

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of

14th STREET COALITION, Julianne Bond &
Judy Pesin, Co-Chairs;
FRIENDS OF PETROSINO SQUARE;
524 EAST 14th STREET TENANTS ASSOCIATION,
Fred Blair, President;
COUNCIL OF CHELSEA BLOCK ASSOCIATIONS,
William Borock, President;
FLATIRON ALLIANCE, INC., Michele Golden & Susan
Finley, Co-Directors;
WEST 12th STREET BLOCK ASSOCIATION, Marguerite
Martin, Co-Chair;
UPPER WEST 13th STREET BLOCK ASSOCIATION, INC.,
Jeffrey Ryan, President;
WEST 13th STREET 100 BLOCK ASSOCIATION, INC.,
Gary Tomei, President;
100/200 WEST 15th STREET BLOCK ASSOCIATION,
Steven Starosta & Kimon Rezos, Co-Chairs;
100 WEST 16th STREET BLOCK ASSOCIATION, Paul J.
Gronki, President;
100 WEST 17th & 18th STREETS BLOCK ASSOCIATION,
Judy Klein And Michael Glassman, Co-Presidents;
16th STREET TENANTS CORP., Sherrie Levy, President;
CAMBRIDGE OWNERS CORPORATION, Trevor Stewart,
President;
VICTORIA OWNERS CORPORATION, James Heller,
Treasurer;
160 W. 16th STREET OWNERS CORPORATION, Paul J.
Gronki, President;
EIGHT BCD BLOCK ASSOCIATION; Michael
Schweinsburg, President
NY PROGRESSIVE ACTION NETWORK, INC by Its
Chapter PROGRESSIVE ACTION OF LOWER
MANHATTAN, Arthur Z. Schwartz, Treasurer;
COALITION FOR A DEMOCRATIC ALTERNATIVE;
GEORGETTE FLEISCHER;
JOHN WETHERHOLD;
ARTHUR Z. SCHWARTZ;
FRED BLAIR;
PENNY PENNLIN;
TOMMY LOEB; and
JEREMY SHERBER,

Index No. 159030/2018

CORRECTED
VERIFIED PETITION

Petitioners,

–against–

POLLY TROTTENBERG, as COMMISSIONER OF THE CITY OF NEW YORK DEPARTMENT OF TRANSPORTATION;
METROPOLITAN TRANSPORTATION AUTHORITY;
and the NEW YORK CITY TRANSIT AUTHORITY;

Respondents,

For an Order and Judgment Pursuant to Article 78 of the Civil Practice Law and Rules, the State Environmental Quality Review Act, and the New York City Environmental Quality Review Act.

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Petitioners, by their undersigned attorney, Arthur Z. Schwartz, of Advocates for Justice, as and for a Verified Petition, allege as follows.

INTRODUCTION

1. This is a lawsuit seeking declaratory and injunctive relief, and damages, addressed to two separate, but inter-related plans ,one adopted by Respondent METROPOLITAN TRANSPORTATION AUTHORITY (“MTA”) and NEW YORK CITY TRANSIT AUTHORITY (“NYCTA”), (a) shut down a subway (the Canarsie Tunnel) tunnel running between Brooklyn and Manhattan, utilized by a subway line known as the “L Train,” in order to repair the Canarsie Tunnel because of damage caused by Hurricane Sandy in 2012; and (b) to renovate four subway stations in Manhattan and two in Brooklyn. and a second plan, designed to purportedly mitigate the impact of the MTA/NYCTA project, adopted by the CITY OF NEW YORK DEPARTMENT OF TRANSPORTATION (“DOT”) and its Commissioner Respondent POLLY TROTTENBERG, which will (a) reconfigure 14th Street in Manhattan so as to widen sidewalks and eliminate passenger car traffic; (b) build protected bike lanes on 12th

and 13th Streets in Manhattan; and (c) reconfigure traffic on the Manhattan Bridge and provide for hundreds of new bus trips from L Train stops in Brooklyn to 14th Street in Manhattan utilizing Delancy Street, Kenmare Street, Allen Street, First Avenue and Lafayette Street. The Petition also addresses noisy, dust producing 24 hour per day construction which has commenced on East 14th Street between Avenue A and Avenue B,

2. Petitioners bring this suit pursuant to: the N.Y. State Environmental Quality Review Act (“SEQRA”), and the NY City Environmental Quality Review Act (“CEQRA”), 62 RCNY Chapter 5, and NY City Executive Order 91, 43 RCNY Chapter 6. Petitioners also assert, pursuant to Article 78 of the CPLR, that some of the plans, particularly the plan to expand sidewalks into one lane of traffic on the north and south sides of 14th Street, and the plans to install barrier-protected bike lanes on 12th and 13th Streets in Manhattan, are arbitrary and capricious actions by the DOT, and that the 24 hour per day, loud, dusty construction being done by the MTA/NYCTA on East 14th Street is a nuisance.

3. Neither Plan has been properly vetted under SEQRA or CEQRA.

4. This suit is brought in order to:

a. compel the preparation of an Environmental Impact Statement (“EIS”), for each plan, required by SEQRA and CEQRA and

b. to stay any work on the Canarsie Tunnel shutdown, except work not including preparatory work within the tunnel, most especially the building of a truck entrance to the tunnel at Avenue A and 14th Street in Manhattan, and the construction of a substation on Avenue B at East 14th Street, and the shutdown’s attendant Mitigation Plan (which Respondents call the Alternative Service Plan or ASP).

c. To remedy the dust and noise problem being created at East 14th Street between Avenues A and B.

5. These governmental actions, by both a New York State Authority and the City of New York, promise to create unprecedented dislocation affecting hundreds of thousands of New Yorkers, most notably 200-250,000 residents of north-central Brooklyn, including Williamsburg and Bushwick, who commute, on a daily basis, to their jobs in Manhattan utilizing the NYCTA's L Train; and hundreds of thousands of residents of Manhattan's Lower East Side, Greenwich Village, and Soho, who will have the fabric of their neighborhoods disrupted by a huge increase in the number of busses (diesel busses at that), the closure of streets, the elimination of automobile access to 14th Street (forcing that traffic on to smaller streets), and the creation of a protected bike lanes on an already over-congested narrow side streets, and, on East 14th Street, the running of a noisy 24 hour per day construction site. Despite scores of "community meetings" and all sorts of obscure "modeling," neither the MTA (which is in charge of the L Train tunnel construction) nor the DOT (which has driven the Mitigation Plan) has done an EIS, and, to the extent that any sort of Environmental Assessment as required by SEQRA, has been done, those assessments have been done without taking a legitimate "hard look" at the impacts, and without consideration of various alternative proposals made both by the public or even Respondent DOT's consultants. On top of that, some elements of the Mitigation Plan are simply arbitrary and capricious exercises of government power. This Court's intervention is sorely needed.

PARTIES

6. Petitioners are as follows:

a. Petitioner 14th Street Coalition is a New York unincorporated association consisting of block associations, many of which are Petitioners. Julianne Bond and Judy Pesin are its Co-Chairs.

b. Petitioner Council of Chelsea Block Associations is a not-for-profit corporation consisting of numerous block associations. William Borock is its President.

c. Petitioner Friends of Petrosino Square is a non-profit

d. Petitioner 542 East 14th St Tenants' Association is a

e. Petitioner Flatiron Alliance, Inc. is a not-for-profit membership corporation. Its members are residential and commercial tenants and owners of co-ops & condos; it works to Preserve and Protect the Flatiron District. Michele Golden & Susan Finley are its Co-Directors.

f. Petitioner West 12th Street Block Association is a New York not-for-profit corporation whose members reside on West 12th Street between Fifth and Seventh Avenues in Manhattan. Marguerite Martin is its Co-Chair.

g. Petitioner Upper West 13th Street Block Association, Inc. is a New York not-for-profit corporation, whose members reside on the block of West 13th Street between Fifth and Sixth Avenues in Manhattan. Jeffrey Ryan is its President.

h. Petitioner West 13th Street 100 Block Association, Inc. is a New York not-for-profit corporation whose members reside on West 13th Street between Fifth and Sixth Avenues in Manhattan. Gary Tomei is its President.

i. Petitioner 100/200 West 15th Street Block Association is an unincorporated block association whose members reside on West 15th Street between Sixth and Eighth Avenues in Manhattan. Steven Sirota & Kimon Rezos are its Co-Chairs.

j. Petitioner 100 West 16th Street Block Association is an unincorporated membership association whose members reside on West 16th Street between Sixth and Seventh Avenues in Manhattan. Paul J. Gronki is its President.

k. Petitioner 100 West 17th & 18th Streets Block Association is an unincorporated membership association whose members reside on West 17th and West 18th Streets between Sixth and Seventh Avenues in Manhattan. Judy Klein And Michael Glassman are its Co-Presidents.

l. Petitioner 16th Street Tenants Corp. is a New York cooperative apartment corporation which owns 16 West 16th Street in Manhattan. Sherrie Levy is its President.

m. Petitioner Cambridge Owners Corporation is a New York cooperative apartment corporation which owns 175 West 13th Street in Manhattan. Trevor Stewart is the President.

n. Petitioner Victoria Owners Corporation is a New York cooperative apartment corporation which owns 7 East 14th Street in Manhattan. James Heller is its Treasurer.

o. Petitioner 130 West 16th Street Owners Corporation is a New York cooperative apartment corporation which owns 130 West 16th Street in Manhattan. Paul J. Gronki is its President.

p. Plaintiff Eight BCD Block Association is an unincorporated association including residents and businesses on East 8th Street, between Avenue D and Avenue A, in

Manhattan. It acts here through its President, Michael Schweinsburg. Its address is 334 East 8th Street, New York, NY.

q. Petitioner New York Progressive Action Network, Inc. is a New York not-for-profit corporation and social justice organization whose members live in Manhattan south of 42nd Street. Arthur Z. Schwartz is its Treasurer. It acts here through its lower Manhattan Chapter Progressive Action of Lower Manhattan.

r. Petitioner Coalition for A Democratic Alternative is a constituent club affiliated with the Manhattan Democratic Party, with jurisdiction in the 74th Assembly District, which goes from Delancy Street past 23rd Street, between the East River and 1st Avenue

s. Petitioner John Wetherhold is a resident of 13 West 13th Street, in Manhattan.

t. Petitioner Georgette Fleischer is a resident of 19 Cleveland Place in Manhattan;

u. Plaintiff Arthur Schwartz lives at 78 West 12th Street in Manhattan:

v. Petitioner Fred Blaire resides at 524 East 14th Street, in Manhattan;

w. Petitioner Tommy Loeb is a resident of 473 FDR Drive in Manhattan.

x. Petitioner Jeremy Sherber is a resident of 577 Grand Street in Manhattan.

