

SETTLEMENT AGREEMENT AND GENERAL RELEASES

This Settlement Agreement and General Releases (the “Agreement”) is entered into this 27th day of November, 2017 by and between **BROOKLYN CENTER FOR INDEPENDENCE OF THE DISABLED**, a nonprofit organization (“BCID”), **PHIL BEDER, MILAGROS FRANCO, and EDITH PRENTISS** (“Individual Plaintiffs” and, collectively with BCID, the “Plaintiffs”) and **NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION** (“NYSPR”), **ROSE HARVEY** in her official capacity as **COMMISSIONER OF PARKS, RECREATION AND HISTORIC PRESERVATION** (“Harvey”) and **FOUR FREEDOMS PARK CONSERVANCY** (“FFPC,” and collectively, with NYSPR and Harvey, the “Defendants”). Plaintiffs and Defendants are each party to this Agreement and shall be referred to, collectively, as the “Parties.”

SECTION I: RECITALS

WHEREAS, Plaintiffs filed a complaint dated March 16, 2017 against Defendants in the United States District Court for the Southern District of New York (Case No. 17-cv-01923-(GHW)) (the “Lawsuit”) alleging that Defendants, *inter alia*, violated Titles II and III of the Americans with Disabilities Act (“ADA,” “Title II” and “Title III”), Section 504 of the Rehabilitation Act of 1973 (“Section 504”), the New York State Human Rights Law (“NYSHRL”), and the New York City Human Rights Law (“NYCHRL”) (collectively, the “Statutes”) alleging the existence of barriers to access at the Franklin D. Roosevelt Four Freedoms Park which FFPC operates at 1 FDR Four Freedoms Park, Roosevelt Island, New York 10044 (the “Park”).

WHEREAS, Defendants deny the allegations regarding accessibility at the Park and maintain that they made, and continue to make, a variety of good faith efforts to provide an accessible experience for all guests, including those with disabilities at the Park; and

WHEREAS, the Defendants remain committed to taking additional steps to provide a fully and equally accessible experience to guests of the Park, without regarding to disability; and

WHEREAS, the undersigned Parties desire to avoid the necessity, risks and expenses attendant to litigation or other legal proceedings related to the Lawsuit;

NOW THEREFORE, in full satisfaction of all claims that the Parties had, have or may have, whether asserted or unasserted, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

The Parties agree that the above recitals are true and correct, and form a part of this Agreement.

SECTION II: DEFINITIONS

1. The “Effective Date” is the date that the fully executed copy of the Agreement is received by counsel for all Parties.

2. The “2010 Standards” refers to the 2004 ADAAG and the relevant portions of the Code of Federal Regulations which together form the 2010 Standards for Accessible Design.

3. The “Room” refers to the open-air plaza at the south end of the park. At the threshold of the Room there is a bronze bust of President Roosevelt. The Room itself is surrounded on three sides by massive granite columns.

4. The “Ha-Ha” refers to the sunken architectural trench at the south end of the Room designed to provide visitors with an unobstructed view from the plaza level of the East River and city landmarks.

5. “Granite Pavers” refers to the surface material used along the pathways of the monument.

6. “Stabilized Stone” refers to the surface material used under the alleés of trees along the open grass area from the top of the monumental stairs to the southern end of the grass.

SECTION III: ACCESSIBILITY ENHANCEMENTS

7. Obligations of FFPC:

FFPC shall either directly complete – or through its actions cause others to complete – all modifications listed below in this Paragraph 7 within twelve (12) months of the Effective Date (the total period for FFPC to complete all of the modifications to the Park, hereinafter referred to as the “Modification Period”), unless a shorter time period is specified below. All items listed under those headings shall be completed in accordance with requirements codified in the Statutes, as well as the requirements of The Americans with Disabilities Act Access Guidelines (Appendix A to 28 C.F.R. Part 36); N.Y.C. Administrative Code Section 8-101, *et seq.*; and the New York City building codes. The items to be completed are as follows:

A. **Accessible Route to the Top of the Monument Stairs:**

i. The north end of the monument has a wide flight of stairs that leads up to a tree-lined path that extends across the monument to the Room. The FFPC agrees to purchase and install an independently operable platform lift that is compliant with Section 410 of the 2010 Standards and the applicable requirements of the American Society of Mechanical Engineers (“ASME”) A18.1 (1999 edition or 2003 edition) to provide guests utilizing mobility devices with direct and independent access to the top of the monument stairs.

a. The weight bearing capacity of the Lift is 550-650 lbs.

