

Matter underlined is new, to be added;
Matter ~~struck out~~ is to be deleted;
Matter within # # is defined in Section 12-10;
Matter ~~double struck out~~ is old, deleted by the City Council;
Matter double-underlined is new, added by the City Council
* * * indicates where unchanged text appears in the Zoning Resolution.

EXHIBIT A
FORM OF DECLARATION OF LARGE-SCALE GENERAL DEVELOPMENT

THIS DECLARATION, made as of this ____ of _____, 2018 by
Brownsville Livonia Associates LLC, a limited liability company, having an address at
1865 Palmer Avenue, Suite 203, Larchmont, New York, 10538 ("Declarant").

WITNESSETH:

WHEREAS, the Declarant, a New York Limited Liability Company, having its principal office at 1865 Palmer Avenue, Suite 203, Larchmont, New York, 10538 is the fee owner of certain real property located in the Borough of Brooklyn, County of Kings, City and State of New York, designated for real property tax purposes as: Block 3559, Lot 1; Block 3560, Lot 1; Block 3573, Lot 1; Block 3574, Lot 1; Block 3575, Lot 11; Block 3587, Lots 1, 27; Block 3588, Lots 1, 27, 32-36; Block 3589, Lot 21; Block 3601, Lot 26; and Block 3602, Lot 12, which real property is more particularly described in Exhibit "A" annexed hereto and made a part hereof (the "Subject Property"); and

WHEREAS, Declarant desires to improve the Subject Property as a " large-scale general development" meeting the requirements of Section 12-10 of the Zoning Resolution (Definition) definition of "large-scale general development" (such proposed improvement of the Subject Property the "Large Scale Development Project"); and _____

WHEREAS, In connection with the Large-Scale Development Project Declarant has filed an application with the New York City Department of City Planning (hereinafter "City Planning") for approval by New York City Planning Commission (the "**Commission**") of items C180490ZSK, C180489ZMK, C180488ZSK, N180487ZRK, C180486PCK, and C180485HAK collectively, the "Land Use Applications"; and

WHEREAS Declarant has agreed to restrict the development, operation, use and maintenance of the Subject Property in certain respects, which restrictions are set forth in this Declaration; and

WHEREAS, Section 74-743(b)(10) of the Zoning Resolution requires that a declaration with regard to ownership requirements in paragraph (b) of the large scale general development definition in Section 12-10 be filed with the New York City Planning Commission; and

WHEREAS, Bellrow Title Agency (the "Title Company") has certified in the certification (the "Certification") attached hereto as **Exhibit B** and made a part hereof, that as of _____, Declarant is the sole party-in-interest (the "Party -in-

Interest”) in the Subject Property, as such term is defined in the definition of “zoning lot” in Section 12-10 of the Zoning Resolution; and

WHEREAS, all parties-in-interest to the Subject Property have either executed this Declaration or waived their right to execute and subordinated their interest in the Subject Property to this Declaration by written instrument annexed hereto as **Exhibit B:2** and made a part hereof, which instrument is intended to be recorded simultaneously with this Declaration; and

WHEREAS, Declarant desires to restrict the manner in which the Subject Property is developed in the future, and intends these restrictions to benefit all the land, including land owned by the City, lying within a one-half-mile radius of the Subject Property.

NOW THEREFORE: Declarant hereby declares covenants and agrees as follows:

1. Designation of Large Scale General Development. Declarant hereby declares and agrees that, following the Effective Date (as defined in Section 6 hereof), the Subject Property, if developed pursuant to the Large Scale Special Permit, shall be treated as a large-scale general development site and shall be developed and enlarged as a single unit.

2. Development of Large Scale Development Site. If the Subject Property is developed in whole or part in accordance with the Large Scale Special Permit, Declarant covenants that the Subject Property shall be developed in substantial conformity with the following plans prepared by Curtis + Ginsberg Architects LLP, approved as part

of the Large Scale Special Permit and annexed hereto in Exhibit "C" and made a part hereof:

