

10.0 Response to Comments Received on the DEIS

10.1 Introduction

This chapter summarizes and responds to substantive comments received during the public comment period for the Draft Environmental Impact Statement (DEIS), issued on August 28, 2024, for the Environmental Impact Statement (EIS) for the proposed North/West Battery Park City Resiliency Project.

The public meeting on the DEIS was held on September 18, 2024, at 6:00 PM. To allow for broad public participation options, the public scoping meeting was held in person and remotely. The public comment period remained open until Monday, October 7, 2024.

Section B lists the organizations and individuals that provided comments on the project. Section C contains a summary of the comments relevant to the DEIS and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the technical areas of the DEIS. Where more than one commenter expressed similar views, those comments have been grouped and addressed together. All written comments are included in **Appendix I**, “Written Comments Received on the DEIS.”

Where relevant, in response to comments on the DEIS, changes have been made and are shown with double underlines and in the Final EIS (FEIS).

Community Board and Elected Officials

1. Alice Blank, Vice-Chair, Manhattan Community Board 1 and Chair of the Board’s Environmental Protection Committee (Blank_002)
2. Zach Bommer, on behalf of the Community Board 1 Executive Committee (Bommer_033)
3. Deborah Glick, Assemblymember (District 66), New York State Assembly (Glick_046)

Businesses and Organizations

4. Robert Atterbury, Executive Vice President, Hudson River Park Trust (Atterbury_031)
5. Karen Borsari, on behalf of Asphalt Green (Borsari_023)
6. David Caporale, on behalf of Tribeca Sailing (Caporale_008)
7. John Dellaportas, on behalf of the Battery Alliance (Dellaportas_043)
8. Tom Fox, President and CEO of the Hudson River Park Conservancy and member of the Executive Committee of the Hudson River Park Advisory Council (Fox_018 and Fox_019); and on behalf of the Hudson River Park Advisory Council and the City Club of New York (Fox_007)
9. Tammy Meltzer, on behalf of the Hudson River Park Advisory Council (Meltzer_042)
10. Rachel Miller for City Club of New York (Miller_032)

11. Riverkeeper, Inc. (Riverkeeper_049)
 12. Benjamin Rubinstein, on behalf of Stellar Management (Rubinstein_035)
 13. Bob Townley, Founder and Executive Director, Manhattan Youth (Townley_020 and Townley_021)
 14. General Public
 15. Michelle Ashkin (Ashkin_045)
 16. R.J. Bogumil (Bogumil_038)
 17. Ashlee Conner (Conner_029)
 18. John Dellaportas (Dellaportas_016)
 19. Steve Dougherty (Dougherty_003 and Dougherty_034)
 20. Britni Erez (Erez_017)
 21. Helena Fisera (Fisera_0010)
 22. Jeff Galloway (Galloway_005)
 23. Mark Greenwald (Greenwald_013 and Greenwald_025)
 24. Audrey Harkins (Harkins_026)
 25. Buff Kavelman (Kavelman_006)
 26. Kathleen Keenan (Keenan_010)
 27. Louis Kleinman (Kleinman_022)
 28. Dorothy Lipsky (Lipsky_028)
 29. Cole McBride (McBride_041)
 30. Michael Miele (Miele_024)
 31. Karie Parker Davidson (Parker-Davidson_011)
 32. Richard B. Singer (Singer_036)
 33. Sarah Smedley (Smedley_030)
 34. Kate Smith (Smith_004)
 35. Anaïs Tekerian (Terkerian_037)
 36. Bill Weidner (Weidner_012)
 37. Daniel Wolfe (Wolfe_027)
 38. Anonymous 1 (Anonymous_047)
 39. Anonymous 2 (Anonymous_048)
 40. Battery Park Montessori (BPM) School (Montessori_049)
 41. Graeme Birchall (Birchall_050)
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10.2 Project Description

Trees

Comment 1:

The FEIS should include a new alternative representing maximum FEMA variances for existing trees that minimizes tree loss. This alternative would identify all the trees that could be saved, should a variance be sought and granted. This alternative should include a plan that identifies the areas that are eligible for FEMA variances and the trees that might be saved by variances. (Bommer_033g, Anonymous_047)

The FEIS should demonstrate the impact of those variances on visual resources and open space and include photo simulations that demonstrate the impact of the maximum variance alternative compared to the proposed action. (Bommer_033g)

I'm a long-time resident of Battery Park and am extremely concerned about what happened at Wagner Park. My main question would be what's going to happen to those 420 trees that are going to be, I guess, uprooted and do you plan on replanting them? I mean, they're just being discarded. What is the idea and what does increasing or enhancing landscaping afterwards actually mean? Those are both my concerns. (Fisera_001) The trees will be uprooted and dead. (Dougherty_003b)

The FEIS should also clarify how the removal of the 420 trees and the addition of the large quantity of concrete walls, benches, and paving will impact the urban heat island effect and how long it will take to mitigate these effects. The community has long asked that a federal variance for the removal of the trees be reconsidered and looks forward to a confirmation that this can in fact be done. (Blank_002b) Besides trees, please keep as many of the wooden benches as possible. (Harkins_026)

Please revisit the vegetation variance to protect more of the trees. Please. Mature trees are necessary with the concrete buildings to keep our neighborhood pleasant and cool. Saplings will take years to make an impact. (Anonymous_047)

One salient issue that underlies several others is a FEMA-mandated 15-foot vegetation-free zone on each side of any certified flood wall. FEMA's requirements are specified in a US Army Corps of Engineers 44-page uniform national standard: "Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures" <https://www.publications.usace.army.mil/Portals/76/Users/182/86/2486/EP_1110-2-18.pdf> intended to facilitate quick, efficient inspection and maintenance of (commonly rural) flood barriers, possibly many miles in length.

And also to ensure protection of the FBS from damage by root growth, windblown falling trees and other USACE experienced threats. (Bogumil_038b)

While the national design standard is well intended, and serves the important purposes of codifying and disseminating FBS design best practices, it fails to consider exceptional circumstances, such as in BPC: densely populated, with extraordinary property value, and a statutory (captive land-rent) BPCA revenue stream, to support ongoing FBS inspection and maintenance, with expertise and a budget far surpassing common practice in other jurisdictions. (Bogumil_038b)

There is a USACE/FEMA procedure to apply for design exemptions; however, heretofore, BPCA had not acknowledged doing so or attempting any related inter-agency dialog, despite public urging. (Informally, at various meetings it was remarked that exemptions are rarely granted.) In two years of public presentations with accompanying visual aids, BPCA has vacillated in some circumstances alluding to FEMA mandate compliance; while in others, even concurrently, depicting (while not admitting to) clear infractions. The latter so as to offer more attractive project renderings, while seeking public acceptance of sacrifices and change. (See attached 30% and 60% design critiques; with further, related illustrations and commentary below.) (Bogumil_038b)

Although clearly out of compliance--with proper design, inspection and maintenance, the ivy shown above in wall-top N. Moore planters would present no true risk to flood protection; and could usefully provide effective wall camouflage at other points throughout BPC. Whereas, in BPCA response to aesthetic criticism, the current proposal calls for increasing the number and width of wall gaps at Reach 6 street-ends-- consequently requiring use of larger, more costly and less reliable "deployables" to plug the gaps during storms, a measure that should be of concern. (Bogumil_038b)

The current DEIS goes much further than any prior NWBPCR public document to explicitly cite and claim compliance with FEMA's 15-foot restriction. However, in a continuing PR struggle to concurrently claim minimal tree loss, although some wall-adjacent trees have been deleted from earlier "60% design" diagrams, other instances remain, without explanation (see compound DEIS FSOV Figure 17 and 6/20/2024 slide 33/60 below.) On the positive side, BPCA does now promise to apply for FEMA exemptions where appropriate; and we are left to hope that they will argue the case effectively. Government bureaucracy at work. (Bogumil_038b)

Tree removal and variances, there are quite a number of trees that fall outside of the 15-foot boundary that do not have to be removed, and yet it appears that this is not even a consideration. The tree removal issue is perhaps one of the greatest and most disturbing issues to everyone, both residents and people who work

here. We need to identify and mark every tree that does not fall within that 15-foot boundary and determine which of these trees can be saved without creating interference for construction and machinery. We have also been asking for a year for BPCA to apply for the necessary variance that will allow us to plant within that 15-foot limit. Given that this issue is so important please honor this urgent request immediately. (Ashkin_045j)

And so, my understanding was that they're doing the equivalent of a clear cut to make it easy -- to make it easier to get machinery in. And while I understand that, you're taking out unnecessarily, I think, a number of trees that are mature, beautiful, healthy trees, which we love and covet in this area. So, I think that's something we need to -- to revisit. If they are not within the 15-foot variance -- you know, area, then why -- why can't we keep them? Why can't we figure out a way to at least keep some of them in place without destroying all of them? (Ashkin_009)

Response 1:

BPCA and its design team are aware of the USACE guidelines referenced in this comment, which are intended to provide a flood defense system that is reliable, maintainable and certifiable. The DEIS conservatively assumed no trees would be planted within a 15-foot-wide setback that runs parallel to the flood barrier system. Since the release of the DEIS in August 2024, the project's engineering and landscape designs have been advanced with the objective of ensuring that the proposed flood barrier system is integrated into the existing Battery Park City open spaces. As part of this design analysis, BPCA and its PDB team reviewed the planting design with a focus on maximizing tree replacement and planting along the project corridor which included the evaluation of targeted tree species for planting at locations that complement the current landscape in Battery Park City while avoiding potential structural, operational or maintenance impacts to the flood barrier system (from limbs, roots, access, etc.). This analysis took into account a number of details, including tree growth rates, sizes and root systems, fruit bearing, salt and wind tolerance and other features, as well as resistance to wave impacts, proximity to gates or other operable/deployable structures and engineering factors for the design area between 10 and 15 feet of the proposed flood barrier system. Also included in the advanced planting design was a specific palette of low growth shrubs for planting within 6 feet to 15 feet of the proposed flood barrier system. Based on this detailed design review, it has been determined that tree replacement with the Proposed Project can be increased from the 390 stated in the DEIS to 450 under the 90 percent design (see Table 10-1). It is also noted that under the proposed design many of the trees along the River Terrace flood barrier alignment are proposed to remain in place. The FEIS therefore reflects this increase in tree replacement planting.