- b. The manufacturer specifications for the Lift indicate it can function and be maintained in inclement weather conditions and in an appropriate temperature range.
 - c. The Lift will include a folding seat and seat belt.
 - d. The Lift will include a platform on board alarm that will engage after use of the appropriate button.
 - e. The Lift will contain a communication device that will allow passengers to contact Park personnel from the Lift in case of an emergency.
 - f. The Lift will be operable by an attendant if requested.
- ii. FFPC will regularly inspect and properly maintain the Lift in operable condition, promptly addressing any malfunctions. To assist in fulfilling this obligation, FFPC shall take the following steps:
- a. FFPC shall enter into a maintenance contract to provide service for the Lift.
 - b. FFPC shall Post a notice at the Park’s information booth and on www.fdrfourfreedomspark.org informing the public that it can raise any concerns about the condition of the Lift: (i) at the information booth; (ii) by contacting the Park at (212) 204-8831 or park@fdrffp.org; or (iii) by contacting the Park utilizing a guest complaint text line that will be set up by FFPC by the conclusion of the Modification Period (the “Guest Complaint Text Line”).
 - c. Complaints regarding the condition of the Lift will be promptly investigated within the next 24 business hours and, if necessary, repaired as soon as the maintenance company contracted to service the Lift is available
 - i. FFPC shall promptly contact the maintenance company upon identifying a problem with the Lift that requires outside service; and
 - d. During time periods when the Lift is unavailable for repairs or maintenance, FFPC shall offer cart service or other alternative assistance as appropriate to guests with disabilities and their companions to the top of the monument stairs.

- e. During time periods when the Lift is/will be unavailable for repairs or maintenance for at least 48 hours, FFPC shall notify visitors of this fact on www.fdrfourfreedomspark.org and via signage at the Park.
- f. The FFPC will monitor the frequency with which the Lift is inoperable and the duration of such outages, and record such information in a log (the “Lift Log”). A summary of this log will be included as part of FFPC’s annual reporting obligations to Plaintiffs established by this Agreement as set forth below in Paragraph 9(b).
- g. If the Lift Log demonstrates that the Lift was inoperable 10% or more of the prior year on days when the Park was open to the public, the Parties agree to use the dispute resolution process described in Paragraph 15 to reach a solution to ensure that the Lift is operable at least 90% of the time the Park is open to the public going forward.

B. The Ha-Ha At the Room:

i. Prohibition of Guest Access to the Ha-Ha in the Room

- a. Through a combination of design and construction alterations (the “Barrier”) and policy and procedure, the Ha-Ha will be permanently blocked off to guest access. The FFPC shall complete this work within one year of the Effective Date of this Agreement, and will provide Plaintiffs with a status update six months after the Effective Date.
- b. The Barrier shall: (i) be a minimum height of 36”-42” AFF; (ii) span the entire “wall-to-wall” width of the Room; (iii) be comprised of either a solid piece comprised of transparent material (*e.g.*, glass or plexi-glass) or a multi-level wire barrier attached to stanchions; and (iv) be located at the top of the stairs to the Ha-Ha. (*see* attached diagram).
- c. FFPC shall continue to instruct the Park’s on-site employees to prohibit guests from occupying the Ha-Ha in the Room. Guests who refuse to listen to the Park Rangers’ instructions to not occupy the Ha-Ha shall be asked to leave the Park.

C. Ground Surfaces – Granite Pavers & Stabilized Stone:

- i. FFPC agrees to operate and maintain the granite paver and stabilized stone surfaces to consistently comply with Sections 302

and 303 of the 2010 Standards. In doing so, FFPC shall take the steps set forth below in this Paragraph 7(C) of the Agreement.

- ii. By no later than May 25, 2018, FFPC shall complete its initial repair of the artificial surfaces making up the routes throughout the Park (collectively the “Ground Surfaces”) in a safe and operable manner that complies with Sections 302 and 303 of the 2010 ADA Standards.
 - a. This will include repairing both the stabilizing agent used as part of the Stabilized Stone and the fill between the Granite Pavers.
- iii. FFPC shall take the following steps to ensure the Ground Surfaces are maintained in a safe and operable manner that complies with Sections 302 and 303 of the 2010 ADA standards:
 - a. Engage in a comprehensive review and, as needed, repair of the Ground Surfaces every year with the review commencing by no later than April 15th and the repairs completed by no later than June 15th (“Annual Audit & Repair”);
 - b. Starting upon the completion of each Annual Audit & Repair and finishing at the start of the following year’s Annual Audit & Repair, engage in semi-monthly walks of the Ground Surfaces to determine if any repairs are needed and, if so, undertake those repairs within fifteen (15) business days of being identified for the Pavers and thirty business (30) days of being identified for the Stabilized Stone (weather/temperature permitting);
 - c. Limit the use of golf carts (and other similar motorized devices) at speeds in excess of ten (10) mph on the Stabilized Stone;
 - d. Prohibit golf carts (and other similarly motorized devices) operating on the Stabilized Stone from making 180 or 360 degree turns; and
 - e. Post a notice at the Park’s information booth and on www.fdrfourfreedomspark.org informing the public that it can raise any concerns about the condition of the Ground Surfaces at the information booth or by contacting the Park at (212) 204-8831 or park@fdrffp.org.

f. Complaints regarding the condition of the Ground Surfaces will be promptly investigated and, if necessary, repaired during the next applicable repair period.