| <u>Drawing No.</u> | <u>Title</u> | <u>Last Date Revised</u> |
|---------------------------|-----------------------------|-------------------------------------|
| Z-002A | Zoning Analysis | 6/7/2018 <u>12/18/18</u> |
| Z-004A | Overall Site Plan | 6/7/2018 <u>12/18/18</u> |
| Z-004B | Site Plan North | 6/7/2018 <u>12/18/18</u> |
| Z-004C | Site Plan South | 6/7/2018 <u>12/18/18</u> |
| Z-011A.00 | Site A Zoning Lot Site Plan | 6/7/2018 <u>12/18/18</u> |
| Z-011C.00 | Site A Zoning Analysis | 6/7/2018 <u>12/18/18</u> |
| Z-013.00 | Site A Waiver Plans | 6/7/2018 <u>12/18/18</u> |
| Z-014A.00 | Site A Waiver Sections I | 6/7/2018 <u>12/18/18</u> |
| Z-014B.00 | Site A Waiver Sections II | 6/7/2018 <u>12/18/18</u> |
| Z-016 | Site A Design Controls | 6/7/2018 <u>12/18/18</u> |
| Z-021A.00 | Site B Zoning Lot Site Plan | 6/7/2018 <u>12/18/18</u> |
| Z-021C.00 | Site B Zoning Analysis | 6/7/2018 <u>12/18/18</u> |
| Z-023.00 | Site B Waiver Plans | 6/7/2018 <u>12/18/18</u> |
| Z-024A.00 | Site B Waiver Sections I | 6/7/2018 <u>12/18/18</u> |
| Z-024B.00 | Site B Waiver Sections II | 6/7/2018 <u>12/18/18</u> |
| Z-024C.00 | Site B Waiver Sections III | 6/7/2018 <u>12/18/18</u> |
| Z-026 | Site B Design Controls | 6/7/2018 <u>12/18/18</u> |
| Z-031A.00 | Site C Zoning Lot Site Plan | 6/7/2018 |
| Z-031C.00 | Site C Zoning Analysis | 6/7/2018 |
| Z-033.00 | Site C Waiver Plans | 6/7/2018 |
| Z-034.00 | Site C Waiver Sections | 6/7/2018 |
| Z-036 | Site C Design Controls | 6/7/2018 |
| Z-041A.00 | Site D Zoning Lot Site Plan | 6/7/2018 <u>12/18/18</u> |
| Z-041C.00 | Site D Zoning Analysis | 6/7/2018 <u>12/18/18</u> |
| Z-043.00 | Site D Waiver Plans | 6/7/2018 <u>12/18/18</u> |
| Z-044A.00 | Site D Waiver Sections I | 6/7/2018 <u>12/18/18</u> |

| | | |
|-----------|-----------------------------|------------------------------|
| Z-044B.00 | Site D Waiver Sections II | 6/7/2018 12/18/18 |
| Z-046 | Site D Design Controls | 6/7/2018 12/18/18 |
| Z-051A.00 | Site E Zoning Lot Site Plan | 6/7/2018 12/18/18 |
| Z-051C.00 | Site E Zoning Analysis | 6/7/2018 12/18/18 |
| Z-053.00 | Site E Waiver Plans | 6/7/2018 12/18/18 |
| Z-054A.00 | Site E Waiver Sections I | 6/7/2018 12/18/18 |
| Z-054B.00 | Site E Waiver Sections II | 6/7/2018 12/18/18 |
| Z-056 | Site E Design Controls | 6/7/2018 12/18/18 |
| Z-061A.00 | Site F Zoning Lot Site Plan | 6/7/2018 12/18/18 |
| Z-061C.00 | Site F Zoning Analysis | 6/7/2018 12/18/18 |
| Z-063.00 | Site F Waiver Plans | 6/7/2018 12/18/18 |
| Z-064A.00 | Site F Waiver Sections I | 6/7/2018 12/18/18 |
| Z-064B.00 | Site F Waiver Sections II | 6/7/2018 12/18/18 |
| Z-066.00 | Site F Design Controls | 6/7/2018 12/18/18 |
| Z-071A.00 | Site G Zoning Lot Site Plan | 6/7/2018 12/18/18 |
| Z-071C.00 | Site G Zoning Analysis | 6/7/2018 12/18/18 |
| Z-073.00 | Site G Waiver Plans | 6/7/2018 12/18/18 |
| Z-074A.00 | Site G Waiver Sections I | 6/7/2018 12/18/18 |
| Z-074B.00 | Site G Waiver Sections II | 6/7/2018 12/18/18 |

3. Representation. Declarant hereby represents and warrants that there is no restriction of record on the development, enlargement, or use of the Subject Property, nor any present or presently existing estate or interest in the Subject Property, nor any existing lien, obligation, covenant, easement, limitation or encumbrance of any kind that shall preclude the restriction and obligation to develop and enlarge the Subject Property as a large- scale general development as set forth herein.

