

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KIT-YIN SNYDER AND RICHARD HAAS

Plaintiffs,

-against-

22-CV-03873 (LAK)

ERIC ADAMS, Mayor of the City of New York, in his  
official capacity, THE CITY OF NEW YORK, NEW  
YORK CITY DEPARTMENT OF DESIGN AND  
CONSTRUCTION, NEW YORK CITY DEPARTMENT  
OF CULTURAL AFFAIRS, NEW YORK CITY  
DEPARTMENT OF CORRECTION, NEW YORK CITY  
PUBLIC DESIGN COMMISSION,

Defendants.

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**DECLARATION OF REBECCA CLOUGH IN OPPOSITION TO  
PLAINTIFFS’ MOTION FOR A TEMPORARY RESTRAINING ORDER  
AND PRELIMINARY INJUNCTION**

**REBECCA CLOUGH** declares, pursuant to 28 U.S.C. §1746, under penalty of perjury, as follows:

1. I am the Associate Commissioner of the Borough Based Jail (“BBJ”) Program at the New York City (the “City”) Department of Design and Construction (“DDC”). I have held that position since January 2019. Prior to this position, from 2002 until January 2019, I was an Assistant Commissioner at DDC overseeing and administering capital contracts for five City Agencies, including the Department of Correction (“DOC”) and its Rikers Island projects. I have been employed by DDC since 1996.

2. As the Associate Commissioner of the BBJ Program, I am the DDC Representative for the BBJ Program. I oversee and I am responsible for the entire BBJ Program, including the individual design-build projects within the BBJ Program.

3. I submit this declaration in support of defendants' opposition to plaintiffs' motion for a temporary restraining order and preliminary injunction, and to provide background on the BBJ Program, including into the demolition, design, and construction timeline for the Manhattan Detention Complex ("MDC") project located at 124-125 White Street. New York, New York.

**I. Overview/Summary of the BBJ Program**

4. In 2019, City Council approved Uniform Land Use Review Procedure ("ULURP") applications authorizing construction of four-borough based jails (all but Staten Island) in contemplation of the closure of Riker's Island. Among other things, the ULURP approvals included height limits and established maximum building envelopes for each building.

5. In February 2021, the City Council also passed Local Law 16 of 2021, which prohibits incarceration on Rikers Island after August 31, 2027.

6. The BBJ plan includes construction of four equal-sized jails, each with capacity for 886 beds, with multiple housing units per floor, dayroom, recreation, library, visitor space, and medical and support facilities.

7. With respect to the new Manhattan Detention Facility project, the 2019 ULURP plan includes pedestrian arcade in and building over White Street. The required White Street pedestrian walkway has height requirements ranging from 30 feet in height to 55 feet in height. The 30-foot height is due to a bridge that must pass between the north and south towers at approximately third floor. The White Street pedestrian walkway reflects significant community

support for retaining broad pedestrian thoroughfare. See ULURP Drawings Sheet Z-040, Z-060, Z-061, and Z-062 that show the required heights for White Street.<sup>1</sup>

8. DDC has been tasked with overseeing and managing the design and construction of the four new borough-based detention facilities using the alternative project delivery methodology known as design-build. Design-build process allows the City, through DDC, to enter into one design-build contract for the design and construction of each detention facility.

9. Currently, as part of the BBJ Program, DDC has awarded and is currently administering five (5) design-build contracts; with regard to the MDC site, this includes a contract for the dismantling of the MDC site and the construction of an interim vehicle sally port (“Manhattan Dismantle Project”) and a contract for the design and construction of the new facility.

10. Furthermore, DDC is currently in the process of procuring a design-builder to design and construct each of the new detention facilities, including the new Manhattan Detention Facility.

11. The City provides updates to the Public on the BBJ Program, as well as each individual project at the following site: <https://rikers.cityofnewyork.us/nyc-borough-based-jails/#updates>. Furthermore, DDC provides regular updates at Community Board meetings, specifically, Community Board 1 in Manhattan.

## **II. Overview of the Manhattan Dismantle Project Timeline**

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<sup>1</sup> The ULURP materials are available here: <https://rikers.cityofnewyork.us/uniform-land-use-review-procedure/#meetings>. Furthermore, copies of BBJ’s City Environmental Quality Review documents, including the Final Scope of Work and the Final Environmental Impact Statement, can be viewed here: <https://a002-ceqraccess.nyc.gov/ceqr/Details?data=MThET0MwMDFZ0&signature=e330cd9c78430a8d28b580b159a7183c6bd2b3d8>

11. On or about February 11, 2021, DDC issued a Request for Qualifications (“RFQ”) for the Manhattan Dismantle Project.

12. On or about April 15, 2021, DDC issued a Request for Proposals (“RFP”) to the three companies it had shortlisted from the RFQ.

13. On or about November 10, 2021, DDC awarded the Manhattan Dismantle Project to Gramercy Construction (“Gramercy”), issuing the Notice to Proceed (“NTP”) to Gramercy on or about December 23, 2021, with the NTP Date of December 27, 2021.

