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Hearing Date and Time:
January 15, 2026 @ 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

BROADWAY REALTY I CO., LLC., *et al.*,

Debtors.

Chapter 11
Case No. 25-11050 (DSJ)
(Jointly Administered)

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**RESTATED SUPPLEMENTAL OBJECTION TO CONFIRMATION OF PLAN
AND TO SALE OF PROPERTIES**

The City of New York (the “City”), by its attorney MURIEL GOODE-TRUFANT, Corporation Counsel of the City of New York, hereby submits its restated supplemental objection to the sale of the Debtors’ real properties (the “Properties”) and confirmation of the plan. In support thereof the City respectfully states:

Preliminary Statement

Apart from its role as a significant secured creditor in this bankruptcy proceeding, the City has an overarching responsibility to the thousands of tenants that will be affected by the proposed sale of the Properties. Given the Debtor’s past failure to correct housing violations in the Properties, foremost among those responsibilities is to advocate for a comprehensive evaluation of any proposed purchaser’s ability to responsibly finance, manage and correct all the outstanding

violations within the time periods specified by law as well as, where necessary, rehabilitate the properties being sold. The compacted time frame between the December 23, 2025 Court filing naming Summit Gold, Inc. as the Stalking Horse Bidder and an auction date of January 8, 2026, has left the City with insufficient time to conduct a thorough review of Summit and its current portfolio of properties within the City and to formulate an alternative plan to benefit all parties. As set forth more fully below, important questions remain unanswered regarding the feasibility of Debtors' plan of reorganization, Summit's current track record as a landlord in the City, the possibility that a potential connection between the Debtors and the purchaser has not been properly disclosed, and whether the purchaser has the capacity to correct all of the outstanding violations within the time periods specified by law when it becomes the owner. While the fate of thousands of tenants hangs in the balance, the Debtors and Summit have provided absolutely no information to enable the City or this Court to evaluate the propriety and the feasibility of this transaction. Accordingly, the City respectfully asserts that until these issues are addressed the approval of a sale to Summit and confirmation of the Debtors' plan of reorganization should be denied or at least postponed so that the Court and the parties can fully address the City's concerns.

Procedural Background

1. On December 11, 2025 the City filed a Statement in Support of Flexibility in Extending Time to Potential Bidders. On December 23, 2025, the Debtors filed a Notice of Designation of Stalking Horse Bidder (the "Stalking Horse Notice") [ECF No. 916], which designated Summit Gold Inc. ("Summit") as the stalking horse bidder for the purchase of all of the Properties.

2. On December 30, 2025, under a prior Mayoral Administration, the City filed its initial Limited Objections to the confirmation of the Plan and approval of the proposed sale of the Debtors' Properties (the "Initial Objection") [ECF No. 919].

3. On January 1, 2026, a new Mayor for New York City took office. Within two business days, on January 5, 2026, the City filed a (i) request for a thirty (30) day adjournment of the auction and hearings on approval of the sale and confirmation to provide the City with an opportunity to formulate an alternative plan to benefit all parties, and (ii) a full objection to the Plan through a supplement to the "Initial Objection" (the "Supplemental Objection") [ECF No 924].

4. On January 7, 2026, the Court held a conference and denied the City's adjournment request on the record. On January 8, 2026, the Court entered an order denying the request. [ECF. No. 942].

5. On January 9, 2026 the Debtor filed a notice that Summit was the successful bidder at the auction (the "Successful Bid Notice") [ECF. No 946]. The Successful Bid Notice contained an annexed statement from Summit saying in general terms, among other things, that it has sufficient funding to operate the Properties, will be hiring a new managing agent, and will make the repairs needed and meet its regulatory obligations (the "Summit Statement"). Such blanket statements without more do not provide the City with any assurance that the City's concerns about the feasibility of the plan will be addressed, including that the violations in the Properties will be addressed within the time periods set by law if Summit takes ownership.

6. Now that the auction results and winning bidder are known, the City makes this restatement of the Supplemental Objection to further supplement its objections to the sale and the plan.

