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The School of the Future (“SOF”), located on the northwest corner of 22nd Street and Lexington Avenue, is a vibrant, highly regarded public middle school and high school. Its 730 students are diverse and its philosophy is progressive. More about SOF can be found on its website at www.sof.edu. SOF is housed in a ten-story, neo-gothic building constructed early in the Twentieth Century to house the Manhattan Trade School for Girls.

Toll Brothers (“TB”) is assembling a construction site comprised of the lots to the north and west of SOF. Using CM & Associates (CMA) as its contractor, TB will build an 18 story residential building on 23rd Street and a 12 story residential building on 22nd Street.

SOF convened an initial meeting on February 5, 2015, which included representatives of the TB, CMA, the SOF Construction Task Force, attorney Albert K. Butzel, the School Construction Authority, the Department of Education, the office of City Council member Rosie Mendez, and the office of Borough President Gale Brewer.

At that meeting Garland deGraffenried said that TB wants to be a “good developer”. The preference of SOF is to be a good neighbor. To aid in this harmonization of goals, SOF has developed two approaches to address the goals of all parties. The first approach, Plan A, would involve SOF vacating the building on 22nd and Lexington Avenue for all or part of the construction process. The second approach, Plan B, would have SOF continue to occupy that building. Plan B covers a list of concerns and needs that, after discussion, can be memorialized and form the basis of the relationship between TB and SOF. While every effort has been made to include all concerns in this memo, the fact that SOF only recently learned of the planned construction and has had a limited time to formulate a response may mean that some unanticipated issues will arise later and have to be dealt with at that time.

Plan A. SOF vacates the building during some or all of the construction.

There are two possibilities here. Either would require approval of the DOE. SOF has made initial inquiries at the DOE, so that we can move forward if there is interest on the part of TB.

1. If SOF has air rights that would be of value to TB (or if DOE has air rights for other schools that would be of value to TB), the school building could be demolished and TB could build a new school on a different footprint so that some of the lower levels of the new structures would be the new building for SOF.

2. Assuming #1 doesn’t work, TB could make a contribution toward the refurbishment of the school

building (and perhaps even do the actual work) and SOF would return to the building when the refurbishment was completed and the construction on adjoining lots had moved far enough along to minimize issues of disruption in the school.

If either #1 or #2 is of interest to TB, SOF would move forward with its initiatives within the DOE.

Plan B. SOF remains in the building during construction.

I. Communication.

There needs to be ease of communication at all times between the parties. In addition to having responsible parties at TB/CMA that SOF can contact at any time, we would suggest a weekly meeting attended by TB, CMA, SOF, and any other interested parties who wish to be present (such as SCA, DOE, Community Board 5, the offices of Gail Brewer and Rosie Mendez, etc.). On a less frequent basis, perhaps quarterly, this meeting could be expanded to include others such as representatives from other buildings affected by the construction. In addition, we would ask that the TB/CMA create a weekly newsletter to inform not only SOF but the wider community of what construction activities will be taking place. Please see <http://www.wvrdevelopment.com/updates.shtml> for an example of the newsletter created by Rudin for their development of the St. Vincent's Hospital site.

II. Noise.

We would ask that noise levels within the school not exceed 45 decibels. Per DEP regs, the school is a "sensitive receptor" and that decibel limit (which follows the proposed Int 0420-2014 now before The New York City Council) would aid in minimizing academic disruption. We're aware that a noise mitigation plan will have to be developed and filed. We also have some questions and comments:

A. At the meeting we were advised that demolition of the two existing building will be "by hand". What tools will be used in that process and how noisy are these tools?

B. We understand the foundation will not be deep. From the schematic it appears to be 13-21 feet. It was indicated that a slow-moving, augured drill would be used for the foundation. Can you give us more information about this drill?

C. We are particularly concerned about the school windows facing west in the setback. These are needed for classroom ventilation and light. To soundproof these windows, can additional interior windows be installed? Can a noise barrier be erected on the lot line to the west of the windows to aid in the mitigation? SOF can't function without the use of these classrooms. Also, the lowest level of these windows will apparently be beneath the courtyard level of the new development. There are some other windows facing the lot line that should be included in the discussion.

D. With respect to the erection of the superstructure of the new buildings, what noise abatement steps will be taken? To what degree is it possible to use pre-fab panels instead of poured concrete in enclosing the superstructure?

E. More generally, what sound barriers are likely to be most effective? Is it possible to use barriers to prevent sound traveling on Lexington Avenue and on 22nd Street?

F. Do TB/CMA know of any other planned construction within a one block radius of SOF, such as where the Time Warner building is located? Is there any particular reason why the lot perimeters at 120 East 23rd Street are marked in red on the Schematic Design?

III. Environmental Issues and Air Quality.

SOF naturally wants the highest level of environmentally sound procedures followed with respect to air quality (including asbestos, PCBs if any, dust, etc.) during demolition and also during construction.

A. Related to this is how air quality will be maintained inside SOF. With respect to that, SOF requests that TB pay for covering all air conditioners with filtering materials, appropriate air purifiers for each room, repair and cleaning of all air conditioners during construction (and cleaning of the windows), and the replacement of all air conditioners on the conclusion of construction. For windows that need to be sealed (such as the four small lot line windows in the north-facing wall), we ask that TB pay for the sealing and any needed ventilation caused by the loss of the windows. As with all filings (see Section IX), we would ask to see them prior to filing so we can review them and be supportive through the approval process. SOF also wants to review any reports or studies prepared regarding air quality and related issues.