D. **The Welcome Guard Booth:**

- i. The Welcome Guard booth is an employee-only area whose interior is not presently open to the public. The existing service window will be lowered/modified to provide a 36 inch long minimum portion of the counter at a maximum height of 36 inches AFF; in compliance with Section 904.4.1 of the 2010 Standards.
- ii. If during the term of the Agreement, the interior of the Welcome Guard booth is to become an area open to the public, FFPC will first make any necessary modification(s) to provide an accessible entrance into the Welcome Guard booth in compliance with the 2010 Standards.

E. **Seasonal Tables:**

- i. When seasonal outdoor dining space seating is provided, at least five (5) percent of the dining spaces will comply with Section 902 of the 2010 Standards. These accessible dining spaces will measure 34 inches AFF maximum to the top of the dining surface and will provide accessible knee and toe space under the tables measuring: (i) seventeen (17) inches deep minimum; (ii) 27 inches high minimum; and (iii) thirty (30) inches wide minimum.

F. **The Restrooms & Related Area:**

- i. **The north single-user accessible restroom will be modified as follows:**
 - a. The floor transition at the restroom entrance door will be beveled to provide a maximum slope of 1:2 in compliance with Section 303.3 of the 2010 ADA Standards for Accessible Design (hereinafter the “2010 Standards”);
 - b. A mirror will be mounted over the lavatory with the bottom edge of the reflecting surface located at forty (40) inches AFF maximum in compliance with Section 603.3 of the 2010 Standards;
 - c. The lavatory faucet controls and the toilet flush mechanism will either be (i) adjusted to require a maximum of five (5) pounds of force to operate; or (ii) replaced with automatic

operating devices in compliance with Sections 604.6, 606.4, and 309.4 of the 2010 Standards;

- d. A rear wall grab bar will be installed at the water closet that measures a minimum of 36 inches long, with twelve (12) inches of the grab bar positioned on the narrow side of the toilet centerline and 24 inches of the grab bar positioned on the wide side of the toilet centerline in compliance with Section 604.5.2 of the 2010 Standards;
- e. A side wall grab bar will be installed at the water closet measuring 42 inches long minimum, located twelve (12) inches maximum from the rear wall and extending 54 inches minimum from the rear wall in compliance with Section 604.5.1 of the 2010 Standards; and
- f. Permanent room/space signage compliant with Section 703 of the 2010 Standards and containing the New York State Symbol of Accessibility will be mounted adjacent to the restroom exterior door identifying the restroom as accessible.

ii. The south single-user accessible restroom will be modified as follows:

- a. A mirror will be mounted over the lavatory with the bottom edge of the reflecting surface located at forty (40) inches AFF maximum in compliance with Section 603.3 of the 2010 Standards;
- b. The lavatory faucet controls and the toilet flush mechanism will either be (i) adjusted to require a maximum of five (5) pounds of force to operate; or (ii) replaced with automatic operating devices in compliance with Sections 604.6, 606.4, and 309.4 of the 2010 Standards;
- c. A rear wall grab bar will be installed at the water closet that measures a minimum of 36 inches long, with twelve (12) inches of the grab bar positioned on the narrow side of the toilet centerline and 24 inches of the grab bar positioned on the wide side of the toilet centerline in compliance with Section 604.5.2 of the 2010 Standards;
- d. A side wall grab bar will be installed at the water closet measuring 42 inches long minimum, located twelve (12) inches maximum from the rear wall and extending 54 inches

minimum from the rear wall in compliance with Section 604.5.1 of the 2010 Standards; and

- e. Permanent room/space signage compliant with Section 703 of the 2010 Standards and containing the New York State Symbol of Accessibility will be mounted adjacent to the restroom exterior door identifying the restroom as accessible.

iii. The Drinking Fountain will be modified as follows:

- a. A cane detectable warning will be installed on the south side of the drinking fountain at 27 inches AFF maximum in compliance with Section 307.2 of the 2010 Standards.

- G. Within no more than sixty (60) days after the Effective Date of the Agreement, for at least the remainder of the Agreement's Modification Period, FFPC shall either directly retain the services of LCM Architects – or by contract require that its architect of record retain the services of LCM Architects as a sub-contractor – to provide as-needed accessibility consulting services with respect to the FFPC obligations set forth in this Section III, Paragraph 7.