7. Respondents are as follows:

a. Respondent MTA is a public benefit corporation chartered by the New York State Legislature under the Metropolitan Transportation Authority Act, N.Y. Pub. Auth. Law § 1260 *et seq.*, and is a public entity that provides public transportation.

- b. Respondent NYC Transit is a public benefit corporation pursuant to N.Y. Pub. Auth. Law § 1200 *et seq.*, and a subsidiary of the MTA, and is a public entity that provides public transportation.
- c. Respondent the City of New York (“NYC”) is a New York State municipality with its main offices in the County of New York. The Department of Transportation (DOT) is an agency of the City, created under the NYC Charter, with a Commissioner, Respondent Trottenberg, who reports to the Mayor; DOT is responsible for the maintenance and management of New York City’s roadways and bridges. It does not, itself, provide transportation to the public. Neither NYC nor DOT is governed by the provisions of the Public Authorities Law (PAL); neither is an authority as that term is defined in the PAL, and neither is a public benefit corporation.

NY State Environmental Quality Review Act

8. To ensure the “laudable goal” of placing environmental concerns alongside economic interests in the land use decision-making process, the “Legislature created an elaborate procedural framework, SEQRA, requiring parties to consider the environmental ramifications of their actions as early as possible.” *Matter of King v. Saratoga Bd. of Supervisors*, 89 NY2d 341, 347 (1996).

9. SEQRA requires government agencies to consider the environmental impacts of proposed actions. See N.Y. Envir. Conser. Law § 8-0109. Rules and regulations promulgated as a result of the law distinguish between Type I, Type II, and Unlisted Actions. See 6 NYCRR § 617.3. Type I Actions are enumerated and considered more likely to require an Environmental Impact Statement (“EIS”). See 6 NYCRR § 617.4(b)(I)-(II). Type II Actions, also enumerated, generally do not require environmental review. See 6 NYCRR § 617.5(c)(1)-(37). All other actions are Unlisted Actions and thus, like Type I Actions, may require environmental review.

See 6 NYCRR § 617.3(c). Among Type I Actions are actions that involve physical alteration of 2.5 acres which are contiguous to a historic district and publicly owned parkland. see 6 NYCRR 614.4(b)(9) and (10).

10. Proposed Type I and Unlisted Actions require the lead agency (which here would be either the MTA or the DOT, or perhaps both, DOT with respect to the street restructuring, and MTA/NYCTA with respect to the L Train, subway stations and the tunnel work) to either issue a negative declaration as to environmental impact or draft an EIS. A negative declaration is legally sufficient if the lead agency has identified all relevant environmental impacts, thoroughly analyzed such impacts, and provided a written explanation of the reasoning that supports the negative declaration.¹ Thus, a negative declaration is improper and legally insufficient if the agency fails to identify a relevant environmental impact, thoroughly analyze the impacts identified, or explain the reasoning behind its negative declaration.²

11. In order to assess whether a proposed action will have a significant environmental impact, agencies must take a “hard look” at the proposed action and its effects.³ A “hard look” involves a level of granularity that includes, for example, a discussion of alternatives “sufficient to permit a comparative assessment of the alternative discussed.”⁴ Actions also must be evaluated in terms of their “reasonably related” long-term, short-term, direct, indirect, and

¹ *Dunk v. City of Watertown*, 11 A.D.3d 1024, 784 N.Y.S.2d (App. Div. 4th Dep’t 2004); *See also* New York State Dep’t of Environmental Conservation, *The SEQRA Handbook* 80 (3rd Ed. 2010), http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf.

² *Defreetsville Area Neighborhood Ass’n, Inc. v. Town of North Greenbrush*, 299 A.D.2d 631, 750 N.Y.S.2d 164 (App. Div. 3d Dep’t 2002) (finding environmental review improper when town adopted resolution issuing negative declaration of environmental significance regarding rezoning plans but failed to consider that rezoning would lead to the construction of retail shopping center).

³ *MYC New York Marina v. Town Board of East Hampton*, 17 Misc.3d 751 (Sup. Ct. Erie County 2007) (citing *Aldrich v. Pattison*, 107 A.D.2d 258, 266, 486 N.Y.S.2d 23 (App. Div. 2d Dep’t 1985)).

⁴ *MYC New York Marina v. Town Board of East Hampton*, 17 Misc.3d 751 (Sup. Ct. Erie County 2007)

cumulative impacts,⁵ and must be analyzed with other actions that are part of a long-range plan, likely to be subsequently undertaken, or dependent on approval of the initial action. See 6 NYCRR § 617.7(c)(2). Significance is also evaluated in connection with the proposed action's setting, probable occurrence, duration, irreversibility, geographic scope, magnitude, and the number of people affected. See 6 NYCRR §§ 617.7(c)(3).

12. The New York Court of Appeals has held that the “[t]hreshold at which an environmental impact statement must be prepared is relatively low.”⁶ If an action is determined to have a significant impact, the EIS must provide a description of: short-term and long-term effects; unavoidable effects; possible alternatives, including the effects of taking no action at all;⁷ public resource commitments; possible mitigation measures; the action's growth-inducing characteristics; use of energy; solid waste implications; affects groundwater protection; and any other information consistent with the Commissioner's guidelines. 6 NYCRR § 617.9

13. The New York Court of Appeals has weighed “population patterns” and “existing community character” as relevant when evaluating an agency's EIS.⁸ Indeed, agencies must consider an action's secondary and long-term effects on “population patterns, community goals, and neighborhood character,” including any “potential acceleration of the displacement of local residents and businesses.”⁹ Such considerations are analogous to public health, which, again, is a factor identified in regulations and agency guidance. See also *Teich v. Bucheit*, 221 AD2d 452

⁵ *Chinese Staff Workers Ass'n v. City of New York*, 68 N.Y.2d 359, 367 (1986).

⁶ *Chinese Staff Workers Ass'n v. City of New York*, 68 N.Y.2d 359 (1986).

⁷ *MYC New York Marina v. Town Board of East Hampton*, 17 Misc.3d 751 (Sup. Ct. Erie County 2007) (rejecting board's environmental review where it did not consider “no action” alternative and therefore failed to take a requisite “hard look” at the environmental impact of rezoning as required under SEQRA).

⁸ *Chinese Staff Workers Ass'n v. City of New York*, 68 N.Y.2d 359, 365 (1986) (reversing appellate court's grant of summary judgment to respondents and granting petitioner's cross-motion for same, finding that lead agencies did not take requisite hard look because they failed to include project's secondary, long-term, and social effects on population patterns and community character in EIS).

⁹ *Chinese Staff Workers Ass'n v. City of New York*, 68 N.Y.2d 359, 367 (1986); N.Y. Envir. Conser. Law § 8-0105(6)

(2d Dep't 1995), *Hand v. Hospital for Special Surgery*, 943 N.Y.S.2d 792 (Sup. Ct. N.Y. County 2012).

14. While SEQRA does not specifically include health in its broad definition of “environment,”¹⁰ state regulations clearly do—for example, 6 NYCRR § 617.2 lists “human health” in its definition of “environment.” 6 NYCCR § 617.2(1) Consistent with this is the Commissioner of Environmental Conservation’s *SEQRA Manual*, which instructs agencies to consider “community health,”¹¹ and the Mayor’s Office of Environmental Coordination’s *CEQR [City Environmental Quality Review] Manual*, which dedicates an entire chapter to “public health.”¹² Additionally, agencies must consider whether the action will create “a hazard to human health” or cause a “material conflict with a community’s current plans or goals as officially approved or adopted.” See 6 NYCRR § 617.7(c)(1)(iv), (vii). Thus, agencies must consider whether the proposed action will affect health, and if so, whether that impact would be significant.

15. Public Authorities, a category which, in this case, only applies to MTA and NYCTA (see Section 2 of the NY Public Authorities Law), have, under Section 1266 of the Public Authorities Law, some exclusions from SEQRA. Section 1266 (11) states:

11. No project to be constructed upon real property theretofore used for a transportation purpose, or on an insubstantial addition to such property contiguous thereto, ***which will not change in a material respect the general character of such prior transportation use***, nor any acts or activities in connection with such project, shall be subject to the provisions of article eight, nineteen, twenty-four or twenty-five of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article. Nor shall any acts or activities taken or proposed to be taken by the authority or by any

¹⁰ N.Y. Envir. Conser. Law § 8-0105(6)

¹¹ New York State Department of Environmental Conservation, *The SEQRA Handbook* 83 (3rd Ed. 201 0), http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf.