Table 10-1
NWBPCR Tree Removals and New Trees

Reach	Total Trees to be Removed ^{[1][2]}	Total New Trees to be Planted ^{[3][4]}
1	65	40
2	30	50
3	35	65
4	25	40
5	120	80
6	125	135
7	35	40
Total	435	450
Notes: 1. Approximately 40 trees would be removed due to tree health; this should happen regardless of the Proposed Project. Approximately 395 trees would be removed due to the Proposed Project's construction. 2. Includes removal of approximately 6 trees in Reach 1 in NYC Parks jurisdiction. 3. Includes approximately 8 new trees in Reach 1 in NYC Parks jurisdiction. 4. Up to approximately 17 trees are assumed to be candidates for transplanting.		

Of the 435 trees proposed to be removed, approximately 17 are candidates for transplant. Transplanting trees successfully is technically complex and is only recommended for relatively small trees of certain species.

BPCA is currently engaged with FEMA through the Conditional Letter of Map Revision (CLOMR) process to confirm that the project design, including the flood barrier alignment and its tree planting and landscape design elements, is acceptable.

In addition, BPCA and the design team are exploring opportunities to salvage tree material, including reaching out to NYC-based organizations that specialize in accepting tree material for reuse or mulch. The planting design plan also analyzed sun/shade impacts of the Proposed Project to maximize comfortability in the public spaces, and increase native plant coverage, pollinators, and biodiversity. The design team is proposing a variety of tree species of various calipers to ensure that the overall tree health and diversity of trees in BPC is enhanced and remains sustainable and resilient over time.

Comment 2:

The DEIS does not adequately address how, after removing hundreds of trees, the project is going to mitigate major environmental and climate change impacts from the loss of these trees and the ecosystem services they provide. After removing this urban linear forest what is the plan to adequately address the following:

- (a) heat island effect created by the removal of mature canopy trees.
- (b) impacts of increased wind now buffered by existing mature trees.

(c) relief from intense heat now provided by the cool breezes and shade that mature tree canopy provides.

(d) impact on energy costs to cool homes that are currently shaded by trees during the intense heat of summer sun.

(e) reduction in CO₂ provided by the mature canopy that will take decades for the newly planted trees.

We have been told that trees will grow back and there will be even more trees when the project is completed than are currently here. That does not address any of the above. Please note that it is not the number of trees per se that provide these services: from carbon capture to flood protection and all the other ecosystem services mentioned, these benefits require mature trees with extensive canopy cover. It will take decades for young, newly planted trees to provide the services these trees currently provide. (Ashkin_045f)

Response 2:

As described on page 1.0.3.10 in the DEIS, the Proposed Project has been designed to reduce urban heat impacts through an abundant use of planting and, where hardscape is needed, a reliance on high-albedo and pervious materials. Overall, the proposed design increases the total planting coverage over what exists today by approximately 30 percent. In some areas, such as Reaches 4 (Ferry Terminal) and 7 (South Neighborhood), there would be a 50 percent increase in planted surfaces. The proposed planting design is a multi-layered approach, incorporating groundcover, tall perennials, shrubs, understory trees, and canopy trees to provide maximum evapotranspiration and to protect the ground from drying out or absorbing heat. With the Proposed Project, over 75 percent of the proposed paved areas will be made of high-albedo materials (such as light-colored stone and concrete), which reflect more light, cool the surrounding air, and serve to reduce urban heat as compared to materials that absorb and increase heat, like asphalt. In addition, as described above, the Proposed Project as described in this FEIS has expanded the tree replacement plan.

Comment 3:

The FEIS should include information on how to maintain naturally planted areas should they be inundated with salt water. For example, after salt inundation, what is the best way to protect the trees? Should they be flushed with fresh water? Something else? (Bommer_033u)

Response 3:

As described in the DEIS, when compared to the No Action condition, the Proposed Project would protect trees and ecological communities throughout most of the Protected Area from flooding during storm events and the subsequent saltwater inundation that is harmful to terrestrial ecological communities and vegetation within the Study Area. BPCA is also committed to the restoration of all its open spaces in the event they are impacted by a storm,

including restoration of terrestrial habitats. In addition, there will be a number of mature trees and vegetation on the unprotected side of the flood barrier system. Strategies to be implemented by the BPCA to minimize potential tree damage from flood events may include, but not be limited to “flushing” soils, tree roots and landscaped areas with fresh water after a flood event. This and other strategies will be considered as part of the BPCA’s open space maintenance and operation plan.

Design Flood Elevation Modeling and Flood Risk

Comment 4:

The community urges that the final EIS include information that ensures that the Battery Park City Authority Project will have no harmful effects on the resiliency of neighboring areas in our community. Particularly those that were, unlike most of Battery Park City, flooded and acutely affected during Superstorm Sandy on the west side north of the proposed tie-ins in North Moore Street and Tribeca Canal Street. (Blank_002d)

The FEIS must include details of what areas and what range of conditions were studied and the results. The FEIS must make clear through modeling evaluations that the Project will have no deleterious effects on the areas along the west side, most acutely affected by Superstorm Sandy, north of the proposed tie-in at N. Moore Street and south of Canal Street in Tribeca.

If there was any modeling performed to confirm coastal storm surge waters are prevented from entering the Protected Area through the combined sewer system (CSO), please summarize the methodology, as well as provide modeling and the resulting conclusions. (Bommer_033ff)

The FEIS must include modeling data to ensure what, if any, potential effect the Proposed Project has on neighboring areas, particularly those most affected and most vulnerable during Sandy in Tribeca North and South of Canal Street at the West side. Assurance that there would be no deleterious effects on areas north of N. Moore, is something the community has asked for repeatedly. (Bommer_033d)

Response 4:

As described in the DEIS, the proposed flood barrier system design is based on a coastal modeling analysis that was prepared as the basis for determining the Design Flood Elevation (DFE) for the proposed flood protection system (see **Appendix B** of the DEIS for the coastal modeling report). This modeling considered both elevated surface water elevations in the Hudson River during a coastal storm event, as well as wind direction and the resulting height and angle of wave impacts. Given the length of the Proposed Project (approximately 7,900 linear feet), there are ranges of predicted wave height along the length of the proposed flood barrier system that have determined the DFEs proposed at

different points along the project alignment. The flood barrier system design heights that are shown in the EIS (see Figure 1-8) are based on this modeling, as well as the proposed near surface isolation (NSI) system. Through securing manholes, installing new tide gates, and modifying existing gates, the NSI system would prevent flood waters from entering CSOs and the Protected Area.

As stated above, the coastal modeling that supports the proposed design was provided in **Appendix B** of the DEIS. The modeling and report were updated based on the 90 percent design. A component of that analysis was determining whether the proposed flood barrier system would have any potential effects on areas adjacent to the Proposed Project. As further described in **Response 72**, based on that modeling, the impacts of Proposed Project on the projected flood elevations in those adjacent areas are negligible.

Comment 5:

The modeling upon which the climate predictions are based is not dependable: one cannot overhaul a whole community over models that are not data-driven and climate modeling is not an exact science. It is being used as a scare tactic to encourage people to go along with projects like this that are highly lucrative for those involved in the construction side and highly destructive for those who will have to live with the process. (Tekeria_037a)

Response 5:

While there are uncertainties in all long-term climate modeling projections, they are grounded in extensive data collection, scientific principles, and best available and current methodologies. These models are continually refined to better predict future scenarios by considering historical climate data, trends, and potential impacts of various factors, including urban development. As stated in the DEIS, the need for the NWBPCR Project is driven by the current needs of coastal communities to prepare for real risks posed by climate change, including sea-level rise and more frequent storm surges. Projects such as NWBPCR are essential components of community resilience and ensuring long-term safety and sustainability in waterfront neighborhoods that are at risk of impact from coastal storm events. The Proposed Project's design has been subject to a thorough review process, including public consultation, to balance community needs with environmental and construction impacts of its implementation.

Comment 6:

What are the latest projections for sea level rise in 2100, plus anticipated storm heights? Is the project's plan for elevation scalable to meet the 2100 projections, if necessary? If so, what would be the estimated cost of such a buildout and how long would it take? I believe that there is a pattern of disregarding inconvenient facts by all authorities to reduce overall resiliency costs and to promote an unjustified confidence in the current construction. (Kleinman_022)

Response 6:

The design water level for the Proposed Project uses the 2050 90th percentile sea level rise (SLR) projection is 2.5 feet. This is equivalent to the 2080s 25th percentile SLR projection (NPCC, 2019) and the 25th percentile 2100 SLR (Braneon, 2024). The 2080s SLR projections are approximately 60 years post-construction and encompass a projected 50-year design life. Therefore, it can be concluded that the design for the 2050s 90th percentile SLR projection (2.5 feet) also satisfies the 2080s 50th percentile SLR projection (2.4 feet).

The storm height used in the project design is the FEMA 100-year storm event which has an elevation of 11.3 ft NAVD88 (current FEMA maps). Based on Braneon (2024) the 2100 75th percentile SLR projection is 4.17 ft which linearly superimposed on to the 100-year FEMA storm event would result in 15.47 ft NAVD88 water level in 2100.

Based on the Proposed Project's 2050 90th percentile SLR projection, the final design water level is 13.8 ft NAVD 88 which is the 11.3 plus 2.5 ft of sea level rise. Given that the project wall height minimum is 16.5 ft NAVD88 (see Figure 1.8 in the DEIS) this meets the 2050s 90th percentile, 2080s 50th percentile, and 2100 75th percentile SLR projection. While the design flood elevation is 13.8 ft NAVD88, the minimum wall height of 16.5 ft is required to account for wave run-up and overtopping, ensuring compliance with both overtopping and FEMA freeboard (2 feet above design water level) criteria.

