



Legislation Details (With Text)

File #: Res 1059-2005 **Version:** * **Name:** LU 502 - Zoning Reso., West Chelsea High Line, Manhattan (050161(A)ZRM)
Type: Resolution **Status:** Adopted
In control: Committee on Land Use

On agenda: 6/23/2005

Enactment date: **Enactment #:**

Title: Resolution approving with modifications the decision of the City Planning Commission on Application No. N 050161 (A) ZRM, an amendment to the text of the Zoning Resolution relating to the elimination of the Special Mixed Use District-3 and the creation of the Special West Chelsea District in Article IX, Chapter 8, Manhattan (L.U. No. 502).

Sponsors: Melinda R. Katz, Tony Avella

Indexes:

Attachments: 1. Committee Report, 2. Hearing Transcript - Stated Meeting 6/23/05

Date	Ver.	Action By	Action	Result
6/20/2005	*	Committee on Land Use	Approved by Committee with Modifications and Referred to CPC	
6/23/2005	*	City Council	Approved, by Council	Pass

THE COUNCIL OF THE CITY OF NEW YORK RESOLUTION NO. 1059

Resolution approving with modifications the decision of the City Planning Commission on Application No. N 050161 (A) ZRM, an amendment to the text of the Zoning Resolution relating to the elimination of the Special Mixed Use District-3 and the creation of the Special West Chelsea District in Article IX, Chapter 8, Manhattan (L.U. No. 502).

By Council Members Katz and Avella

WHEREAS, the City Planning Commission filed with the Council on May 31, 2005 its decision dated May 25, 2005 (the "Decision"), on the application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment to the text of the Zoning Resolution (Application No. N 050161 (A) ZRM) (the "Application");

WHEREAS, the Application is related to ULURP Applications Numbers C 050162 (A) ZMM (L.U. No. 501), amendment to the Zoning Map; and C 050163 PCM (L.U. No. 503) a site selection and acquisition;

WHEREAS, the Decision is subject to review and action by the Council pursuant to Section 197-d(b)(1) of the City Charter;

WHEREAS, upon due notice, the Council held a public hearing on the Decision and Application on June 15, 2005;

WHEREAS, the Council has considered the land use implications and other policy issues relating to the

Decision and Application; and

WHEREAS, the Council has considered the relevant environmental issues and the Final Environmental Impact Statement (“FEIS”) for which a Notice of Completion was issued on May 13, 2005, with respect to this application, together with the Technical Memorandum [Memoranda](#), dated May 25, [and June 22](#), 2005, prepared with respect to further modifications adopted by the City Planning Commission [and by the City Council herein](#) (CEQR No. 03DCP069M)) ;

RESOLVED:

Having considered the FEIS, with respect to the Application, the Council finds that:

- (1) the FEIS meets the requirements of 6 N.Y.C.R.R. Part 617;
- (2) consistent with social, economic and other essential considerations, including the provision of affordable housing, from among the reasonable alternatives thereto, Alternative F set forth in the FEIS and the Technical Memorandum [Memoranda](#), dated May 25, [and June 22](#), 2005, is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, including the effects disclosed in the FEIS; and
- (3) Adverse environmental impacts disclosed in the FEIS with respect to Alternative F will be minimized or avoided to the maximum extent practicable by incorporating as conditions to the approval those mitigative measures that were identified as practicable; and

The Decision, FEIS and the Technical Memorandum [Memoranda](#) dated May 25, [and June 22](#), 2005, constitutes [constitute](#) the written statement of facts, and of social, economic and other factors and standards that form the basis of this determination, pursuant to 6 N.Y.C.R.R. §617.11(d).

Pursuant to Sections 197-d and 200 of the City Charter and on the basis of the Decision and Application the Council approves the Decision with the following modifications:

The Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

Matter in Underline is new, to be added;

Matter in ~~Strikeout~~ is old, to be deleted;

Matter in [] is deleted by City Council

Matter in **bold double underline** is new, to be added by City Council

Matter within # # is defined in Section 12-10;

* * * indicate where unchanged text appears in the Zoning Resolution

* * *

11-12

Establishment of Districts

* * *

Establishment of the Special United Nations Development District

* * *

Establishment of the Special West Chelsea District

In order to carry out the special purposes as set forth in Article IX, Chapter 8, the #Special West Chelsea District# is hereby established.

* * *

12-10

DEFINITIONS

* * *

Special United Nations Development District

* * *

Special West Chelsea District

The “Special West Chelsea District” is a Special Purpose District designated by the letters “WCh” in which special regulations set forth in Article IX, Chapter 8, apply. The #Special West Chelsea District# appears on #zoning maps# superimposed on other districts and, where indicated, its regulations supplement or supersede those of the districts on which it is superimposed.

* * *

32-44

Air Space over a Railroad or Transit Right-of-way or Yard

32-441

Definitions

Words in *italics* are defined in Section 12-10 or, if applicable exclusively to this Section, in this Section or in Section 98-01.

32-442

Use of railroad or transit air space

C1 C2 C3 C4 C5 C6 C7 C8

* * *

- (c) Notwithstanding the above, the #High Line# , as defined in Section 98-01 of this Resolution shall be governed by the provisions of Section 98-17 (Air Space Over a Railroad or Transit Right of Way or Yard).

* * *

42-462

Use of railroad or transit air space

M1 M2 M3

* * *

- (c) In an M1-1 District, on the #block# bounded by Vanderbilt Avenue, Atlantic Avenue, Carlton Avenue and Pacific Street in the borough of Brooklyn, the City Planning Commission may authorize the #use# of #railroad or transit air space# for an open vehicle storage establishment provided the Commission makes the following findings:

* * *

- (d) Notwithstanding the above, the #High Line# , as defined in Section 98-01 of this Resolution shall be governed by the provisions of Section 98-17 (Air Space Over a Railroad or Transit Right of Way or Yard).

* * *

All of the following text is new but not underlined.

Article IX - Special Purpose Districts

Chapter 8

Special West Chelsea District

98-00

GENERAL PURPOSES

The "Special West Chelsea District" established in this Resolution, is designed to promote and protect public health, safety, general welfare and amenity. These general goals include among others, the following specific purposes:

- (a) to encourage and guide the development of West Chelsea as a dynamic mixed use neighborhood;
- (b) to encourage the development of residential uses along appropriate avenues and streets;
- (c) to encourage and support the growth of arts-related uses in West Chelsea;
- (d) to facilitate the restoration and reuse of the #High Line# elevated rail line as an accessible, public open space through special height and setback regulations, #High Line# improvement bonuses and the transfer of development rights from the #High Line# Transfer Corridor;
- (e) to ensure that the form and use of new buildings relates to and enhances neighborhood character and the #High Line# open space;
- (f) to create and provide a transition to the lower-scale Chelsea Historic District to the east;
- (g) to create and provide a transition to the Hudson Yards area to the north; and
- (h) to promote the most desirable use of land in the area and thus to conserve the value of land and buildings, and thereby protect the City's tax revenues, consistent with the foregoing purposes.

98-01

Definitions

Definitions specially applicable to this Chapter are set forth in this Section. The definitions of other defined terms are as set forth in Section 12-10 (DEFINITIONS).

High Line

The “High Line” shall for the purposes of this resolution refer to the elevated rail line structure and associated elevated easement located between Gansevoort Street and West 30th Street.

High Line bed

The “High Line bed” is the highest level of the horizontal surface (platform) of the #High Line# elevated rail line structure as of (the effective date of amendment), as shown in Diagram 7, in Appendix C of this Chapter. For the purposes of this Chapter, the level of the #High Line bed# is the average level of the #High Line bed# on a #zoning lot# over which the #High Line# passes.

High Line frontage

“High Line frontage” is that portion of a #building# that faces and is located within 15 feet of the west side and 25 feet of the east side of the #High Line#.

High Line Transfer Corridor

The “High Line Transfer Corridor” is an area within which the #High Line# is located, as specified in Appendix B of this Chapter, where development rights may be transferred to receiving sites in certain Subareas in the #Special West Chelsea District#, pursuant to the provisions of Section 98-30 (HIGH LINE TRANSFER CORRIDOR), inclusive.

98-02

General Provisions

The provisions of this Chapter shall apply to any #zoning lot#, or portion thereof, within the #Special West Chelsea District#, except that the provisions of Section 98-17 (Air Space over a Railroad or Transit Right-of-way or Yard) and Section 98-11 (Special Regulations for #Developments# and #Enlargements# Above, Beneath or Adjacent to the #High Line#) shall also apply to any #zoning lot# south of the #Special West Chelsea District# over which the #High Line# passes. The regulations of all other Chapters of this Resolution are applicable, except as superseded, supplemented or modified by the provisions of this Chapter. In the event of a conflict between the provisions of this Chapter and other regulations of this Resolution, the provisions of this Chapter shall control.

The provisions regarding the transfer of #floor area# set forth in Section 98-30 (HIGH LINE TRANSFER CORRIDOR), inclusive, and the #High Line Improvement Bonus# in Subareas D, E, and F, and G and I set forth in Section 98-25 shall be effective upon the issuance of a final and binding Certificate of Interim Trail Use (CITU) by the Federal Surface Transportation Board and the execution of a trail use agreement between the City and CSX Transportation, Inc., or its successor, with respect to the #High Line#, or upon a determination by the Office of the Corporation Counsel that the restoration and reuse of the #High Line# as an accessible, public open space has been obtained pursuant to an alternative mechanism which protects the interests of the city.

Upon transfer of the #High Line# to the City pursuant to ULURP application C 050163 PCM and in accordance with such CITU and trail use agreement, the following shall apply:

- (a) the provisions regarding the issuance of building permits set forth in Section 98-26 (Special Regulations for #Developments# and #Enlargements# Above, Beneath or Adjacent to the #High Line#) shall be effective; and
- (b) any area within the tax lot located at Section 3, Block 8224, Lot 111, as of (effective date of amendment), which is separated from other portions of such tax lot by bounding streets, shall be considered a separate #zoning lot#; and
- (c) Underlying #use# and bulk regulations shall not apply to #uses# and #buildings and other structures# constructed on the #High Line# specifically in connection with its use as a public open space.

98-03

District Plan and Maps

The regulations of this Chapter are designed to implement the #Special West Chelsea District# Plan.

The District Plan includes the following maps and illustrative diagrams in Appendices A, B, and C:

Appendix A Special West Chelsea District and Subareas

Appendix B High Line Transfer Corridor Location and Floor Area Ratio

Appendix C Illustrative Diagrams of the High Line and Building Envelopes for Sites Adjacent to the High Line

Diagram 1	Street wall and High Line frontage regulations in Subareas C, F, and G
Diagram 2	Street wall and High Line frontage regulations in Subarea A
Diagram 3	Subarea H requirements
Diagram 4	High Line Improvement Area for Zoning Lots Divided by District Boundaries in Subareas D, E and G
Diagram 5	Subarea I requirements between West 16 th and West 17 th streets
Diagram 6	High Line Access Easement Volume Parameters
Diagram 7	High Line bed and frontages

Appendix D Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus in Subarea H

Appendix E Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus and Located Partially Within Subareas D, E and G, or within Subarea I

The maps and diagrams are hereby incorporated and made part of this Resolution. They are incorporated for the purpose of illustrating requirements or specifying locations where the special regulations and requirements set forth in the text of this Chapter shall apply.

98-04

Subareas and High Line Transfer Corridor

In order to carry out the provisions of this Chapter, nine Subareas (Subareas A through I), and a #High Line Transfer Corridor# are established within the #Special West Chelsea District#.

Within each of the Subareas and the #High Line Transfer Corridor#, certain special regulations apply that do not apply within the remainder of the #Special West Chelsea District#. The locations of the nine Subareas are detailed in Appendix A of this Chapter. The location of the #High Line Transfer Corridor# is detailed in Appendix B of this Chapter,

The Subareas and the #High Line Transfer Corridor# are subject to all other regulations of the #Special West Chelsea District# and the underlying district regulations except as otherwise specified in this Chapter.

98-05

Applicability of District Regulations

98-051

Applicability of Chapter 1 of Article 1

(a) Within the #Special West Chelsea District#, Section 11-15 (Environmental Requirements) shall apply, except that prior to issuing a building permit for any #development#, or for an #enlargement#, #extension# or a change of #use#, on a lot that has an (E) designation for hazardous material contamination, noise or air quality, the Department of Buildings shall be furnished with a report from the Department of Environmental Protection (DEP) of the City of New York stating:

(1) in the case of an (E) designation for hazardous material contamination, that environmental requirements related to the (E) designation have been met for that lot; or

(2) in the case of an (E) designation for noise or air quality, that the plans and drawings for such #development# or #enlargement# will result in compliance with the environmental requirements related to the (E) designation.

- (b) Section 11-332 (Extension of period to complete construction) shall apply, except that notwithstanding the provisions of paragraph (a) of such Section, in the event that other construction for which a building permit has been lawfully issued and for which construction has been commenced but not completed on (effective date of amendment), such other construction may be continued provided that the construction is completed and a temporary or permanent certificate of occupancy is obtained not later than (one year after effective date of amendment).

98-10

SPECIAL USE AND PARKING REGULATIONS WITHIN THE SPECIAL WEST CHELSEA DISTRICT

98-11

Special Regulations for Developments and Enlargements Above, Beneath or Adjacent to the High Line

The Commissioner of Buildings shall not issue any building permit for demolition, excavation or foundation work to be performed above or beneath the #High Line# or within 25 feet of support structures of the #High Line#, except by determination by such Commissioner that such work would not adversely affect the structural integrity of the #High Line# and by determination by the City agency or official designated by the Office of the Mayor for such purpose, that such work would not adversely affect the City's ability to inspect and maintain as necessary to ensure the structural integrity of the #High Line#.