¹² New York City Mayor’s Office of Environmental Coordination, *CEQR – City Environmental Quality Review: Technical Manual* (March 2014) (see Chapter 20), http://www.nyc.gov/html/Voec/downloads/pdf/2014_ceqr_tm/2014_ceqr_technical_manual.pdf

other person or entity, public or private, in connection with the planning, design, acquisition, improvement, construction, reconstruction or rehabilitation of a transportation facility, other than a marine or aviation facility, be subject to the provisions of article eight of the environmental conservation law, or to any local law or ordinance adopted pursuant to any such article if such acts or activities require the preparation of a statement under or pursuant to any federal law or regulation as to the environmental impact thereof.

16. Neither the City, nor the DOT is an “authority” under the Public Authorities Law since the statute defines “local authorities” as “(a) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York whose members do not hold a civil office of the state, are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments; (b) a not-for-profit corporation affiliated with, sponsored by, or created by a county, city, town or village government; (c) a local industrial developmental agency or authority or other local public benefit corporation; (d) an affiliate of such local authority; or (e) a land bank corporation created pursuant to article sixteen of the not-for-profit corporation law). Hence, the § 1266 exception does not apply to work planned or performed by NYC-DOT.

New York City Environmental Regulations

17. New York City supplements SEQRA with its own set of regulations, commencing at § 5-02 of the Rules of the City of New York (RCNY), which continues and supplements Executive Order No. 91 [43 RCNY §§ 6-01 *et seq.*] of August 24, 1977, as amended (“Executive Order 91”).

18. Section 6-02 of Executive Order 91, “Definitions,” contains the following relevant definitions:

a. “Action” means any activity of an agency, other than an exempt action enumerated in § 6-04 of this chapter, including but not limited to the following: (1) non-

ministerial decisions on physical activities such as construction or other activities which change the use or appearance of any natural resource or structure;

b. “Environment” means the physical conditions which will be affected by a proposed action, including land, air, water, minerals, flora, fauna, noise, objects of historic or aesthetic significance, existing patterns of population concentration, distribution or growth, and existing community or neighborhood character.

c. “Negative declaration” means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action will not have a significant effect on the environment.

d. “Notice of determination” means a written statement prepared by the lead agencies after conducting an environmental analysis of an action which announces that the lead agencies have determined that the action may have a significant effect on the environment, thus requiring the preparation of an EIS

19. Section 6-06 of Executive Order 91 sets forth the criteria for a Determination of Significant Effect:

Criteria. (a) An action may have a significant effect on the environment if it can reasonably be expected to lead to one of the following consequences:

(1) a substantial adverse change to ambient air or water quality or noise levels or in solid waste production, drainage, erosion or flooding;

(2) the removal or destruction of large quantities of vegetation or fauna, the substantial interference with the movement of any resident or migratory fish or wildlife species, impacts on critical habitat areas, or the substantial affecting of a rare or endangered species of animal or plant or the habitat of such a species;

(3) the encouraging or attracting of a large number of people to a place or places for more than a few days relative to the number of people who would come to such a place absent the action;

- (4) the creation of a material conflict with a community's existing plans or goals as officially approved or adopted;
- (5) the impairment of the character or quality of important historical, archeological, architectural or aesthetic resources (including the demolition or alteration of a structure which is eligible for inclusion in an official inventory of such resources), or of existing community or neighborhood character;
- (6) a major change in the use of either the quantity or type of energy;
- (7) the creation of a hazard to human health or safety;
- (8) a substantial change in the use or intensity of use of land or other natural resources or in their capacity to support existing uses, except where such a change has been included, referred to, or implicit in a broad "programmatic" EIS prepared pursuant to § 6-13 of this chapter.
- (9) the creation of a material demand for other actions which would result in one of the above consequences;
- (10) changes in two or more elements of the environment, no one of which is substantial, but taken together result in a material change to the environment.

20. Section 5.05(c)(6) of the City Regulations mandates that An action listed in 62 RCNY § 5-05(c)(2), (4), (5), (6), (8), or (11)-(13) of these rules "shall remain subject to environmental review if the project site is: (i) wholly or partially within any historic building, structure, facility, site or district that is calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark; (ii) substantially contiguous to any historic building, structure, facility, site or district that is designated, calendared for consideration or eligible for designation as a New York City Landmark, Interior Landmark or Scenic Landmark; or (iii) wholly or partially within or substantially contiguous to any historic building, structure, facility, site or district, or archaeological or prehistoric site that is listed, proposed for listing or eligible for listing on the State Register of Historic Places or National Register of Historic Places."

21. Section 6.07(b)(1) (1) of the Executive Order describes the requirement that at minimum there be a Negative Declaration:

If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §§ 6-04 and 6-15 of this chapter, respectively, and that the action will not have a significant effect on the environment, they shall issue a Negative Declaration which shall contain the following information: (i) an action identifying number; (ii) a brief description of the action; (iii) the proposed location of the action; (iv) a statement that the lead agencies have determined that the action will not have a significant effect on the environment; (v) a statement setting forth the reasons supporting the lead agencies' determination.

22. Section 6.07(3) of the Executive Order, titled "Notice of Determination," states that: "If the lead agencies determine that the proposed action is not an exempt action or a Type II action pursuant to §§ 6-04 and 6-15 of this chapter, respectively, and that the action may have a significant effect on the environment, they shall issue a Notice of Determination which shall contain the following information: (i) an action description number; (ii) a brief description of the action; (iii) the proposed location of the action; (iv) a brief description of the possible significant effects on the environment of the action."

23. Section 5-07 of the CEQRA Regulations describes the procedure as follows:

Scoping. Following the issuance of a notice of determination (positive declaration), the lead agency shall coordinate the scoping process, which shall ensure that all interested and involved agencies (including the City Council where it is interested or involved), the applicant, the OEC, community and borough boards, borough presidents and the public are able to participate. The scoping process shall include a public scoping meeting and take place in accordance with the following procedure:

(a) Draft Scope. Within fifteen days after issuance of a notice of determination (positive declaration), the lead agency shall issue a draft scope, which may be prepared by the applicant but must be approved by the lead agency. ...

(b) Public Notice and Comment. Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding

of the public scoping meeting, the lead agency shall publish in the City Record a notice indicating that a draft environmental impact statement will be prepared for the proposed action and requesting public comment with respect to the identification of issues to be addressed in the draft environmental impact statement. Such notice shall be in a format provided by the OEC and shall state that the draft scope and the environmental assessment statement may be obtained by any member of the public from the lead agency and/or the OEC. Such notice shall also contain the date, time and place of the public scoping meeting, shall provide that written comments will be accepted by the lead agency through the tenth day following such meeting, and shall set forth guidelines for public participation in such meeting.

(c) Agency Notice and Comment. Upon issuance of the draft scope and not less than thirty nor more than forty-five days prior to the holding of the public scoping meeting, the lead agency shall circulate the draft scope and the environmental assessment statement to all interested and involved agencies (including the City Council where it is interested or involved) Together with the draft scope and the environmental assessment statement, a letter shall be circulated indicating the date, time and place of the public scoping meeting, and stating that comments will be accepted by the lead agency through the tenth day following such meeting. The lead agency may consult with other agencies regarding their comments, and shall forward any written comments received pursuant to this subdivision to the OEC.

(d) Public Scoping Meeting. The lead agency shall chair the public scoping meeting. In addition to the lead agency, all other interested and involved agencies that choose to send representatives (including the City Council where it is interested or involved) ... may participate. The meeting shall include an opportunity for the public to observe discussion among interested and involved agencies, agencies entitled to send representatives, the applicant and the OEC. Reasonable time shall be provided for the public to comment with respect to the identification of issues to be addressed in the draft environmental impact statement. ...

(e) Final Scope. Within thirty days after the public scoping meeting, the lead agency shall issue a final scope ... Where a lead agency receives substantial new information after issuance of a final scope, it may amend the final scope to reflect such information.

24. Agencies such as DOT may be responsible for the EIS. Executive Order 91

§ 6-08(b)(1) (b) states that “When an action which may have a significant effect on the

environment is initiated by an agency, the initiating agency shall be directly responsible for the preparation of a draft EIS.”

25. Executive Order 91 describes the EIS content at § 6-09(d) (d):

The body of all draft and final EIS’s shall contain at least the following:

- (1) a description of the proposed action and its environmental setting;
- (2) a statement of the environmental impacts of the proposed action, including its short-term and long-term effects, and typically associated environmental effects;
- (3) an identification of any adverse environmental effects which cannot be avoided if the proposed action is implemented;
- (4) a discussion of the social and economic impacts of the proposed action;
- (5) a discussion of alternatives to the proposed action and the comparable impacts and effects of such alternatives;
- (6) an identification of any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;
- (7) a description of mitigation measures proposed to minimize adverse environmental impacts;
- (8) a description of any growth-inducing aspects of the proposed action, where applicable and significant;
- (9) a discussion of the effects of the proposed action on the use and conservation of energy, where applicable and significant;
- (10) a list of underlying studies, reports or other information obtained and considered in preparing the statement; and
- (11) (for the final EIS only) copies or a summary of the substantive comments received in response to the draft EIS and the applicant’s response to such comments.

26. Section 6-10 describes the process to follow upon completion of a draft:

Draft Environmental Impact Statements - Procedures.