Flood Barrier System Design**Comment 7:**

The FEIS should include a detailed description with images showing scale, and specific materials most often used for the proposed flood barrier systems (see also comments on visual character). (Bommer_033a)

Response 7:

DEIS Chapter 1.0, "Project Description," included site plans and cross sections with a minimum of 3-5 renderings of each reach design and rendered aerials (with 10 renderings in Reaches 6 and 7). Chapter 3.4, "Urban Design," also included 25 renderings and views to depict the visual character of the Proposed Project. These renderings were supported by a visual analysis of key view corridors. To address the advancement of the project design since the August 2024 release of the DEIS, each of these figures and renderings has been updated, although the majority of the project modifications are minor and not perceptible in the images.

Drainage**Comment 8:**

The pump station above-grade structure design is still under consideration and the EIS shows three options. Design Options 1 and 2 separate the electrical panel and power generation into different structures, while Design Option 3 is a two-story structure, which incorporates all the mechanicals into one building. The

process for the selection of a final design requires review by the SCA, DOT and the High School. The Community Board requests to be included and contribute to these discussions. The option next to Stuyvesant High School will have potential impacts on the usability of the area around the structure including, but not limited to, public open space, Citi bike stations, public seating and pedestrian connections north and south. The Lead Agency is asked to include the Community Board as an interested agency in the considerations on the final design and be informed on the design selected, why it was selected, and if the SCA and the High School agreed with the design selected (Bommer_033f)

Response 8:

The DEIS and this FEIS include the below grade systems and above grade concepts and envelopes of the proposed pump station. The final design of the proposed pump station is proposed to proceed in 2025 and would continue to be coordinated with NYCDEP, the City agency that would be the owner and operator.

Reach Designs**Comment 9:**

In Reach 1, the flood walls could interfere with day-to-day building operations. On a typical day at Independence Plaza, trash is removed from buildings for collection; trucks pull in and out to make deliveries; construction companies bring in supplies for renovations; and maintenance is often moving stoves, refrigerators, and other appliances from one building to another. N. Moore Street is as important as the lobby for these activities. The proposed design would make the already tight openings along N. Moore Street even more difficult to navigate, creating logistical challenges and possible safety issues for our residents, employees, and vendors. (Rubinstein_035)

Response 9:

BPCA and the design team have held a number of design meetings with Independence Plaza and the Borough of Manhattan Community College (BMCC) to address the design issues related to the interface of the proposed flood barrier system with the property frontages along North Moore Street, Harrison Street and State Route 9A/West Street. In particular, BPCA and the design team understand the concerns regarding the North Moore Street alignment as presented in the DEIS and are committed to minimizing disruption to essential services such as sanitation and recycling collection, deliveries, building maintenance. The Proposed Project has considered logistical needs, and the design will ensure access points are adequate for daily operations of the adjacent properties.

To that end, this FEIS analyzes an updated design approach for North Moore Street that widens the sidewalk to allow additional operational space for pedestrians and Independence Plaza functions. This is achieved by converting the parking lane in North Moore Street to a widened sidewalk between State Route

9A/West Street on the west and Greenwich Street on the east. Chapter 1.0, “Project Description,” provides the updated description for the North Moore Street corridor. BPCA and the design team will continue to work closely with Independence Plaza, BMCC, NYSDOT, NYCDOT and other stakeholders to explore design adjustments where necessary to maintain operational efficiency and safety for residents, employees, and vendors along this project corridor.

Comment 10:

HRPT reminds BPCA that the City of New York installed a commemorative plaque honoring the two Americans whose lives were lost in the terrorism attack that occurred on October 31, 2017 in the landscaped portion of the southeastern border of HRP right next to the State Route 9A bikeway. HRPT, New York City, the Belgium and Argentinian Embassies along with members of the Department of Justice and FBI hold an annual memorial procession each October 31st to remember the victims of this horrific crime. The memorial procession along the State Route 9A bikeway begins at Houston Street and ends adjacent to Stuyvesant High School with stops at each of the three locations where plaques have been installed to honor the Belgian, Argentinian and American victims. The DEIS does not directly address this important consideration, neither the construction activity on the site nor the operational impact to the annual procession. HRPT knows that BPCA is aware of the sensitivity of this site and that it has flagged this issue for the design teams. HRPT strongly suggests that BPCA reach out to the families as well as to New York City and HRPT to address plans for this area both related to construction and permanent design. (Atterbury_031d)

Response 10:

BPCA and the design team have been working closely with HRPT throughout the project design process and will continue to do so through construction. This coordination will include the permanent design treatment, including consideration of a permanent memorial. BPCA will also coordinate with the victims’ families prior to relocation of the plaque to ensure it is treated with the sensitivity it deserves and with the agreement of the involved stakeholders.

Comment 11:

With regard to the specific impacts to HRP, the figures of the Proposed Project included in the DEIS show that a 48-inch diameter sewer main will be installed below the surface of HRP to connect to an existing combined sewer outfall in HRP’s Estuarine Sanctuary (the “CSO”) as part of the proposed new pump station. HRPT understands that BPCA is still coordinating with DEP regarding the new pump station and below-grade chambers and flood gates associated with the pump station such that the full extent of infrastructure to be built below-grade within HRP may change. HRPT expects that the southern portion of HRP that is currently landscaped with plants and trees will need to be redesigned based on typical DEP restrictions and that such DEP requirements are likely to include limits

on planting trees or building permanent structures above and within a buffer zone around the new infrastructure. As previously noted, HRPT requests that BPCA keep HRPT informed so that HRPT can effectively engage with BPCA on the permanent design in this area where the two parks meet. (Atterbury_031g)

Response 11:

The FEIS includes the current site plans for this segment of the Proposed Project (at the connection between Reaches 1 and 2), including the current flood barrier system and interface between the widened BPC north esplanade and the HRP property (see Figures 1-12e and 1-13b). With respect to below-grade infrastructure improvements, a new pipe connection from the proposed pump station to the NCM-073 outfall pipe is proposed that would require some excavation to provide the connection and re-landscaping of the affected area (see Figure 1-19a of the DEIS and this FEIS). BPCA will continue its design coordination process with HRPT through the completion of the final design package.

Comment 12:

In Reach 2, HRPT's comments are regarding design and construction impacts on the water portion of Hudson River Park. The Proposed Project also involves construction of permanent infrastructure within and over the Estuarine Sanctuary, increasing platform coverage into the sanctuary and reducing HRPT's ability to use a portion of that water area for park purposes, such as boating. While HRPT agrees that the expansion would create a wider pedestrian area and would improve the connection between the two parks, the Proposed Project still results in a permanent impact to the water portion of HRP. (Atterbury_031e)

Response 12:

As described in the DEIS, a reconstructed relieving platform is proposed in Reach 2 that would widen the BPC North Esplanade by six feet to the north with a transition at the bulkhead. Widening the Esplanade in this already narrow reach is proposed to provide additional deck area that would allow for future upgrades and adaptability of the flood barrier system, should that be needed. The new, wider platform would provide a primary circulation space that is a minimum of at least 20 feet wide. In addition to accommodating emergency and maintenance vehicles, this expansion would also provide the advantages of grade separating circulation space for cyclists (the upper corridor) and pedestrians (the lower corridor) in a more immersive boardwalk experience with waterfront seating opportunities in a landscaped setting in the widened lower corridor area. Widening the esplanade also allows for a planting area between the Esplanade and Stuyvesant High School. On the east where the North Esplanade connects with the bulkhead, a gradual curve in the deck is introduced to enhance the transition between the BPC North Esplanade and the Hudson River Park esplanade. BPCA will continue to its design coordination with HRPT through the completion of the final design package to coordinate and optimize the interconnection of these two important waterfront open spaces.

Comment 13: Reach 5, the North Cove Plaza is the heart of BPC and supplies much of the character of the complex. This aspect of the reconstruction is scheduled to last 5 years. Will this area be totally blocked off from pedestrians or will there be passageways that can be used? (Miele_024)

Response 13: While the construction activities at the North Cove Plaza (Reach 5) are extensive and will require narrowing of pedestrian zones, as well as limitations on public access to most of the North Cove area, there will be several pedestrian passageways maintained throughout the construction area. Specifically, a pathway between the Winter Garden North access door to the North Cove Plaza and North End Avenue will be maintained, as well as another passageway between the Winter Garden's south entrance through Brookfield Place and South End Avenue. The south doors of the Winter Garden, facing west, will not be accessible during the platform replacement work. There will be passageways maintained next to the Gateway building complex. It is also a project objective to maintain access to businesses that front the North Cove Plaza during construction.

Comment 14: A more ominous issue broached in the DEIS Appendix A, and yet to be publicly discussed is DEIS excerpt Appendix A Final Scope of Work page 5 "Foundations for the flood barrier system are anticipated to extend 50 to 90 feet below the ground surface, pending final geotechnical investigation and final foundation design."

In Reach 6, the South Esplanade, following demolition of existing building privacy walls, excavation for the FBS footing will be directly adjacent to private, ground-floor patios; and, between Albany St and Rector Pl, a mere 10 feet from residence walls.

If DEIS Figure 1-9 is to be believed, though marked "illustrative" (which in BPCA-speak can designate non-committal aspirations more than accurate representations), FBS construction will require only 20 feet to each side for access. Although greater than the available 10 feet, building-side—that is wonderful news we hope for protecting and preserving mature trees on the South Esplanade median, more than 35 feet distant. However, observing other BPCA construction sites leads to skepticism that excavation below a 50-foot depth will be possible in such narrow confines. [BPCA NWBPCR DEIS Figure 1-9 floodwall] [BPCA NWBPCR DEIS Figure 1-17, Regatta section] (Bogomil_038c)

Response 14: The engineering designs (and associated Project Area) have been advanced since the release of the DEIS and this FEIS reflects the advanced engineering designs (i.e., 90 percent design). The proposed Project Area shown on Figure 1-4 and the limits of work on each of the reach site plans (see Figures 1-12 through 1-18)

depict the areas of disturbance associated with the construction of the proposed footprint of the flood barrier system and adjacent grading. It is recognized that construction activities in all reaches, including Reach 6, are proposed in close proximity to existing residences, businesses, community facilities and other uses. It is also stated in the DEIS and this FEIS on page 1-26 under “Property Jurisdiction” that construction access would be needed at a number of locations along the alignment for the purpose of constructing the proposed flood barrier. Figure 1-9 illustratively shows various types of passive flood barrier systems, with the “floodwall” being the type that is proposed. The dimensions provided are also illustrative and show typical types of foundations. The final foundation design will take into account property limitations and other site constraints, including the precise clearances needed to implement the proposed construction. With respect to planting, the location of each tree adjacent to the flood barrier system foundations and the construction clearances required to install the proposed flood barrier system have been reviewed and factored into the site and planting designs. The depth of fill above the platform is generally four to eight feet, which will be excavated. Typically, any work below this depth would involve the installation of deep foundation elements, which would be done by drilling methods.

