

BEFORE THE NEW YORK STATE  
PUBLIC SERVICE COMMISSION

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JOINT PETITION OF CONSOLIDATED :  
EDISON COMPANY OF NEW YORK AND : AFFIDAVIT IN SUPPORT OF  
VILLAGE ACADEMIES NETWORK INC., FOR : JOINT SUPPLEMENTAL PETITION  
AUTHORITY UNDER SECTION 70 OF THE :  
PUBLIC SERVICE LAW TO TRANSFER :  
CERTAIN REAL PROPERTY LOCATED AT :  
32-42 WEST 125TH STREET AND 35-39 WEST :  
124TH STREET, NEW YORK, NEW YORK :  
:  
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STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NEW YORK )

ANNIE TIRSCHWELL, being duly sworn, deposes and states:

1. I am over the age of 18 years and believe in the obligations of an oath.
2. I respectfully submit this Affidavit in support of the Joint Supplemental Petition of Consolidated Edison Company of New York, Inc. (“Con Edison”) and Village Academies Network Inc. (“Village Academies”) for Authority Under Section 70 of the Public Service Law to Transfer Certain Real Property Located at 32-42 West 125<sup>th</sup> Street and 35-39 West 124<sup>th</sup> Street, New York, New York.
3. I have worked in the real estate development sector in NYC for over twelve years developing numerous not-for-profit as well as commercial properties. During this time I have held a number of management level positions, including Manager of the Queens Portfolio of ATC Management, Inc., where I managed the design, construction and leasing of over 2,500,000 square feet of industrial properties in Long Island City, Queens. In addition, I was also previously the Director of Real Estate for the Greenpoint Manufacturing and Design Center,

where I managed site acquisition, design, construction and leasing of the GMDC portfolio of 500,000 square feet.

4. I am currently the Director of Real Estate for Civic Builders, Inc., (“Civic Builders”) a not-for-profit real estate facilities development firm providing real property solutions for high performing public charter schools, including New York City public charter schools. Civic Builders provides site selection, design, construction management, financing and related services to assist public charter schools in navigating the complex real estate market so they can provide high-quality affordable education facilities. In the past five years Civic Builders has brought into development seven public charter school facilities that serve nearly 3,000 students, with space totaling 292,000 square feet.

5. On behalf of Village Academies, approximately two years ago, Civic Builders began a site search for property in Harlem that would be appropriate for the development of a public charter high school that could accommodate approximately 400 students per year. Given the parameters of the proposed project, Civic Builders undertook to locate a site based upon the following criteria:

- The need for a lot size over 12,500 square feet that would allow for efficient, non-redundant school design, and that could accommodate approximately 24 classrooms and ancillary educational program space;
- Proximity to multiple and redundant modes of public transportation such as subway lines and bus routes (since high school students need to take public transportation to school as well as to internships, field lessons, and off-site arts programs);
- A site that was located and positioned to allow for required natural light in all classrooms;
- A safe, highly trafficked location for the school, which will have extended academic days and after-school programs;

- A highly-visible Harlem site that will serve the community by establishing an important educational institution in the heart of Harlem; and
- A site that could be developed for occupancy beginning in 2011.

6. With these requirements as our site selection criteria, we embarked upon a site search by, in the first instance, utilizing listings from the real estate brokerage community. In addition, we also engaged in an exhaustive street by street search to identify potentially viable properties, and contacted owners of all such sites directly. We also contacted local development organizations, as well as local officials, as part of our efforts to locate potential viable properties.

7. After conducting an exhaustive 10-month search of numerous potential properties, Civic Builders determined that there were very few properties available that met any, much less all, of the search criteria required for the proper siting, design and construction of a public high school facility. Ultimately, after further due diligence and extensive research and vetting, it was determined that there was **only one** viable site identified that met the search criteria that we established jointly with Village Academies—the property located at 32-42 West 125<sup>th</sup> Street and 35-39 West 124<sup>th</sup> Street, New York, New York (the “Property”). In particular, the Property was the only property for sale that was over 10,000 square feet that also was situated in a highly trafficked and visible, safe location, that was highly accessible to many modes of public transportation as well as near a park, public library, and cultural institutions.

8. At the conclusion of the search, Civic Builders strongly recommended to Village Academies that it move forward in an effort to purchase the Property from its owner, Con Edison.

9. Through its site search, Civic Builders identified over 30 potential sites, but ultimately determined that all of those sites other than the Property did not meet many or all of the search criteria required for the proposed project. Though it would be an inefficient exercise

to opine on the reasons as to why each of the properties were determined to be unusable for development as a public charter high school, below is a description of why some of the most promising of these sites were ultimately deemed inappropriate for Village Academies' purposes:

- **154 W 124th Street**: This was a 10,000 square foot site being marketed by a brokerage firm as a sales property. As the site was only 10,000 square feet and did not allow for an efficient layout of space, building a school on this site would not have been viable due to small floor footprints causing an undesirably poor and costly net-to-gross ratio of academic/classroom spaces to circulation and building system spaces. These small floors would also cause oversight problems of the student body by administrators, as children would be spread-out over too many floors. Additionally, this site had other significant design challenges, as it is not a block-through site and is situated mid-block, thereby only offering quality light at the front of the site and none on the sides – and thus falling short of the requirement to supply natural light to all classrooms. What is more, we ultimately determined that the seller was not credible, and had turned down numerous offers at and above his asking price. To date, this property has not been sold or transferred.
- **412-422 W 126th Street**: While this approximately 12,700 square foot site did meet Village Academies' search criteria for minimum footprint square footage, it was located within steps of two major methadone/alcohol rehabilitation clinics, and thus, did not satisfy Village Academies' criteria that the site offer a safe atmosphere for its children. In addition, this site was not centrally situated in Harlem, and lacked sufficient proximity to public transportation hubs.