- (a) Notice of Completion. Upon the satisfactory completion of a draft EIS, the lead agencies shall immediately prepare, file and make available for public inspection a Notice of Completion as provided in

paragraphs (1), (2) and (3) of this subdivision. Where a proposed action is simultaneously subject to the Uniform Land Use Review Procedure (“ULURP”), the City Planning Commission shall not certify an application pursuant to ULURP until a Notice of Completion has been filed as provided in paragraph (3) of this subdivision.

(1) Contents of Notice of Completion. All Notices of Completion shall contain the following: (i) an action identifying number; (ii) a brief description of the action; (iii) the location of the action and its potential impacts and effects; and (iv) a statement that comments on the draft EIS are requested and will be received and considered by the lead agencies at their offices. The Notice shall specify the public review and comment period on the draft EIS, which shall be for not less than 30 calendar days from the date of filing and circulation of the notice, or not less than 10 calendar days following the close of a public hearing on the draft EIS, whichever last occurs.

(2) Circulating Notice of Completion. All Notices of Completion shall be circulated to the following: (i) all other agencies, including federal and state agencies, involved in the proposed action; (ii) all persons who have requested it; (iii) the editor of the State Bulletin; (iv) the State clearinghouse; (v) the appropriate regional clearinghouse designated under the Federal Office of Management and Budget Circular A-95.

(3) Filing Notice of Completion. All Notices of Completion shall be filed with and made available for public inspection by the following: (i) the Commissioner of DEC; (ii) the regional director of DEC; (iii) the agency applicant, where applicable; (iv) the appropriate Community Planning Board(s); (v) the City Clerk; (vi) the lead agencies.

(b) Filing and availability of draft EIS. [City clerk function transferred to OEC, City Planning Rules § 5-02(b)(4).] All draft EIS’s shall be filed with and made available for public inspection by the same persons and agencies with whom Notices of Completion must be filed pursuant to paragraph (a)(3) of this section.

(c) Public hearings on draft EIS.

(1) Upon completion of a draft EIS, the lead agencies shall conduct a public hearing on the draft EIS.

(2) The hearing shall commence no less than 15 calendar days or more than 60 calendar days after the filing of a draft EIS pursuant to subdivision (b) of this section, except where a different hearing date is required as appropriate under another law or regulation. (3) Notice of the public hearing may be contained in the Notice of Completion or, if not so contained, shall be given in the same manner in which the

Notice of Completion is circulated and filed pursuant to subdivision (a) of this section. In either case, the notice of hearing shall also be published at least 10 calendar days in advance of the public hearing in a newspaper of general circulation in the area of the potential impact and effect of the proposed action.

27. Section 6-11 describes the process for drafting and releasing the Final

Environmental Impact Statements:

(a) Except as provided in paragraph (1) of this subdivision, the lead agencies shall prepare or cause to be prepared a final EIS within 30 calendar days after the close of a public hearing.

(1) If the proposed action has been withdrawn or if, on the basis of the draft EIS and the hearing, the lead agencies have determined that the action will not have a significant effect on the environment, no final EIS shall be prepared. In such cases, the lead agencies shall prepare, file and circulate a Negative Declaration as prescribed in § 6-07 of this chapter.

(2) The final EIS shall reflect a revision and updating of the matters contained in the draft EIS in light of further review by the lead agencies, comments received and the record of the public hearing.

(b) Immediately upon the completion of a final EIS, the lead agencies shall prepare, file, circulate and make available for public inspection a Notice of Completion of a final EIS in a manner specified in § 6-11(a) of this chapter, provided, however, that the Notice shall not contain the statement described in subparagraph (a)(1)(iv) of such section.

(c) Immediately upon completion of a final EIS, copies shall be filed and made available for public inspection in the same manner as the draft EIS pursuant to § 6-11(b) of this chapter.

28. Again, the process set forth heavily involves public input and oversight.

FACTS RELEVANT TO ALL CLAIMS

29. The L Train was built in 1924; it connects Manhattan and Brooklyn.

30. It crosses under the East River, connecting Williamsburg to East 14th Street in Manhattan through a cast iron tunnel with concrete liner. There are two tubes in tunnel, each carrying one track.

31. Forty trains per hour go through the tunnel during peak travel times. 225,000–250,000 riders go through the Canarsie Tunnel each weekday

32. Over the last decade, the L has experienced tremendous growth and emerged as one of the NYC subway system’s busiest subway lines. Since 1990, ridership on the L has more than tripled. It has quintupled at Williamsburg’s Bedford Ave Station alone. This growth has helped fuel revitalization in the local housing market and business development in several neighborhoods along the line.

33. According to the MTA a total of 400,000 daily riders currently use the L, some just within Brooklyn, and purportedly (no data has ever been provided to support this number) 50,000 only within Manhattan (which has five stops, First Avenue, Third Avenue, Union Square, Sixth Avenue and Eighth Avenue, a distance of 1.2 miles, which Google Maps says can be walked from one end to the other in 24 minutes. (Eighth Avenue to Union Square is 0.6 miles and can be walked in 12 minutes; First Avenue to Union Square is 0.5 miles and can be walked in 10 minutes.)

34. In 2012, Superstorm Sandy flooded the 92-year-old tubes of the Canarsie Tunnel with seven million gallons of salt water, damaging vital infrastructure and systems in the 7,110-foot-long tunnel. That damage, and widespread damage throughout the NYC Metropolitan Area, led NY Governor Andrew Cuomo to declare a State of Emergency.

35. While the MTA was able to drain the tubes and restore service just 10 days after the storm, it was clear that the damage Sandy left in its wake significantly shortened the useful life of the tunnel. The MTA has publicly stated, as recently as December 2017, that the tubes are currently safe and that they continue to monitor conditions closely, but the damage can only be addressed through a full reconstruction of the tunnel.

36. The most devastating damage occurred in the duct banks, concrete structures that provide a protected pathway for the miles of cables and circuits necessary for the communication, power, and safety of the trains. The salt water also caused damage to the tube structure, signal and other electrical equipment, and accelerated the deterioration of track and track ties.

37. In January 2016, the L Line between Bedford and Eighth Avenues was proposed for a partial or full shutdown so that the MTA could repair the tunnels. The repair, which was projected to start in April 2019, would replace damaged communications, power and signal wires, third rails and tracks, duct banks, pump rooms, circuit breaker houses, tunnel lighting, concrete lining, and fire protection systems. Three new electric substations would provide more power to run more trains during rush hours.

38. The work proposed will be extensive: demolition and reconstruction of approximately 60,000 linear feet of duct banks, 14,400 linear feet of track and track bed, 270,000 linear feet of cable ducts and associated cables, repair of 7,000 linear feet of concrete lining, and the installation of tunnel lighting and fire systems. The tunnel will be also be protected from future storms by incorporating resiliency measures such as the construction of durable cables and ducts and the installation of a new discharge line.

39. The MTA Canarsie Tunnel Plan also includes improvements to six subway stations, new entrances at two stations, enlarged crosswalks near these subway stations, longer G and C trains, three free out-of-system transfers, increased service on the G, J/Z and M, and a weekend extension of the M train to 96th Street and Second Avenue.

40. During the project, Bedford Avenue Station in Brooklyn and both Union Square and First Avenue Stations in Manhattan will receive significant accessibility and capacity upgrades. Several other stations will be upgraded or revitalized.

41. First Avenue Station improvements in Manhattan (at Avenue A) will include:

a. Building new station entrances on both sides of the 14th Street at the Avenue A end of the station.

b. Installing new elevators serving both platforms.

c. Installing new turnstiles and MetroCard vending machines.

42. Union Square Station improvements will include

a. Augmented turnstile capacity

b. Reconfiguration and widening of stairs between the Broadway line N, Q, R & W and the L line to improve passenger circulation on the stairs and on the platform.

c. Addition of a new escalator from the L train platform to the station's mezzanine.

43. Other subway stations will also be improved:

a. All five L Line stations in Manhattan will have improvements such as refurbished stairways and new lighting and painting.

b. Four L Line stations in Brooklyn and one in Manhattan—at Morgan Avenue, DeKalb Avenue, Halsey Street, Bushwick Avenue-Aberdeen Street in Brooklyn, and Sixth Avenue in Manhattan—will see repaired or replaced wall tiles, columns, platform edges, and floors.

44. In or about late 2015 or early 2016 the Federal Transportation Administration, based on the information supplied by the MTA as part of an application for Federal Funds,

concluded that the work on the L Train, including the Canarsie Tunnel work, would be excluded from environmental review under the National Environmental Policy Act (“NEPA”) because it would wholly involve repairs along an existing rail track. That determination, which allowed the MTA to solicit bids with the knowledge that it had Federal funding, was made without public notice of any sort, and without publication of the determination in the Federal Register, or any other location subject to public inspection.

45. At around the same time the MTA secretly prepared a SEQRA Environmental Assessment, which concluded that the work would not have an environmental impact. That study, Exhibit H, included a brief discussion of the “construction impacts.

a. It stated that “construction activities would normally take place from Monday through Friday, between 8am and 5pm.” (see B-20). It went on to state that “Although above-ground construction activities will result in some noise disturbance to surrounding uses, the operation of the noisiest construction equipment ...[will] occur only for a limited period of time at a particular location, and therefore would not result in significant impacts.” The EA went on to describe a series of rules, including the use of equipment which meet mandated sound levels and the shielding of noisy equipment

b. It stated, at B-17, in connection with what was then called the “full-closure option,” simply that “subway service on the G, J and M lines would be increased to serve as primary alternate subway routes, and the A,C,E and 7 lines would also serve as alternate routes.” The EA continued: “NYCT would also make enhancements to current bus service to increase bus capacity. In addition, bus and ferry services may be provided to serve as alternate connections between Brooklyn and Manhattan, and additional bus service would be provided along 14th Street in Manhattan as a partial substitute to L Line subway repair.”