98-12

Modification of Use Regulations in C6 Districts

98-121

In Subarea H

In Subarea H, the provisions of Section 32-25 (Use Group 16), paragraph D. (Heavy Service, Wholesale, or Storage Establishments) are modified to permit, in #C6 Districts#, warehouse #uses# only in #cellars# located wholly below #curb level#.

98-122

Location Within Buildings

In any #C6 District# in the #Special West Chelsea District#, the provisions of Section 32-422 (Location of floors occupied by non-residential uses) are modified to permit non-#residential uses# on the same #story# as a #residential use# or on a story higher than that occupied by #residential uses#, provided that the non-#residential uses#:

- (a) are located in a portion of the #building# that has separate direct access to the #street# with no access to the #residential# portion of the #building# at any #story#; and

- (b) are not located directly over any portion of a #building# containing #dwelling units#, except this limitation shall not preclude the location of:
- (1) #residential# lobby space below or on the same #story# as non-#residential uses#; or
 - (2) a #commercial use# that fronts on the #High Line# and is located within five feet of the level of the #High Line bed#.

98-123

Adult Establishments

The provisions of Section 52-77 (TERMINATION OF ADULT USE ESTABLISHMENTS) shall not apply to any #adult establishment# that located within the Special West Chelsea District after October 25, 1995 and prior to May 25, 2005, and which, as of May 25, 2005 and (day prior to effective date of amendment), was an existing #use# and conformed to all provisions of Section 42-01 (SPECIAL PROVISIONS FOR ADULT ESTABLISHMENTS) applicable to M1-5 districts.

98-13

Modification of Use Regulations in M1 Districts

In the #Special West Chelsea District#, the provisions of Section 42-10 (USES PERMITTED AS-OF-RIGHT) and 42-30 (USES PERMITTED BY SPECIAL PERMIT) are modified to permit, as-of-right, without limitation, in M1 Districts, museums and non-commercial art galleries as listed in Use Group 3.

98-14

Ground Floor Use and Transparency Requirements on Tenth Avenue

The special ground floor #use# and glazing regulations of this Section apply to that portion of a #building or other structure# fronting on Tenth Avenue in the #Special West Chelsea District#.

#Uses# located on the ground floor level or within five feet of #curb level#, and within 25 feet of the #street line# shall be limited to #commercial uses# permitted by the underlying district or museums or non-commercial art galleries as listed in Use Group 3. A building's #street# frontage shall be allocated exclusively to such #uses#, except for lobby space or entryways. In no event shall the length of #street# frontage occupied by lobby space or entryways exceed, in total, 40 feet or 50 percent of the building's total #street# frontage, whichever is less.

For any #development# or #enlargement#, each ground floor #street wall# shall be glazed with materials which may include show windows, glazed transoms or glazed portions of doors. Such glazed area shall occupy at least 70 percent of such ground floor #street wall# surface. The lowest point at any point of transparency that is provided to satisfy the requirements of this Section shall be not higher than two feet above the level of the adjoining sidewalk or public access area and shall be no less than eight feet in height measured from such lowest point. Not less than 50 percent of such ground floor #street wall# surface shall be glazed with transparent materials, and up to 20 percent of such ground floor #street wall# may be glazed with translucent materials.

98-141

Transparency requirements within Subareas H and I

The transparency requirements of this Section shall apply to all portions of #developments# and #enlargements# within the #High Line frontage# of Subareas H and I, except for such portions that contain #dwelling units#. At least 70 percent of the area of such frontage, to be measured from a point not lower than four feet and not higher than eight feet above the level of the #High Line bed# shall be glazed and transparent and at least 75 percent of such glazed surface shall be fully transparent.

98-15

Security Gates

All security gates installed after (effective date of amendment) that are swung, drawn, or lowered to secure #commercial# or #community facility# premises shall, when closed, permit visibility of at least 75 percent of the façade area covered by such gate, when viewed from the #street#, except that this provision shall not apply to entrances or exits to parking facilities.

98-16

Signs

The #sign# regulations of the underlying districts in the #Special West Chelsea District# shall not apply to #signs# located within 50 feet of the #High Line#, except for signs located entirely below the level of the #High Line# bed. In lieu thereof, the #sign# regulations of a C1 district shall apply, except that #accessory signs# located within the #High Line frontage# may have a maximum height of 20 feet above the level of the #High Line bed#.

No signs affixed to or resting upon the #High Line# shall be permitted, except as pursuant to a signage plan for the #High Line#, as authorized by the City Planning Commission, provided the Commission finds that such signage plan will:

- (a) enhance the use of the #High Line# by providing signage that is consistent with the use of the #High Line# as a public open space;
- (b) provide, at a minimum, directional, informational, and interpretive signage consistent with the use of the #High Line# as a public open space;
- (c) be integrated with the design of the #High Line# open space; and
- (d) not adversely affect development adjacent to the #High Line# and in the surrounding neighborhood

98-17

Air Space Over a Railroad or Transit Right-of-way or Yard

For the purposes of this Resolution, the #High Line# shall not be considered a railroad or transit right-of-way and the provisions of Sections 32-44 (Air Space over a Railroad or Transit Right-of-way or Yard) and 42-462 (Air Space over a Railroad or Transit Right-of-way or Yard) shall not apply.

98-18

Parking Regulations in Subarea H

#Accessory# off-street parking spaces for existing or new governmental offices may be located on a #zoning lot# other than the same #zoning lot# as the #use# to which such spaces are #accessory#, provided such spaces are located within Subarea H and in a facility, or portion thereof, that is entirely below #curb level# and that no more than 377 spaces are provided within such facility. For purposes of this Section, the governmental offices on Block 688, Lots 1001-1002 (as of the effective date) may have up to 377 #accessory# off-street parking spaces in such facility.

98-19

Lighting

All exterior light sources located within the #High Line frontage# shall be shielded from direct view from the #High Line#.

98-20

FLOOR AREA AND LOT COVERAGE REGULATIONS

The #floor area# provisions of this Section 98-20, inclusive, shall apply. Furthermore, special #floor area# transfer provisions are set forth in Section 98-30 (HIGH LINE TRANSFER CORRIDOR), inclusive.

98-21

Maximum Floor Area Ratio outside of Subareas

For all #zoning lots# or portions thereof located outside of Subareas A through I, the maximum #floor area ratios# of the applicable underlying district shall apply.

98-22

Maximum Floor Area Ratio and Lot Coverage in Subareas

For all #zoning lots# or portions thereof located in Subareas A through I, the maximum #floor area ratios#, #open space ratios# and #lot coverages# of the applicable underlying district shall not apply. In lieu thereof, the maximum #floor area ratio# permitted for #commercial#, #community facility#, and #residential uses#, separately or in combination, shall be as specified in the following table. For #residential use#, the maximum #lot coverage# shall be 70 percent for #interior# or #through lots# and 80 percent for #corner lots#, except that no maximum #lot coverage# shall apply to any #zoning lot# comprising a #corner lot# of 5,000 square feet or less. **For the conversion to #dwelling units# of non-#residential buildings# or portions thereof, where the total #residential floor area# on the #zoning lot# will exceed the applicable basic maximum #floor area ratio# specified in the following table, such excess #residential floor area# shall only be permitted pursuant to the Section 98-26 (Modifications to Inclusionary Housing Program).**

Note 1

Minimum #floor area ratios# required to be transferred pursuant to Section 98-30 (HIGH LINE TRANSFER CORRIDOR), inclusive, before Inclusionary Housing #floor area# bonus can be utilized.

Note 2

In Subareas A, B, and E, the applicable basic maximum #floor area ratio# of that portion of the #zoning lot# that is within the #High Line Transfer Corridor# may be increased up to a maximum of 1.0, and the applicable maximum permitted #floor area ratio# increased accordingly, by certification of the Chairperson of the City Planning Commission, pursuant to Section 98-35 (High Line Transfer Corridor Bonus).

Note 3

For certain zoning lots located in Subareas D, E, and G, the provisions of Section 98-25 (#High Line# Improvement Bonus) may apply in lieu of the provisions of Section 98-30 (HIGH LINE TRANSFER CORRIDOR), subject to the provisions of Section 98-24 (Special Floor Area Rules for Zoning Lots Divided by District Boundaries in Subareas D, E, and G).

Note 4

For #zoning lots# over which the #High Line# passes.

Note 5

For #zoning lots# between West 22nd Street and West 24th Street, the maximum #floor area ratio# shall be 7.5, and no #floor area# increases shall be permitted.

98-23

Special Floor Area and Lot Coverage Rules for Zoning Lots Over Which the High Line Passes

#Lot coverage# requirements shall not apply to the portion of the #zoning lot# that lies directly beneath the #High Line#. The remaining portion of the #zoning lot# shall be considered a separate #zoning lot# for the purposes of calculating maximum #lot coverage#. Easement volumes provided in accordance with the provisions of Section 98-60 (SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS) and access structures constructed therein, as well as any structure required pursuant to Appendix D or E in relation to an increase in the basic maximum #floor area # ratio of a #zoning lot# pursuant to Section 98-25 (#High Line# Improvement Bonus), shall not be considered #floor area# or #lot coverage#.

However, at or above the level of the #High Line bed#, #lot coverage# requirements shall apply to the entire #zoning lot#.

98-24

Special Floor Area Rules for Zoning Lots Divided by District Boundaries in Subareas D, E and G

For #zoning lots# fronting on West 18th Street and located partially in Subarea D, partially in Subarea E and partially in Subarea G, #floor area# may be transferred across zoning district and subarea boundaries without restriction. Either the provisions of Section 98-30 (HIGH LINE TRANSFER CORRIDOR) or Section 98-25 (High Line Improvement Bonus) may apply to such #zoning lot#, as applicable, and the maximum permitted #floor area ratio# specified in the table in Section 98-22 shall apply, as applicable, for each subarea.

98-25

High Line Improvement Bonus

For #zoning lot# located between West 16th and West 19th streets over which the #High Line# passes, the applicable basic maximum #floor area ratio# of the #zoning lot# may be increased up to the amount specified in Section 98-22 (Maximum #Floor Area Ratio# in Subareas), provided that:

- (a) Prior to issuing a building permit for any #development# or #enlargement# on such #zoning lot# that anticipates using #floor area# that would increase the applicable basic maximum #floor area ratio# by up to an amount specified in Section 98-22, the Department of Buildings shall be furnished with a certification by the Chairperson of the City Planning Commission that: (1) a contribution has been deposited into an escrow account or similar fund established by the City (the #High Line # Improvement Fund), or such contribution is secured by letter of credit or other cash equivalent instrument in a form acceptable to the City. Such contribution shall be used at the direction of the Chairperson solely for improvements to the #High Line# within the #High Line# improvement area applicable to such #zoning lot#, with such contribution being first used for improvements within that portion of the #High Line# improvement area on such #zoning lot#. Such contribution shall be made in accordance with the provisions of Appendix D or E, as applicable; and (2) a declaration of restrictions executed by all #parties in interest# to the #zoning lot# as defined in paragraph (f)(4) of the definition of #zoning lot# under Section 12-10 (DEFINITIONS), including and incorporating such other instruments as are necessary to assure that the City's interest in the restoration and reuse of the #High Line# as an accessible public open space is protected, as determined by the Department of City Planning in consultation with the Office of the Corporation Counsel, is filed and recorded in the Office of the Register of the City of New York; and (3) all additional requirements of Appendix D or E, as applicable with respect to issuance of a building permit, have been met.
- (b) Prior to issuing a certificate of occupancy for any portion of a #development# or #enlargement# on a #zoning lot # located between West 17th and West 18th streets over which the #High Line# passes that would increase the applicable basic maximum #floor area ratio# by up to an amount specified in Section 98-22, the Department of Buildings shall be furnished by a certification by the Chairperson of the City Planning Commission that:
 - (1) if required pursuant to agreement with the City under Appendix D, #High Line# improvements within the #High Line# improvement area for such #zoning lot# have been performed in accordance such agreement;
 - (2) if elected by the Owner, structural and remediation work has been performed on the #High Line# within the #High Line# improvement area for such #zoning lot#, in accordance with Appendix D;
 - (3) At-Grade Plaza Work has been performed on such #zoning lot# in the area shown in Diagram 3 of Appendix C, in accordance with Appendix D;
 - (4) stairway and elevator access work has been performed on such #zoning lot# in the At-Grade Plaza area shown in Diagram 3 of Appendix C, or that an additional contribution to the #High Line# Improvement Fund to fund performance of such work has been made, in accordance with Appendix D; and

- (5) all other applicable requirements of Appendix D have been met.

For temporary certificates of occupancy, certification with respect to performance of work shall be of substantial completion of the work as determined by Chairperson. For permanent certificates of occupancy, certification with respect to performance of work shall be of final completion of the work, as determined by the Chairperson. In the event of a failure to perform work timely or to otherwise satisfy the requirements of this subsection, no temporary or permanent certificate of occupancy shall be issued for #floor area# above the applicable basic maximum #floor area# for the #zoning lot# specified in Section 98-22, and the City may perform all such work in accordance with the provisions of Appendix D.