- **117 West 123rd Street**: This approximately 10,600 square foot site, offered by a brokerage firm for sale, had a small footprint which would render it untenable due to design requirements to keep the net-to-gross ratio of academic/classroom to circulation and building system spaces low. The site was also located mid-block and only offered quality light at the front of the site and none on the sides, which did not satisfy Village Academies' need to supply natural light to classrooms. Additionally, the seller would not allow any viable due diligence period to condition the sale, thereby prohibiting Civic Builders from properly vetting the site for environmental concerns.
- **157 W 124th Street**: This approximately 47,000 square foot, 11-story building that was being offered by a real estate agent, has a footprint slightly over 5,000 square feet, and thus falls well short of Village Academies' space requirements. In particular, development of this site as a school would result in both a fiscally irresponsible design scheme, and the stacked environment would only allow for a handful of classrooms per floor, causing a severe lack of adult oversight throughout the premises. Likewise, the presence of numerous "lot-line" windows caused great concern over the provision of required natural light into classrooms over time.

10. Since identification of the Property, Civic Builders has diligently continued its search for a viable Harlem site that meets Village Academies' needs. It has proven to be impossible to identify any other viable sites.

11. In order for the Village Academies high school project to move forward, it is imperative that the requested property transfer be made quickly and expeditiously. Classroom

space in Harlem is already very difficult to obtain from the New York Department of Education (“DOE”), and there is no indication that Village Academies will be able to obtain additional space from the DOE. Indeed, in a recent effort by the DOE to locate even a temporary space, a comprehensive search of all Harlem DOE school facilities turned up not even one viable, safe space for a high school. If the proposed Village Academies high school is not built by 2011, there will be no classroom space available for Harlem’s deserving high school students who wish to have the opportunity to have equal access to quality education by attending Harlem Village Academy. And because of how long it would take to begin the search all over again for a new viable property (*if* any such properties even exist), to secure the space, to conduct all necessary tests, to file all necessary paperwork, to design a new building, to coordinate construction and approvals, and to negotiate a contract of sale for another property—a process that could take an additional 3 years before construction were even to begin—construction of the high school at the Property is the only way to ensure that those high school students have classroom space by 2011.

12. Additionally, if the proposed property transfer is not approved quickly and the project does not proceed as planned, it is most likely that the public funds that have been designated for the project would no longer be available. Currently, the DOE has earmarked \$30,565,455.00 for the proposed Village Academies high school project. Any further delay in the closing of this transaction could jeopardize this funding. The timing is particularly sensitive given the contingencies in the contract of sale between Village Academies and Con Edison (in particular, that Con Edison must find, lease, build-out, and occupy a new service location for at least one month prior to closing).

13. Civic Builders has made its own financial commitment to this project. In connection with that commitment, Civic Builders requested that the Leitner Group, Inc., prepare

an appraisal of the property for the purpose of estimating its value. Civic Builders also arranged for the appraisal to be refreshed to account for the delay in the transaction that has resulted from the recent failure to secure immediate regulatory approvals for it. A copy of the most recent appraisal is annexed hereto as Exhibit A.

14. The proposed use of the property at issue here—as a public high school that will provide high quality education to hundreds of Harlem students per year—is not only a laudable one from a social perspective, but is overwhelmingly in the public interest in terms of the significant direct and indirect economic benefits to the community that it will create. According to the independent report by Appleseed Economic Development Consultants entitled “Economic Impact of Proposed Harlem Village Academy Public Charter School” (a copy of which is annexed hereto as Exhibit B), the proposed project will have a substantial positive economic impact upon the Harlem community and New York City for years to come, including:

- the creation of 386 person-years of employment and \$69.5 million in economic output as a result of construction of the school;
- the creation of 71 full-time equivalent jobs and \$5.6 million in economic output on an annual basis from operation of the charter school and retail space;
- generation of \$2.9 million in tax revenue for the City of New York during the construction period, and generation of \$219,000.00 in tax revenue on an annual basis through operation of the charter school and retail space; and
- a significant increase in the future earning potential of the students enrolled at Village Academies, which will lead to an increase in future income tax collections, as well as to the overall productivity of Central Harlem’s workforce.

(See Exhibit B). Given the significant economic benefits that will be gained by the Harlem community and New York City during both the construction period as well as during operation of the public charter school and retail space, there can be no question that the proposed transfer is

in the public interest of both the rate payers as well as the Harlem and New York City communities.

I declare under penalty of perjury that the foregoing is true and correct.

HERB ROBBINS  
Notary Public, State of New York  
No. 01RO6106183  
Qualified in New York/Nassau County  
Commission Expires March 1, 2008  
2012

  
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Annie Tirschwell

Sworn to before me this  
8th day of August, 2008