46. This same language was used in the MTA's submission to the Federal Transportation Administration. See Exhibits F and G.

47. As it commenced planning the work, the MTA considered either a) shuttering the entire segment for eighteen months, or b) operating two segments for three years: a one-track segment between Bedford Street in Brooklyn and Eighth Avenue in Manhattan with a 5-train-per-hour capacity in either direction, and regular service between Lorimer Street and Rockaway Parkway. For both options, new exits and elevators to the First Avenue station would be added. The MTA did not consider doing the work on weekends and at night, as it had done other post-Hurricane Sandy tunnel projects.

48. The renovations were projected, and are still projected to cost between \$800 million and \$1 billion.

49. During 2016 community meetings were held in Brooklyn and Manhattan to determine which of the two options would be better accepted by the affected communities. On July 25, 2016, it was announced that the MTA had chosen the 18-month full closure option. (See Exhibit A.) The *New York Post* described the closure with the headline, "2019 is the year Williamsburg dies." The rest of the media now calls the plan the "L-Pocalypse." According to the MTA the full closure option was selected after its surveys revealed that 77 percent of L train riders preferred the 18-month closure option. The selection did not involve any formal assessment of the impacts of the various options other than that done in the secret SEQRA document and the submissions to the FTA..

50. Sometime in 2017 the MTA and NYCTA, in conjunction with the NYC-DOT began to consider how to provide alternate service. The MTA devised a series of preliminary mitigation plans (see Exhibit B), proposing additional shuttle bus, ferry, and subway service,

extending G trains from four cars to eight, and running the M to Midtown Manhattan daily. A ferry route between Williamsburg and East Village, Manhattan, might be instituted, the M14A and M14D buses on 14th Street might be converted to Select Bus Service (a service where passengers can pay off the bus); and, with the concurrence of the DOT, dedicated bus lanes would be placed on 14th Street in Manhattan. The MTA would institute two out-of-system subway transfers, free if paid via MetroCard: one between Broadway on the IND Cross-town Line and Lorimer Street on the BMT Jamaica Line, and one between Livonia Avenue on the Canarsie Line and Junius Street on the IRT New Lots Line.

51. With federal funding in place, the MTA named Judlau Contracting and TC Electric as the tunnel project's contractors on April 3, 2017, at which time the duration of the shutdown was shortened to 15 months. See Exhibit C. It offered the contractors a \$188,000-a-day bonus for completing work up to 60 days early as well as a \$15 million bonus for completing the project on time; the MTA also stipulated that the companies would need to pay a fine of \$410,000 for each day that work is delayed past the 15-month deadline. The joint venture is also responsible for renovating the First Avenue station in Manhattan and the Bedford Avenue station in Brooklyn during the shutdown.

52. In April 2017, a bike-riding advocacy Group, Transportation Alternatives, with whom Commissioner Trottenberg is closely associated, announced the winners of a contest about how best to mitigate the effects of the L-Train shutdown. The contest winner proposed, among other things, a "Busway" running across 14th Street, which would involve widening sidewalks and bar all traffic other than busses. See Exhibit I.

Adoption of a Final Mitigation Plan

53. On or about December 17, 2017, the NYC-DOT, with concurrence of MTA/NYCTA released what it then described as its “final” Mitigation Plan (see Exhibit D), based on their projections that 80% of riders would transfer to other subway services to get to Manhattan, while 15% would use buses. There was not any discussion of how the MTA and DOT arrived at this projection. The DOT Mitigation Plan would create an HOV restriction on the Williamsburg Bridge during rush hours, which would allow the Bridge to accommodate three Select Bus Service (SBS) routes between Brooklyn and Manhattan. One route would go from SoHo, Manhattan, to the Bedford Avenue station in Brooklyn; a second would connect SoHo to the Grand Street station in Brooklyn; and a third would stretch from Union Square, Manhattan, south/north on various streets, across Kenmare and Delancey Streets, across the Williamsburg Bridge, to the Grand Street station in Brooklyn. In addition, the DOT, as suggested by Transportation Alternatives, would convert 14th Street between Third and Ninth Avenues in Manhattan into a bus-only corridor to accommodate a rapidly moving SBS bus route across 14th Street, connecting to a ferry route at Stuyvesant Cove Park near 23rd Street. Finally, the DOT plan included an expansion of New York City’s privately-operated bike share system, Citi Bike, as well as upgrades to bike lanes on Brooklyn’s Grand Street and the installation of Manhattan’s first two-way cross-town bike lane on 13th Street in Manhattan.

54. MTA made plans with the DOT to supply diesel and staff the proposed extensive busing to go on across the Williamsburg Bridge into Manhattan, across Delancy and Kenmare Streets, and north on Allen Street/ 1st Avenue, up to East 15th Street, looping back down Second Avenue to Allen Street, and then Delancy Street,; and a second loop going up Lafayette Street, east on Houston Street, and looping back to Delancy Street on Allen Street.

14th Street Corridor Changes Adopted by the DOT in Late 2017

55. No street will be more affected by the L Train disruption than 14th Street.

Fourteenth Street is a vital mixed-use corridor which supports a mix of institutional, commercial and residential uses.

56. Fourteenth Street is served by 16 subway lines including the L Train. In addition to the daily passengers on the L Train, the M14A/D local bus service carries 33,000 daily passengers on the street's surface.

57. According to the MTA, when the L Train service is suspended, it estimates that this corridor will need to serve upwards of 84,000 bus transit customers each day. There is no public sourcing of how MTA arrived at this estimate, which seems to be derived by adding its 33,000 bus passengers to the 50,000 persons who MTA asserts use the L Train solely within Manhattan.

58. The 14th Street corridor is bounded on the south by the east Village, the Greenwich Village, and the Gansevoort Meat Market Historic District and on the north by Chelsea. All of these neighborhoods, on the blocks contiguous to 14th Street, have a proliferation of 19th century townhouses, and early 20th Century multi-story buildings. The area running from University Place to Washington Street, from 13th Street south to West 4th Street has been established as the Greenwich Village Historic District. On the north side of 14th Street, between University Place/Union Square West and Park Avenue/Fourth Avenue, lies Union Square, a public park built in 1882, which is on the National Register of Historic Places. Further east, on the north side, is a multi-story residential complex known as Stuyvesant Town. Stuyvesant Town extends from First Avenue to Avenue C.

Fourteenth Street Busway

59. Under the December 2017 DOT Plan the core of 14th Street (3rd to Ninth Avenues eastbound and 3rd to Eighth Avenues westbound) would serve as an exclusive “busway” (meaning no cars or trucks allowed) with peak hour restrictions. The area has also been described as a “People Way.” Dedicated bus lanes will be added past both sides of the busway as well. This plan will bring bus bulbs and expanded sidewalks (12 feet on both the north and south sides) to the corridor. NYC DOT will also add new pedestrian-only space along Union Square West from 14th to 15th Streets and 16th to 17th Streets, and will close University Place from 13th Street to 14th Street.

Thirteenth Street Two-Way Bikeway

60. The December 17, 2018 plan also announced that the DOT would add Manhattan’s first two-way protected cross-town bike lane to 13th Street providing connection to a new bike parking hub on University Place from 13th to 14th Streets. That block of University Place, which had connected to 14th Street, would be closed (traffic coming north on University Place would either have to turn east on East 12th Street or west on East 13th Street.) DOT planned the bike path to fit on a 32-foot-wide street, even though the actual width is 27 feet.

Impact of the Busway

61. Closing 14th Street to cars and trucks will reroute that traffic through the side streets north and south of 14th Street—principally 18th through 22nd Streets, and 12th and 13th Streets. The streets south of 12th Street, running through the already congested Greenwich and East Villages, do not provide direct connections to either West Street or the FDR Drive until one gets down to Houston Street. The streets just north of 14th Street are blocked by Union Square (15th & 16th Streets), by Stuyvesant Town (15th to 19th Streets), and by Peter Cooper Village

(21st & 22nd Streets). To add to the traffic, NYC DOT is proposing a pedestrian mall that would shut down Union Square West from 14th Street to 17th Street, forcing all traffic coming down Broadway to either turn west on East 17th Street or east on East 18th Street, and a second mall on University Place north of 13th Street, forcing traffic west on 13th Street.

62. Under the Busway Plan, 12th Street, 13th Street and 20th Street will be the only ways to get across Manhattan between Houston and 23rd Streets. Residents of those three streets and neighboring streets have grave concerns regarding the re-routing of commercial traffic and livery vehicles onto those streets. All of these streets are narrow mixed-use/residential streets that are already constantly backed up with traffic. Because of existing building construction, cars, bikes and delivery trucks, traffic on these streets is already often at a virtual standstill. 13th Street, with its bikeway, would have such a narrow car lane that a car or taxi stopping to pick someone up will stop traffic entirely. An oil delivery truck will shut down the block for 30-60 minutes.

63. Closing 14th Street to vehicular traffic would not only cause horrific traffic jams on 12th, 13th, 15th, 16th, 17th Street, and even 18th Street, but also on north-south avenues including 8th, 7th, 6th, 5th, 4th, and Third Avenue, and Broadway, Park Avenue, and University Place. The traffic will bring with it air pollution and noise pollution. The streets will be harder to cross.