- (c) Prior to issuing a certificate of occupancy for any portion of a #development# or #enlargement# on a #zoning lot # located between West 16th and 17th streets or between West 18th and 19th streets over which the #High Line# passes that incorporates #floor area# that would increase the applicable basic maximum #floor area ratio# by up to an amount specified in Section 98-22, the Department of Buildings shall be furnished by a certification by the Chairperson of the City Planning Commission that:
- (1) if required pursuant to agreement with the City under Appendix E, #High Line# improvements within the #High Line# improvement area for such #zoning lot# have been performed in accordance such agreement;
 - (2) if elected by the Owner, structural and remediation work has been performed on the #High Line# within the #High Line# improvement area for such #zoning lot#, in accordance with Appendix E;
 - (3) stairway and elevator access work has been performed on such #zoning lot #, in accordance with Appendix E;
 - (4) for #zoning lots# located between West 16th and 17th streets over which the #High Line# passes, #High Line# Service Facility Work has been performed, in accordance with Appendix E; and
 - (5) all other applicable requirements of Appendix E have been met.

For temporary certificates of occupancy, certification with respect to performance of work shall be of substantial completion of the work as determined by Chairperson. For permanent certificates of occupancy, certification with respect to performance of work shall be of final completion of the work, as determined by the Chairperson. In the event of a failure to perform work timely or to otherwise satisfy the requirements of this subsection, no temporary or permanent certificate of occupancy shall be issued for #floor area# above the applicable basic maximum #floor area# for the #zoning lot# specified in Section 98-22, and the City may perform all such work in accordance with the provisions of Appendix E.

98-26 Modifications of Inclusionary Housing Program

The provisions of Section 23-90 (INCLUSIONARY HOUSING) are modified within the #Special West Chelsea District#, as set forth in this Section.

98-261

Definitions

[For the purposes of Section 23-943 (Preservation option), t]The following definitions in Section [23-92] **23-93** shall be modified:

Administering Agent

The #administering agent# is not required to be a not-for-profit organization, if the #floor area# of the #standard units# comprising the #lower income housing# constitutes less than half of the total #residential floor area# or #community facility floor area used# as a not-for-profit institution with sleeping accommodations in the #building#.

Fair Rent

At initial occupancy of #lower income housing# that is occupied by a #moderate income household# or a #middle income household# as defined in this Section, "fair rent" shall include an annual rent for each such housing unit equal to not more than 30 percent of the annual income of the tenant of such housing (the "30 Percent Standard").

Upon renewal of a lease for such an existing tenant in #lower income housing#, #fair rent# (the "Rent Stabilization Standard") is not more than the then-current #fair rent# for such housing plus a percentage increase equal to the percentage increase for a renewal lease of the same term permitted by the Rent Guidelines Board for units subject to the rent stabilization law.

After initial occupancy, upon rental of #lower income housing# to a new tenant, #fair rent# is not more than the higher of:

- (1) the then-currently applicable "30 Percent Standard"; or
- (2) the Rent Stabilization Standard.

In order for rent to be #fair rent#, the following must also apply:

There shall be no additional charge to the tenant for the provision of heat and electric service, except that the Commissioner of Housing Preservation and Development may approve a #lower income housing plan# making a #lower income#, #moderate income# or #middle income household# responsible for the payment of utilities as long as the sum of the following do not exceed 30 percent of said #lower income#, #moderate income# or #middle income household's# income :

- (1) the initial #fair rent#; and
- (2) the monthly costs of a reasonable compensation for these utilities, by an energy conservative household of modest circumstances consistent with the requirements of a safe, sanitary and healthful living environment.

However, the Commissioner of Housing Preservation and Development may determine that rents satisfying the requirements of city, state or federal programs assisting #lower income housing# will be considered “fair rent”, provided that such rents do not exceed 30 percent of a #moderate income# or #middle income household#’s income, as applicable, and provided further that upon expiration or termination of the requirements of the city, state or federal program, rent increases and re-rentals shall be subject to the higher of the then-currently applicable 30 Percent Standard or the Rent Stabilization Standard.

“Fair rent” shall include, in addition to that rent permitted pursuant to Section [23-92] **23-93**, the payment of principal and interest on mortgage debt, and #lower income#, **#moderate income# or #middle income housing#** may secure such debt, provided that, as of the date of the approval of the #lower income housing plan#, the Commissioner of Housing Preservation and Development finds that the total annual rent, when such interest and principal payments are deducted, is in compliance with the requirements of Section [23-94(c)] **23-95(c)** of this Resolution, and provided that the lender agrees to enter into a written agreement which subordinates such debt to the provisions of the #lower income housing plan#.

Lower Income Household

[A “lower income household” is a #family# having an income equal to or less than the following proportion:

$$\frac{125}{80}$$

of the income limits (the “80 Percent of SMSA Limits”) for New York City residents established by the U. S. Department of Housing and Urban Development pursuant to Section 3(b)(2) of the United States Housing Act of 1937, as amended, for lower income families receiving housing assistance payments.]

#Lower income households# shall also include all existing households in tenancy, provided such households occupy units that are within a #building# in which rents for all occupied units are regulated by City [and] **or** State law, and the aggregate maximum permitted annual rent roll for such occupied units, divided by the number of occupied units, is less than 30 percent of the applicable income limit for a #lower income household# as provided in this Section. In determining the applicable income limit for such #lower income households#, the Commissioner of Housing Preservation and Development may make adjustments, consistent with the U.S. Department of Housing and Urban Development regulations, for the number of persons residing in each unit.

Lower income housing

For the purposes of this Section, “lower income housing” shall include #standard units# assisted under city, state or federal programs, where such housing is occupied or to be occupied by #lower income#, #moderate income# or #middle income households#.

Moderate income household

For the purposes of this Section, a “moderate income household” is a #family# having an income equal to or less than the following proportion:

125
80

of the income limits (the "80 Percent of SMSA Limits") for New York City residents established by the U. S. Department of Housing and Urban Development pursuant to Section 3(b)(2) of the United States Housing Act of 1937, as amended, for lower income families receiving housing assistance payments.

Middle income household

For the purposes of this Section, a "middle income household" is a #family# having an income equal to or less than the following proportion:

175
80

of the income limits (the "80 Percent of SMSA Limits") for New York City residents established by the U. S. Department of Housing and Urban Development pursuant to Section 3(b)(2) of the United States Housing Act of 1937, as amended, for lower income families receiving housing assistance payments.

[Section 23-93 shall be modified so that the applicable ratio for Preservation in Column B shall be 1.5:1.

Section 23-943, paragraph (a) shall be modified to provide that the #administering agent# shall not be required to verify the income of households in tenancy as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.]

98-262

Floor area increase

[In accordance with the provisions set forth in Section 98-22 (Maximum Floor Area Ratio and Lot Coverage in Subareas), the maximum permitted #residential floor area ratio# for #developments# or #enlargements# that have increased their permitted #floor area# through the transfer of development rights from the #High Line Transfer Corridor# by the minimum amount specified in the table in Section 98-22, may further increase their permitted #floor area# through the provision of Inclusionary Housing, as modified in this Section 98-26, to the maximum amount specified in such table].

For #developments# or #enlargements# that have increased their permitted #floor area# through the transfer of development rights from the #High Line Transfer Corridor# by the minimum amount specified in the table in Section 98-22 (Maximum Floor Area Ratio and Lot Coverage in Subareas), and for conversions of non-#residential buildings# or portions thereof to #dwelling units# where the total #residential floor area# on the #zoning lot# will exceed the applicable basic maximum #floor area ratio# specified in the table in Section 98-22, such maximum permitted #floor area# may be increased through the provision of Inclusionary Housing as modified in this Section 98-26, inclusive, to the maximum amount specified in the table in Section 98-22, provided that:

(a) In C6-4 Districts:

(1) at least 20% of the total #floor area# on the #zoning lot# is occupied by #lower income

households#, or

- (2) at least 10% of the total #floor area# on the #zoning lot# is occupied by #lower income households# and at least 15% of the total #floor area# on the #zoning lot# is occupied by #moderate income households#, or
- (3) at least 10% of the total #floor area# on the #zoning lot# is occupied by #lower income households# and at least 20% of the total #floor area# on the #zoning lot# is occupied by #middle income households#.

(b) In C6-3 Districts:

- (1) at least 10% of the total #floor area# on the #zoning lot# is occupied by #lower income households#, or
- (2) at least 5% of the total #floor area# on the #zoning lot# is occupied by #lower income households# and at least 7.5% of the total #floor area# on the #zoning lot# is occupied by #moderate income households#, or
- (3) at least 5% of the total #floor area# on the #zoning lot# is occupied by #lower income households# and at least 10% of the total #floor area# on the #zoning lot# is occupied by #middle income households#.

Where #lower#, #moderate# or #middle income housing# is provided on a #zoning lot# other than the #zoning lot# occupied by the compensated #development#, the percentage of #residential floor area# required to be occupied by such households pursuant to this Section shall be determined as a percentage of the #residential floor area# on the #zoning lot# of such compensated #development#, inclusive of #floor area# bonused pursuant to this Section.

However, in those subareas or portions thereof where the Inclusionary Housing Program is applicable, and where the Chairperson of the Department of City Planning has certified that at least 90 percent of the total development rights within the #High Line Transfer Corridor# have been transferred pursuant to Section 98-30, no transfer of #floor area# pursuant to Section 98-30 shall be required, and the basic maximum #floor area ratio# of the #development# or #enlargement# may be increased by [up to 1.0 in Subareas E and G, and on any #zoning lot# located in Subarea I over which the #High Line# passes;] up to 2.5 in Subareas B, C, and D and on any #zoning lot# located in Subarea I over which the #High Line# does not pass, and up to [4.5] **5.5** in Subarea A, in accordance with the provisions of paragraph (c) of this Section.

(c) Affordable Housing Fund

Where the Chairperson of the City Planning Commission determines that more than 90 percent of the #floor area# eligible for transfer through the provisions of Section 98-30 (HIGH LINE TRANSFER CORRIDOR) have been transferred in accordance with such provisions, the Chairperson shall allow, by certification, an increase in #floor area# on any receiving site as specified in Section 98-33 (Transfer of Development Rights From the High Line Transfer Corridor), up to the amount that otherwise would have been permitted for such receiving site pursuant to Section 98-30, provided that instruments in a form acceptable to the City are executed ensuring that a contribution be deposited in the West Chelsea Affordable Housing Fund. Such fund shall be administered by the Department of

Housing Preservation and Development and all contributions to such fund shall be used for the #development#, acquisition or rehabilitation of #lower#, #moderate# or #middle income housing# located in Community District 4 in the Borough of Manhattan. The execution of such instruments shall be a precondition to the filing for or issuing of any building permit for any #development# or #enlargement# utilizing such #floor area# increase. Such contribution amount, by square foot of #floor area# increase shall be determined, at the time of such Chairperson's certification, by the Commission by rule, and may be adjusted by rule not more than once a year.

98-263

Lower Income Housing Requirements

#Developments# that increase #floor area# in accordance with the provisions of Section 98-262 shall comply with the lower income housing requirements of Section 23-95, except as modified in this paragraph (c).

- (a) The provisions of Section 23-95(b) shall apply, except that in addition, incoming households of #standard units# in #lower income housing# may be #moderate# and #middle income households#, and sublessees of a #moderate# or #middle income household# may also be a #moderate# or #middle income household#.

Furthermore, on and after the issuance of a certificate of occupancy for #lower income housing#, the #administering agent# shall have a duty to rent such housing to #lower#, #moderate# or #middle income households#, as provided in this Section and in the approved #lower income housing plan#.

This duty to rent shall be satisfied by the #administering agent#, if such agent has in fact rented all such units to #lower#, #moderate# or #middle income households#, as provided in this Section, or has, in good faith, made a continuing public offer to rent such units at rents no greater than the rents authorized by this program or otherwise at law.

- (b) The provisions of Section 23-95(d) shall apply, except that prior to renting #lower income housing#, the #administering agent# shall verify the income of each household to occupy such housing, to assure that the households are #lower#, #moderate# or #middle income households# as provided by this Section. The #administering agent# shall submit an affidavit to the Commissioner of Housing Preservation and Development upon initial occupancy and annually thereafter attesting that all incoming occupants of #lower income housing# are #lower#, #moderate# or #middle income households# as required by the provisions of this Section and in the approved #lower income housing plan#.

- (c) The provisions of Section 23-95(g) (Insurance) may be modified by the Commissioner of Housing Preservation and Development to provide priority for lenders participating in the financing of #lower income housing# that is assisted under city, state or federal programs.

(d) Permits and certificate of occupancy

The requirements of Section 23-94(f) shall not apply. In lieu thereof, the provisions of this paragraph (d) shall apply.

No building permit for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 (Floor area increase) shall be issued until the Commissioner of Housing Preservation and Development certifies that an acceptable #lower income housing plan# has been filed and approved.

No temporary certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 until a temporary certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of Housing Preservation and Development has been issued. No permanent certificate of occupancy shall be issued for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 until a permanent certificate of occupancy for each unit of #lower income housing# that is the subject of the #lower income housing plan# accepted by the Commissioner of Housing Preservation and Development has been issued.

Prior to the issuance of any temporary or permanent certificate of occupancy for any portion of the #compensated development# that utilizes #floor area# bonused pursuant to Section 93-232 the Commissioner of Housing Preservation and Development shall certify that the #lower income housing# is in compliance with the #lower income housing plan#.