Comment 15: Reach 6, current, relatively open/uncluttered South Esplanade street-end spaces, i.e.: Esplanade Plaza with its volleyball court, Albany Street, Rector Place, West Thames Street, and by the South Cove pergola, do serve socially useful functions (e.g., providing flexibility during peak organized event traffic) which should not be blindly sacrificed in an overly aggressive land grab, to serve design PR goals of increased Reach 6 planting and a new/enhanced so-called conversation room. (Bogumil_038d)

Response 15: The overall balance between vegetative areas and pedestrian spaces remains consistent in both the existing condition and the proposed design. On the esplanade side of the floodwall, the paved threshold areas offer comparable square footage for flexible programming while the programmatic nodes create smaller, well-defined spaces suitable for both formal and informal gatherings.

Public Art

Comment 16: Can you confirm that the RM Fischer sculpture, which is a beloved local gathering spot, and was celebrated by the BPCA itself at a recent art event, will be preserved and restored to its prior condition at the end of this project? (Dellaportas_016)

Response 16: Rector Gate by R. M. Fischer will be protected in place during construction and the site will be restored at the end of the Proposed Project.

Comment 17: What is the impact on public art/sculpture? Will sculptures/artwork be deconstructed? Will the artwork be replaced? Will the artists be informed? Will the public be informed? (Smedley_030c)

Response 17: Most of the sculptures in BPCA's public art collection are expected to remain protected in place throughout project construction and would continue to be sited at or near their current locations upon completion of construction. This includes *The Real World*, *Sunrise/Sunset (Revolution)*, *Ulysses*, *Pylons*, *Rector Gate*, *Pavilion*, and the *Irish Hunger Memorial*, *Mother Cabrini* and *Hurricane Maria Memorials*. Pieces inland of the flood barrier system alignment are not expected to be impacted.

Waterfront Plaza, a collaboration by architect Cesar Pelli and artists Siah Armajani and Scott Burton, will be impacted by the Project. Metal railings designed by Mr. Armajani will be removed during construction to undergo repairs and will be returned to the Plaza upon completion of the Proposed Project. Certain elements designed by Mr. Burton, including the torchiere and oblong granite benches, will remain protected in place during construction. BPCA is in discussions with other public entities regarding the display of some or all the stepped seating and table elements also designed by Mr. Burton. BPCA has also remained in close contact with the late Mr. Burton's estate, which is managed by the Museum of Modern Art, regarding these efforts.

Given the alignment of the proposed flood barrier system, as well as the space required to operate, inspect and maintain it, the Upper Room cannot remain in its current location. Based on conversations with the artist, Ned Smyth, the work also cannot be moved. BPCA is in discussions regarding the future of the western terminus of Albany Street, as well as ways Mr. Smyth and other beloved public artists can contribute to Battery Park City's future. Public art has been a fixture of Battery Park City since its creation and will continue to be displayed in the newly flood resilient neighborhood.

Comment 18: Several of the buildings, also referred to as the blue lights, because it's just so pretty. And last time I was at your last meeting I had asked about the plan for the area immediately behind 50 Battery and 70 Battery. I'm very concerned that it's going to be ripped out and it's absolutely beautiful. Obviously, a lot of attention was paid to its design and it attracts tourists here all the time. Can you tell me is there a plan to redesign this area as well? Because right now it's already multilevel and already meets the form the criteria that you're looking to achieve elsewhere. (Smith_004)

Response 18: The South Cove art installation will not be modified or redesigned as part of the Proposed Project. The open space between the Hudson River and the buildings

50 Battery Place and 70 Battery Place South Cove is a beloved landscape designed as a collaboration between landscape architect Susan Child, artist Mary Miss, and architect Stan Eckstut. It includes a grove of honey locust trees, an upper path along the residential buildings and a lower path closer to the water. The Proposed Project has been designed to minimize impacts to the existing landscape to the greatest extent possible. The proposed flood barrier system is located along the back of the Cove, along the existing privacy walls along 50 and 70 Battery Place, in order to minimize this impact. Construction will unavoidably cause some impact, but the proposed design maintains the existing character within the project parameters. The 2-level split is maintained.

Ecological Enhancements

Comment 19: The DEIS discloses that in-water ecological enhancements will be implemented on bulkheads and piles in Reaches 2, 6, 7 and are still under consideration. The FEIS should finalize these enhancements. If they are not finalized by the FEIS, the Lead Agency should inform the Community Board the nature of these enhancements within 14 days of when they are determined. (Bommer_033e)

Response 19: Since the release of the DEIS, the ecological enhancement aspects of the Proposed Project have been revised. Ecological enhancements are proposed for the first two rows of piles in Reaches 2 and 6. They consist of precast pile encasement with custom ecological formliner texture and ecologically enhanced concrete. Other ecological enhancements would be made to the new replacement bulkhead (seawall) within Reaches 2, 4 and 6.

Upland enhancements are also proposed to expanded vegetation diversity and in doing so avian habitat opportunities, and any such ecological enhancements would be completed prior to the completion of the Proposed Project. See Chapter 3.5, Natural Resources for further information.

Comment 20: Conduct a thorough study to evaluate and incorporate the additional measures required to protect and mitigate impacts on the sanctuary. (Meltzer_042b)

Response 20: As described further below in response to **Comment 72**, and in the DEIS and this FEIS, the Proposed Project would not have any significant adverse impacts on the Hudson River Park Estuarine Sanctuary. Additional analysis was conducted between the DEIS and FEIS in response to public comments on water quality impacts to the Sanctuary, which is included in **Appendix E** of the FEIS.

Comment 21: Landscaping options need to offer food sources. The wildlife need berries and acorns. This requires oak trees and other nut bearing and fruiting trees. While your consideration of salt hardy trees is important for replacement of current

species, the food trees such as oaks that squirrels need must be readily available. (Ashkin_045i)

Response 21: As stated in the DEIS, it is a design objective of the Proposed Project to increase biodiversity within the landscaped zones of the six reaches within Battery Park City to enhance opportunities for wildlife by providing not only foraging opportunities for animals, but also creating landscape that supports and enhances the park user experience. To that end, the proposed designs will include a variety of salt tolerant oaks such as Red Oak, Swamp White Oak, and Willow Oak in the planting palette, as well as winter foraging sources, such as hawthorn and holly.

Community Engagement/Outreach/Coordination

Comment 22: The community also requests that the Battery Park City Authority schedule the promised meeting with all stakeholders to review how the project will be integrated into the city, state and federal plans that are proposed along State Route 9A. (Blank_002c)

Response 22: BPCA has held regular design progress meetings with the community, stakeholders and agencies, and will continue to do so as the current 90 percent design is advanced to a final design and construction documents. BPCA has also been closely coordinating with NYSDOT on these proposed designs and will continue to work with the relevant agencies to ensure that the project design is fully integrated with other City, state and federal plans proposed along State Route 9A/West Street and adjacent to the Proposed Project. BPCA will also work with these public agencies to provide information to the Community Board and other stakeholders when available.

Comment 23: Public engagement process. Many members of the public complained that the DEIS was not readily available for review on the BPCA website home page. It is critical that the BPCA ensure that all future updates on all aspects of this project including the posting of the FEIS be readily accessible on the BPCA home page. (Bommer_033hhh)

Response 23: BPCA endeavors to provide all project information on its website related to the Proposed Project in a timely manner. The DEIS was posted on the website in its entirety on August 28, 2024. Notification of its publication was also shared with local elected officials and the Community Board. BPCA will continue to communicate more broadly about project information moving forward including the publication of the FEIS and the Statement of Findings.

Comment 24: Construction air quality and noise monitor data should be publicly accessible in real time. (Bogumil_038d)

Response 24: As stated in the DEIS (page 3.11.1-9), as part of the Proposed Project, BPCA will specify that the contractor have a Community Engagement Manager (CEM) who will be the primary point of contact for all public involvement related interfaces between the Progressive Design-Builder and external stakeholders during the entire construction period and will serve as a point of contact for the community and local representatives for the purposes of addressing any concerns, problems and issues that arise during the construction of the Proposed Project. The CEM would maintain a webpage with access to up-to-date information on the status of the Proposed Project and the project construction status, including construction air quality and noise data, street closures, public area restrictions and planned construction hours.

Comment 25: Overall, the DEIS addresses many of the comments previously raised by HRPT, beginning with BPCA's early planning of the Proposed Project several years ago and continuing through current planning meetings with respect to construction that would occur within Hudson River Park and within the Park's Estuarine Sanctuary. HRPT is an involved agency and, as acknowledged in the DEIS, BPCA will need a construction permit from HRPT for the work proposed in the southern portion of Hudson River Park – on both land and in the Estuarine Sanctuary. As currently contemplated, an easement will also be required for BPCA's permanent use of a portion of the Sanctuary area and for certain below-ground infrastructure in Hudson River Park and required for the Proposed Project. HRPT writes these comments to reiterate previously discussed commitments required of BPCA, including mitigation of impacts where feasible, that should be reflected in the final design of the Proposed Project as well as in the corresponding permits and approvals needed from various other involved agencies for construction and operation of the Proposed Project. (Atterbury_031a)

Response 25: The DEIS provided a description of the project permits and approvals in Chapter 1.0, "Project Description," which included HRPT as an involved agency under section 1.0.5.2, State of New York approvals. The references in the above comment of construction permits and property access approvals from HRPT for permanent structures were identified in that description of approvals. BPCA will continue to work closely with HRPT to coordinate any construction activities adjacent to and within HRP and, as noted in Chapter 4.0, "Mitigation," as mitigation for temporary open space impacts during construction, BPCA would make a contribution to the construction cost of the Estuarium, an environmental education center devoted to marine education.