7. The proposed sale includes Properties with approximately 5,200¹ units with thousands of tenants. The tenants have made many complaints to the Court regarding property conditions as noted in its order of January 9, 2026 regarding tenant submissions (the “Tenant Submission Order”)[ECF No. 948]. The Tenant Submission Order expressed sympathy and concern and directed the issues in such submissions to the attention of the current and proposed future owners of the Properties and to relevant governmental and regulatory authorities.

8 There are thousands of outstanding Housing Maintenance Code (“HMC”) violations on the Properties, including thousands of immediately hazardous Class C violations (which generally must be cured within 24 hours), over one thousand Class B violations (which generally must be cured within 30 days), and over one thousand Class A violations (which generally must be cured within 90 days). Attached as Exhibit A is a schedule of the violations of record for the Properties. All of the violations of record for each of the Properties are publicly available on the New York City Department of Housing Preservation and Development’s (HPD) website at <https://hpdonline.nyc.gov/hpdonline>. Tenants are continuing to make complaints to the City concerning conditions of disrepair at the Properties (complaints are also publicly available on HPD online) and the City is continuing to inspect the properties and post violations as required by law. Upon the purchase of the properties, Summit will be required to correct the C violations within 24 hours (some C violations have correction periods of 14 or 21 days), the B violations within 30 days, and the A violations within 90 days. Neither the Debtors nor Summit have made any showing that this is feasible and will occur. In the absence of such correction of the violations, the City may have to expend taxpayer funds to make emergency repairs to address the health and

¹ The Supplemental Objection in paragraph 3 said the number of units was approximately 5500 units. Upon review the City believes the number of units is approximately 5,200.

safety of the tenants so the City has material concerns that should be addressed before this plan approval can proceed.

Grounds For Objection to The Sale of the Properties and Confirmation

9. In the context of auctions, courts generally defer to a debtor's business judgment when selecting a highest and best bid, In re Borders Grp., Inc. 453 B.R. 477, 482-483 (Bankr. S.D.N.Y. 2011). However, where a transaction involves an insider it is subject to heightened scrutiny.

10. The proposed confirmation order seeks findings of good faith and that the buyer is not an "insider." Therefore, the question of whether the purchaser is an insider is an issue that must be determined before the plan can be approved. Courts have held that "[t]he proponent of good faith carries the burden to show good faith...in considering 'good faith' under 363(m), courts may consider whether a potential purchaser is an insider of the debtor." In re Kaspar, 2024 Bankr. LEXIS 2770 *16 (Bankr. S.D.N.Y. 2024), quoting In re Borders Group, Inc., *supra* at 484.

11 The federal courts "have long been concerned with the integrity of the bankruptcy sale process. Mindful of the need to engender stability and integrity of the sale process, the bankruptcy courts will uphold regularly conducted sales unless they are tinged with fraud, error, or similar defects which would in equity affect the validity of any private transactions. C&J Clark America, Inc. V. Carol Ruth, Inc. (In re Wingspread Corp.), 92 B.R. 87, 93 (Bankr. S.D.N.Y. 1988).

12. However, courts have held that "transactions that benefit insiders must withstand heightened scrutiny before they can be approved under 363(b)." Official Committee of Unsecured Creditors v. Enron Corp. (In re Enron Corp.). 335 B.R. 22, 28 (Bankr. S.D.N.Y. 2005).

Citing In re Manchester Gas Storage, Inc. 309 B.R. 354, 378 (Bankr. N.D. Okla 2004 (“...insider transaction should at the very least be disclosed to the Creditors and the Court for scrutiny.”); In re Med. Software Solutions 286 B.R. 431, 445 (Bankr. D. Utah 2002)(purchaser has a heightened responsibility to show that the sale is proposed in good faith). C&J. Clark, *supra* @ 93.

13. The City does not have direct knowledge of a relationship between Summit and the Debtor, but recent press reports have raised an issue which should be addressed. Upon information and belief the Office of the Attorney General will also be filing a declaration in support which will discuss the relationship between the parties.