- (e) The provisions of Sections 23-951, 23-952 and 23-953 shall apply, except that with respect to Section 23-951(a), 23-952(b) and 23-953(a), #lower income housing# shall be maintained and leased to #lower#, #moderate# or #middle income households#, as provided in this Section, for the life of the increased #floor area#, and in accordance with the approved #lower income housing plan#. Furthermore, the size and distribution requirements of Section 23-951(b) may be waived by the Commissioner of Housing Preservation and Development to facilitate the #development# of #lower income housing#, and Section 23-953 (a) shall be modified to provide that the #administering agent# shall not be required to verify the income of households in tenancy as of the date upon which the Commissioner of Housing Preservation and Development approves the #lower income housing plan#.

98-30

HIGH LINE TRANSFER CORRIDOR

98-31

Purposes

The #High Line Transfer Corridor#, established within the #Special West Chelsea District#, is intended to enable the transfer of development rights from properties over which and immediately to the west of where the #High Line# passes and thereby permit light and air to penetrate to the #High Line# and preserve and create view corridors from the #High Line# bed.

98-32

General Provisions

The location of the #High Line Transfer Corridor# is specified in Appendix B of this Chapter.

In the #High Line Transfer Corridor#, special regulations relating to the transfer of #floor area# are set forth in Sections 98-33 through and 98-35 inclusive.

98-33

Transfer of Development Rights From the High Line Transfer Corridor

In the #Special West Chelsea District#, a “granting site” shall mean a #zoning lot#, or portion thereof, in the #High Line Transfer Corridor#. A “receiving site” shall mean a #zoning lot#, or portion thereof, in any subarea other than Subareas F and H. #Floor area# from a granting site may be transferred to a receiving site in accordance with the provisions of this Section.

(a) Notification

Prior to any transfer of #floor area#, the Department of City Planning shall be notified in writing of such intent to transfer #floor area#. Such notification shall be made jointly by the owners of the granting and receiving sites and shall include:

- (1) #floor area# zoning calculations for the granting and receiving site, and
- (2) a copy of the distribution instrument legally sufficient in both form and content to effect such a distribution, and
- (3) if applicable, a certified copy of the instrument creating a secondary #High Line# access easement volume, pursuant to the provisions of Section 98-63.

Notices of restrictions in a form acceptable to the Department of City Planning shall be filed by the owners of the granting and receiving sites in the Office of the Register of the City Of New York, indexed against the granting and receiving sites, certified copies of which shall be submitted to the Department of City Planning. Notice by the Department of City Planning of its receipt of certified copies thereof shall be a pre-condition to issuance by the Commissioner of Buildings of any building permit for any #development# or #enlargement# on the receiving site.

(b) #Floor area#

The maximum amount of #floor area# transferred from a granting site located outside of a subarea shall not exceed the maximum #floor area ratio# permitted for a #commercial use# on such granting site, less any existing #floor area# to remain on such granting site.

The maximum amount of #floor area# transferred from a granting site located in a subarea shall not exceed the basic maximum #floor area ratio# specified for the applicable subarea in the Table in Section 98-22 (Maximum Floor Area Ratio in Subareas), less any existing #floor area# to remain on such granting site.

Each transfer, once completed, shall irrevocably reduce the amount of #floor area# that may be

transferred from the granting site by the amount of #floor area# transferred.

The amount of #floor area# transferred to a receiving site from a granting site in the #High Line Transfer Corridor# shall not exceed the #floor area ratio# permitted on the receiving site through such transfer, pursuant to the Table in Section 98-22 (Maximum Floor Area Ratio in Subareas).

(c) #Use#

#Floor area# transferred from a granting site within the #High Line Transfer Corridor# may be used for any #use# allowed on the receiving site in accordance with the underlying zoning designation and the provisions of this Chapter.

(d) Stairway easement requirement

As a condition for the transfer of #floor area#, an easement volume to facilitate pedestrian access to the #High Line# via stairway shall be provided in accordance with the provisions of Section 98-60 (SPECIAL ACCESS REGULATIONS FOR ZONING LOTS OVER WHICH THE HIGH LINE PASSES OR ADJACENT TO THE HIGH LINE) and Section 98-63 (Recording of the #High Line# Access Easement Volume).

(e) Restrictive Declaration

As a condition for the transfer of #floor area#, and in order to assure that the City's interest in the restoration and reuse of the #High Line# as an accessible public open space is protected, a declaration of restrictions, executed by all #parties in interest# of the granting lot as defined in paragraph (f)(4) of the definition of #zoning lot# under Section 12-10 (DEFINITIONS), and including and incorporating such other instruments as are necessary to accomplish such purposes, as determined by the Department of City Planning in consultation with the Office of the Corporation Counsel, shall be filed and recorded in the Office of the Register of the City of New York. Notice by the Department of City Planning of receipt of certified copies of such recorded declaration shall be a pre-condition to issuance by the Commissioner of Buildings of any building permit, including any foundation or alteration permit, for any #development# or #enlargement# on the receiving site. Such recorded declaration shall be in addition to the Notice of Restrictions required pursuant to subdivision (a) of this Section.

98-34

Screening and Landscaping Requirements for Vacant Sites

Any #zoning lot# within the #High Line Transfer Corridor# that has transferred #floor area# pursuant to Section 98-33 (Transfer of Development Rights From the #High Line# Transfer Corridor), and is 50 percent or more vacant shall be screened from the street and/or landscaped in accordance with the provisions of this Section; except that #zoning lots# occupied by #buildings# that extend along at least 85 percent of the #street# frontage of the #zoning lot# and are located within five feet of the #street line# are not required to provide screening or landscaping.

Such open or vacant areas on #zoning lots# shall be screened from the street by a fence or gate with a surface that is at least 75 percent open, extending not less than six feet and not higher than eight feet above finished grade; or alternatively, by a planting strip at least four feet wide and densely planted with evergreen shrubs at least four feet high at the time of planting or of a variety expected to reach a height of six feet within three

years, or by both. Chain link and fences containing barbed wire or razor wire shall be prohibited. For portions of #zoning lots# located beneath the #High Line# planting strips shall be prohibited.

98-35

#High Line Transfer Corridor# Bonus

For #zoning lots#, or portions thereof, within the #High Line Transfer Corridor#, the applicable basic maximum #floor area ratio# of that portion of a #zoning lot# that is within the #High Line Transfer Corridor# may be increased up to a maximum of 1.0, for an amount of #floor area# equivalent to the area of that portion of the #zoning lot# located within the #High Line Transfer Corridor#, provided the Chairperson of the City Planning Commission has certified that:

- (a) all the permitted #floor area# on that portion of the #zoning lot# that is within the #High Line Transfer Corridor# has been transferred to an eligible receiving site, in accordance with the provisions of Section 98-33 (Transfer of Development Rights From the #High Line# Transfer Corridor);
- (b) that such granting site is vacant; and
- (c) a contribution has been deposited into the #High Line# Improvement Fund established under Section 98-25, to be used at the direction of the Chairperson of the City Planning Commission to assure that the #High Line# is restored and reused as a public accessible open space.

No #building# permit for any #development# or #enlargement# that anticipates using such increased #floor area# may be issued unless and until such certification has been made.

Such contribution amount shall be \$50.00 per square foot of #floor area# as of (the effective date of amendment) and shall be adjusted July 1 of the following year and each year thereafter, by the City or its designee, based on the percentage change in the Consumer Price Index for all urban consumers as defined by the U.S. Bureau of Labor Statistics.

Such bonus #floor area# shall only be used for a permitted #commercial use#, which shall be located in that portion of the #zoning lot# that is within the #High Line Transfer Corridor#; however, #public parking lots# and #public parking garages# at or above #curb level# shall not be permitted; and the height of any #development# or #enlargement# within the #High Line Transfer Corridor# shall not exceed a height of 3 feet 6 inches above the level of the #High Line bed#.

98-40

SPECIAL YARD, HEIGHT AND SETBACK, AND MINIMUM DISTANCE BETWEEN BUILDINGS REGULATIONS

98-41

Special Rear Yard Regulations

The #yard# regulations of the underlying district shall apply, except that no #rear yard# regulations shall apply to any #zoning lot# that includes a #through lot# portion that is contiguous on one side to two #corner lot# portions and such #zoning lot# occupies the entire #block# frontage of the #street#.

98-42

Special Height and Setback Regulations

The height and setback regulations of the underlying district shall not apply, except as set forth in this Section 98-42, inclusive. Furthermore, for any #zoning lot# located within or adjacent to the #High Line Transfer Corridor#, the provisions of Section 98-50, inclusive, shall also apply. All heights shall be measured from the #base plane#, unless otherwise specified.

98-421

Obstruction over the High Line

Within the #Special West Chelsea District#, the #High Line# shall remain open and unobstructed from the #High Line bed# to the sky, except for improvements constructed on the #High Line# in connection with the use of the #High Line# as a public open space.

98-422

Special rooftop regulations

The provisions of Section 33-42 (Permitted Obstructions) shall apply to all #buildings or other structures# within the #Special West Chelsea District# except as modified as follows:

(a) Permitted Obstructions

Elevator or stair bulkheads, roof water tanks, cooling towers or other mechanical equipment (including enclosures), may penetrate a #sky exposure plane# or a maximum height limit provided that either the product, in square feet, of the #aggregate width of street walls# of such obstructions facing each #street# frontage, times their average height, in feet, shall not exceed a figure equal to eight times the width, in feet, of the #street wall# of the #building# facing such frontage, or, the #lot coverage# of all such obstructions does not exceed 20 percent of the #lot coverage# of the #building#, and the height of all such obstructions does not exceed 40 feet. In addition, dormers may penetrate a maximum base height in accordance with the provisions of paragraph (c) of Section 23-621 (Permitted obstructions in certain districts). However, dormers may not exceed the maximum #building# height in Subareas F, C and G where the maximum base height and maximum #building# height are the same.

(b) Ventilation and mechanical equipment

All mechanical equipment located within 15 feet of the level of the #High Line# bed that is within 25 feet of the #High Line#, measured horizontally, or within the #High Line frontage#, as applicable, shall be screened and buffered with no intake or exhaust fans or vents facing directly onto the #High Line#.

98-423

Street wall location, minimum and maximum base heights and maximum building heights

The provisions set forth in paragraph (a) of this Section shall apply to all #developments# and #enlargements#.

Such provisions are modified for certain subareas as set forth in paragraphs (b) through (f) of this Section.

- (a) On #wide streets#, and on #narrow streets# within 50 feet of their intersection with a #wide street#, the #street wall# shall be located on the #street line# and extend along such entire #street# frontage of the #zoning lot# up to at least the minimum base height specified in Table A of this Section. On #corner lots# with both #wide# and #narrow street# frontage, a #street wall# with a minimum height of 15 feet shall be located on a #narrow street line# beyond 50 feet of its intersection with a #wide street# and extend along such entire #narrow street# frontage of the #zoning lot#. On all other #narrow street# frontages, the #street wall# shall be located on the #street line# and extend along at least 70 percent of the #narrow street# frontage of the #zoning lot# up to at least the minimum base height specified in Table A of this Section.

Where #street walls# are required to be located on the #street line#, recesses, not to exceed three feet in depth from the #street line#, shall be permitted on the ground floor where required to provide access to the #building#. Above a height of 12 feet, up to 30 percent of the #aggregate width of street walls# may be recessed beyond the #street line#, provided any such recesses deeper than 10 feet along a #wide street#, or 15 feet along a #narrow street#, are located within an #outer court#. Furthermore, no recesses shall be permitted within 30 feet of the intersection of two #street lines# except that, to allow articulation of #street walls# at the intersection of two #street lines#, the #street wall# may be located anywhere within an area bounded by the two #street lines# and a line connecting such #street lines# at points 15 feet from their intersection.

For #developments# that occupy the entire #block# frontage of a #street# and provide a continuous sidewalk widening along such #street line#, the boundary of the sidewalk widening shall be considered to be the #street line# for the purposes of this Section. The #street wall# location provisions of this Section shall not apply along that portion of any #street# frontage:

- (1) over which the #High Line# passes;
- (2) occupied by existing #buildings# to remain, unless such #buildings# are vertically #enlarged#;
or
- (3) between the #High Line# and a #side lot line#, where such frontage measures less than 20 feet.

All portions of #buildings or other structures# that exceed the applicable maximum base height specified in Table A shall provide a setback at a height not lower than the applicable minimum base height. A setback with a depth of at least 10 feet shall be provided from any #street wall# fronting on a #wide street#, and a setback with a depth of at least 15 feet shall be provided from any #street wall# fronting on a #narrow street#, except such dimensions may include the depth of permitted recesses in the #street wall#.

No #building or other structure# shall exceed the maximum #building# height specified in Table A.

- (b) Subareas A and D

- (1) #Street wall# location

In Subarea D, for #buildings# that do not include towers as set forth in paragraph (b)(3) of this Section, the #street wall# location provisions set forth in paragraph (a) shall not apply to any

#zoning lot# that occupies the entire Eleventh Avenue #block# front . In lieu thereof, #street walls# with a minimum base height of 60 feet shall be located within ten feet of all #street lines# bounding such #zoning lot# and extend along at least 70 percent of each #street# frontage of the #zoning lot#.

(2) Setback provisions

The setback provisions for portions of #buildings# above the maximum base height set forth in paragraph (a) of this Section shall not apply. In lieu thereof, no portion of a #building or other structure# that exceeds the applicable maximum base height shall penetrate a #sky exposure plane# that begins above the #street line# at the maximum base height and rises over the #zoning lot# at a ratio of 2.7 feet of vertical distance to one foot of horizontal distance on a #narrow street#; and 5.6 feet of vertical distance to one foot of horizontal distance on a #wide street#.