SECTION IV: ADOPTION OF POLICIES AND PROCEDURES, TRAINING, REPORTING

8. FFPC shall adopt and implement all policies and procedures described in Paragraph 7 of this Agreement by no later than May 25, 2018.

9. FFPC shall train all necessary (as determined in its sole discretion) existing staff with regard to implementation of said policies and procedures within three (3) months of their implementation. New hires for which FFPC deems the training necessary will be trained within three (3) weeks of the employee's starting date.

(a) FFPC further agrees to provide Plaintiffs, through their counsel, Disability Rights Advocates, written confirmation that items listed in Paragraph 7 have been completed within two (2) weeks of the required action being completed.

(b) Within four (4) weeks of the conclusion of the Modification Period, and on an annual basis thereafter, during the terms of this Agreement, FFPC will issue an executive

summary report to counsel for Plaintiffs addressing the following topics as they pertain to the most recent reporting period: (i) the completion of any outstanding modifications required by Paragraph 7 of the Agreement; (ii) any accessibility training conducted; (iii) any modifications to existing accessibility policies and/or the adoption of new accessibility policies; (iv) the Lift Log referenced above in Paragraph 7(a)(ii)(e); (v) any written complaints (including complaints submitted via the “Guest Complaint Text Line”) and a summary of any oral complaints that have been received by FFPC and required escalation to a supervisor or manager – provided the complaints (whether written or oral) are regarding the accessibility of the Park and required a response from FFPC (either in writing or via action) (with the Parties acknowledging that the definition of complaint in this provision specifically excludes Guest recommendations for further enhancing accessibility at the Park); and (vi) updates on any other outstanding obligations under the Agreement.

SECTION V: OTHER SETTLEMENT TERMS

10. Term of Agreement: The Agreement shall have effect from the Effective Date and shall continue in force for a period of three (3) years, unless FFPC triggers the fundraising extension provision of the Agreement set forth below at Paragraph 13, in which case the term of the Agreement shall automatically extend to a period of four (4) years.

Obligations of FFPC:

11. FFPC shall pay Plaintiffs’ counsel Disability Rights Advocates (“DRA”) the amount of [REDACTED] for recoverable attorneys’ fees and costs associated with the Lawsuit (the “Settlement Payment”) within twenty (20) days of the Court “So- Ordering” the Stipulation of Dismissal with Prejudice and dismissing the Lawsuit with prejudice in accordance with Section V, Paragraph 14 of this Agreement below and

provided that Defendants receive a completed W-9 form from Plaintiffs' counsel. FFPC will issue to DRA an IRS form 1099 for the Settlement Payment at the appropriate time. Plaintiffs and DRA shall be solely responsible for federal, state, and local taxes due on the Settlement Payment and each specifically agrees to indemnify and hold FFPC harmless for any and all claims involving federal, state, or local taxes resulting from such responsibility.

12. Notwithstanding the other provisions in Paragraph 7, if despite its prompt, ongoing, and demonstrable good faith efforts FFPC is unable to raise the funds necessary to cover the costs of completing all of the obligations set forth above in Paragraph 7, Plaintiffs, upon receipt of reasonable written documentation corroborating FFPC's fundraising efforts to date, shall agree to extend any deadlines set forth in Paragraph 7 for which FFPC lacks the funding to undertake, within the twelve (12) month deadlines, up to an additional twelve (12) months (such extensions Plaintiffs shall not unreasonably withhold). If such obligations are not met within a twenty-four (24) month period, it will be considered a breach of this Agreement.

13. Obligations of NYSPR/Harvey: NYSPR and Harvey will not object to, or otherwise obstruct, any reasonable repairs/modifications made to the Park by FFPC (or parties acting on behalf of FFPC) set forth in this Agreement (expressly including all repairs/modifications required by Paragraph 7). Moreover, in the event that FFPC avails itself of the applicable provision in the Operating Agreement and opts out of its responsibilities to operate the Park, NYSPR represents and acknowledges that it shall make all reasonable good faith efforts to ensure that the party taking over responsibility for operating the Park under an Operating Agreement is responsible for any of FFPC's outstanding obligations set forth in this Agreement at the time FFPC ceases to operate the Park.

14. Obligations of Plaintiffs: Plaintiffs shall file a stipulation of dismissal with prejudice in the form annexed hereto as Exhibit A, discontinuing the Lawsuit against Defendants within five (5) business days of the Effective Date of this Agreement, and requesting that the Court retain jurisdiction to enforce the terms of the Agreement.

15. Dispute Resolution Process: Any disputes or breach under this Agreement shall be resolved according to the following procedure:

(a) Notification in Writing. Counsel for a Party shall promptly notify counsel for the other Parties in writing of any perceived non-compliance with the terms of this Agreement, or any other perceived disputed related to the terms, processes, or obligations set for in this Agreement.