64. Perhaps most importantly, the movement of ambulance and fire vehicles would be impeded. The western side of the 14th Street corridor has no hospital. The nearest hospital is Mt. Sinai-Beth Israel Medical Center on First Avenue and 16th Street. Ambulances picking up patients at the Northwell Health "stand alone emergency room," on 12th Street and Seventh Avenue, must transport often critically ill people from 12th Street and Seventh Avenue across town. They will have to navigate this expanded traffic mess, since there will be no emergency lane on 14th Street.

65. Besides heightened levels of pollution and noise from idling cars, for hire vehicles, and trucks, increased traffic (especially heavy trucks) risks severely damaging the street and neighborhood infrastructure. The whole neighborhood consists of and sits on century-old infrastructure, hollow sidewalks and historic landmarked buildings and includes a high-pressure steam pipes and gas mains running under some of the streets, including 20th Street, and a century-old water main intersects at 20th Street and Fifth Avenue. and then runs down Fifth Avenue. This century-old steam pipe still has sections that use wood and leather gaskets.

Bus Route Across Williamsburg Bridge to Manhattan Locations

66. As discussed above, the DOT Plan also includes running 70 buses an hour from stops in Brooklyn, over the Brooklyn Bridge, and into several stops in Manhattan (one of which is 14th Street. The route would also be reversed, so 140 buses an hour will be traveling this route. The buses which would be running will be all diesel fueled buses.

67. Complaints about the diesel buses have resulted in little change. At a September 17, 2018 Town Hall hosted by MTA President Andy Byford and DOT Commissioner Polly Trottenberg, it was confirmed that the launch of the mitigation plan in April 2019 will employ 200 new buses, only five of which will be electric (emissions-free) and ten of which will be hybrid; only ten additional electric buses will be activated in the final quarter of 2019. What was made clear is that all emissions-free or reduced emissions buses will be deployed to 14th Street. The Kenmare-Cleveland Place-Lafayette route, which runs between northern Chinatown and Little Italy, will be all diesel all the time. This route on Kenmare Street runs steps away from Chinatown Head Start at 180 Mott Street, a preschool serving a hundred children Monday to Friday from 9 a.m. to 4 p.m.; and the Mott Street Senior Citizen Center on the lower level of 180 Mott Street, which serves a hundred seniors Monday to Friday from 8 a.m.

to 4 p.m.: in other words both vulnerable populations will be traveling into and out of the location at peak traffic hours, during which 48 buses an hour will be deployed according to the current mitigation plan. Many families, including those with young children and senior citizens, live along the densely residential Kenmare-Cleveland Place-Lafayette Street route. These populations will be subjected to nearly constant emissions that put the elderly at risk for cardio-pulmonary disease and the young at risk for asthma and other respiratory ailments

68. On July 12, 2018 DOT made its only open public presentation, before Community Board 2-Manhattan's Traffic & Transportation committee meeting, of a plan to eliminate eastbound traffic on Kenmare Street between Lafayette Street and Cleveland Place in order to add pedestrian space and purportedly to stop westbound vehicles from driving in the wrong, eastbound lane when making a left turn from Kenmare onto Lafayette Street. Ladder 20, Engine 13 of the Fire Department of New York, whose firehouse is at 253 Lafayette Street, and Emergency Medical Technicians serving the northbound blocks of Little Italy between Kenmare and Houston, from Lafayette to Bowery, need to use Kenmare Street eastbound between Lafayette and Cleveland Place in order to take the most direct route and the route with the least number of turns, i.e., the fastest route.

69. At that singular open public hearing before Community Board 2, not a single member of the public supported DOT's plan; all who spoke about it spoke against it, Petitioner Georgette Fleischer most emphatically of all. Further, the Traffic & Transportation Committee resolution, which passed 35 to 1 at the Full Board meeting on July 19, 2018, states that the community believes Traffic Enforcement, rather than closing Kenmare to eastbound traffic between Lafayette and Cleveland Place, would be a more effective means to address westbound vehicles crossing into the eastbound lane. Finally, the resolution calls on DOT to contact the

local fire stations for input. DOT did not contact the local fire stations, nor did it heed the local community's input at all. Indeed, the presentation at a September 17, 2018 Town Hall at which Commissioner Trottenberg unveiled DOT's current mitigation plan was pointedly silent on the fact that DOT had decided, against strong community opposition, to impose the unwanted treatment, regardless of safety hazards.

Public Meetings

70. After the MTA/NYCTA and NYC-DOT had announced their plans, they held numerous public meetings, several described as Town Hall meetings and attended at least one hearing at each of the affected Community Boards, and one City Council hearing. Those community residents attending, including members of the Petitioner organizations, and petitioners, have felt that (a) their complaints and suggestions were being politely listened to, and politely ignored, (b) that there was no available means of challenging statistics and analysis central to the decision making process, either about how to proceed with the project, or how to proceed with mitigation; and (c) that the statistical data was sketchy at best.

The First Round of Litigation and Changes In the Plan

71. NYC-DOT has insisted, at all times, that it and the MTA are complying with NEPA and SEQRA (see correspondence annexed as Exhibit E).

72. On or about April 1, 2018, largely the same group of Petitioners which is bringing suit here, brought suit under NEPA and SEQRA in Federal Court, faulting the FTA with not properly applying the law when it failed to review the Canarsie Tunnel Plan

73. On or about April 25, 2018 FTA asserted that it had "not made a final determination about whether the "Categorical Exclusion it granted in 2015 was still appropriate." This occurred, according to the FTA, because "after the CE was granted the plan for the Canarsie

Tunnel work ha[d] undergone significant modifications.” In order to receive Federal; funds, the FTA requested that the ‘appropriate environmental studies’ referenced in §771.118(b) be prepared to allow the FTA to evaluate whether the Canarsie Tunnel work is exempt from further NEPA review.”

74. In a partial settlement of that lawsuit, the MTA and plaintiffs agreed to add elevators to the L Train at 6th Avenue and 14th Street, and to the F Train at a different part of that same station.

75. In late June the DOT announced that it had abandoned its plan for a two-way bike lane of 13th Street in Manhattan, and was substituting, instead, one-way bike lanes on 12th and 13th Street. Drawings showing the dimensions of the new lanes are annexed as Exhibit P.

76. On around the same date the DOT announced that under its Busway Plan, vehicles would be allowed on to 14th Street to drop off or pick up passengers, as long as they turned at the next intersection, and that delivery vehicles would be allowed onto 14th Street to make deliveries to do the same thing. However, even with these changes , the DOT has steadfastly refused to abandon its plan to expand the sidewalks, on the north and south, into one of the existing lanes of traffic.

The Federal Supplemental Environmental Assessment

77. In July 2018 the MTA released a “Supplemental Environmental Assessment” (SEA) (Exhibit J) with a series of Appendices. We attach only the Canarsie Tunnel Alternatives Analysis (which only addresses the tunnel reconstruction) as Exhibit K, the Temporary Proposed Alternative Service Plan Figures as Exhibit L, the 14th Street Corridor Traffic Analysis Overview as Exhibit M, and the Greenhouse Gas Emissions as Exhibit N.

78. The SEA was only addressed to the Mitigation Plan or ASP, and only minimally discussed the MTA/NYCTA choice to do the project as a total shutdown.

79. It is likely that the MTA and DOT, while arguing that this project is entirely exempt from SEQRA under the Public Authorities Law, will also assert that the SEA meets all of its obligations under SEQRA. It does not, nor is an MTA analysis of the ASP, which is largely a NYC DOT project, sufficient under SEQRA. *Williamsburg Around the Bridge Block Assn v. Giuliani*, 223 AD2d 64 (1st Dept. 1996)

80. One of the most distressing flaws of the SEA was its failure to discuss and respond to all alternatives, especially those proposed by petitioners and other community leaders and Community Boards, rather to than “straw men” which they set up to debunk. This process is taking place after scores of community meetings, Town Halls, Community Board meetings, and a NYC Council Hearing in which critics put forward alternative visions, some with PowerPoint presentations.. For the most part, what is dismissed is a “no action alternative”—an action which no one argues for.

81. The chart on pages IV–VI of the Executive Summary is a concise illustration of both this problem and the shortcomings of the SEA.

82. With respect to the decision to close the tunnel entirely, as opposed to either (a) doing the work on one of the two subway tubes at a time, or (b) doing the work on weekends and at night, the MTA-NYCTA offers a thoughtful, though flawed, analysis in Appendix A. (Exhibit K). With respect to the ASP, the only option discussed is “no action.” In fact, the chart on page V concludes that “overall, the proposed ASP would not result in significant adverse traffic impacts compared to the No Action.” But “No Action” is not defined. Does it mean “no Canarsie Tunnel repair”? Does it mean “close the Canarsie Tunnel and do nothing to mitigate

the impacts” (which was the approach taken in the 2015/2016 application for a Categorical Exclusion)?

83. A proper comprehensive study would have included discussion of the mitigation needs of the full closure plan, the night-and-weekends alternative, and the one-tube-at-a-time alternative. The last two would result in a longer, possibly more expensive project, but would not have people speaking about “Doomsday” for the Williamsburg community. Although the plan for work on the tunnel itself, if looked at as the MTA did in 2016, when its SEQRA Environmental Assessment found that a total shutdown would have no significant impact, may be exempt from review under the Public Authorities Law, the major consequences outside the tunnel and the subway tracks and stations must be examined under SEQRA.

84. A proper comprehensive study would have also discussed proposals made by the 14th Street Coalition and others to not shut 14th Street to cross-town vehicle and truck traffic entirely, and to modify the plan by restoring two lanes of traffic which the DOT plans to use for an expanded sidewalk.