4. Binding Effect. The restrictions, covenants, rights and agreements set forth in this Declaration shall be binding upon Declarant and any successor or assign of Declarant; provided that the Declaration shall be binding on any Declarant only for the period during which such Declarant, or any successor or assign thereof, is the holder of an interest in the Subject Property and only to the extent of such Declarant's interest in the Subject Property. At such time as a Declarant or any successor to a Declarant no longer holds an interest in the Subject Property, such Declarant's or such Declarant's successor's obligations and liability under this Declaration shall wholly cease and terminate and the party succeeding such Declarant or such Declarant's successor shall assume the obligations and liability of Declarant pursuant to this Declaration with respect to actions or matters occurring subsequent to the date such party assumes an interest in the Subject Property to the extent of such party's interest in the Subject Property. For purposes of this Declaration, any successor to a Declarant shall be deemed a Declarant for such time as such successor holds all or any portion of any interest in the Subject Property.

5. Recordation. Declarant shall File and record this Declaration in the Office of the City Register of the City of New York (the "Register's Office"), indexing it against the Subject Property on or after the date of the disposition of the Subject Property pursuant to ULURP Application No. C180486PCK (such date, the "Recording Date"). Declarant shall promptly provide to the Chairperson of the CPC a copy of the Declaration as recorded, so certified by the City Register. If Declarant fails to so record this Declaration by the Recording Date, CPC may record a duplicate original of this Declaration, but all costs of recording,

whether undertaken by Declarant or by CPC, shall be borne by Declarant.

6. Effective Date. This Declaration and the provisions and covenants hereof shall become effective as of the date of recordation of this Declaration in accordance with Section 5 above.

7. Notice. All notices, demands, requests, consents, approvals, and other communications (each, a "Notice") which may be or are permitted, desirable, or required to be given under this Declaration shall be in writing and shall be sent or delivered as follows:

(i) if to Declarant:

to the address at the commencement of this Declaration

with a copy to:

Sheldon Lobel, P.C.

18 East 41st Street, 5th Floor

New York, New York, 10017

Attention: Richard Lobel, Esq.

(ii) if to CPC:

New York City Planning Commission

120 Broadway, 31st Floor

New York, New York 10271 Attention: Chairperson

with a copy to:

the general counsel of CPC at the same address

(iii) if to a Party in Interest other than Declarant:

at the address provided in writing to CPC in accordance

with this Section 7

(iv) if to a Mortgagee:

at the address provided in writing to CPC in accordance with this Section 7

Declarant, CPC, any Party in Interest, and any Mortgagee may, by notice provided in accordance with this Section 7, change any name or address for purposes of this Declaration. In order to be deemed effective any Notice shall be sent or delivered in at least one of the following manners: (A) sent by registered or certified mail, postage pre-paid, return receipt requested, in which case the Notice shall be deemed delivered for all purposes hereunder five days after being actually mailed; (B) sent by overnight courier service, in which case the Notice shall be deemed delivered for all purposes hereunder on the date the Notice was actually received or was refused; or (C) delivered by hand, in which case the Notice will be deemed delivered for all purposes hereunder on the date the Notice was actually received. All Notices from CPC to Declarant shall also be sent to every Mortgagee of whom CPC has notice, and no Notice shall be deemed properly given to Declarant without such notice to such Mortgagee(s).

In the event that there is more than one Declarant at any time, any Notice from the City or the CPC shall be provided to all Declarants of whom CPC has notice.

8. Defaults and Remedies.

(a) Declarant acknowledges that the restrictions, covenants, and obligations of this Declaration will protect the value and desirability of the Subject Property, as well as benefit the City. If Declarant fails to perform any of Declarant's obligations under this Declaration, the City shall have the right to enforce this Declaration against Declarant and exercise any administrative legal or equitable remedy available to the City, and Declarant hereby consents to same; provided that this Declaration shall not be deemed to diminish Declarant's or any other Party in Interest's right to exercise any and all administrative, legal, or equitable remedies otherwise available to it, and provided further, that the City's rights of enforcement shall be subject to the cure provisions and periods set forth in Section 8(c) hereof. Declarant also acknowledges that the remedies set forth in this Declaration are not exclusive and that the City and any agency thereof may pursue other remedies not specifically set forth herein including, but not limited to, a mandatory injunction compelling Declarant to comply with the terms of this Declaration and a revocation by the City of any certificate of occupancy, temporary or permanent, for any portion of the Large Scale Development Project on the Subject Property subject to the Large Scale Special Permits; provided, however, that such right of revocation shall not permit or be construed to permit the revocation of any certificate of occupancy for any use or improvement that exists on the Subject Property as of the date of this Declaration;

(b) Notwithstanding any provision of this Declaration, only Declarant, and Declarant's successors and assigns and the City, acting through CPC, shall be entitled to enforce or assert any claim arising out of or in connection with this Declaration. Nothing contained herein should be construed or deemed to allow any other person or entity to have any interest in or right of enforcement of any provision of this Declaration or any document or instrument executed or delivered in connection with the the Land Use Applications.