(b) Meet and Confer. Unless otherwise agreed to by the Parties, with respect to any particular dispute, the Parties agree to meet and confer in good faith within fifteen (15) business days after receipt of a written notification of a dispute pursuant to the previous paragraph.

(c) Application for Further Relief. If the meet-and-confer does not lead to a resolution of the dispute, then, no sooner than fifteen (15) business days after providing the other parties with written notice of an intent to terminate the meet and confer process, any party may seek to enforce the terms of Agreement with the Court.

(d) Fees and Costs for Dispute Resolution. Fees and costs for dispute resolution shall be awarded in accordance with applicable law, and to the extent awarded to Plaintiffs be paid for by FFPC.

16. General Releases: For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Plaintiffs, for themselves, their administrators,

representatives, executors, successors and assigns, and each of their past and present officers, directors, board members, partners, owners, members, supervisors, employees, affiliates, agents and attorneys, including, without limitation, any and all persons acting by, through, under or in concert with any of them (collectively, "Plaintiff Releasers"), do hereby irrevocably and unconditionally release, acquit and forever discharge Defendants – NYSPR, Harvey, FFPC, and Franklin D. Roosevelt Four Freedoms Park, LLC – and each of the Defendants' past and present officers, officials, representatives, directors, partners, owners, members, board members, supervisors, employees, affiliates, agents and attorneys, successors and assigns, including without limitation, any and all persons acting by, through, under or in concert with any of them (collectively, "Defendant Releasees"), and each of them from any and all charges, complaints, claims, grievances, liabilities, obligations, promises, agreements, controversies, damages, remedies, actions, causes of action, suits, rights, demands, costs, losses, debts and expenses (including reasonable attorneys' fees and costs that could be awarded in this Lawsuit) (collectively "Claims") of any nature whatsoever, whether known or unknown, whether in law or equity, whether joint or several, and whether or not discoverable, including Claims arising under the United States, the Statutes, local or other governmental codes and/or statutes and/or state laws and/or city laws, Constitutions, common law, and/or claims arising out of the allegations contained in the Lawsuit which Plaintiff Releasers may have against each or any of the Defendant Releasees, which Claims arose on or before the Effective Date this Agreement, EXCEPT that Plaintiff Releasers do not release any claim to enforce the terms of this Agreement.

17. Press Releases: Plaintiffs and Defendants may each issue separate press releases regarding the Agreement upon or after the Effective Date if so desired and, in doing so, agree not

to disclose any monetary component of this Agreement and to comply with the other terms of this Paragraph 17. The Parties agree not to impute liability or any violation of law or regulation on any Party in any press release, and, prior to issuing a press release each Party issuing a press release must first provide a draft to the other parties at least two (2) full business days before its release (providing at least forty-eight (48) hours for review). The non-issuing parties may suggest changes to the issuing party and each issuing party will consider the other parties' suggestions in good faith, keeping in mind the cooperative spirit and intent of the Agreement.

18. Permits & Consents: FFPC's obligations set forth in this Agreement above at Paragraph 7(A), (B), (C – with respect to the stabilized stone), and (F) are subject to, and contingent upon, obtaining all necessary permits, consents, and approvals.

(a) A good faith effort will be made to obtain the necessary permits, consents, and/or approvals, however, if such permits, consents, and/or approvals cannot be obtained by FFPC for the Park, the FFPC shall make all other alterations and/or modification to the Park required by this Agreement which do not require the denied permit(s), consent, and/or approval, or for which the necessary permit(s), consent, and/or approval is obtained.

(b) If FFPC is unable to obtain such permit(s), consent, and/or approval for the Park despite its good faith efforts, FFPC's counsel shall notify Plaintiffs' counsel, by certified mail and/or electronic mail, of each such denial or inability to obtain such permit(s), consent, and/or approval within forty-five (45) days of the denial and/or inability to obtain such, or by the end of the Modification Period, and shall, at the same time, provide Plaintiffs' counsel with sufficient evidence necessary to support each such denial or FFPC's inability to obtain permit(s), approval, and/or consent.

(c) The Parties agree that after Plaintiffs receive this notice, they may opt to use the dispute resolution process described in Paragraph 15 to determine alternative alterations or modifications. However, as part of this process, the Parties further agree that Plaintiffs may not insist that FFPC undertake any modifications for which FFPC cannot obtain permits.

(d) The Parties agree that any delays in making the alterations/modifications to the Park, as provided for in Paragraph 7 above, caused by state, city, and/or county building officials, inspectors, or permitting departments shall not be deemed to violate the compliance dates contained within this Agreement, provided any such delays do not result in FFPC's failure to take appropriate actions.