Comment 26: Chapter 3.11.1 on Construction also acknowledges that BPCA and its community liaisons will need to work closely with HRPT during construction, particularly related to utility replacement and other disturbances that will affect HRP's operations temporarily. Nonetheless, BPCA has acknowledged to HRPT that HRP patrons will likely have to endure four to five years of construction in this area in order to construct the Proposed Project. In addition, the Proposed Project will result in permanent impacts to the southern portion of HRP that may affect HRPT's decisions regarding the future use and design of the southern portion of HRP. That said, HRPT also understands the difficult decisions required to balance the impacts to the Park's many users, as well as the residents, businesses and cultural and educational institutions located within and adjacent to Battery Park City with the important long-term goal of protecting lives and property from future storm surge events. (Atterbury_031c)

Response 26: As stated above, BPCA will continue to engage in design coordination with HRPT through the completion of the final design package to optimize the interconnection of these two important waterfront open spaces.

Comment 27: HRPT acknowledges that some of the concerns it has raised above and in earlier meetings are best addressed as part of the final design and permitting processes. First, as noted above, HRPT requests to be engaged in the detour plans for the adjacent bikeway and pedestrian accessways when BPCA seeks permits with NYSDOT; HRPT requests to be engaged when BPCA learns of the DEP requirements for the new proposed pump station, particularly as related to the infrastructure to be located in HRP; and HRPT requests to be engaged in the final designs related to the expanded walkway connecting the two parks. Second, plans for long term maintenance and compensation related to BPCA's encroachment into HRP must be addressed in the future easement to be issued by New York State and the construction permit to be issued by HRPT. As BPCA expects to begin construction in late 2025, it is important that the engagement and negotiations begin now so that the permits with planned mitigation that protect HRP are all in place in a timely manner. (Atterbury_031e)

Response 27: BPCA acknowledges the importance of design and construction coordination between BPCA and HRPT given that the BPC North Esplanade and Hudson River Park interconnect and that infrastructure improvements related to the proposed pump station are also proposed within HRPT. BPCA will continue to coordinate with HRPT the design and construction of the Proposed Project, as well as related maintenance obligations. With respect to construction coordination, it is the objective of BPCA to minimize impacts and conflicts on cyclist and pedestrian connections along the important greenway and maintaining accessibility. Construction permit applications with HRPT will take into account detours that

impact or abut HRPT property and BPCA and its PDB team will coordinate outreach to HRPT through BPCA prior to submission of the permit applications.

Comment 28:

Why take your time to read, let alone write a critique of a much needed, multibillion dollar public works project that, realistically, will not now be fundamentally altered? There are relatively minor, yet consequential design issues which have been repeatedly glossed over in BPCA NWBPCR presentations. Design choices that could easily be revised under pressure from well informed public feedback. However, as outlined below, BPCA 30%, 40%, and 60% design, as well as DEIS presentations have been carefully stage-managed to limit public engagement.

[BPCA NWBPCR DEIS Critique RJBogumil.pdf attached: 7 pages with 8 figures: also attached for convenient reference: BPCA NWBPCR 20240620 Presentation Critique RJBogumil.pdf NWBPCR_30%_Critique_rjbogumil.pdf] (Bogumil_038a)

Response 28:

There has been extensive outreach and design coordination with the community that has included a robust public engagement dialogue that began in 2021. Since that time, BPCA has hosted over two dozen public engagement opportunities and over three dozen meetings with individual stakeholders. As a result of these engagements, many design approaches have been adjusted and refined to reflect public comment and feedback. This includes designs related to Pumphouse Park, the Ferry Terminal, the State Route 9A/West Street alignment, Rockefeller Park and Playground and the South Esplanade, among others. BPCA has also made changes to seating and other site materials based directly on community feedback. BPCA will continue this outreach in the upcoming months for the purposes of integrating community input to the final design.

Project Costs and Financing**Comment 29:**

Overall, this is not equitable to the citizens of BPC. I do not support this project as BPC is largely elevated (and buildings were significantly impacted by Sandy) and I do not feel the cost (paid for by our PILOT taxes), quality of life disruptions, and impact on home values and liquidity are justified. To my knowledge there is no data on the increase in elevation and added protection at specific locales, so the marginal benefits are unclear while the marginal cost is enormous, both in terms of impact to the neighborhood as specified in your report, as direct financial costs. (Wolfe_027)

Response 29:

As stated in the DEIS, the Proposed Project has been designed to connect to the SBPCR Project on the south and the two projects together will provide comprehensive flood protection from a design storm for the entirety of Battery Park City and the immediately inland streets, infrastructure, and properties. The

benefits of the Proposed Project as it relates to flood protection are shown in DEIS see Figures 1-5 and 1-6.

The benefits of the BPC resiliency projects significantly outweigh the costs. The projects fortify the investments of private property owners within Battery Park City (BPC) spanning 42 buildings that include residential condominium, residential rental, commercial properties and publicly owned buildings, including schools, a marina, and a museum. The BPC resiliency projects also protect the investments of private property owners in parts of Lower Manhattan beyond BPC that fall within the Protected Areas of both projects, which span 63 buildings that include residential condominium, rental, and single-family homes, commercial properties, and recreational facilities and are home to approximately 25,000 residents. Without the projects, worsening storm surge will increase the frequency and severity of ground floor flooding and building-wide electrical outages to residents that live in the Protected Areas. When a property is damaged from flooding, people can be displaced, which can lead to relocation and rental costs for the period of time the damaged property undergoes rehabilitation. Some residents may not experience direct damage to their homes, but may still experience loss of utilities or a need to seek short-term shelter due to barriers to accessing their living quarters. After completion of the NWBPCR project, FEMA will certify the project and approve a modified flood plain that is expected to remove all buildings in the Protected Area from the 100-year flood plain. After FEMA certification, decreased flood insurance premiums would accrue directly to property owners. These savings would improve the property owner's annual net operating income and address a known source of financial uncertainty (i.e., rising flood insurance costs) on the owners' balance sheets.

Comment 30: Part of the action involves changes to property controlled by Hudson River Park Trust (HRPT). Please explain whose responsibility it will be to maintain and pay for the upkeep of the improvements on HRPT land. (Bommer_033c)

Response 30: As stated above, BPCA will continue to work with HRPT on finalizing the design and permitting of the Proposed Project and determine future maintenance obligations.

Comment 31: Long-term Funding Commitment. The HRPT seeks a commitment from BPCA for long-term funding to be provided to the Hudson River Park Trust to ensure adequate maintenance of the new structures. (Meltzer_042b)

Response 31: HRPT will not be required to maintain any structures associated with the Proposed Project.

Other Design Issues

Comment 32: The City Club, Hudson River Park Advisory Council, Community Boards 1 and 2, and all the elected officials on Manhattan's West side have requested that the US Army Corps of Engineers develop a more comprehensive approach to resiliency in Hudson River Park as an alternative to a 12-foot wall from Battery Park City to West 36th Street, which was included in their Harbor and Tributaries Study (HATS) proposals. (Miller_032e)

Response 32: Comment noted. As relates to the HATS study, the Proposed Project will be operational in early 2031, well in advance of any area-wide protection measures that would ultimately be advanced as part of the HATS study.

Comment 33: Please provide details about the Operations Manual: which agencies it applies to depending on the locations/reach and which access agreements to certain properties are still required to implement a functional maintenance plan. Additional information in the FEIS on operations should include how the barriers get deployed, what organization or agencies have responsibility, and what are the expectations in terms of operations and maintenance. (Bommer_033b)

Response 33: BPCA has developed a draft Emergency Response Plan (ERP), an appendix within the Operations and Maintenance (O&M) Manual required by FEMA, which will provide detailed closure and opening sequence tables for all gates and deployables and a complete timeline matrix outlining responsible agencies and coordination. In addition, the ERP will contain detailed drawings outlining ingress and egress points during deployment and opening. Regarding emergency operations, the ERP will include a Responsibility Accountable Consulted and Informed (RACI) Matrix that outlines all related agencies and their level of responsibilities. The access agreements will vary for certain properties and will be subject to further discussion with property owners as part of the implementation phase.

Comment 34: The proposed flood walls may interfere with evacuation and emergency response. Nearly 3,000 people live at Independence Plaza, including roughly 900 on 80 N. Moore Street. Many of these residents are seniors and a significant number have limited mobility. During a fire or other emergency that requires evacuation, they need to be able to exit efficiently and rapidly move away from the building. In past emergency situations, we have seen that any narrowing of egress pathways hindered residents' ability to safely and quickly move away from the building. (Rubinstein_035)

The proposed floodwall design appears to create additional choke points that could slow evacuation and may also prevent firefighters, EMS, and other

emergency personnel from reaching the building quickly or positioning themselves in the ideal places on the street to respond during an emergency. (Rubinstein_035)

Response 34:

As part of the design advancement since the DEIS, BPCA coordinated with Independence Plaza and the Borough of Manhattan Community College (BMCC) to address design details along the interface of the proposed flood barrier system with the property frontages along North Moore Street, Harrison Street and State Route 9A. As a result of that design outreach, this FEIS analyzes an updated design option for North Moore Street that would include widening the sidewalk by approximately 9 feet to allow additional circulation space for pedestrians and operational space for Independence Plaza functions. This will also provide more space for evacuation than currently exists. During a declared flood emergency, adequate time for evacuation will be provided before the street and sidewalk gates are closed. BPCA is evaluating individual building egress needs and coordinating with FDNY and individual buildings regarding access to hydrants and building access both during construction and deployment during a storm. As noted above, BPCA has developed a draft ERP, which will be finalized based on input from NYCEM and other agencies having jurisdiction during evacuation.

Comment 35:

Please be considerate about multiple disability issues. I would be pleased to help you meet to discuss the issues with persons of various disabilities. (Lipsky_028)

Response 35:

It is one of the project goals to preserve and enhance to the greatest extent possible the character, accessibility, including universal access, and design aesthetic of the neighborhood and its interface with the Battery Park City waterfront with access to coastal view sheds, particularly views of the Hudson River, New York Harbor, and the Statue of Liberty (see DEIS page 1-5). Universal design and accessibility have guided the design development of the flood barrier system -- in many instances, the Proposed Project allows for greater accessibility and inclusivity than existing conditions. This design coordination with the community is expected to continue through the final design process.