14. As of today, Gramercy has performed the following physical work at the project site:

- i. Installation of the construction fence around perimeter of the project site, including the temporary sally port area on a northern portion of 100 Centre Street;
- ii. Interior fit-out of the make-ready space in the 100 Centre Street courthouse, including upgrades to the sprinkler system;
- iii. Interior demolition, including asbestos abatement; and
- iv. Removal of trees along Baxter and White Streets

15. To the best of my knowledge, when the BBJ Program started, as well as when Gramercy was awarded the Manhattan Dismantle Project and began their work, there were no apple trees on White Street, Baxter Street or in any of the MDC’s planters.

16. In April 2022, Gramercy removed six trees from Baxter Street: five were Japanese Pagoda Trees and one was a Japanese Zelkova tree. A copy of the Department of Parks and Recreation (“DPR”) Permit and Work Order for the removal of these trees is annexed hereto as Exhibit Q.

17. Gramercy also removed trees from White Street. No DPR permit was required for removal of those trees because White Street has been de-mapped as part of the BBJ ULURP process, and therefore, the trees were not on public streets and considered to be within the MDC's property line.

18. However, the trees that were removed from White Street were not apple trees as evidenced by the pre-construction photos, as well as the DPR's Street Tree Map<sup>2</sup>. According to the DPR Street Tree Map, the trees located on White Street were Honey Locust trees. Copies of the pre-construction photos showing the trees on White Street are attached here as Exhibit R.

19. As such, no apple trees were removed from the project site, as well as the adjacent streets as part of the BBJ Program.

20. The external demolition work is anticipated to start at the end of May/early June 2022, which will include the dismantling of the connecting bridge over White Street. The North Tower is scheduled to be dismantled in August/September 2022.

21. Substantial completion of the Manhattan Dismantle Project is currently scheduled for July 25, 2023, with final completion following 90 days later.

### **III. Overview of the New Manhattan Detention Facility Project Timeline**

22. On or about September 13, 2021, DDC issued an RFQ for the design and construction of the new detention facilities in Manhattan, Brooklyn, Queens, and the Bronx.

23. On or about December 21, 2021, DDC shortlisted Gilbane/Alberici, Joint Venture as the proposer for the design and construction of the new Manhattan Detention Facility.

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<sup>2</sup> The DPR Street Tree Map for 125 White Street can be accessed here: [Thornless Honey locust near 125 White Street, undefined \(nycgovparks.org\)](https://www.nycgovparks.org/locations/125-White-Street)

24. On or about December 24, 2021, DDC issued the RFP to Gilbane/Alberici, Joint Venture.

25. Currently, DDC is in the midst of the procurement for the new Manhattan Detention Facility project, with the anticipated proposal submission date of July 8, 2022, and anticipated contract award date of October 27, 2022.

26. DDC anticipates issuing the NTP for the design and construction to begin at the Manhattan Detention Facility project on or about December 29, 2022, with the scheduled substantial completion being March 25, 2027 – barely five months before August 31, 2027, the legal deadline set by City Council prohibiting incarceration on Rikers Island after that date.

27. Any delay to the Manhattan Dismantle Project will have significant and material impacts to the schedule on the new Manhattan Detention Facility.

28. Currently, Gramercy has mobilized on-site and was planning to remove the artwork on the bridge and podium by the end of May/early June. The documentation of the artwork has been completed, and with PDC approval, this work was going to commence within three weeks. Once the artwork is removed, Gramercy is planning to remove the bridge, gym, and podium to facilitate the start of the crane and pipe scaffold mobilization work in preparation for the dismantlement of the North Tower, which is currently scheduled for August/September 2022. Removal of the bridge, gym and podium are crucial to the project as it will open up the project site and provide a staging area and safety buffer zone.

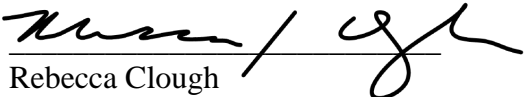
29. The Manhattan Dismantle Project already experienced interruptions due to the PDC-approval delays; therefore, there is currently no flexibility in the schedule, and any delay will impact the critical path of this project.

30. Furthermore, additional asbestos abatement will be needed to be performed in the South Tower, which will extend the duration of the dismantle operation. Again, delaying the removal of the bridge, gym and podium will result in a delay to the dismantlement work. Additionally, postponing the dismantlement into the winter months will likely result in additional weather delays and loss of efficiency, and delays due to the holiday period.

31. If the Manhattan Dismantle Project is delayed so that Gramercy cannot achieve substantial completion before the selected design-builder for the new Manhattan Detention Facility requires access to the entire project site, the City will not be able to comply with the August 31, 2027 deadline imposed by Local Law 16 of 2021.

32. As the BBJ Program schedule currently stands, two design-builders, Gramercy and the selected design-builder for the Manhattan Detention Facility, are going to share the MDC site for some time during 2023. This is not ideal as it could lead to further delays so the intent is to minimize the period of overlap. Any delay to the Manhattan Dismantle Project will impact the ability to design and construct the new Manhattan Detention Facility.

May 17, 2022

  
Rebecca Clough