19. Force Majeure: Failure of the Defendants to perform any action required by this Agreement shall not subject them to any liability or remedy for damages or otherwise, or constitute a breach of this Agreement, if such failure is occasioned in whole or in part by an act of God, fires, accidents, hurricanes, blizzards, earthquakes, explosions, floods, wars, terrorism, labor disputes or shortages, riots or sabotage, or any similar circumstance beyond Defendants' reasonable control. However, such a failure shall not excuse Defendants from the obligation to restore the Park's accessible features and operations contemporaneously to the restoration of Park features and operations unrelated to accessibility.

20. No Admission of Liability: This Agreement does not constitute an admission of liability, wrongdoing, or unlawful conduct by any of the Parties, and it is expressly understood and agreed that this Agreement is entered into solely for the mutual convenience of the Parties.

21. Agreement Non-Admissible: This Agreement shall not be admissible in any action or proceeding, or before any governmental or judicial body, except as may be necessary to enforce the terms of the Agreement, or as may be required by law.

22. Severability: In the event that any portion of this Agreement is determined to be invalid or unenforceable for any reason, the remaining provisions of this Agreement shall remain in full force and effect, and such invalid or unenforceable provision shall automatically be deemed rewritten to the minimal extent necessary to eliminate such invalidity or unenforceability.

23. Binding Effect: This Agreement shall be binding upon, and inure to the benefit of the Parties, their respective heirs, executors, representatives, successors, and assigns.

24. Notices: Unless otherwise specified in this Agreement, any and all written notices that are required and/or requested herein shall be forwarded by certified mail, return receipt requested, to:

Brooklyn Center for Independence of the Disabled & Individual Plaintiffs

c/o Michelle Caiola, Esq.
Disability Rights Advocates
675 Third Avenue, Suite 2216
New York, New York 10017

Four Freedoms Park Conservancy

c/o Joshua A. Stein, Esq.
Epstein, Becker, and Green
250 Park Avenue
New York, New York 10177

New York State Office of Parks, Recreation, and Historic Preservation & Commissioner Harvey

c/o Joshua A. Stein, Esq.
Epstein, Becker, and Green
250 Park Avenue
New York, New York 10177

and

General Counsel
New York State Office of Parks, Recreation & Historic
Preservation
625 Broadway (2nd Floor)
Albany, NY 12238

Office of the New York Attorney General
The Capitol
Albany, New York 12224-0341

The Parties may designate in writing alternate addresses for any notices to be provided.

25. Non-Waiver: The delay or failure to enforce or seek enforcement of any right under this Agreement shall not constitute or be construed as: (a) a waiver of such rights or any other rights; (b) a waiver of any remedy to enforce such rights or any other rights; or (c) acquiescence in any default.

26. Governed By New York Law: This Agreement shall, in all respects, be interpreted, enforced, and governed under the laws of the State of New York, without regard to New York's conflict of law principles. The Parties consent to have any dispute arising out of this Agreement, its validity, or interpretation brought before the United States District Court for the Southern District of New York, unless the Parties mutually agree otherwise.

27. Construction: This Agreement shall be deemed to have been drafted by all of the Parties, and the principle of construing a document against the Party that drafted it shall have no application to this Agreement.

28. Attorneys' Fees: In the event that any Party brings litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to all reasonable expenses incurred relating to such litigation, including but not limited to, reasonable attorneys' fees and court costs, however, in the event Plaintiffs prevail and are entitled to reasonable fees and costs, FFPC shall pay all the reasonable expenses incurred by Plaintiffs that must be paid per the Court.

29. Entire Agreement: This Agreement constitutes the entire agreement and understanding between the Parties, and supersedes and prior agreements and understandings between the Parties, and may not be modified except in writing signed by all Parties. Notwithstanding the terms of this Agreement, nothing herein has impaired or otherwise altered the existing operating agreement between the Defendants regarding the Park (the “Operating Agreement”), nor shall it affect FFPC’s and/or the State’s rights and obligations under the Operating Agreement.

30. Counterparts: This Agreement may be executed in counterparts, and together they shall be valid to prove the Agreement. Facsimile and electronic signatures shall be deemed as originals.

31. Terms Are Contractual: The terms of this Agreement are contractual and not a mere recital.

32. No Admission of Liability: Nothing contained in this Agreement, nor the fact that the Parties have entered into this Agreement and are providing consideration for the Agreement, shall constitute or be treated as an admission of liability of any wrongdoing or violations of any rights, statutes, laws, regulations, or codes, by any of the Parties.

33. No Precedential Value: This Agreement shall have no precedential value or effect whatsoever and shall not be admissible in this or any other action or proceeding as evidence or for any other purpose, except in an action or proceeding to enforce the terms of this Agreement.