(3) Tower provisions

Any #building#, or portion thereof, which in the aggregate occupies not more than 40 percent of the #lot area# of the #zoning lot# and penetrates the #sky exposure planes# set forth in paragraph (b)(2) of this Section is hereinafter referred to as a “tower”. Such towers are permitted provided they are set back at least 10 feet from a #wide street line# and at least 15 feet from a #narrow street line#, and provided no other portion of the #building# exceeds the applicable maximum base height. In addition, the following rules shall apply:

(i) For #zoning lots# with less than 20,000 square feet of #lot area#, such tower may occupy more than 40 percent of the #lot area# of the #zoning lot# in accordance with the provisions of Section 33-454 (Towers on small lots).

(ii) Any #story# within the highest 40 feet of such tower (the penthouse portion), shall not exceed 85 percent of the gross area of the highest #story# directly below such penthouse portion

(iii) In Subarea A, such tower shall occupy at least 30 percent of the #lot area# of the #zoning lot#, except that such minimum #lot coverage# requirement shall be reduced to 25 percent above a height of 220 feet. However, no minimum #lot area# requirement shall apply to the highest four #stories# or 40 feet of such #building#, whichever is less.

(iv) In Subarea A, the maximum length of any #story# located above a height of 220 feet shall not exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# entirely above a height of 220 feet. Any side of such rectangle shall not exceed 150 feet.

(v) In Subarea A, for any #zoning lot# with more than 75 feet of #narrow street# frontage in which a #side lot line# is located within an area bounded by a line 200 feet east of and parallel to Eleventh Avenue and a line 410 feet east of and parallel to Eleventh Avenue, no tower portion of a #building# shall be located closer than 25 feet to such #side lot lines#.

(vi) In Subarea D, the maximum #building# height shall be 250 feet, and the maximum length of any #story# located above the maximum base height shall not

exceed 150 feet. Such length shall be measured by inscribing within a rectangle the outermost walls at the level of each #story# wholly or partially above the maximum base height. Any side of such rectangle shall not exceed 150 feet. However, for #zoning lots# that occupy the entire Eleventh Avenue #block# front, a portion of the #street wall# may rise above the maximum base height without setback from Eleventh Avenue provided the aggregate width of the Eleventh Avenue #street wall# does not exceed 100 feet.

(c) Subareas C, F and G

In Subareas C, F and G, for #zoning lots# with wide and narrow street frontage, no #street wall# is required beyond 50 feet of a wide street. Furthermore, for any #development# or #enlargement# that occupies at least one corner of the Tenth Avenue #block# front and extends along the Tenth Avenue frontage of the #zoning lot# for at least 170 feet, exclusive of existing #buildings# to remain, a lowered #street wall# shall be provided for any #building# that exceeds 45 feet in height. Such lowered #street wall# shall have a maximum height of 45 feet and a minimum height of 35 feet and extend along the Tenth Avenue frontage for a width not less than 25 percent and not more than 30 percent of the #aggregate width of street walls# facing Tenth Avenue. Such lowered #street wall# portion of the Tenth Avenue frontage shall be located at the intersection of Tenth Avenue and a #narrow street#. Such lowered #street wall# shall extend along such #narrow street line# for a distance of at least 50 feet from Tenth Avenue. Beyond 50 feet of Tenth Avenue, excluding the #High Line frontage# of a #building#, such portion of the #building# shall not exceed a height of 45 feet.

The provisions of this Section, relating to the location and height of the lowered #street wall# portion of the Tenth Avenue frontage of a #development# are illustrated in Diagram 1 (Street Wall and #High Line# Frontage Regulations in Subareas C, F and G), in Appendix C of this Chapter.

In Subarea C, for #zoning lots# with Tenth Avenue frontage between West 24th Street and West 28th Street, the maximum #building# height shall be 125 feet.

(d) Subarea E

The #street wall# location provisions set forth in paragraph (a) shall not apply to any #development# or #enlargement# on a #zoning lot# fronting on West 18th Street and located partially in Subareas D, E and G, where #floor area# has been transferred pursuant to Section 98-24. A maximum of 60 percent of the West 18th Street frontage within Subarea E may rise without setback to a maximum #building# height of 250 feet and a minimum of 20 percent of the West 18th Street frontage within Subarea E shall rise without setback to a minimum height of 60 feet and a maximum height of 85 feet and be located within 10 feet of the #street line#.

(e) Subarea H

No #building or other structure# shall be located east of the #High Line#.

No portion of a #building or other structure# shall exceed a height of 85 feet except for two #buildings#, or portions of #buildings#, hereinafter referred to as Tower East and Tower West. At or above the base height, both such towers shall be set back at least 10 feet from any #street wall# facing a #wide street# and at least 15 feet from any #street wall# facing a #narrow street#. Such set backs shall be provided at a height not lower than 60 feet, except that such set backs may be provided at a height not lower than 40 feet, provided at least 65 percent of the #aggregate width of street walls# facing #narrow streets# and at

least 60 percent of the #aggregate width of street walls# facing #wide streets# have a minimum base height of 60 feet.

Tower East shall be located in its entirety within 240 feet of the Tenth Avenue #street line#, and Tower West shall be located in its entirety within 200 feet of the Eleventh Avenue #street line#. Tower East shall not exceed a height of 290 feet and Tower West shall not exceed a height of 390 feet. No portion of Tower East shall be located closer than 25 feet to any portion of Tower West.

A maximum of 50 percent of the #street wall# of Tower West may rise without setback from a #narrow street line#. Such portion of the #street wall# shall be located a minimum of 15 feet and a maximum of 20 feet from the #narrow street line#.

(f) Subarea I

In that portion of Subarea I located within 300 feet of Tenth Avenue between West 16th Street and West 17th Street, the #street wall# location provisions set forth in paragraph (a) shall not apply along Tenth Avenue, as illustrated in Diagram 5 (Subarea H Requirements), of Appendix C of this Chapter, but shall apply along a minimum of 85 percent of the West 16th Street and West 17th Street frontages. No portion of a #building or other structure# located within 300 feet of Tenth Avenue shall exceed a height of 120 feet, except for one #building# which may have a height not to exceed 250 feet provided such #building# is located in its entirety between 10 feet and 90 feet of West 17th Street and has a length that does not exceed 175 feet when measured parallel to the West 17th Street #street line#.

In all other portions of Subarea I, the provisions of paragraph (a) shall apply.

98-424

Authorization to modify height and setback regulations

For #zoning lots# located entirely within 75 feet of the west side of the #High Line#, the City Planning Commission may authorize the modification of height and setback regulations set forth in Section 98-40 and 98-50, inclusive, and the transparency requirements set forth in Sections 98-141 and 98-54. The Commission shall find that such modification will result in a better distribution of #bulk# on the #zoning lot# and will not adversely affect access to light and air for surrounding public areas.

The Commission may prescribe appropriate conditions and safeguards to enhance the character of the surrounding area.

98-43

Special Distance Between Buildings Regulations

The provisions of Section 23-70 (MINIMUM REQUIRED DISTANCE BETWEEN TWO OR MORE BUILDINGS ON A SINGLE ZONING LOT) shall not apply.

98-50

SPECIAL HEIGHT AND SETBACK, OPEN AREA AND TRANSPARENCY REGULATIONS FOR ZONING LOTS WITHIN OR ADJACENT TO THE HIGH LINE TRANSFER CORRIDOR

98-51

Height and Setback Regulations on the East Side of the High Line

(a) Subarea A

At least 60 percent of the aggregate length of the eastern #High Line frontage# of a #building# shall set back at the level of the #High Line bed#. Not more than 40 percent of the aggregate length of such #High Line frontage# may rise above the level of the #High Line bed#. No portion of such #High Line frontage# shall exceed a maximum height of 20 feet above the level of the #High Line bed#, as illustrated in Diagram 2 (Street Wall and #High Line# Frontage Regulations in Subarea A) in Appendix C, of this Chapter.

(b) In C6-3A Districts, and in Subareas C, F and G

For #zoning lots# extending less than 120 feet along the eastern side of the #High Line#, no portion of the eastern #High Line# frontage of a #building# shall exceed a height of 3 feet 6 inches above the level of the #High Line bed#.

For #zoning lots# that extend for at least 120 feet along the eastern side of the #High Line#, no portion of the eastern #High Line frontage# of the #building# shall exceed a height of 3 feet 6 inches above the level of the #High Line bed#, except that a maximum of 40 percent of such #High Line frontage# may rise without setback above a height of 3 feet 6 inches above the level of the #High Line bed# provided such portion of the #building# is not located directly between the #High Line# and any #street wall# of a #building# that is subject to a maximum height of 45 feet in accordance with paragraph (a) (Subareas C, F and I) of Section 98-441 (Street wall location and minimum base heights).

However, the provisions of this paragraph (b) shall not apply to any #zoning lot# existing on (the effective date of amendment) where the greatest distance between the eastern side of the #High Line# and a #side lot line# east of the #High Line# is 35 feet when measured parallel to the nearest #narrow street line#.

98-52

Height and Setback Regulations on West Side of High Line

In C6-2A, C6-3A and M1-5 Districts, and in Subareas A, B and E, no portion of the western #High Line frontage# of a #building#, including parapets, shall exceed a height of 3 feet 6 inches above the level of the #High Line bed#.

For any #zoning lot# or portion thereof with more than 60 feet of width measured perpendicular to the west side of the #High Line#, the following rules shall apply to any #building# containing #residences#:

- (a) At least 60 percent of the aggregate length of that portion of the #building# located above a height of 3 feet six inches above the level of the #High Line bed# and facing the #High Line# shall be located between 15 and 20 feet of the west side of the #High Line# and extend up to at least the applicable minimum base height specified in Table A of Section 98-423, and

- (b) No #building# or portion thereof that exceeds the applicable maximum base height specified in Table A of Section 98-423 shall be located within 30 feet of the #High Line#.

Chain link fences and razor wire shall not be permitted within the western #High Line frontage#.

98-53

Required Open Areas on the East Side of the High Line

At least 20 percent of the #lot area# of any #development# or #enlargement# on a #zoning lot#, or portion thereof, within C6-3A Districts or within Subareas A, C, F or G and over which the #High Line# passes or adjacent to a #zoning lot# over which the #High Line# passes, shall be landscaped open area, pursuant to the requirements of paragraph (a) (Open area requirements), and (b) (Permitted obstructions) of this Section. Such open area shall be located directly adjacent to the #High Line# with its longest side adjacent to the #High Line# and shall be located at an elevation not to exceed a height of 3 feet 6 inches above the level of the #High Line bed# adjacent to the #zoning lot#. At no point shall such open area be located within 50 feet of Tenth Avenue.

- (a) Open area requirements

All required open areas shall:

- (1) have no portion used as a driveway, vehicular access way or for parking, and shall be screened from off-street loading and service areas;
- (2) be landscaped with shrubs, vines, flowers, ground cover, trees, and/or plants in planters over a minimum of 25 percent of the required open area;
- (3) be maintained by the building owner who shall be responsible for the maintenance of the open area including, but not limited to, the repair of all amenities, litter control and the care and replacement of vegetation within the zoning lot; and
- (4) have all mechanical equipment which is located at the same elevation as the open area, or within 15 feet of the level of the open area, screened and buffered with no intake or exhaust fans facing directly onto the required open area.
- (5) Open area screening

Required open areas may be screened from the public areas of the #High Line# by a wall, fence, or plantings extending not higher than 8 feet above the average elevation of the open area. All screening materials must be substantially transparent. For the purposes of this Section, substantially transparent screening is defined as transparent, or non-opaque, in an evenly distributed fashion for at least 75 percent of its area. Chain link fences and razor wire shall not be permitted. Vegetated screening, such as shrubs, vines, and other plantings, may be completely covered by vegetation and opaque, provided that any underlying surface is substantially transparent.

In addition, such screening material shall be maintained in good condition at all times, may be interrupted by normal entrances and/or exits, and shall have no signs hung or attached thereto, other than those permitted in Section 98-16 (Signs).

(b) Permitted obstruction

Only the following shall be permitted to obstruct a required open area:

- (1) Any #High Line# access structure providing pedestrian access to the #High Line#, by stairway or elevator;
- (2) Those items listed in paragraph (g)(1)(Permitted obstructions) of Section 37-04 (Requirements for Urban Plazas); and
- (3) Open air cafes and kiosks, provided that open air cafes may occupy in the aggregate no more than 75 percent of such required open area.

98-54

Transparency Requirements on the East Side of the High Line

The transparency requirements of this Section shall apply to the #High Line frontage# portion of #developments# and #enlargements# located in C6-3A Districts and within Subareas A, C, F and G except for such portions that contain #dwelling units#. At least 50 percent of the area of such frontage, to be measured from a point not lower than four feet and not higher than eight feet above the level of the #High Line bed# shall be glazed and transparent and at least 75 percent of such glazed surface shall be fully transparent.

98-55

Requirements for Non-Transparent Surfaces on the East Side of the High Line

Any portion of such #High Line frontage# that is 40 feet or more in length and contains no transparent element between the level of the #High Line bed# and an elevation of twelve (12) feet above the level of the #High Line bed#, shall be planted with vines or other plantings or contain artwork. Such elements shall substantially cover the applicable non-transparent portion of the #High Line frontage#.