Comment 36:

I'm concerned about the businesses, including the restaurants in the marina area and how they will be impacted if they stay open. (Greenwald_013)

Response 36:

While the open access around the North Cove area that is available today would need to be temporarily closed for construction, Brookfield Properties has been a key stakeholder in the design process and has been working with the design team on the Reach 5 phasing and implementation with the objective of minimizing the impacts to accessibility and the related effects on businesses and the marina area during construction. While outdoor terraces and the Esplanade would have periods of closure, the interior spaces would be able to remain open throughout

the duration of construction. During the platform demolition and reconstruction phases in front of the Winter Garden and in the Pump House Park area, the plaza would not be available to the public other than via two egress pathways: from the Winter Garden North egress door towards North End Avenue and between the Winter Garden's south entrance door facing south under the overhang through Brookfield Place towards South End Avenue.

State Environmental Quality Review Act (SEQR) Process General Comments

Comment 37: What I don't understand is how are we doing any work, like the work that's being done right now at Archer Place or to prep for the pump, when we don't even have a final Environmental Impact Statement? I don't understand all the legalities, but I would think that we shouldn't have gone forward with the work now, until we have a Final Environmental Impact Statement for the whole project. (Ashkin_009)

Response 37: The construction currently underway on Rector Place is part of the South Battery Park City Resiliency Project.

As described in the SBPCR FEIS issued in October 2022, the work includes installation of a tide gate chamber at an existing separate municipal storm sewer (MS4) overflow (another tide gate is being constructed at 1st Place, within the SBPCR worksite, and doesn't include any additional public closures). This interior drainage solution was arrived at collaboratively between BPCA and the NYCDEP and was preferred by community members since it obviated the need for the construction of two approximately 750 sf at-grade control houses in or adjacent to the neighborhood. The Rector Place tide gate chamber work was completed in March 2025.

No work has started on the project elements that are examined in this FEIS.

10.3 SEQR/CEQR Technical Areas of Analysis

Land Use, Zoning, and Public Policy

Comment 38: Consistency with all federal, state, city and BPCA plans: The DEIS claims that the Proposed Project is consistent with the Battery Park City Master Plan and the Battery Park City Sustainability Plan/Sustainability Implementation Plan, but it does so qualitatively and simply asserts that it is consistent. The FEIS should provide details regarding how the Proposed Project is consistent with the Master Plan, the Sustainability Plan and its Implementation Plan. These details should include data that demonstrates the consistency that is asserted. The FEIS should provide details describing the Proposed Project's consistency with all federal, state and city plans for this area, including all plans for State Route 9A. This

information should be added to Table 3.1-2, Summary of Public Policies and Project Compliance. (Bommer_033h)

Response 38: Table 3.1-2 provides a full listing of the applicable policies and Appendix C includes a more expanded discussion of the policies related to the City and State Waterfront Revitalization Plan coastal policies and State policies related to Smart Growth. As described in the DEIS Table 3.1-2 and in those appendices, the Proposed Project supports the resiliency efforts of the City and State and includes measures to minimize and mitigate impacts where they have been identified (i.e., water quality and wetlands). The WRP Consistency Assessment Form (CAF) provides a detailed assessment of the Proposed Project's consistency with New York City's WRP (WRP #24-106), and NYCDP's Climate and Sustainability Division approved the WRP CAF (WRP #24-106) on November 19, 2024. Both documents are included in Appendix C, "NYC Waterfront Revitalization Program Review and NYSDOS Coastal Program Review."

Open Space

Comment 39: Mooring Area Protection. The proposed structure overlaps with the mooring area, which the HPRT believes would reduce public access and benefit. Any reduction in mooring spaces is unacceptable. (Meltzer_042b)

Response 39: Although the mooring field will need to be closed during construction of the Proposed Project, once construction is completed, the proposed 6-foot widening of the Esplanade would not have any impact on the HPRT mooring field operations. The proposed extension would, however, expand the opportunity for public access on the BPC North Esplanade and provide the opportunity for enhanced use of this space.

Comment 40: The FEIS should demonstrate how the proposed actions change the usability of the open space. It should discuss how the space is used now, how it will be used in the future, and the difference between how the spaces can and will be used. (Bommer_033j)

Response 40: As described in DEIS Chapter 3.2, "Open Space," the Proposed Project would not change the overall acreage of the open space resources. With the Proposed Project these open spaces would remain largely restored to their current sizes with enhanced landscaping.

Comment 41: How will the change in the number and location of trees impact the shading and usability of the open space? The Proposed Project will remove 420 trees and replace them by planting approximately 390 new trees and potentially replanting approximately 17 existing trees. The FEIS should provide a table detailing the size

of trees being removed compared with the size of their replacement trees. The table should show both existing and proposed tree sizes and species. If replacement trees are not of the same size/species, the FEIS should disclose how long it will take before the replacement trees grow to the size of the trees being removed. The FEIS should make clear how many of the 420 trees being removed will be demolished, and if re-used, where. (Bommer_033k)

Response 41:

As described above in **Response 1**, since the release of the DEIS, the planting design has been revised: 435 trees are planned to be removed, 17 of which are candidates for transplants, and 450 trees are proposed to be planted. BPCA and the design team are proposing a variety of tree species of various sizes to be planted when construction is completed. If possible, trees may be planted sooner, upon completion of a given reach. Proposed trees include a range of sizes up to 8-inch caliper, helping to improve the resilience and structural diversity of BPCA's overall canopy. Tree growth varies by species, but ranges from 12 inches to 24 inches or more in height per year. The design team is also analyzing sun/shade impacts and benefits with the proposed design with the aim of maximizing thermal comfort in public spaces. Larger or faster growing trees would be located in places where shade or thermal comfort is an immediate priority. In addition, BPCA and its design team are exploring ways to reuse material from tree clearing.

Historic and Cultural Resources**Comment 42:**

Please include the Phase 1B archeological assessment to the FEIS Appendix. (Bommer_033l)

Response 42:

The NWBPCR Phase 1A Archaeological Documentary Study and Supplemental Phase 1A Study recommended two additional phases of archaeological analysis: a geomorphological assessment of deeply buried stratigraphy and a Phase 1B Archaeological Investigation involving monitoring during construction. The geomorphological investigation involved the monitoring of borings and subsequent analysis that is still underway and it is expected that the final technical report will be issued by the fall of 2025. The results of the Phase 1B Archaeological Investigation/Monitoring will be submitted to BPCA and SHPO in the future upon the completion of that work. An Archaeological Work Plan summarizing the construction monitoring scope of work will be submitted to LPC and SHPO and must be approved prior to the start of construction.

Comment 43:

Please provide more information about how the historic bulkhead will be removed and salvaged. (Bommer_033m)

Response 43:

The site investigation has confirmed the elevation of the existing historic bulkhead and a missing section at the north esplanade. The historic bulkhead will

be exposed by manually digging when the excavation is within 2 feet of the top of the historic bulkhead. A small portion of the historic bulkhead will be removed by breaking the nearest joint and utilizing clamps to extract the granite block. Once the granite block is removed, it will be salvaged in accordance with consultations with SHPO.

Comment 44: Please include the Community Board as an interested agency in your communication with LPC and SHPO regarding the removal and salvage of the historic bulkhead. (Bommer_033n)

Response 44: BPCA is committed to continuing its outreach with the community on design and implementation issues as the Proposed Project moves forward, including those related historic resources and salvage of the small section of the historic bulkhead.

Comment 45: Please provide the Community Board a copy of the Construction Protection Plan that ensures historic architectural resources will be fully protected. (Bommer_033o)

Response 45: BPCA will provide any Construction Protection Plans to the Community Board once they have been reviewed and approved by LPC and SHPO.

Urban Design and Visual Resources

Comment 46: The DEIS includes existing conditions photographs and renderings of the proposed action in images that appear as Figures 3.4.57 through 3.4.82. These renderings are supposed to be in the same location and show the same view as the photographs, but they do not effectively communicate how the Proposed Project will impact the view from these locations. The problem is that these renderings are not photosimulations. These are entirely simulated views and many parts of the simulations look different from the existing conditions photographs even though no change is proposed on some of the components of the view. For example, consider the following images (DEIS 3.4-63). There are many technical issues with this image including: the lighting is completely different; the trees are represented in different seasons; the quality of the water changes to a color less muddy. The images should show the same time of day and season so that they can be compared. The most important thing, however, is that the proposed changes' effect on the viewpoint cannot be determined and so it can't be used to assess visual impact from this viewpoint. That's because everything changes in a simulated view, even the buildings in the background that are unaffected by the action. Purely simulated views are extremely difficult to meaningfully match to existing conditions photographs to assess an action's impact on the visual resources. What does the action do to this view? The viewer

cannot know because they cannot know if the change is due to the action or the change is because it is simply a simulated view. None of these images should be used by the public to assess the impacts on visual resources. The FEIS should include photo simulations that are verifiable, where an existing conditions photograph is altered so that it reflects only the changes that are proposed by the action. Verifiable photo simulations will demonstrate if views to the Hudson River will be obstructed or not. The text says that “Views of the Hudson River, Hudson River vista, and the Statue of Liberty National Monument with Ellis Island would be largely unaffected by the Proposed Project.” That should be demonstrated with data through photosimulation. Photosimulations should be done representing reasonable worst-case conditions (e.g. leaf-off). Attached to this document are several annotated images from this section that explain the issues with the images in this section. All of the simulated views should be replaced. (Bommer_033p)

Response 46:

The Urban Design and Visual Resources assessment in the EIS was prepared following the 2021 *City Environmental Quality Review (CEQR) Technical Manual* methodologies, and it incorporated the guidance of the New York State Department of Environmental Conservation (NYSDEC) Assessing and Mitigating Visual and Aesthetic Impacts policy memorandum (DEP-00-2, issued 7/31/00, revised 12/13/19). Neither guidance document requires the use of photosimulations for a visual impacts assessment. The *CEQR Technical Manual* only requires the preparation of sketches or renderings of the future With-Action condition for each existing view, and the DEC guidelines recommend at minimum the creation of a line-of-sight profile, with photo simulations or “other industry accepted visual simulation techniques.” The illustrative renderings prepared for the urban design and visual resources assessment in the EIS meet industry standards and are typical of imagery used in CEQR environmental review documents. Further, contrary to the comment, the illustrative renderings used in the urban design and visual resources assessment provide accurate comparisons of No Action and With Action views. Finally, the EIS provides multiple comparative views to the Hudson River to assess whether views to the Hudson River would be obstructed (see Figures 3.4-61, 65, 66 67, 76, 78, and 79). The illustrative visuals provided in the DEIS and updated in the FEIS are aligned with industry best practices and have been created with 3D rendering software that provides the viewer an example of what the final condition of the public realm might look like based on the design at its DEIS 60 percent development phase. For this FEIS, these images have been updated to reflect the 90 percent level of design, as well as the tree replacement described above. The renderings illustrate elements of the proposed design from various vantage points and are not intended to depict lighting at various times of the day or season.