B. We are also concerned about the risks of soil and ground water contamination and related exposure risks at SOF. SOF wants to review the environmental phase 1 audit and, if done, the phase 2 audit. Do we know if there are hazardous materials such as fuel oil storage tanks and contaminated soil that will require excavation and removal? Is lead-based paint present in either of the two buildings to be demolished? What about PCBs or other hazardous materials?

C. What parties will play a role with respect to environmental issues? This would include subcontractors hired to do the work and monitor environmental conditions.

D. Will asbestos and related abatements be done prior to demolition or as part of demolition?

E. Does the written health and safety plan for the project exist at this time? If not, can it be provided to SOF when it is created?

F. What precautions will be taken to control dust? SOF will want to review the dust mitigation plan prepared for the NYC DEP.

G. What will be done to secure the site and any waste dumpsters?

H. Is there a central location where all material safety data sheets will be maintained for chemical products that will be used during the building and construction phases?

IV. The SOF Building.

SOF needs assurances that the foundation, walls, and roof of the school will be properly protected during all phases of demolition and construction. This will require constant monitoring. We would want to review the supportive excavation drawings. Also, we would ask that TB pay to repair or replace anything that suffers damage. For example, the roof garden will be destroyed by protective covering and we would need to replace the garden. Any proposed access agreement should be submitted to SOF at the same time as it is submitted to the School Construction Authority/DOE.

V. Scheduling of Work.

A. The initial schedule from CMA showed demolition over the summer, 2015. This, of course, made a lot of sense. At the meeting we were advised that demolition would go through November, 2015. This is much worse for the school. We understand that we can't control the overall schedule, but insofar as noisy and polluting work can be done when school is not in session, it will be best for everyone. There is summer school, but the number of students is small and SOF would do everything possible to move the students away from the construction areas. We would like to have the work schedule as you currently see it and be informed immediately if any changes are made to that schedule.

B. There was also a discussion of avoiding noisy work during certain key parts of the school year, such as examinations and SATs. What do you need from SOF so we can incorporate these concerns into the work schedule and TB's/CMA's plans?

C. With respect to the daily school day, it would be best not to have trucks or dangerous activities on the street during the times before school starts, after school ends, and lunch hour when students are coming and going from the building. An adequate buffer would be 7:45-8:20, 11:30-1:20, and 3:10-3:45.

D. If noisy work could be done with after hours or weekend permits, it would ease the situation for the school.

E. Are delays in the final report from the Attorney General or the closing of the 23rd Street property to the north of SOF likely to delay commencement of work?

VI. Location of Work and Equipment.

We would ask that the applications put the crane on 23rd Street and that all entrance and exits by trucks and dumpsters also be on 23rd street. In addition, how will construction vehicle traffic be controlled? And how will such traffic impact the school? Can trucks generally be prevented from idling, but, in cases where idling is necessary, can this be done on 23rd Street?

We would ask for the related assurance that the portions of Lexington Avenue and 22nd Street adjacent to SOF not be used for any construction purposes and that the school entrances/exits never be blocked.

We would also like to know the planned coverage of the sidewalk bridge.

VII. TB Reimbursement of Extra SOF Expenses.

SOF will have to hire its own attorney, construction management consultant, independent monitoring firm for noise, air quality, and other construction issues (this would be separate from the independent monitoring firm used by TB), and may incur other related expenses due to the construction. School fundraising will antagonize the community and we prefer not to go that route.

In addition, SOF expects to lose students due to the construction. If this happens, SOF would want TB to compensate for this aspect of the process based on \$4,500 for general education students (computed year to year as of October 31st) and \$7,000 for special education students (computed year to year as of December 20th). The indicated amounts are the funding SOF receives, respectively, for such students.

VIII. TB and CMA

SOF is assuming that TB and CMA are coextensive, that CMA always acts as an agent of TB, and that SOF can rely on this. If this is not the case, please advise us.

IX. Plans, Surveys, Studies, etc.

SOF would like to review at the earliest possible time any materials prepared that are relevant to the construction process. This review should take place prior to governmental filings. So, for example, we need to see the existing conditions survey, the noise abatement plan, OSHA compliant plans, the supportive excavation plan, DOT plans, DOB plans, etc. on a fully inclusive basis.

X. School Enrichment Fund.

Even in the best construction scenario there will be a significant disruption to the educational environment of the school and daily discomfort for students, staff, and administration that will simply have to be lived through. An ideal scenario would include a recognition of this disruption and discomfort that will last three years or longer. SOF is, therefore, asking for a School Enrichment Fund of \$5,000,000 to be used to enhance education, upgrade technology, repair the aging SOF plant, and refurbish certain facilities (such as the auditorium).

In a constructive partnership between TB and SOF, SOF would be pleased to consider TB a “Sponsor” and rename the renovated auditorium for TB. SOF would certainly be cooperative in any marketing of the apartments that sought to emphasize the attraction of moving into an apartment so close to quality education. Further, if TB wanted SOF to aid in any application process, SOF would certainly offer whatever assistance it can.