98-60

SPECIAL ACCESS REGULATIONS FOR CERTAIN ZONING LOTS

98-61

High Line Access Easement Volume Requirement

For all #developments# or #enlargements# within the Special West Chelsea District, an easement volume to facilitate public pedestrian access to the #High Line# via stairway and elevator (hereinafter referred to as “primary access”), shall be provided on any #zoning lot# over which the #High Line# passes that, on or after (the date of referral of zoning text amendment) has more than 5,000 square feet of #lot area#.

In the #High Line Transfer Corridor#, an easement volume to facilitate public pedestrian access to the #High Line# via stairway (hereinafter referred to as “secondary access”), shall be provided on any #zoning lot# from

which #floor area# has been transferred pursuant to Section 98-33 unless a primary access easement has been provided pursuant to this Section 98-61.

However, a primary access easement shall not be required if a primary access easement is already provided on the same #block# and a secondary access easement shall not be required if a primary or secondary access easement has already been provided on the same #block#. Furthermore, primary and/or secondary access easements shall not be required where the Chairperson of the City Planning Commission certifies that:

- (a) the minimum dimensions required for the access easement volume pursuant to paragraph (a) of Section 98-62 cannot be accommodated within 33 feet six inches of a #street line# for primary access easements and 40 feet of a #street line# for secondary access easements; or
- (b) in the case of a primary easement, a secondary easement is already provided on the same #zoning lot# and such easement is sufficient in size or has been enlarged to be sufficient in size to accommodate the provisions for primary access easements as specified in Section 98-62; or
- (c) for primary or secondary easements, access has already been constructed, or, an access volume has been dedicated, on the same #block# or on the same #street# frontage, and that such access or access volume meets the location and access requirements for primary or secondary access easements, as specified in Section 98-62(a) and (b), and meets all standards, as applicable, for persons with disabilities; or
- (d) for primary or secondary easements, construction documents for the #High Line# open space have been developed by the City that specify the same #street# frontage as an access location; or
- (e) such #development# or #enlargement# is located wholly within an M1-5 district and no portion of such #development# or #enlargement# has more than 10,000 square feet of #floor area# and is located within 5 feet of the #High Line#.

98-62

High Line Access Easement Regulations

The provisions of this Section shall apply to any #zoning lot# providing an access easement volume, as follows:

(a) Location and Minimum Dimensions

(1) Primary access easement volume

A primary access easement volume may be located within a #building# or within open areas on the #zoning lot#, including open areas required pursuant to Section 98-53 (Required Open Areas on the East Side of the High Line), provided such volume is within 15 feet of a #narrow street line#. The minimum length of such volume shall be 18 feet six inches and the minimum width shall be ten feet; however, the minimum area of such volume shall be 350 square feet. The height of such volume shall extend from a point at least ten feet below #curb level# to a point at least 15 feet above the level of the #High Line bed#. A primary access easement volume may also replace a previously provided secondary access easement volume, and such secondary access easement volume may be terminated pursuant to Section 98-64. Such minimum dimensions are illustrated in Diagram 6 (#High Line# Access Easement Volume Parameters) of Appendix C of this Chapter.

(2) Secondary access easement volume

A secondary access easement volume shall be located within 15 feet of a #narrow street line# and directly adjacent to the #High Line# for a minimum length of 25 feet. Such volume shall have a minimum width of ten feet. The height of such volume shall extend from #curb level# to a point at least ten feet above the level of the #high Line bed#.

(b) Access

All access easement volumes shall be accessible either directly from a public sidewalk or through a publicly traversable way through the #zoning lot# directly connecting with a public sidewalk. Such publicly traversable way shall meet the following requirements:

- (1) The required width of the publicly traversable way shall be a minimum of eight feet.
- (2) No portion of the publicly traversable way shall be interrupted or occupied by an off-street parking or loading area.
- (3) The access easement volume shall be visible from the public sidewalk or the publicly traversable way.
- (4) The publicly traversable way shall be maintained by the property owner in good repair.
- (5) The publicly traversable way shall be fully accessible to persons with disabilities.
- (6) The publicly traversable way shall be open and accessible to the public at all times when a stairway and/or elevator located within the associated access easement volume is open and accessible to the public.

(c) Permitted obstructions

Any access structure within the access easement volume, or any weather protection provided by an overhang or roofed area over such access easement volume, accessory to the access structure, shall be considered permitted obstructions within required #yards# or open areas.

(d) Permitted #uses#

An access easement volume required on a #zoning lot# pursuant to the provisions of this Chapter may be temporarily used by the owner of such #zoning lot# for any permitted #use# until such time as required by the City of New York or its designee for access purposes. Such permitted use shall be limited to non-residential #uses# where such access easement volume is within a #building#. Where such access easement volume is within an open area, such area shall be landscaped, or may be improved in accordance with the provisions of sub-paragraphs (g)(1), (g)(2) and (g)(3) (Permitted obstructions), of Section 37-04 (Requirements for Urban Plazas), except that in the case of open air cafes and kiosks the provisions of paragraph (g) (3) shall be modified as follows: a certification shall not be required pursuant to paragraphs (g)(5) and (g)(6).

Improvements or construction of a temporary nature within the easement volume shall be removed by

the owner of such #zoning lot# prior to the time at which public use of the easement areas is required. A minimum notice of six months in writing shall be given by the City of New York or its designee to the owner of the #zoning lot#, in order to vacate the tenants of such temporary #uses#.

(e) Legally Required Windows

The minimum distance between any legally required window in a portion of a #building# used for #residential use# and an access easement volume shall be 30 feet, measured in a horizontal plane at the sill level of, and perpendicular to, such window for the full width of the rough window opening.

98-63

Recording of High Line Access Easement Volume

An instrument in a form acceptable to the Department of City Planning creating a #High Line# access easement volume shall be recorded in the Office of the City Register; a certified copy of which shall be submitted to the Department of City Planning.

Notice by the Department of City Planning of its receipt of a certified copy of an instrument establishing any access easements required pursuant to this Chapter shall be a precondition to issuance by the Commissioner of Buildings of any building permits including any foundation or alteration permit for any #development# of #enlargement# on a site pursuant to Section 98-60 for primary access easements. Receipt of a certified copy of an instrument creating a secondary access easement shall be provided in conjunction with notification, pursuant to Section 98-33(a).

98-64

Termination of High Line Access Easement Volume

In the event that the City Planning Commission notifies the Department of Buildings and the owner in writing that a #High Line# access easement volume is not required on a #zoning lot# under the final construction plans for the restoration and reuse of the #High Line# as an accessible, public open space, the restrictions imposed on such #zoning lot# by the provisions of Section 98-61 (High Line Access Easement Volume Requirement) shall lapse, following receipt of notification thereof by the owner, and the owner shall have the right to record an instrument reciting the consent of the City Planning Commission to the extinguishment of the easement volume. On termination of the #High Line# access easement volume requirement which has been certified pursuant to this Section, any area reserved for such easement within a #building or other structure# may be used for any #use# permitted pursuant to the provisions of this Chapter and such area shall not be considered #floor area#; and any open area reserved for such easement shall be maintained as an open area and shall be subject to the open area requirements of Section 98-53 (Required Open Areas on the East Side of the High Line).

APPENDIX D

Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus in Subarea H

This Appendix sets forth additional requirements governing #zoning lots# located within Subarea H between West 17th and 18th streets over which the #High Line# passes with respect to a #development# or #enlargement# which involves an increase in the applicable basic maximum #floor area ratio# of the #zoning

lot# up to the amount specified in Section 98-22 (Maximum #Floor Area Ratio# in Subareas), with respect to: (1) the issuance of a building permit for such #development# or #enlargement# pursuant to subparagraph (a) of Section 98-25 (High Line Improvement Bonus); and (2) the performance or funding of improvements as a condition of issuance of temporary or permanent certificates of occupancy pursuant to subparagraph (b) of Section 98-25 for #floor area# in such #development# or #enlargement# which exceeds the basic maximum #floor area ratio# of the #zoning lot#. The term “parties in interest” as used herein shall mean “parties-in-interest”, as defined in paragraph f(4) of the definition of #zoning lot# under Section 12-10 .

(a) Requirements for Issuance of Building Permit Under Paragraph (a) of Section 98-25

(1) As a condition of issuance of a building permit under Paragraph (a) of Section 98-25:

(i) Owner shall, subject to reduction pursuant to the other provisions of this Appendix D, deposit into the #High Line# Improvement Fund, or secure by letter of credit or other cash equivalent instrument in a form acceptable to the City, a contribution of \$50.00 per square foot of #floor area# which exceeds the basic maximum #floor area ratio# of the #zoning lot#, up to the amount specified in Section 98-22;

(ii) all parties-in-interest shall execute a restrictive declaration including easements to the City providing for: the location of and public access to and use of the At-Grade Plaza and the stairway and elevator that will provide access to the #High Line#, as shown in Diagram 3 of Appendix C, such easement area for the At-Grade Plaza to include the entire area of the #zoning lot# east of the #High Line# and such easement area as it relates to such stairway and elevator to be at least 2,500 square feet and in a location and configuration acceptable to the City; access for the potential performance by the City of work under the provisions set forth below; and maintenance and repair of the stairway and elevator . Such declaration shall incorporate by reference the maintenance and operating agreement referred to in paragraph (iii) below; and

(iii) Owner shall execute a maintenance and operating agreement for the At-Grade Plaza,

The easements and agreement described herein shall remain in force and effect irrespective of whether certificates of occupancy are issued pursuant to Section 98-25, paragraph (b).

(2) Upon the request of Owner, the City in its sole discretion, may elect to have Owner perform all #High Line# improvements (i.e., non-structural and non-remediation work) at its own expense within the #High Line# improvement area on such #zoning lot# and over #streets# contiguous to such #zoning lot#. In that event, certification under Section 98-25, paragraph (a), shall also be made upon execution of an agreement by Owner, approved by the Chair of the City Planning Commission, to perform such improvements, the cost of which shall be refunded or credited from the contribution to the #High Line# Improvement. Such agreement may require Owner to reimburse the City for the costs of a full-time resident engineer to supervise such work.

(3) The location of #floor area# which would exceed the basic maximum #floor area ratio# and be subject to the provisions of Section 98-25 shall be considered to be the topmost portion of the #development# or #enlargement# unless, at the time of certification pursuant to Section 98-25, paragraph (a), Owner designates, subject to the concurrence of the Chairperson of the City

Planning Commission, an alternate location.

(b) Requirements for Issuance of Certificates of Occupancy Under Paragraph (b) of Section 98-25

(1) Structural Remediation Work Under Paragraph (b)(2) of Section 98-25

- (i) Owner may, at its option, elect to perform Structural Remediation Work on the portion of the #High Line# within the #High Line# improvement area on such #zoning lot and over #streets# contiguous thereto in accordance with the provisions of this subparagraph. Owner may exercise such option following receipt of the City's specifications for the Structural Remediation Work or upon the City's failure to provide such specifications, as set forth in paragraphs (iv) and (v) below (unless such dates are extended by mutual agreement of the City and Owner, but in no event may exercise such option later than 90 days following receipt of a notice by the City of its intent to commence improvements to the #High Line# within the #High Line# improvement area applicable to the #zoning lot# within the next twenty-four months. In that event, the amount of contribution to the #High Line # Improvement Fund shall be reduced by \$21.00 per square foot of #floor area# which exceeds the basic maximum #floor area ratio# of the #zoning lot# up to the amount specified in Section 98-22 and the City shall refund or credit the Owner , as applicable, for any excess from or against the #High Line# Improvement Fund. In the event of exercise of such option, certification pursuant to Section 98-25, paragraph (b) (2), with respect to the Structural Remediation Work shall be of substantial completion with respect to issuance of any temporary certificate of occupancy, and of final completion with respect to issuance of any final certificate of occupancy.
- (ii) Such Structural Remediation Work shall include work on or under the #High Line# and above , at, and below grade, which shall be of the same quality and performance standards (i.e., with respect to use, useful life and maintenance requirements) as required for the remainder of the #High Line# (recognizing that there may be different standards for portions of the #High Line# that will be exposed to public view versus those that will not be so exposed) and shall include, but not be limited to, the following:
 - (a) Removal and disposal of all lead-based products in accordance with specifications provided by the City, and disposal of all waste, all in accordance with the rules and regulations of all appropriate regulatory agencies and disposal facilities;
 - (b) Repair of all damaged portions of the entire steel structure, including but not limited to railings, columns and footings, in accordance with the specifications provided by the City and all applicable rules, including those pertaining to historic preservation;
 - (c) Recoating of the entire steel structure with the types of products and numbers of coats specified by the City ;
 - (d) Repairs to damaged concrete; removal, disposal, and replacement of any concrete that is found to contain hazardous materials; and recoating of the entire concrete portion of the #High Line# as specified by the City, all in accordance with the rules and regulations of all appropriate regulatory agencies and disposal facilities;

