

AGREEMENT

1. The New York County District Attorney's Office ("DANY") and the City of New York ("the City"), enter into this Agreement (hereinafter the "Agreement").

This Agreement constitutes the entire agreement between DANY and the City. There are no promises, agreements, or conditions, express or implied, other than those set forth in this document. No modification, deletion or addition to this Agreement will be valid or binding on any party unless put into writing and signed by all parties.

2. The City acknowledges that DANY's investigation into the fire at 130 Liberty Street, reflected in the Statement by the District Attorney attached hereto as Exhibit A (the "Statement"), identified inspectional and enforcement failures of certain City agencies. The City accepts responsibility for these failures.

3. In order to improve further the effectiveness of its regulatory regime, the City will implement the following additional remedial measures relating to the Fire Department's inspection of buildings under construction, demolition and abatement:

- (i) The Fire Department will create a team of approximately 25 new civilian inspectors, including 5 supervisors and 20 line staff (the "Fire Prevention CDA Inspection Team") who will focus exclusively on inspections of buildings under construction, demolition and abatement. This Fire Prevention CDA Inspection Team will accompany local companies on the initial inspections of CDA buildings. The Fire Prevention CDA Inspection Team will thereafter perform 30-day follow-up inspections of these

buildings.¹ The 30-day inspections will be certified by each inspector as true and accurate.

- (ii) In conjunction with the pending rule change requiring the installation of pressurized alarm systems on standpipes in buildings undergoing construction or demolition, the Fire Prevention CDA Inspection Team will check the pressure gauge on the alarm system to assure that the standpipe is functioning as part of every CDA inspection. For those buildings under construction or demolition that do not have an alarm system in place, or if otherwise necessary, the Fire Prevention CDA Inspection Team will visually trace the standpipe from Siamese connection to the uppermost standpipe cap. The Fire Prevention CDA Inspection Team will input inspection data into the BISP application and, once it is completed, into the IBM system. The Team will also notify the local company if it discovers any conditions that require the company's immediate attention. All reports made under this program will be certified as true and accurate.
- (iii) Local fire companies will continue to conduct familiarization drills at each CDA site once every three months to stay abreast of current conditions. If the risk-based analysis for a particular CDA site indicates a need to inspect that site more frequently than every 30 days, the Fire Prevention CDA Inspection Team will assist the

¹ The 15 Day Rule has been amended to require inspections of buildings undergoing construction, demolition and/or abatement at least every 30 days rather than at least every 15 days.

local company in conducting follow-up inspections. Fire companies will be required to certify that familiarization drills have taken place;

- (iv) The Fire Department will add two new civilian staff members to the Fire Prevention Suppression Unit to conduct random audits of the standpipe systems in 10 percent of CDA buildings each month. As part each audit, the staff will check the pressure gauge on the standpipe system, review the site-safety manager's log, and ensure that all permits and required signs (e.g. "No Smoking") are properly posted. If there is no pressurized alarm system for the standpipe, or if otherwise necessary, the audit staff will visually trace the standpipe system from the Siamese connection to the uppermost standpipe cap. These audits will be certified as true and accurate;
- (v) To support the new civilian inspectors, the Fire Department will add 3 data management technicians consisting of 1 supervisor and 2 line staff. The staffers will, among other things, coordinate inspections, review DOB and DEP databases for violations prior to inspections, enter inspection data into the BISP application and, once it is completed, into the IBM system to coordinate inspections, check DOB and DEP databases for violations prior to inspections and enter inspection data into the BISP system;

- (vi) The Fire Department will add five new civilian staff consisting of 1 supervisor and 4 line staff to the Compliance Unit who will perform quality assurance and audit functions on uniformed and civilian inspections at CDA locations. The Fire Department anticipates this group will perform quality assurance reviews of thousands of inspections each year.
- (vii) The Fire Department will add two new civilian staff consisting of 1 attorney and 1 investigator in the Bureau of Investigations & Trials ("BITS"), the Department's disciplinary unit, who will develop expertise in inspection requirements. These new staffers will help to ensure accountability by initiating disciplinary proceedings when audit results indicate that officers, firefighters or civilian inspectors are not complying with inspection requirements;
- (viii) The Fire Department will designate an Assistant Chief of Fire Prevention and Inspections who will have oversight over all of the inspectional responsibilities within the Bureau of Fire Prevention, including the new Fire Prevention CDA Inspection Team. That position will be held by a three-star Assistant Chief. To enhance the management of the Bureau, the Assistant Chief will be aided by a new uniformed Staff Chief and a new civilian Director of Inspectional Services. The Fire Department will also add a civilian staff member with a Master's degree to assist with data management and fiscal functions.

- (ix) The Fire Department will establish a joint labor-management committee to discuss additional improvements to the Fire Department's inspection program for the benefit of firefighters and public safety.
- (x) The City will prepare and make public a report of the activities of the Fire Prevention CDA Inspection Team, the Fire Prevention Suppression Unit and the Compliance Unit referred to above not less than yearly.
- (xi) The City agrees that it will not discontinue or substantially diminish the personnel of the Fire Prevention CDA Inspection Team, the Fire Prevention Suppression Unit and the Compliance Unit referred to above for a period of four years.

4. The City has cooperated fully with DANY's investigation. In consideration of the City's agreement with the terms of this Agreement, DANY agrees to assist the City in developing and implementing the remedial measures set forth in paragraph 3, in light of the information gathered during the investigation into the fire at 130 Liberty Street. In addition, upon appropriate Court order and subject to the requirements of CPL section 190.25(4)(a), DANY agrees to make available relevant evidence developed during the investigation to assist the City further in developing and implementing above-described remedial measures. DANY will determine what evidence is relevant for these purposes. The evidence will not be disclosed until the conclusion of any and all criminal investigations and prosecutions relating to the fire at 130 Liberty Street.

5. The City expressly agrees that it shall not, through any officials authorized to make public statements on its behalf, make any public statement contradicting any statement of fact contained in the Statement. Nothing in this provision affects the City's (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other proceedings.

6. It is further understood that this Agreement does not relate to or cover any conduct by the City other than that described in the Statement and this Agreement.

7. The City and DANY agree that this Agreement (and its attachment) shall be disclosed to the public.

The City of New York

NAME

DATE

Counsel for the City of New York

DATE

DATE

**ON BEHALF OF THE NEW YORK COUNTY DISTRICT ATTORNEY'S
OFFICE**

Daniel J. Castleman
Chief Assistant District Attorney

Date

Patrick J. Dugan
Chief of the Investigations Division

Date