(c) Prior to City instituting any proceeding to enforce the terms or conditions of this Declaration due to any alleged violation hereof, City shall give Declarant, every mortgagee of all or any portion of the Property (a "Mortgagee") and every Party in Interest thirty (30) business days written notice of such alleged violation, during which period Declarant, any Party in Interest and Mortgagee shall have the opportunity to effect a cure of such alleged violation or to demonstrate to City why the alleged violation has not occurred. If a Mortgagee or Party in Interest performs any obligation or effects any cure Declarant is required to perform or cure pursuant to this Declaration, such performance or cure shall be deemed performance on behalf of Declarant and shall be accepted by any person or entity benefited hereunder, including CPC and City, as if performed by Declarant. If Declarant, any Party in Interest or Mortgagee commences to effect such cure within such thirty (30) day period (or if cure is not capable of being commenced within such thirty (30) day period, Declarant, any Party in Interest or Mortgagee commences to effect such cure when such commencement is reasonably possible), and thereafter proceeds diligently toward the effectuation of such cure, the aforesaid thirty (30) day period (as such may be extended in accordance with the preceding clause) shall be extended for so long as Declarant, any Party in

Interest or Mortgagee continues to proceed diligently with the effectuation of such cure. In the event that more than one Declarant exists at any time on the Subject Property, notice shall be provided to all Declarants from whom City has received notice in accordance with Section 8 hereof, and the right to cure shall apply equally to all Declarants.

(d) If, after due notice and opportunity to cure as set forth in this Declaration, Declarant, Mortgagee or a Party in Interest shall fail to cure the alleged violation, the City may exercise any and all of its rights, including without limitation those delineated in this Section 8 and may disapprove any amendment, modification or cancellation of this Declaration on the sole ground that Declarant is in default of a material obligation under this Declaration.

9. Applications.

(a) Declarant shall include a copy of this Declaration with any application made to the New York City Department of Buildings ("Buildings") for a foundation, new building, alteration, or other permit (a "Permit") for any portion of the Large Scale Development Project subject to the Large Scale Special Permits. Nothing in this Declaration including but not limited to the declaration and covenant made in Section 1 hereof to develop and enlarge the Subject Property as a single unit, shall be construed to prohibit or preclude Declarant from filing for, or Buildings from issuing, any permit for all or any portion of the Large Scale Development Project, in such phase or order as Declarant sees fit in Declarant's sole

discretion.

(b) Nothing in this Declaration shall be construed to prevent Declarant or any of Declarant's successors or assigns from making any application of any sort to any governmental agency or department (each an "Agency") in connection with the development of the Subject Property; provided, that Declarant shall include a copy of this Declaration in connection with any application for any such discretionary approval, and provided that nothing in this Section 10(b) shall be construed as superceding the requirements, restrictions, or approvals that may be required under agreements with any other Agency or the City.

10. Amendment, Modification and Cancellation.

(a) This Declaration may be amended, cancelled, or modified only upon application by Declarant with the express written consent of CPC or an agency succeeding to CPC's jurisdiction and no other approval shall be required from any other public body, private person, or legal entity of any kind.

(b) Notwithstanding anything to the Contrary Contained in Section 10 (a) hereof, the Chair of CPC may by its express written consent administratively approve modifications or amendments to this Declaration that, in the sole judgment of the Chair, are determined by the Chair to be a minor amendment or modification of this Declaration, and such minor modifications and amendments shall not require the approval of CPC.

11. Severability. In the event that any of the provisions of the Declaration shall be deemed, decreed, adjudged, or determined to be invalid or unlawful by a court of competent jurisdiction, such provision shall be severable and the remainder of this Declaration shall continue to be in full force and effect.

12. Applicable Law. This Declaration shall be governed and construed by the laws of the State of New York, without regard to principles of conflicts of law.

IN WITNESS WHEREOF, the undersigned has executed this Declaration this [insert date].

By: Name:
 Title:

[Standard Acknowledgment]