85. Having failed to truly discuss all alternatives, the SEA was deficient, and, if anything, illustrates the need for a full Environmental Impact Study.

Problems With The Federal SEA’s Total Shutdown Analysis

86. While the focus of this Petition is not the decision to do the Tunnel reconstruction by shutting down the entire tunnel for 15 months (a time frame which is not supported by any documentation other than a statement that the project will be done in 15 months) , the only discussion in Exhibit K is of the difficulty doing set-up were the project to be done on weekends and nights, the train delays caused by doing one tube at a time, and what the MTA-NYCTA says are the additional costs. There is no discussion of the impact on

Williamsburg, and other communities which have become thriving communities because of their access to Manhattan via the L Train, which will now be cut off from that direct access. The economic loss to the businesses and to property owners in those neighborhoods will run into the hundreds of millions of dollars. These are not direct costs to the MTA-NYCTA, but they ought to be discussed in a meaningful EA.

87. Furthermore, if the project were done on nights and weekends, or one tube at a time, the need for the incredibly disruptive ASP would be avoided. There might need to be some extra bus service running over the Williamsburg Bridge, but not 70-80 busses an hour, and there certainly would not be a need to close down 14th Street to regular vehicular traffic and engage in many of the other mitigation efforts that the total shutdown scenario requires.

88. Exhibit K also does not discuss how it was that every other post-Hurricane Sandy tunnel repair done by the agency was done on nights and weekends, but why it would be so difficult to do this one the same way.

89. Finally, there is the cost factor. Exhibit K states that the cost of the total tunnel shutdown scenario is less. However, if the work were done one tunnel at a time, or on nights and weekends, the MTA-NYCTA would use in house labor, working pursuant to a collective bargaining agreement. All projects done utilizing in-house labor cost less per foot than projects utilizing outside contractors. Studies have shown that MTA-NYCTA contractors have caused the agency to have the highest price per foot of construction of any transit agency in the world. (See Exhibit Q).

90. Exhibit K clearly does not offer sufficient analysis and discussion about why the total shutdown option is better. And it certainly does not establish that the total shutdown option has the least environmental impact.

The Mitigation Plan/ASP Analysis Does Not Take A Hard Look at Anything

91. The ASP is fundamentally based on “estimates” of how many people would use various modes of transportation based on the total shutdown scenario. The charts on page 15 of the SEA state that the methodology is described on page 7 of Appendix E (Exhibit M), but Appendix E contains the exact same information as the charts in the SEA, and is a document created by NYC DOT. There is no backup data supplied, and there is not a single scientific data-based study to determine how various L Train users, either in Manhattan or in Brooklyn coming to Manhattan, will commute. These charts, with no data, estimate that bus ridership on 14th Street in Manhattan, will increase from some unstated current number, to 84,000 people a day. Appendix E states, again without any supporting data, that on every date 114,000 of the 250,000 L Train riders have a final destination along 14th Street. This is a made-up number. 14th Street is not a busy commercial strip. It has no department stores, no tall commercial buildings, no movie theatres, one or two pizza shops, and a few fried chicken takeout places, but no high-volume restaurants, bars, or entertainment centers. These numbers are important because they provide a basis for many of the MTA-NYCTA’s extreme action in the ASP.

92. MTA-NYCT “estimates” (based on?) that 17% of L Train riders will opt to take busses from Grand Street in Williamsburg, over the Williamsburg Bridge, and up Allen Street and then First Avenue to 14th Street, where they would then board another bus, on 14th Street, to go across-town to a subway. Even if every car in Lower Manhattan was barred from the street which the Bridge runs into (Delancy Street) and Allen Street/First Avenue, this ride would take from 45 minutes to an hour. There is no explanation of why *anyone* who would opt to do this, rather than take subway connections north and south from the last L train stop in Brooklyn, much less the estimated 37,400 people predicted on page 18 of the SEA.

93. The consequence of this unexplained number is a plan to run 70-80 diesel buses across the Williamsburg Bridge per hour, which by themselves will add to pollution in the Delancy Street-Allen Street/First Avenue and Lafayette Street, and to neighborhoods north and south of the Williamsburg Bridge entrance and exit ramps, but will also cause massive traffic backup all over the Lower Manhattan area, the consequences of which are not discussed in the SEA.

94. The SEA does not even discuss alternatives proposed by community leaders and by Community Board 2 for fewer buses and a different bus route. On page 41 of the SEA it is stated that the additional buses “may” create some congestion, “but” the report continues, “this would be for only 15 months.” The report continues to state that because NYC-DOT continues to work with the affected communities “these changed conditions will not generate significant adverse transportation impacts.” The SEA does not explain how this is possible, and is therefore deficient. Nor does it discuss the effect on fire vehicles (Ladder 20 Engine 15 is at 253 Lafayette Street), or ambulances. See Exhibit S.

95. Under the ASP the northernmost and southernmost lanes of 14th Street, between Third Avenue and Ninth Avenue would become pedestrian zones (basically expanding the sidewalk), and cars and trucks, except for those making commercial deliveries, and/or dropping off and picking up 14th Street residents would be barred from 14th Street between 5am and 10pm. In addition, parking will be eliminated on 12th Street and 13th Street on the north side, which will be substituted with a westerly bike lane on 13th Street and an easterly bike lane on 12th Street. See discussion of bike lanes, supra.

96. Although the SEA states on page 24 that it considered, as an alternative the “SBS Option.” **which would not include the expanded sidewalks and would have traffic flow on 14th Street the way it runs on other SBS routes (like 23rd Street),** no data is provided for that

option, which is the option favored by every Community Board adjoining 14th Street. Figure 5, a series of graphs addressed to cross-town travel times, DOES NOT provide numbers for the SBS Option.

97. Equally as troubling is where the data came from, and one of the fundamental premises for the data. The SEA states that the data came from an “Aimsum model.” The “Aimsum model” is not included as an appendix to the SEA. The SEA simply refers to Appendix E (Exhibit M), which was a February 2018 document prepared by the NYC –DOT which again relies on the “Aimsum modeling.” The Aimsum model referred to can be located on line and is annexed as Exhibit O. Two things are clear from the Aimsum report. The first is that it is not based on any actual traffic count. It is based on modeling. Second is that does include data, on one page (which we attach again as Exhibit O1, along with the relevant pages from the SEA) on the SBS Option. **The SBS only option is shown on the graphs as being equally as fast for cross town traffic on 14th Street as the Bus way option, and causes less delay on 12th, 13th, 15th and 16th Street, the cross-town streets studied. In other words, the NYC DOT and the MTA-NYCTA deliberately hid or ignored that data when it compared options.** The only comparison made in the SEA is between the “No Action Alternative (which NYC DOT says will result in greater for hire vehicle volume) and the proposed Busway.

98. There are four other reasons why the SEA is incomplete.

a. It does not study, even using “modeling,” the impact of the various changes (*i.e.*, closing Union Square West and forcing all traffic coming downtown on Broadway to go east on 18th Street or west on 17th Street) on 17th, 18th, 19th and 20th Streets, even those four streets are the first ones north of 14th Street which can be traversed entirely cross-town. 15th and 16th Streets are blocked by Union Square.

b. The modeling is based on an assumption that only passenger vehicles will use cross-town street like 13th and 12th Streets, and that commercial vehicles will go cross-town on 23rd Street or Houston Street. Though not stated in the SEA, this has been stated by NYC DOT in testimony at various Community Boards and at the City Council hearing. Since trucks are not barred by law from the side streets, this could only be accomplished with the massive redeployment of NYPD officers along Third Avenue, Fourth Avenue, Park Avenue, Broadway, Fifth Avenue, Sixth Avenue, Seventh Avenue and Eighth Avenue. There is no indication in any document that NYPD has committed to this use of its personnel.

c. The 12th and 13th Street bikeway scenario, which does not appear in the SEA, is set out in an on-line MTA-NYCTA document, annexed as Exhibit P. That drawing shows, on most streets, a 10 foot wide corridor for vehicles to proceed east or west once the bike lane is installed. Currently even the narrowest streets have a 13 foot space for vehicles to pass through. On most blocks this means that a 6-foot-wide car or truck pulled along-side a parked vehicle leaves 7 to 12 feet for another vehicle to pass by. The bike lane plan shows that instead of an 8-foot-wide parking lane, the bike lane and its barrier will take up 11 to 12 feet. This will leave between 10 feet for through traffic. This means that every time a car stops all traffic will stop. If a UPS vehicle or a police car is pulled over nothing will be able to pass. If an oil truck is making deliveries, nothing will be able to pass. Perhaps more importantly is the inadequacy of 10 feet as a space for an urban thoroughfare. Garbage trucks are generally 9 feet wide, as are fire trucks, Access-a-ride vehicles, and ambulances are 8 feet wide. Even without traffic jams these vehicles will have a hard time getting through. Oil trucks making deliveries on the bike lane/north side, will have trouble accessing customers. Access-a-ride vehicles will be unable to unload passengers on the north/bike-lane side.

d. There is no discussion at all about the impact of the increased traffic on ambulances and fire trucks. However, there is a Northwell-Lennox Health stand-alone Emergency Room on 12th Street between Seventh Avenue and Greenwich Avenue. That location is a major dispatch point for ambulances. The nearest hospitals are on the East Side, either Beth Israel at 16th Street and First Avenue (which is no longer a full-service hospital) or Bellevue or NYU Hospitals around 30th Street and First Avenue. Traffic delays on streets headed eastbound could be life-threatening.

e. Additionally, there is a NYC Fire Department Station on West 10th Street just west of Sixth Avenue. Trucks are dispatched from that location to fire emergencies across the area south of 23rd Streets. Again, substantial traffic delay could cost lives.. None of these issues is discussed in any way in the SEA.