14. Annexed as an Exhibit J to the Stalking Horse Notice is a proposed confirmation order (the “Proposed Order”). The Proposed Order requests findings (i) that the sale was negotiated at arm’s length, without collusion or fraud, and in good faith, and (ii) that the purchaser is a buyer in good faith under Bankruptcy Code section 363(m). Proposed Order p.5 par. F. The Proposed Order also contains a proposed finding that the purchaser is not an “insider” within the meaning of section 101 of the Bankruptcy Code. Proposed Order p.5 par. G.

15. The term insider includes, if the debtor is a corporation, a relative of a general partner, director, officer or person in control of the debtor. Bankr. Code Section 101(31)(B)(vi). However, the list of statutory insiders is non-exhaustive, and courts have “devised tests for identifying other, so-called ‘non-statutory’ insiders, focusing, in whole or in part, on whether a person’s transactions with the debtor were at arm’s length.” U.S. Bank, N.A. v. Vill. at Lakeridge, LLC 583 U.S. 387 (2018)(a determination as to non-statutory insider status is a mixture of factual and legal determination).

16. While the buyer may not meet any enumerated statutory definition of an insider, as aforesaid the list is non-exhaustive and having represented the buyer is not an insider,

and because the buyer seeks the protection of a buyer in good faith under 363(m), any relationship the buyer may have either directly or through related parties should be disclosed by Summit so the Court can analyze whether the buyer has any such relationship. For example, whether an insider of the Debtor is somehow affiliated with or is an agent of Summit, directly or indirectly. The City acknowledges that any such relationship may not prevent a finding of good faith. However, given recent press reports, this is a matter that should be disclosed for the Court to make an informed decision.

17. Moreover, under Section 1129 of the Bankruptcy Code, the Debtors must show that the Plan is feasible and that confirmation is not likely to be followed by liquidation or financial reorganization of the Debtors or any successor to the Debtors. 11 U.S.C. § 1129(a)(11).

18. The City submits that Summit must demonstrate that it has the resources, and moreover the willingness and intent to cure the violations within the time period required by law and, if necessary, rehabilitate the Properties, while remaining financially sustainable.

19. According to preliminary calculations and review of Department of Finance and Department of Environmental Protection information, the Debtors owe collectively approximately over \$14,000,000.00 in property tax and water and sewer arrears and their properties are subject to numerous HMC violations that are subject to substantial financial penalties². As noted in the City's Initial Objection, there is no clear indication in the Plan or the proposed confirmation order that these amounts will be paid at the closing of the proposed sale, or will be otherwise dealt with under the Plan. The Plan discusses a sale free and clear of liens, and the City objects to this term given the substantial sums owed to the City.

² There does not appear to have been a claims bar date set and various City agencies may also have claims.

20. As previously noted, annexed hereto as Exhibit “A” is a list of open taxes and water and sewer charges, and a list of C and B violations per property and dwelling unit prepared by HPD. As described above, an HPD HMC class violation is issued with a class designation that determines the time frame for completing the correction and the penalty for non-compliance. Class B violations are hazardous. Class B violations are statutorily required to be corrected within 30 days. HPD may seek civil penalties through litigation. Depending on the specific violation, Class C violations are considered immediately hazardous and must be corrected within 24 hours, 14 or 21 days. Heat and hot water violations are Class C violations which must be corrected within 24 hours. T The penalty for not immediately correcting heat and hot water issues is \$250 per day. Significant penalties can escalate. To establish feasibility, Summit must prove its ability and intent to cure the violations and to pay its other expenses, including the fines and penalties, from income from the Properties.

21. Many of the Properties have more than one Class C or B violation per each dwelling unit. Sixteen of the Properties have over two Class C and Class B housing code violations per dwelling unit. Of those, one has over five Class C and B violations per dwelling unit and one of the Properties has over six violations per dwelling unit. Any significant level of violations is a concern, but these are particularly egregious conditions. Here, the feasibility of correcting the violations in the Properties is of particular concern because Summit’s own current portfolio has significant violations at some of its properties. As noted earlier, all violations are of public record on HPD’s website. If this plan can be approved, a specific provision should be included in the confirmation order that all violations of record at the time of the order and ongoing must be cured within the legal time frame effective on the day of the change of ownership. Additionally, if this sale is approved, the City requests that a binding reserve fund be established and set aside to cure violations and address any deferred and ongoing maintenance needs and capital improvements.