- (e) Removal of any or all portions of the ballast material on the #High Line#, including but limited to gravel, railroad ties and steel rails, trash, plant material, and any other objectionable materials (including , but not limited to, asbestos and pigeon guano) that are found on or under the #High Line#, as specified by the City, and disposal of all such material in accordance with the rules and regulations of all appropriate regulatory agencies and disposal facilities. In the event that the City directs that any or all ballast material is to remain on the #High Line#, it shall be capped , as necessary, in accordance with the specifications provided by the City and the rules and regulations of all appropriate agencies. Any ballast material that is to remain, but also remain uncapped, shall be cleared and grubbed in accordance with specifications of the City; and
 - (f) Any work required to be performed below-grade for the anticipated improvements of the #High Line# for reuse as open space.
 - (iii) Subject to the Not-To-Exceed Limit set forth in section (c) of this Appendix, if Owner exercises the option to perform the Structural Remediation Work, it shall reimburse the City for the reasonable cost of hiring or procuring the services of a full-time resident engineer to supervise the Structural Remediation Work, with associated costs (e.g., trailer, computer, telephone).
 - (iv) The City shall consult with Owner regarding the drafting of the specifications for the Structural Remediation Work, and then provide Owner with such specifications by January 31, 2006, subject to delays outside the reasonable control of the City (including , without limitation, litigation, but such delays shall not extend more than 180 days), unless such date is extended by mutual agreement between the City and Owner.
 - (v) In the event Owner exercises the option to perform the Structural Remediation Work, Owner shall have 12 months to complete such work following the (effective date of amendment) or of the date of exercise of such option, whichever is later, unless such date is extended by mutual agreement between the City and Owner, and subject to reasonable extension for any delays beyond Owner's reasonable control and , in addition, for any time during which Owner is unable to gain access in order to perform the Structural Remediation Work due to the actions of a tenant occupying the #zoning lot# (or portion thereof) upon (date of referral of application). .
 - (vi) In the event that the City does not provide the specifications for the Structural Remediation Work , within the timeframe set forth in paragraph (iv) of this section, Owner may exercise the option to perform such work, and shall complete it within 12 months of the exercise of such option, unless such date is extended by mutual agreement between the City and Owner, and subject to reasonable extension for any delays as described in paragraph (v) above, but may use its own specifications, consistent with the description of the Structural Remediation Work set forth above and sound, high quality engineering, construction and workmanship standards and practices.
- (2) At-Grade Plaza Work Under Section 98-25 (b)(3)

- (i) Owner shall perform At-Grade Plaza Work within the area on the #zoning lot# shown in Diagram 3 of Appendix C. For any temporary certificate of occupancy, certification pursuant to Section 98-25, paragraph (b)(3), shall be of substantial completion of the At-Grade Plaza Work (i.e., the At-Grade Plaza shall be open and accessible to the public). For any permanent certificate of occupancy, certification pursuant to Section 98-25, paragraph (b)(3), shall be of final completion of the At-Grade Plaza Work. Substantial completion of the At-Grade Plaza Work shall also require execution by all parties-in-interest of the declarations, easements and maintenance and operating agreement described in paragraph (a) of Section (1) of this Appendix, if not previously provided in connection with issuance of a building permit.
- (ii) At-Grade Plaza Work shall include, but not be limited to:
 - (a) remediation work; and
 - (b) all paving, plantings, surface treatments, lighting, trees, seating, fountains and other site amenities; and
 - (c) infrastructure work, including conduits, drainage, water line, electrical connections, and other utility work serving the At-Grade Plaza.
- (iii) The At-Grade Plaza Work shall be performed by Owner pursuant to construction documents provided by the City by September 30, 2006, subject to delays outside the reasonable control of the City (including, without limitation, litigation, but such delays shall not exceed more than 180 days), and to such extension as the City and Owner may mutually agree. The At-Grade Plaza Work shall be completed within one year following the later of the (effective date of amendment) or the receipt of such documents, subject to reasonable extension for any delays beyond Owner's reasonable control and to such extension as the City and Owner may mutually agree, and, in addition, for any time during which Owner is unable to gain access in order to perform the At-Grade Plaza Work due to the actions of a tenant occupying the #zoning lot# (or portion thereof) upon (date of referral of application), or for any time needed to perform any necessary remediation work on the #zoning lot#.
- (iv) In no event shall Owner be required to complete the At-Grade Plaza Work until the #High Line# improvements within the portion of the #High Line# Improvement Area adjacent to the #zoning lot# (and, as applicable, over such Improvement Area, as shown on Diagram 3 of Appendix C, are substantially complete (i.e., open to the public but for the work needed to complete the At-Grade Plaza Work). Notwithstanding the foregoing, in no event shall Owner be entitled to certification pursuant to Section 98-25, paragraph (b)(3), until the Chairperson determines that the At-Grade Plaza Work is substantially complete.
- (v) The cost to Owner of the At-Grade Plaza Work (inclusive of the Stairway and Elevator Access Work described in paragraph (3) of this Section) shall not exceed \$2,300,000. The amount of contribution to the #High Line# Improvement Fund under subdivision a of section 1 of this Appendix made for purposes of Section 98-25, paragraph (a), shall be reduced by such amount at the time it is made. In addition to the costs of the At-Grade Plaza Work, subject to the Not-To-Exceed Limit set forth section (c) of this Appendix,

Owner shall be required to reimburse the City for:

- (a) the reasonable cost of developing the plans and construction documents for the At-Grade Plaza Work; and
 - (b) the reasonable cost of hiring or procuring the services of a full-time resident engineer to supervise the At-Grade Plaza Work, with associated costs (e.g., trailer, computers, telephone).
- (vi) In the event that construction documents for the At-Grade Plaza Work (inclusive of the Stairway and Elevator Access Work described in paragraph (3) of this Section) are not delivered to Owner within the timeframe set forth in paragraph 3 of this subsection, Owner shall not be required to perform the At-Grade Plaza Work (inclusive of the Stairway and Elevator Access Work described in paragraph (3) of this Section) consistent with such documents. Instead, Owner shall perform Alternate At-Grade Plaza Work which shall include all necessary remediation work, all necessary below-grade work (including related infrastructure work necessary to support the #High Line#), and at-grade improvements pursuant to the standards set forth in Section 37-04, paragraphs (g) through (n) of the Zoning Resolution, except that open-air cafes and kiosks shall not be permitted. Permitted obstructions, whether as described in the City's Specifications for the At-Grade Plaza Work or as specified in Section 37-04, paragraph (g), for the Alternate At-Grade Plaza Work, shall not count towards # lot coverage#.
- (vii) The cost to the Owner of the Alternate At-Grade Plaza Work shall not exceed \$1,400,000. In addition, Owner shall , subject to the Not-To Exceed Limit of Section (c) of this Appendix, be required to reimburse the City for the reasonable cost of hiring or procuring the services of a full-time resident engineer to supervise the Alternate At-Grade Plaza Work, with associated costs (e.g., trailer, computers, telephone).
- (viii) Upon substantial completion of the At-Grade Plaza and in any event as a condition of certification of substantial completion pursuant to Section 98-25, paragraph (b)(4): Owner shall provide the City with the declarations, easements and maintenance and operating agreement described in subsection a of section 1 of this Appendix ,if not already provided in connection with the issuance of a building permit; such At-Grade Plaza shall be open and accessible to the public during at least the same hours during which the #High Line# is open and accessible to the public, subject to the terms of the maintenance and operating agreement; and Owner shall maintain the At-Grade Plaza pursuant to the terms of the maintenance and operating agreement.
- (3) Stairway and Elevator Access Work Under Paragraph (b)(4) of Section 98-25
- (i) Except as provided in subparagraph (iii) of this paragraph, Owner shall perform Stairway and Elevator Access Work within the At-Grade Plaza area as shown in Diagram 3 of Appendix C in conjunction with performance of the At-Grade Plaza Work. For temporary certificates of occupancy, certification pursuant to Section 98-25, paragraph (b)(4), shall be of substantial completion of the Stairway and Elevator Access Work (i.e., the stairway and elevator could be made open and accessible to the public). For permanent certificates of occupancy, certification pursuant to such Section shall be of

final completion of the work.

- (ii) The Stairway and Elevator Access Work shall consist of one stairway and one elevator, shall be included in the construction drawings for the At-Grade Plaza Work described above, and shall be performed by Owner within the time period for performance of the At-Grade Plaza Work described in subsection c of this section. The location for the stairway and elevator shall take into account the viability of any retail spaces fronting the At-Grade Plaza.
- (iii) Owner shall not be responsible for performance of the Stairway and Elevator Access Work where it performs the Alternate At-Grade Plaza Work in accordance with paragraph (b) of this section. In that event, prior to commencing the Alternate At-Grade Plaza Work and in any event as a condition of certification of substantial completion pursuant to Section 98-25, paragraph (b)(4):
 - (a) Owner shall deposit into the #High Line# Improvement Fund a contribution of \$900,000.00 (the Access Contribution), to be used at the direction of the Chairperson of the City Planning Commission for construction of stairway and elevator facilities on the #zoning lot#; and
 - (b) Owner shall provide the City with the declarations, easements, and maintenance and operating agreement described in paragraph (1) of Section (a) of this Appendix, if not previously provided in connection with issuance of a building permit.
- (4) City Performance of Work In the Event of Failure to Perform
 - (i) In the event Owner has not completed any of the #High Line# Improvement Work (where an agreement for performance of such work has been executed under Section (a) of this Appendix, Structural Remediation Work (where Owner has exercised the option under paragraph (1) of Section (b) of this Appendix), the At-Grade Plaza Work or Alternate Plaza Work, as applicable, and the Stairway and Elevator Access Work (where required to do so under paragraph (3) of Section (b) of this Appendix), by a time at which the City has completed portions of the #High Line# (i.e., such that such portions are open and accessible to the public) immediately on either side of the #High Line# improvement area for the #zoning lot#, as shown on Diagram 3 of Appendix C, and a relevant deadline for performance of such work under paragraphs (1), (2) or (3) of Section (b) above has passed, subject to the provisions of such subsections relating to extension by mutual agreement or delay, the City, at its sole option, may, upon written notice to Owner, notify Owner of its intent to proceed with performance and/or completion of the relevant work at its own expense.
 - (ii) The City may proceed with performance and/or completion of the work following such notice unless Owner:
 - (a) within 45 days following such notice, submits to the Department of City Planning a reasonable schedule (not to exceed 12 months in total), unless such date is extended by mutual agreement between the City and Owner, for completion of the relevant work, as applicable, which schedule shall be subject to review and

reasonable approval by the City; and

- (b) completes the relevant work in accordance with such schedule, subject to reasonable extension for any delays beyond Owner's reasonable control and , in addition, any time in which Owner is unable to gain access in order to perform the At-Grade Plaza Work or Alternate Plaza Work due to the actions of a tenant occupying the #zoning lot# (or portion thereof) upon (date of referral of application) or), or for any time during which remediation work is in progress on the #zoning lot#.

- (iii) In the event Owner does not comply with the requirements paragraph (4)(ii) of this Section (b):

- (a) the City may proceed with performance and/or completion of relevant work, and may obtain access to perform such work pursuant to the easements described in paragraph (1) of Section (a) of this Appendix;

- (b) the City shall return to Owner any contribution made to the #High Line# Improvement Fund; and

- (c) no building permit may be issued pursuant to Section 98-25, paragraph (a), nor any temporary or permanent certificate of occupancy may be issued pursuant to Section 98-25, paragraph (b), for #floor area# in a #development# or #enlargement# which exceeds the maximum #floor area# of the #zoning lot#.

- (c) Reimbursement Not-To- Exceed Limits

Reimbursement of the City by Owner of costs pursuant to this Appendix shall not exceed a total of \$450,000.00.

APPENDIX E

Special Regulations for Zoning Lots Utilizing the High Line Improvement Bonus and Located Partially Within Subareas D, E, G or I

This Appendix sets forth additional requirements governing #zoning lots# located partially within Subareas D, E and G or within Subarea I between West 16th and 17th streets over which the #High Line# passes with respect to a #development# or #enlargement# which involves an increase in the applicable basic maximum #floor area ratio# of the #zoning lot# up to the amount specified in Section 98-22 (Maximum Floor Area Ratio in Subareas), with respect to: (1) the issuance of a building permit for such #development# or #enlargement# pursuant to paragraph (a) of Section 98-25 (High Line Improvement Bonus); and (2) the performance or funding of improvements as a condition of issuance of temporary or permanent certificates of occupancy pursuant to paragraph (c) of Section 98-25 for #floor area# in such #development# or #enlargement# which exceeds the basic maximum #floor area ratio# of the #zoning lot#. The term "parties in interest" as used herein shall mean " parties-in-interest", as defined in paragraph f(4) of the definition of #zoning lot# under Section 12-10.

(a) Requirements for Issuance of Building Permit Under Paragraph (a) of Section 98-25

(1) As a condition of certification under Paragraph (a) of Section 98-25:

- (i) Owner shall, subject to reduction pursuant to the other provisions of this Appendix E, deposit into the #High Line# Improvement Fund, or secure by letter of credit or other cash equivalent instrument in a form acceptable to the City, a contribution of \$50.00 per square foot of #floor area# which exceeds the basic maximum #floor area ratio# of the #zoning lot#, up to the amount specified in Section 98-22; and
- (ii) all parties-in-interest shall execute a restrictive declaration including easements to the City providing for: the location of and public access to and from a stairway and elevator on the #zoning lot# that will provide access to the #High Line# and for maintenance and repair by the City of such stairway and elevator; and the potential performance by the City of work under the provisions set forth below. In the case of #zoning lots# between West 16th and 17th streets, Owner shall also provide the City with easements providing for City access to and from and for public use of the #High Line# Service Facilities on the #zoning lot# and for maintenance and repair by the City of such #High Line# Service Facilities. All easements described herein shall be in a form acceptable to the City and shall remain in force and effect irrespective of whether certificates of occupancy are issued pursuant to Section 98-25, paragraph (c); and
- (iii) submit plans for Stairway and Elevator Access Facilities and, where applicable, #High Line# Service Facilities that demonstrate compliance with the provisions of this Appendix and are consistent with New York City Department of Parks and Recreation standards and best practices governing materials life cycle and maintenance for review and approval by the Chairperson of the City Planning Commission.