99. In addition, there is not a single statistic or study which shows that there will be sufficient need for two cross-town bike paths that 550 parking spaces (which the SEA calls inconsequential, see pages 44-45) need to be lost, spaces mostly used by local residents.

100. Most of the conclusions about the lack of impact on the air is based on the “modeling” and a conclusion (a) that trucks will be diverted away from the affected area in Lower Manhattan, and (b) that somehow the closure of 14th Street will result in a lower number of cross-town trips on residential streets like 12, 13th , 15th , and 16th Streets, a conclusion which is sophistry.

101. A review of the SEA done for a condominium located on 14th Street, concluded that the MTA-NYCTA did an inadequate analysis of ultrafine particulate attributable to diesel engine combustion. That study is annexed as Exhibit T. And see the testimony submitted to the FTA by Rolf Martin (Exhibit U), which discusses the utter lack of health data in the SEA, or

even discussion of it, and a recent editorial authored by State Senator Brad Hoylman about the inappropriateness of massive numbers of diesel busses descending on Lower Manhattan as a result of the ASP. (See Exhibit V.)

102. Between mid-August and January, the MTA-NYCT is shutting down the L Train on weekends (see Exhibit W). Yet there will be no SBS service on 14th Street in Manhattan, and no closure of 14th Street. But after the April 2019 shutdown of the L Train, the 14th Street closure will, be in effect from 5am till 10pm seven days a week. There is no logic to this action, and no announced plan to use this shutdown to study exactly how commuters react.

East 14th Street Problems

103. One major issue not addressed at all in the SEA is the construction going on at the eastern end of 14th Street. As it turns out, without notice, the MTA has decided to use the reopened entrance at Avenue A and 14th Street as the entry point for vehicles which will descend and ascend into shut down L Train tunnel, and then proceed to the Canarsie tunnel work some half mile to the east. The creation of that entrance has become a 24 hours a day, seven day per week construction zone, with load noise right under the windows of hundreds of 14th Street residents. Similarly, the MTA is building a new substation at Avenue B and 14th Street. That site also has become a 24 hour per day, seven day per week construction zone, with jackhammers and other noisy equipment performing at noise levels far in excess of that allowed in the noise code. Both sites create enormous amounts of dust, which have begun to coat people's homes and cause respiratory problems. The impact of this work, which under the City's noise and air quality codes, needs to be mitigated and controlled, has never been discussed by the MTA and the DOT publicly. The problem is described fully in the news articles annexed as Exhibit X.

The FTA Finds No Significant Impact

104. Despite testimony and written comments from over 300 people, at a public hearing in early August 2018, not one of which supported the project as described, the FTA, on or about September 13, 2018, issued a Finding of No Significant Impact (FONSI), a copy of which is annexed as Exhibit Y. The FTA accepted the MTA's position that only one alternative needed to be studied, the No Action alternative. The finding said nothing about the lack of data backing up various assumptions underlying the SEA, or about the detailed critiques of aspects of the ASP. It accepted, as gospel, the assertion by the MTA that the ASP would not only not increase traffic in the affected area, but might reduce it. The FONSI, in no way, required the MTA/DOT to take the hard look required by SEQRA.

105. Having received this finding from the FTA, the DOT has notified residents in the 14th Street corridor that it will immediately be commencing construction of its 14th Street Busway, and the 12th and 13th Street bike paths

AS AND FOR A FIRST CAUSE OF ACTION
AGAINST MTA/NYCTA AND NYC-DOT
(NY State Environmental Quality Review Act)

106. The aforescribed NYC-DOT "Mitigation Plan," which MTA/NYCTA is a party to, materially affects the environment in a broad geographic area, and, in part, is a large enough project contiguous to a public park and an historic district to be considered a Type 1 Action.

107. NYC-DOT cannot invoke exclusion of its "mitigation plan", including the routing of 70 diesel buses per hour over the Williamsburg Bridge, through residential streets not previously subject to such high volume, the closure of 14th Street in Manhattan to vehicles other than buses and the utilization of a high volume of diesel buses on 14th Street, and the creation of a two-way physically separated bike path on 13th Street in Manhattan, under Section 1266(11) of

the Public Authorities Law because it is not an authority as defined by the statute, and because even if it were, its plan changes in a material respect the general character of such prior transportation use, and far exceed the nature of the transportation uses which presently exist.

108. The failure to take a “hard look,” and prepare and properly file and publish an Environmental Assessment and an Environmental Impact Statement addressed to the NYC-DOT’s “Mitigation Plan” violates SEQRA, and its attendant regulations, as well (in the case of the NYC-DOT) as CEQRA and NYC Executive Order 91.

**AS AND FOR A SECOND CAUSE OF ACTION
AGAINST TROTTENBERG/DOT
(Arbitrary and Capricious Actions)**

109. The design of the 14th Street Busway, and the design of the 12th and 13th Street bike paths, and the routing of busses across Kenmare Street onto Lafayette Street is arbitrary and capricious.

**AS AND FOR A THIRD CAUSE OF ACTION
AGAINST MTA/NYCTA
(Nuisance)**

110. The manner in which the construction work on East 14th Street is being carried on creates a nuisance to the health detriment of the Petitioners who reside in that area.

INJURY

111. The failure to act in accordance with SEQRA, CEQRA, Executive Order 91, has caused the Petitioners, and the residents of Manhattan below 23rd Street, irreparable injury. Through their above-described conduct, Respondents have caused and will continue to cause Petitioners immediate and irreparable injury.

112. The Petitioners residing at the East end of 14th Street, near Avenues A and B, have suffered physical injury to their damage in the sum of \$250,000 each.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray:

1. That this Court enter a declaratory judgment declaring that by acting as described herein above all Respondents have violated the rights of the various Petitioners under SEQRA and CEQRA;
2. That this Court enter an Order, pursuant to Article 78 of the Civil Practice Law and Rules, the State Environmental Quality Review Act, and the NYC Environmental Quality Review Act, enjoining and restraining Respondents and their agents from
 - a. proceeding with the shutdown of the L Train between Bedford Street in Brooklyn and Eighth Avenue in Manhattan, until appropriate steps are taken, in line with the State Environmental Quality Review Act (SEQRA), and the NYC Environmental Quality Review Act (CEQRA) to put into place a Mitigation Plan and/or Alternative Service Plan,
 - b. proceeding with construction of bike lanes or sidewalk extensions, or other alterations to public property which are being done in Manhattan in connection with the “Alternative Service Plan” adopted by Respondents to address the impacts of the Canarsie Tunnel reconstruction;
 - c. proceeding with Respondents’ Alternative Service Plan (ASP) to address the impacts of the Canarsie Tunnel Repair Plan, until the ASP is properly evaluated in a SEQRA/CEQRA compliant, Environmental Assessment, and if required, an Environmental Impact Statement;
 - d. proceeding with the continued construction and utilization of a construction vehicle entrance to the Canarsie Tunnel Repair project at 14th Street in the vicinity of Avenue A in Manhattan on a 24 hour a day basis, and without lawful control of the noise level;

e. proceeding, as part of the ASP, with running scores of diesel fuel burning buses, on an hourly basis, across the Williamsburg Bridge, across Delancy and Kenmare Streets, north of Delancy/Kenmare on various north-south streets, and across 14th Street in Manhattan;

3. That this Court enter a temporary Restraining Order, pending the hearing and determination of this Petition, enjoining and restraining Respondents Trottenberg and the City of New York Department of Transportation (DOY) , and their agents, from proceeding with construction of bike lanes or sidewalk extensions, or other alterations to public property which are being done in connection with the Alternative Service Plan adopted by Respondents to address the impacts of the Canarsie Tunnel;

4. That this Court enter a Temporary Restraining Order, pending the hearing and determination of this Petition, enjoining and restraining Respondents Metropolitan Transportation Authority (MTA) and NYC Transit Authority (NYCTA), and their agents, are restrained and enjoined from construction of an entrance to the Canarsie Tunnel Repair Project in the vicinity of Avenue A and 14th Street between the hours of 7pm and 7am and on weekends, and from proceeding between the hours of 7am and 7pm without continuous noise monitoring and compliance with NYC's noise code;

5. That this Court award appropriate monetary damages.

6. That this Court enter an award of attorneys' fees and costs.

7. That this Court grant such other and further relief as is just and equitable.

Dated: October 1, 2018
New York, New York

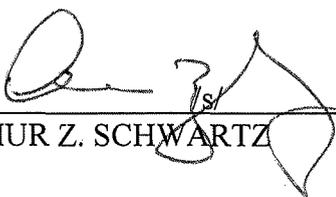
ADVOCATES FOR JUSTICE
Attorneys for Petitioners

By: _____ /s/
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VERIFICATION

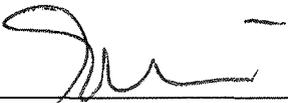
Arthur Z. Schwartz, Treasurer for Progressive Action of Lower Manhattan-New York Progressive Action Network, Inc., and a petitioner herein, verifies that the foretasted petition is true to his knowledge, information, and belief.

Dated: October 1, 2018
New York, New York



ARTHUR Z. SCHWARTZ

Sworn to before me this 1st
day of October, 2018



ELIZABETH R TURNER
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 02TU6365132
Qualified in New York County
Commission Expires October 02, 2021