Impacts to North Cove Marina would be minimal, and the overall appearance and extent of the marina would be unchanged with the Proposed Project. Figure 3.4-72 in the FEIS provides a No Action and With Action view to the marina from the portion of North Cove adjacent to Brookfield Place.

Comment 47: Environmental review documentation is for the assessment and disclosure of environmental impacts, not illustration. All the images in this section include the disclaimer “For Illustrative Purposes Only.” None of them should have that disclaimer. This is a document that is being used by the public to assess the impact of the project. If the Lead Agency cannot say that these images are accurate, reflecting the project as proposed, then the images shouldn’t be included in the FEIS. Inaccurate renderings that are only illustrative in nature might mislead the public. The FEIS should replace all the images disclosing visual impacts and replace them with verifiable digital photomontages that demonstrate existing and proposed conditions so that this inappropriate disclaimer can be removed. (Bommer_033r)

Response 47: As stated above, the Urban Design and Visual Resources assessment in the DEIS was prepared following the 2021 *City Environmental Quality Review (CEQR) Technical Manual* methodologies and incorporates the guidance of the NYSDEC Assessing and Mitigating Visual and Aesthetic Impacts policy memorandum (DEP-00-2, issued 7/31/00, revised 12/13/19). Neither guidance document requires or specifies the use of photosimulations for a visual impacts assessment and as described above the visual 3D imagery is an industry standard acceptable practice for providing project design imagery.

Comment 48: Public Art. The DEIS notes the many existing public art works throughout the Project Area. The impact of the Project on public art is only described in vague terms. For example, regarding the public art in Reach 6, the DEIS states, “The Proposed Project may affect some of the public art located along the Esplanade pending ongoing discussions with BPCA.” The DEIS then notes that the Upper Room will be decommissioned. Notwithstanding the loss of this large piece of well-loved and well-used public art, the DEIS concludes that the Project would not result in a significant adverse impact on urban design and visual resources in Reach 6. CB1 disagrees with this conclusion. Mitigation measures for the loss of the Upper Room and for adverse impacts on any other public art should be addressed in the FEIS. The FEIS must confirm that the BPCA has met all requirements as set forth in the Visual Artists Rights Act of 1990 (VARA) and that all artists and if deceased, their estates have been contacted and have agreed to the proposed modifications to the public art. (Bommer_033s)

Response 48:

Removal of the Upper Room would not result in a significant adverse impact to the Battery Park City Esplanade, which runs the entire length of Battery Park City's Hudson River waterfront from Stuyvesant High School and Hudson River Park on the north to Pier A at the south. While it would remove the Upper Room, the Proposed Project would retain multiple other public artworks along the length of the Esplanade, while providing the opportunity for new artworks, and the Esplanade would maintain the character of a public waterfront esplanade with two levels, seating, trees and landscaping, and public art. BPCA has coordinated and will continue to coordinate with the relevant artists and their estates as the design is finalized and the Proposed Project progresses and will comply with the requirements of VARA as applicable.

Comment 49:

Shadow Impacts. Even if BPCA's Reach 6 wall would not block Battery Park Montessori's (BPM) courtyard egress, BPCA's current Reach 6 design would almost certainly block BPM's views and access to sunlight on the west side of BPM's space by placing nondeployable, seven-foot wall along the outside edge of BPM's courtyard. As a Montessori program, BPM is dismayed by this design choice. The Montessori method emphasizes learning through nature and views the classroom environment as a key component of a Montessori curriculum. To this end, BPM has taken great care to design an airy, light-filled physical space that connects BPM's children to nature through outdoor play areas, river views, and access to sunlight; and BPM uses these natural elements of its physical space to inform its program. Blocking BPM's entire western exposure would significantly change the feel and function of BPM's carefully designed, light-maximizing space, and the DEIS does not appear to analyze these impacts of BPCA's design choice. Additional information would be helpful to understand BPCA's decision-making process, and to determine whether other design alternatives might be possible. For example:

The DEIS describes BPCA's proposed Reach 6 wall as either running parallel to or replacing "the existing masonry wall" that borders BPM. Has BPCA considered that the portion of the existing privacy wall that is visible from BPM's windows is not masonry, but rather wrought iron fence, which does not obstruct BPM's west-facing views or access to sunlight?

Has BPCA considered that BPM's classroom areas must meet minimum natural light level requirements? Or that insufficient exposure to natural light may be detrimental to infants' and young children's visual acuity and brain development?

Has BPCA considered that replacing the existing privacy wall with a solid, seven-foot-high wall would completely block BPM's west-facing views and obstruct BPM's classroom area's access to sunlight?

Has BPCA considered that replacing the existing privacy wall with a solid, seven-foot-high wall would significantly darken BPM's courtyard play area?

Has BPCA considered that BPM is a sunlight-sensitive resource because its views and sun-filled physical space are part and parcel of BPM's Montessori curriculum? Or that BPM's courtyard play area is a sunlight-sensitive feature of BPM?

Has BPCA considered that blocking BPM's west-facing views and access to sunlight would change the feel and function of BPM's classroom and outdoor space?

BPCA has issued environmental guidelines that direct Battery Park City's commercial tenants to "maximize access to daylight and views to the outdoors" and "whenever possible integrate indoor space with the outside environment." Has BPCA considered that BPCA's proposed use of a nondeployable wall along BPM's west-facing courtyard is inconsistent with these guidelines?

Has BPCA considered Reach 6 design alternatives, such as deployable gates, that would maintain BPM's west-facing views and access to sunlight? If so, what? (Montessori_049)

Response 49:

BPCA guidelines encourage designs that maximize natural light where possible, and the Proposed Project maximizes natural light to the extent feasible while providing the storm protection required at this location. Based on the coastal modeling undertaken by the project team, a passive floodwall is required in this location to protect against wave action and floating debris (including vessels) during a design storm event. While the views from the west-facing first-floor windows and courtyard would be obscured, given the distance between the wall and the building, as well as the height of the first-floor windows, the exterior and interior areas on the western side of the facility would still receive sunlight. The wall on the southern side of the facility includes deployable elements, which reduces the height of the permanent wall to 9.7 feet and retains views from this side of the building. BPM would continue to receive sunlight in its facility and, even if the amount of direct sunlight would be reduced at certain times of the day, the NYC Department of Health and Mental Hygiene's regulations applicable to child-care programs allow lighting requirements to be met with interior lighting. Potential impacts to BPM's design aesthetic and/or educational philosophy are not subjects of SEQRA review. Building interiors that are State/National Register listed or eligible, or LPC designated, are included in the types of resources analyzed for potential shadow impacts. All other interiors are not considered under this type of analysis and are not subject to SEQRA or CEQR review. Additionally, private open spaces are not considered to be sunlight sensitive resources and therefore an assessment for shadows impacts is not warranted. Open space that is not publicly accessible or restricts public

accessibility to a limited number of users (e.g., requiring membership) and/or is not publicly available on a regular and constant basis, is defined as “private.”

Natural Resources

Comment 50:

I want to make a comment about the wildlife because of course nobody speaks about the wildlife. And I’m very concerned about what’s going to happen to the animals that live here when we take away every tree that they need, all the food sources that they need, all the areas that they need to either bury or find food. What are we going to do? We have many squirrels and of course tons of birds. Birds hopefully they can fly off and find other places to nest. Squirrels have no place to go. I don’t know who else lives here, but certainly we have squirrels. And while people may not care about squirrels when they say they’re just squirrels, they’re living beings. They are our wildlife. They gave many of us solace after 911 when they finally returned. And we have no -- we have, sort of, a moral obligation I think, not to destroy everything. There are ways we can mitigate some of this for them. (Ashkin_009)

Response 50:

As stated on page 3.5-29 of the DEIS, the transplanted and replacement trees, as well as newly planted shrubs and herbaceous native plants proposed as part of the post-construction landscaping, would provide habitat and foraging opportunities for migratory and resident bird species. The proposed planting design is consistent with the Battery Park City Sustainability Plan and its goal to maintain and enhance Battery Park City’s rich biodiversity and habitats. Human activity and noise would not increase with the Proposed Project when compared to the No Action condition. Therefore, it is concluded that the Proposed Project would not result in any significant adverse impacts to migratory or resident bird species that may use the Project Area or are present within the Study Area.

Terrestrial mammals of the Study Area are urban-adapted disturbance-tolerant species and there would be no change in noise or the intensity of human activity at project completion. In addition, the implementation of post-construction planting would restore and improve any potential habitat temporarily disturbed by the Proposed Project, consistent with the goals of the Battery Park City Sustainability Plan. Therefore, it is concluded that the Proposed Project would not result in any significant adverse impacts to wildlife.