34. Sovereign Immunity: This Agreement shall not be construed to constitute a waiver of the sovereign immunity of the State of New York.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

**BROOKLYN CENTER FOR
INDEPENDENCE OF THE DISABLED**

By: Joseph G. Rappaport
Name: Joseph G. Rappaport
Title: Executive Director

STATE OF NEW YORK)
) ss.:
COUNTY OF New York)

On November 14, 2017, before me, personally came Joe Rappaport, to me known, who, being by me duly sworn, did depose and say that s/he resides in the State of New York; that s/he is the Executive Director of Brooklyn Center for Independence of the Disabled, the corporation described in and which executed the above instrument; and that s/he signed his name thereto by authority of the board of directors of said professional corporation

Rebecca C. Serbin
NOTARY PUBLIC

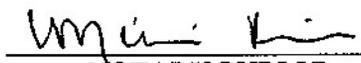
**REBECCA CATHERINE SERBIN
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02SE6339034
QUALIFIED IN NEW YORK COUNTY
MY COMMISSION EXPIRES MAR 21, 2020**



PHIL BEDER

STATE OF NEW YORK)
) ss.:
COUNTY OF Kings)

On the Nov. 10th, 2017, before me, the undersigned, personally appeared **Phil Beder**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.



NOTARY PUBLIC

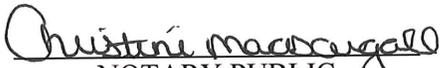
Miriam Rivera
Notary Public State of New York
Commission No. 2-13150
Qualified in Kings County
Commission Expires : 6/01/20 19



EDITH PRENTISS

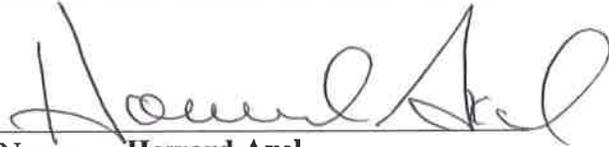
STATE OF NEW YORK)
) ss.:
COUNTY OF Rensselaer)

On the Nov 14th, 2017, before me, the undersigned, personally appeared **Edith Prentiss**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person or entity upon behalf of which the individual acted, executed the instrument.


NOTARY PUBLIC

CHRISTINE M MACDOUGALL
Notary Public, State of New York
Qualified in Niagara County
01MA6078920
My Commission Expires Mar. 11 2019

FOUR FREEDOMS PARK CONSERVANCY

By: 
Name: Howard Axel
Title: Chief Executive Officer

STATE OF NEW YORK)
COUNTY OF New York) ss.:

On November 13, 2017, before me, personally came Howard Axel, to me known, who, being by me duly sworn, did depose and say that he resides in the State of New York; that he is the Chief Executive Officer of Four Freedoms Park Conservancy, the corporation described in and which executed the above instrument; and that s/he signed his name thereto by authority of the board of directors of said professional corporation


NOTARY PUBLIC



NEW YORK STATE OFFICE OF PARKS,
RECREATION AND HISTORIC
PRESERVATION, AND ROSE HARVEY, IN
HER OFFICIAL CAPACITY AS
COMMISSIONER

By: Rose Harvey
Name: Rose Harvey
Title: Commissioner

STATE OF NEW YORK)
) ss.:
COUNTY OF Albany)

On November 8, 2017, before me, personally came Rose Harvey, to me known, who, being by me duly sworn, did depose and say that s/he resides in the State of New York; that s/he is the Commissioner of New York State Office of Parks, Recreation and Historic Preservation, the corporation described in and which executed the above instrument; and that s/he signed his name thereto by authority of the board of directors of said professional corporation

Virginia L Davis
NOTARY PUBLIC

VIRGINIA L DAVIS
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01DA6101202
QUALIFIED IN ALBANY COUNTY
COMMISSION EXPIRES NOV. 10, 2019

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Case No.:
17 civ 01923 (GHW) (HBP)

-----X
BROOKLYN CENTER FOR INDEPENDENCE OF :
THE DISABLED, a nonprofit organization; PHIL :
BEDER, and individual; MILAGROS FRANCO, and :
individual; and EDITH PRENTISS an individual, on :
behalf of themselves and all others similarly situated, :
Plaintiffs, :

ECF
STIPULATION OF
DISMISSAL WITH
PREJUDICE

- against -
: :
: :

NEW YORK STATE OFFICE OF PARKS, :
RECREATION AND HISTORIC PRESERVATION; :
ROSE HARVEY in her official capacity as :
COMMISSIONER OF PARKS, RECREATION AND :
HISTORIC PRESERVATION; and FOUR FREEDOMS :
PARK CONSERVANCY, :
Defendants. :

-----X

It is hereby stipulated and agreed by and between the attorneys for the respective parties hereto, that this action, having been settled by a separate agreement, is dismissed with prejudice except to the extent necessary to enforce the Agreement pursuant to Paragraphs 14 and 27 thereof, pursuant to Fed. R. Civ. P. 41(a)(1)(ii). The Court shall retain jurisdiction over this case only for purposes of enforcement and dispute resolution regarding the terms of the agreement.