22. The Debtors have the burden of proving the Plan is feasible and not likely to lead to a future liquidation given the projected income and expenses.³ Failure to do so is grounds for withholding approval of the plan. 11 U.S.C. sec. 1129(a)(11). See also Danny Thomas Props. II Ltd. Pshp. v. Beal Bank, S.B.B., 241 F. 3d 959, 963 (3d Cir. 2001)(citing In re Euerle Farms, Inc., 861 F. 2d 1089, 1091-92 (8th Cir. 1988)(“The debtors bear the burden of proving the feasibility of their plans by the preponderance of the evidence”). See In re M&S Assocs. Ltd., 138 B.R. 845, 849-50 (Bankr. W.D. Tex. 1992)(denying confirmation of Chapter 11 plan where debtor presented insufficient evidence regarding the feasibility of its proposed plan).

23. Absent a comprehensive physical needs assessment, it is difficult to project the exact repair costs for the Properties. In order to determine whether this plan can be approved, Summit should provide such an independent cost assessment and budget for all 93 Properties.

24. Under the Bid Procedures Order, the Debtors gave the following notice to all potential bidders: “In accordance with these Bidding Procedures, any Potential Bidder that seeks to purchase all or a portion of the Assets will be required to do so subject to the existing tenant leases and applicable Regulatory Restrictions.” The Plan apparently does not include the tenant leases in its provisions relating to executory contracts and unexpired leases. However, ordinarily, a debtor must assume an unexpired lease pursuant to Bankruptcy Code Section 365 before it can assign it to a potential purchaser. Under Section 365(b)(1), if there has been a default, the debtor must cure such default; compensate the non-debtor party for any actual pecuniary loss resulting from such default; and provide adequate assurance of future performance under the lease.

³ The Supplemental Objection, in paragraph 10, indicated that HPD had conducted a preliminary review that indicated this proposed sale of these particular properties would not lead to a supportable business. The City made such an analysis. HPD’s preliminary review was of the amount of tax and water arrears and amounts coming due, and the number of housing code violations (see Exhibit “A”).

To the extent that any tenant or tenant organization alleges that there has been a default under the tenants' leases, including, for example, a breach of the warranty of habitability under New York law, the Debtors and Summit must demonstrate Summit's ability meet these requirements. Given the substantial number of tenants who have warranty of habitability claims based on the violations, including claims for the abatement of rent and other harms, the plan should not be approved unless and until the Debtor and Summit have made such a showing.

25. Discussion with Debtor's counsel appears to indicate the Debtor may not need a mortgage recording tax exemption under 1146 since the mortgages are being assigned and putatively would be exempt on that basis. This must be clarified in order approve a sale without payment of the recording tax. We await confirmation of removal of such provision. See In re Amsterdam Ave. Dev. Associates, 103 B.R. 454 (Bankr. S.D.N.Y. 1989).

26 Before this sale can proceed, provision must be made for curing the violations within the time period specified in law and the tenant issues mentioned in the Tenant Submission Order must be resolved to the benefit of the tenants, as well as the estate and the creditors. Many tenants may well be creditors. But unless and until such time as these issues can be definitively solved, and not just by words and promises, the City continues to object to the plan and sale and respectfully requests that the Court not approve the plan on the current record. If given sufficient time, the City would still like to develop an alternative approach to preserving the properties as affordable housing for the tenants. WHEREFORE, the City respectfully requests: (i) that the proposed Plan not be confirmed and the proposed sale of the Properties not be approved; and (ii) that the Court grant to the City such other and further relief as it determines to be just and warranted.

WHEREFORE, the City respectfully requests (i) that the proposed Plan not be approved and the proposed sale of the Properties not be approved; and (ii) that the Court grant to the City such other and further relief as it determines to be just and warranted.

Of Counsel: Hugh H. Shull III
Zachary B. Kass

Dated: New York, New York
January 12, 2026

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CITY OF NEW YORK

By: /s/ Zachary B. Kass
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