feet 1-3/4 inches, more or less, to the southerly side or outer face of the independent wall erected upon the rear of said lot number 60 Gansevoort Street;

THENCE westerly and nearly parallel with the southerly side of Gansevoort Street and along southerly or outer face of independent wall erected upon Lots Number 60, 62, 64, 66, 68 Gansevoort, 117 feet 4-1/2 inches, more or less, to the westerly or outer face of independent wall of the rear building upon premises, 68 Gansevoort Street;

THENCE northerly along the westerly or outer face of said last mentioned wall, 13 feet 6-1/2 inches, more or less, to a line in prolongation of southerly or outer face of the independent wall of the rear building upon premises, 809 Washington Street;

THENCE westerly along said last mentioned line and along outer or southerly face of last mentioned independent wall and the independent wall of the front building upon said premises, 809 Washington Street and parallel or nearly so with the southerly side of Gansevoort Street, 90 feet 7-3/4 inches, more or less, to the easterly side of Washington Street;

THENCE northerly along the easterly side of Washington Street, 72 feet 6 inches, more or less, to the point or place of BEGINNING.

EXHIBIT B

Legal Description of the 52-58 Gansevoort Property

ALL that certain parcel of land situate in the Borough of Manhattan, City, County and State of New York, that is bounded and described as follows:

BEGINNING at the point on the southerly line of Gansevoort Street that is distant 92 feet 9 inches measured westerly along the southerly line of Gansevoort Street from its intersection with the westerly line of Greenwich Street;

THENCE from the said point of beginning, westerly along the southerly line of Gansevoort Street, 92 feet to a point;

THENCE southerly along a line forming an interior angle of 89 degrees 35' 30" with the southerly line of Gansevoort Street, 86 feet 11 1/2 inches per deed (86 feet 11 3/4 inches per survey) to a point;

THENCE easterly along a line forming an interior angle of 91 degrees 04' 30" with the last described line, 91 feet 10 inches to a point;

THENCE northerly along a line forming an interior angle of 89 degrees 12' 20" with the last described line, 35 feet 5 1/4 inches to a point;

THENCE still northerly along a line forming an interior angle of 179 degrees 43' 10" with the last described line and an interior angle of 90 degrees 24' 30" with the southerly line of Gansevoort Street, 52 feet 7 1/4 inches for a total distance northerly of 88 feet 0 1/4 inches per deed (88 feet 0 1/2 inches per survey) to the southerly line of Gansevoort Street and the point or place of BEGINNING.

EXHIBIT C

Legal Description of the 46-50 Gansevoort Property

ALL that certain parcel of land situate in the Borough of Manhattan, City, County and State of New York, that is bounded and described as follows:

BEGINNING at the point where the southerly line of Gansevoort Street meets and forms an interior angle of 88 degrees 22' 30" with the westerly line of Greenwich Street;

THENCE from the said point of beginning, westerly along the southerly line of Gansevoort Street, 92 feet 9 inches to a point;

THENCE southerly along a line forming an interior angle of 89 degrees 35' 30" with the southerly line of Gansevoort Street, 52 feet 7 1/4 inches to a point;

THENCE still southerly along a line forming an interior angle of 180 degrees 16' 50" with the last described line, 15 feet 5 3/4 inches to a point;

THENCE easterly along a line forming an interior angle of 90 degrees 47' 40" with the last described line and an interior angle of 90 degrees 57' 30" with the westerly line of Greenwich Street, 90 feet 2 inches per deed (90 feet 4 1/2 inches per survey) to a point on the westerly line of Greenwich Street;

THENCE northerly along the westerly line of Greenwich Street, 69 feet 4 inches per deed (69 feet 2 inches per survey) to the southerly line of Gansevoort Street and the point or place of BEGINNING.

EXHIBIT D

Illustrative Diagrams of Community Space and Outdoor Premises

[Attached]

EXHIBIT E

Certification of Parties in Interest

[Attached]

EXHIBIT F

Waivers

[Attached]