Date: November __, 2017

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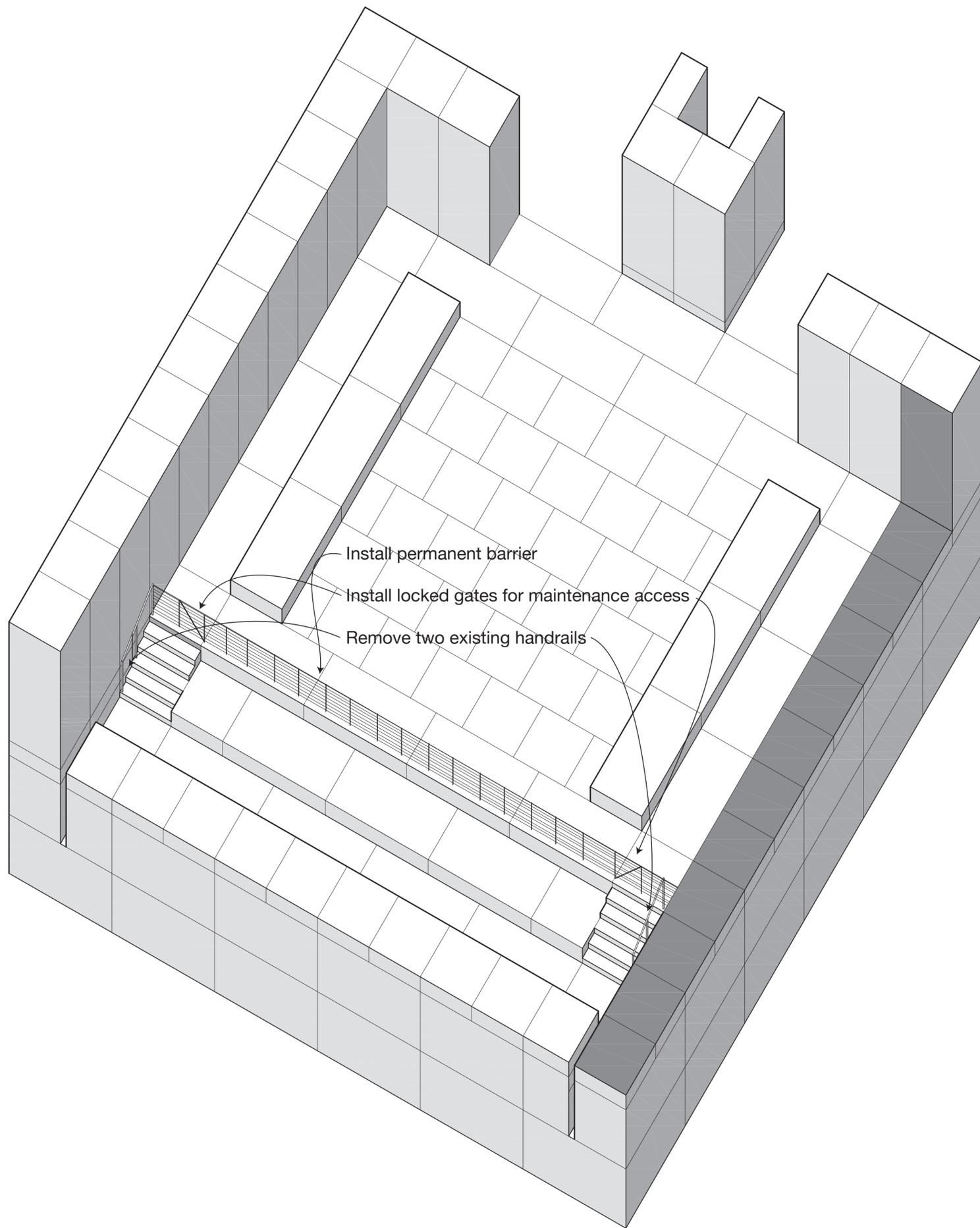
Attorneys for Plaintiffs

*Attorneys for Defendants
Four Freedoms Park Conservancy
NYS Office of Parks, Recreation &
Historic Preservation & Rose Harvey
In her official capacity as Commissioner*

SO ORDERED:

Date: _____

Hon. Gregory H. Woods, U.S.D.J. _____



BARRIER MATERIAL OPTIONS

STAINLESS STEEL