- (2) Upon the request of Owner, the City in its sole discretion, may elect to have Owner perform all #High Line# improvements (i.e., non-structural and non-remediation work) at its own expense within the #High Line# improvement area on such #zoning lot # and over #streets# contiguous to such #zoning lot#. In that event, certification under Section 98-25, paragraph (a), shall also be made upon execution of an agreement, approved by the Chair of the City Planning Commission, to perform such improvements, the cost of which shall be refunded or credited from the #High Line# Improvement Fund contribution to reflect the cost of such improvements. Such agreement may require Owner to reimburse the City for the costs of a full-time resident engineer to supervise such work.
- (3) The location of #floor area# which would exceed the basic maximum #floor area ratio# and be subject to the provisions of Section 98-25 shall be considered to be the topmost portion of the #development# or #enlargement# unless, at the time of certification pursuant to Section 98-25, paragraph (a), Owner designates, subject to the concurrence of the Chairperson of the City Planning Commission, an alternate location.

(b) Requirements for Issuance of Certificates of Occupancy Under Paragraph (c) of Section 98-25

(1) Structural Remediation Work Under Paragraph (c)(2) of Section 98-25

- (i) Owner may, at its option, elect to perform Structural Remediation Work on the portion of

the #High Line# within the #High Line# improvement area on such #zoning lot and over #streets# contiguous thereto in accordance with the provisions of this subparagraph. Owner may exercise such option following receipt of the City's specifications for the Structural Remediation Work or upon the City's failure to provide such specifications, as set forth in paragraphs (iv) and (v) below (unless such dates are extended by mutual agreement of the City and Owner, but in no event may exercise such option later than 90 days following receipt of a notice by the City of its intent to commence improvements to the #High Line# within the #High Line# improvement area applicable to the #zoning lot# within the next twenty-four months. In that event, the amount of contribution to the #High Line # Improvement Fund shall be reduced by \$21.00 for each square foot of #floor area# which exceeds the basic maximum #floor area ratio# of the #zoning lot# up to the amount specified in Section 98-22 and the City shall refund or credit the Owner, as applicable, for any excess from or against the #High Line# Improvement Fund , In the event of exercise of such option, certification pursuant to Section 98-25, paragraph (c) (2), with respect to the Structural Remediation Work shall be of substantial completion with respect to issuance of temporary certificates of occupancy, and of final completion with respect to issuance of final certificates of occupancy.

- (ii) Such Structural Remediation Work shall include work on or under the #High Line# and above, at, and below grade, which shall be of the same quality and performance standards (i.e., with respect to use, useful life, and maintenance requirements) as required for the remainder of the #High Line# (recognizing that there may be different standards for portions of the #High Line# that will be exposed to the public versus those that will not be so exposed) and shall include, but not be limited to, the following:
 - (a) Removal and disposal of all lead-based products in accordance with specifications provided by the City, and disposal of all waste, all in accordance with the rules and regulations of all appropriate regulatory agencies and disposal facilities;
 - (b) Repair of all damaged portions of the entire steel structure, including but not limited to railings, columns and footings, in accordance with the specifications provided by the City and all applicable rules, including those pertaining to historic preservation;
 - (c) Recoating of the entire steel structure with the types of products and numbers of coats specified by the City;
 - (d) Repairs to damaged concrete; removal, disposal, and replacement of any concrete that is found to contain hazardous materials; and recoating of the entire concrete portion of the #High Line# as specified by the City, all in accordance with the rules and regulations of all appropriate regulatory agencies and disposal facilities;
 - (e) Removal of any or all portions of the ballast material on the #High Line#, including but limited to gravel, railroad ties and steel rails, trash, plant material, and any other objectionable materials (including, but not limited to, asbestos and pigeon guano) that are found on or under the #High Line#, as specified by the City, and disposal of all such material in accordance with the rules and regulations of all appropriate regulatory agencies and disposal facilities. In the

event that the City directs that any or all ballast material is to remain on the #High Line#, it shall be capped, as necessary, in accordance with the specifications provided by the City and the rules and regulations of all appropriate agencies. Any ballast material that is to remain, but also remain uncapped, shall be cleared and grubbed in accordance with specifications of the City; and

- (f) Any work required to be performed below-grade for the anticipated improvements of the #High Line# for reuse as open space.
 - (iii) The City shall consult with Owner regarding the drafting of the specifications for the Structural Remediation Work, and then provide Owner with such specifications by January 31, 2006, subject to such delays as are outside the reasonable control of the City (including, without limitation, litigation, but such delays shall not extend more than 180 days), unless such date is extended by mutual agreement between the City and Owner.
 - (iv) In the event Owner exercises the option to perform the Structural Remediation Work, Owner shall have 12 months to complete such work following the (effective date of amendment) or of the date of exercise of such option, whichever is later, unless such date is extended by mutual agreement between the City and Owner, and subject to reasonable extension for any delays beyond Owner's reasonable control.
 - (v) In the event that the City does not provide the specifications for the Structural Remediation Work within the timeframe set forth in paragraph (iii) of this subsection, Owner may exercise the option to perform such work and proceed with the Structural Remediation Work, and shall complete it within 12 months of the exercise of such option, unless such date is extended by mutual agreement between the City and Owner, and subject to reasonable extension for any delays beyond Owner's reasonable control, but may use its own specifications, consistent with the description of the Structural Remediation Work set forth above and sound, high quality engineering, construction and workmanship standards and practices.
 - (vi) If Owner exercises the option to perform the Structural Remediation Work, Owner shall reimburse the City for the reasonable cost of hiring or procuring the services of a full-time resident engineer to supervise the Structural Remediation Work, with associated costs (e.g., trailer, computer, telephone), such reimbursement not to exceed \$115,000.
- (2) Stairway and Elevator Access Work Under Paragraph (c)(3) of Section 98-25
- (i) Owner shall perform Stairway and Elevator Access Work subject to the provisions of subparagraph 2 of this paragraph. For temporary certificates of occupancy, certification pursuant to Section 98-25, paragraph (c)(3), shall be of substantial completion of the Stairway and Elevator Access Work (i.e., the stairway and elevator could be made open and accessible to the public). For permanent certificates of occupancy, certification shall be of final completion of the work.
 - (ii) The Stairway and Elevator Access Work shall consist of one stairway and one elevator located directly adjacent to or below the #High Line#. Except as approved by the Chairperson of the City Planning Commission pursuant to paragraph (1)(iii) of

Section (a) of this Appendix, #curb level# entrances to such access facilities must be located at the #street line#. Such access facilities shall be harmonious with the design of the #High Line# on the #zoning lot# and shall be visible and identifiable as #High Line# access facilities when viewed from Tenth Avenue. Such access facilities may be unenclosed or enclosed. When such access facilities are enclosed and located at the #street line#, any wall or façade separating the access facility from the #street# shall be substantially glazed and fully transparent from ground level to the full height of the access facility. Any wall or façade separating the access facility from the #High Line# shall be substantially glazed and fully transparent from the level of the #High Line bed# to the full height of the access facility. Stairways shall have a clear path of not less than 6 feet in width. Such access facilities shall be identified with signage placed at the #High Line# level and at street level that is consistent with guidelines specified in the signage plan as authorized by the City Planning Commission pursuant to the provisions of Section 98-16.

(iii) The Stairway and Elevator Access Work shall be completed within 1 year following the later of the (effective date of amendment) or the Chairperson's review and acceptance of the plans and specifications that demonstrate compliance with the provisions of paragraph (2)(ii) of this Section, subject to reasonable extension for any delays beyond Owner's reasonable control, unless such date is extended by mutual agreement between the City and Owner.

(iv) In no event however shall Owner be required to complete the Stairway and Elevator Access Work until the #High Line# improvements in the portion of the #High Line# improvement area adjacent to the #zoning lot#, as shown on Diagram 4 or 5 of Appendix C, are substantially complete. Notwithstanding the foregoing, in no event shall Owner be entitled to certification pursuant to Section 98-25, paragraph (c)(3), until the Chairperson determines that the Stairway and Elevator Access Work is substantially complete.

(3) #High Line# Service Facility Work Under Paragraph (c)(4) of Section 98-25

(i) For #zoning lots# located between West 16th and 17th streets, Owner shall perform #High Line# Service Facility Work subject to the provisions of this section. For temporary certificates of occupancy, certification pursuant to Section 98-25, paragraph (c)(4), shall be of substantial completion of the work. For permanent certificates of occupancy, certification shall be of final completion of the work.

(ii) #High Line# Service Facilities shall consist of satellite maintenance and operations space for the #High Line# open space as well as public restrooms, in accordance with the following standards:

(a) Location

Such facilities shall have a component located at the level of the #High Line bed#, or within 5 feet of such level (hereinafter referred to as the "upper service facility"). Such facilities shall also have a component located no higher than #curb level# (hereinafter referred to as the "lower service facility"). The upper facility must be located directly above the lower facility to enable placement of a

trash chute connecting the upper and lower facilities. Where the upper facility is not located exactly at the level of the #High Line bed#, a fully accessible ramp must connect such level with the level of the upper facility. Where the lower facility is not located exactly at #curb level#, a means acceptable to the City of connecting the lower service facility to a #street# frontage shall be provided.

(b) Program and dimensions

(1) Lower service facilities

Lower service facilities shall contain a room which is accessible from #street# level and is no less than 50 square feet in area. Such facility shall contain the outlet of a trash chute from the upper service facility and shall also have a minimum of one electrical outlet furnishing a wattage consistent with its intended use within a maintenance and operations facility.

(2) Upper service facilities

Upper service facilities shall be no less than 350 square feet in area and shall contain, at a minimum one public restroom not less than 250 square feet in area with separate restroom spaces for each gender, one storage room not less than 70 square feet in area, and one waste disposal room not less than 30 square feet in area and containing a trash chute to the lower service facility

Each room within such upper service facilities shall have a minimum of one electrical outlet furnishing wattage consistent with its intended use within a maintenance and operations facility.

(iii) The #High Line# Facility Work shall be completed within 1 year following the later of the (effective date of amendment) or the Chairperson's review and acceptance of the plans and specifications that demonstrate compliance with the standards of paragraph (ii) of this subsection, subject to reasonable extension for any delays beyond Owner's reasonable control, unless such date is extended by mutual agreement between the City and Owner.

(iv) In no event however shall Owner be required to complete the #High Line# Facility Work until the #High Line# improvements in the portion of the #High Line# improvement area adjacent to the #zoning lot#, as shown on Diagram 5 of Appendix C, are substantially complete. Notwithstanding the foregoing, in no event shall Owner be entitled to certification pursuant to Section 98-25, paragraph (c)(4), until the Chairperson determines that the Stairway and Elevator Access Work is substantially complete.

(v) The cost to Owner of the #High Line# Facilities Work shall not exceed \$1,150,000. The amount of contribution to the #High Line# Improvement Fund under paragraph (1) of Section (a) of this Appendix made for purposes of Section 98-25, paragraph (a), shall be reduced by such at the time it is made. .

(c) City Performance in the Event of Failure to Perform

- (1) In the event Owner has not completed any of the #High Line# Improvement Work (where an agreement for performance of such work has been executed under paragraph (1) of Section (a) of this Appendix), Structural Remediation Work (where Owner has exercised the option under paragraph (1) of Section (b)) and the Stairway and Elevator Access Work (under paragraph (3) of Section (b)), by a time at which the City has completed portions of the #High Line# (i.e., such that such portions are open and accessible to the public) immediately on either side of the #High Line# improvement area for the #zoning lot#, as shown on Diagram 4 or 5 of Appendix C, and a relevant deadline for performance of such work under paragraphs (1), (2) or (3) of Section (b) above, as applicable, has passed, subject to the provisions of such subsections relating to extension by mutual agreement or delay, the City, at its sole option, may, upon written notice to Owner, notify Owner of its intent to proceed with performance and/or completion of the relevant work at its own expense.
- (2) The City may proceed with performance and/or completion of the work following such notice unless Owner:
 - (i) within 45 days following such notice, submits to the Department of City Planning a reasonable schedule (not to exceed 12 months in total) for completion of the relevant work, as applicable, which schedule shall be subject to review and reasonable approval by the City, unless such date is extended by mutual agreement between the City and Owner; and
 - (ii) completes the relevant work in accordance with such schedule, subject to reasonable extension for any delays beyond Owner's reasonable control
- (3) In the event Owner does not comply with the requirements of paragraph (2) above:
 - (i) the City may proceed with performance and/or completion of relevant work, and may obtain access to perform such work pursuant to the easements described in paragraph (1) of Section (a) of this Appendix;
 - (ii) the City shall return to Owner any contribution made to the #High Line# Improvement Fund; and
 - (iii) no building permit may be issued pursuant to Section 98-25, paragraph (a), nor may any temporary or permanent certificates of occupancy may be issued pursuant to Section 98-25, paragraph (d), for #floor area# in a #development# or #enlargement# which exceeds the maximum #floor area# of the #zoning lot#.

* * *

123-90

SPECIAL MIXED USE DISTRICTS SPECIFIED

* * *

~~#Special Mixed Use District# – 3: (9/9/99)~~
~~West Chelsea, Manhattan~~

~~The #Special Mixed Use District# – 3 is established in West Chelsea in Manhattan as indicated on the #zoning maps#.~~

* * *

Adopted.

Office of the City Clerk, }
The City of New York, } ss.:

I hereby certify that the foregoing is a true copy of a Resolution passed by The Council of The City of New York on June 23, 2005, on file in this office.

.....
City Clerk, Clerk of The Council