Comment 51:

The FEIS should provide a tree survey identifying every tree to be removed, the species and condition of the tree, and the diameter of the tree trunk at 4.5 feet above the ground (e.g. DBH). The survey should display the data via a table and on a plan that individually identifies each tree surveyed. This survey should not only be part of the FEIS, but should be used by the applicant in its outer-facing communication with the public to identify the trees that will be removed and

when they will be removed. An example of a similar public-facing map to fully demonstrate the impact of tree removal and replacement can be found here: <https://tree-map.nycgovparks.org/>. The table with the results of the tree survey should link back to the map of the tree survey. The tree survey table should detail each tree and its removal's impact on shade, visual resources and open space. This table should include each tree, size, species, the impact of removal, eligibility for FEMA variance, as well as identifiers that tie each tree back to the tree survey map. Identify areas eligible for FEMA variances for trees within 15 feet of the barrier. Provide application for FEMA variance for Community Board comment (see Variance Alternative). (Bommer_033v)

Response 51:

BPCA will provide the Community Board with detailed drawings and landscape plans depicting the trees to be removed and those to be replaced within the Project Area once the design is finalized. See the above responses addressing tree removals and tree planting with the Proposed Project. Please refer to BPCA's recently released Tree Plotter online tool for specific species and size information on the existing trees, found at this link: <https://pg-cloud.com/BPCA/>

Comment 52:

Everyone wants improved interior drainage, but protecting against climate change must also be about protecting existing mature trees which are vital to preventing and protecting against climate impacts.

In the documents shared related to the Project, it was difficult to count all the trees you are proposing to remove. I counted just south of 200 trees. Is that accurate? I also noticed that there is no new wall in front of "penny park" and the hurricane maria statue, but you are able to leverage the existing wall. Is that correct?

Are you able to have pictures and fly throughs that show what the pictures will look like 1-5 years after the Proposed Project. Many look like more mature trees. Lastly, where can I find the analysis done by tree? I saw the tree mapping tool, which I am glad to see finally for Battery Park, but it would be helpful to see the details behind the assessment on which trees need to be moved or removed. (Erez_017)

Response 52:

See the response to **Comment 1** with respect to tree impacts. BPCA and the design team agree that protection of existing mature trees is of great importance and is aiming to protect as many existing mature trees as possible while taking into consideration the construction and operational needs of the flood barrier system. Tree protection measures will be taken where appropriate.

Regarding the area between the Pavilion by Demetri Porphyrios and the Hurricane Maria Memorial, the existing ground elevation in the area between Warren Street and Chambers Street is high enough that this area would not be at

risk of flooding during the design storm event, even in the absence of the Proposed Project. Flood modeling and geotechnical investigations, including a seepage analysis, have shown that this area does not require any flood protection measures; therefore, no flood barrier is proposed in this area. The existing wall will not perform any flood protection function, as it is not designed for that purpose.

With respect to the visualizations of trees, the figures included in the DEIS are intended to illustrate the urban design and landscape conditions after the Proposed Project is completed without a specific time horizon. As part of the planting strategy, tree growth has been considered, and species that grow faster were selected where appropriate to provide a sense of fuller canopy in a shorter timeframe after the completion of the Proposed Project, while balancing other planting goals (biodiversity, species and age diversity in trees, blooming seasons, etc.).

Hazardous Materials

Comment 53: The DEIS discloses that sampling shows higher than standard levels of mercury, arsenic, chloroform, dissolved metals and possible direct contact, inhalation, and ingestion by construction workers and the community. It also discloses manners in which contaminated soil will be handled. Landscaped areas will be covered with a “soil cap” of imported clean soil. A demarcation barrier will also be installed at the bottom and slopes of the excavation, which would identify the boundary between remaining subsurface materials and imported clean fill. Considering the presence of existing contamination, and the impacts of 9/11 on the area, there is concern regarding the adequacy of the Remedial Action Plan and the Construction Health and Safety Plan (RAP/CHASP) and whether the plans will be sufficient to protect the community. (Bommer_033w)

Response 53: The RAP and CHASP described in the DEIS were prepared in accordance with applicable local, state, and federal regulations and will provide sufficient protection to the community and environment from potential risks associated with on-site contamination. These plans have been approved by NYCDEP.

Comment 54: In addition to air quality monitoring during construction, stormwater and leachate should be sampled every 15 days and evaluated for evidence that water from the site has been in contact with the hazardous materials the plan currently proposes to cap and keep on site. Stormwater/leachate monitoring activities should be made public with the results posted online. (Bommer_033x)

Response 54: As described in Chapter 3.11.3, “Construction Natural Resources,” erosion and sediment control measures that would be implemented to prevent discharge of

materials into wetlands and the Hudson River during construction include the installation of a stabilized construction entrance and temporary construction staging areas; installation of silt fencing on the downgradient side of the temporary staging areas and prior to upgradient soil disturbances; the use of construction fencing and vegetation protection fencing as needed; the use of temporary concrete washouts and wheel washes for concrete work prior to concrete production and distribution activities; the installation of inlet protection around stormwater inlets; the stabilization of soils and stockpiles of soil and tree remains; the installation and use of sediment trapping devices as needed; the use of dust control as needed; and the restoration of all non-vegetated surfaces as required. All erosion and sediment control practices would be maintained, operational, and effective and inspected daily by a trained contractor and a Qualified Inspector designated by the Construction Manager. There would not be any leachate generated by the Proposed Project; therefore, leaching monitoring would not be needed.

Potential for Airborne Contaminants

Comment 55: BPM is concerned that if it remains in its current space, BPCA's proposed construction work in Reaches 6 and 7 will endanger BPM's infants and children by exposing them to harmful amounts of fugitive dust and particulate matter. Although BPCA has proposed some mitigation measures, further information would be helpful to determine whether additional safeguards may be needed to protect BPM's infants and young children.

As noted in our December 17 letter, BPCA's analysis of soil samples taken near BPM identified excessive levels of lead, PCBs, and SVOCs, exposure to which may cause negative health consequences for infants and young children. Has BPCA analyzed the likelihood that areas of Reaches 6 and 7 near BPM may also contain these dangerous contaminants?

How does BPCA plan to monitor ambient air quality during construction work? Does BPCA plan to use TST Dust Trak aerosol monitors to monitor ambient air quality for PM-2.5 or PM- 10 particles in real time? What about VOCs?

Does BPCA intend to monitor ambient air quality near BPM? Or have a plan for notifying BPM of exceedances. Does BPCA have a plan for notifying BPM of nuisance dust emissions?

BPCA's Remedial Action Plan ("RAP") states that if nuisance dust emissions are identified, work will be halted and will not resume until all nuisance dust emissions have been abated. What qualifies as a nuisance dust emission under the RAP? Does this standard take child- specific sensitivities into account?

Response 55:

Does BPCA have a plan for notifying BPM of nuisance dust emissions? Apart from identifying nuisance emissions, does BPCA have any other plan for monitoring fugitive dust migration? If so, what? (Montessori_049) With respect to particles and/or contaminants, controlling dust from leaving the construction site is a key strategy for reducing impact to surrounding areas. The RAP details these required dust control measures, including the establishment of a controlled work area (i.e., perimeter security fence and wind/sound screen), the use of water to suppress dust and/or fugitive dust during disturbance activities and exercising care during dry and high-wind periods, including potentially stopping work. In addition, construction equipment that meets EPA's stringent Tier 4 emissions standards would be used to minimize air emissions.

The contractor will implement the NYCDEP-approved CAMP, which also meets the requirements of the NYSDEC's DER-10 Appendix 1B (Fugitive Dust and Particulate Monitoring)). Per the CAMP requirements, air monitoring for both total volatile organic compounds (VOCs) and particulate matter will be conducted upwind and downwind of the work area to ensure that significant dust is not escaping into the surrounding neighborhood with parameters set and calibrated for VOCs in parts-per-million (ppm) and Particulate Matter (PM) at 10 micron (μm) diameter (PM_{10}). Real-time air monitoring will use devices equipped with a wind meter and capable of comparing to action levels identified in the CAMP, and outlined below:

- VOC Action Levels: The CAMP sets forth the response actions to be taken if the 15-minute average concentrations above 5 ppm.
- PM_{10} Action Levels: The CAMP sets forth the response actions to be taken if the 15-minute average concentration is above $100 \mu\text{g}/\text{m}^3$.

In addition, the DEIS and FEIS specifically analyzed whether the construction of the Proposed Project would result in violations of the National Ambient Air Quality Standards (NAAQS), which were established by EPA to protect public health with an adequate margin of safety, including the health of people most at risk from exposure to specific air pollutants.

As explained in Chapter 3.11, "Construction," with the implementation of the various emission reduction measures to be employed during construction of the Proposed Project, the dispersion modeling analysis of construction-related air emissions for both non-road and on-road sources determined that particulate matter ($\text{PM}_{2.5}$ and PM_{10}) and VOCs, annual average nitrogen dioxide (NO_2), and carbon monoxide (CO) concentrations would be below their corresponding de minimis thresholds or National Air Quality Ambient Standards (NAAQS), respectively. The Clean Air Act (CAA) requires EPA to establish primary NAAQS to

protect public health with an adequate margin of safety, including the health of people most at risk from exposure to specific air pollutants. (*USEPA Integrated Science Assessment for Particulate Matter* (December, 2019), 42 U.S. Code § 7409(b)(1)). Further, the CAA requires EPA to periodically review the NAAQS criteria to incorporate the latest scientific knowledge and “welfare-based evidence” relating to pollution sourced exposures and their (potential) causative health effects (every 5-years). These standards, as defined by EPA, are intended to provide increased protection to children, the elderly, people with pre-existing conditions, and other susceptible populations against a variety of PM related health effects. Extensive research has been done by EPA to derive standards for criteria air pollutants that are protective of the diverse population. The results of this study are published as the Integrated Science Assessment for Particulate Matter, last updated in December of 2019 and further updated with a Supplement in May of 2022. Chapter 12 of the 2019 document and Chapter 3.3.3 of the 2022 Supplement discuss the populations and life stages that may be at an increased risk of developing adverse health effects from PM exposures. This evidence was considered in EPA’s final NAAQS PM limits.

With respect to PM_{2.5}, the NAAQS sets an allowable 24-hour concentration of 35 µg/m³ and a rolling 3-year average of 9 µg/m³. In addition, New York City has established a de minimis threshold¹ below which the impacts of a project would not be considered significant. For PM_{2.5}, this threshold is a 8.4 µg/m³ 24-hour time weighted average (TWA) concentration limit. The maximum modeled levels of PM_{2.5} for the Proposed Project is 5.5 µg/m³ and should not be exceeded with the required control measures.

Nuisance dust (i.e., low hazard particles), is not a concern for the Proposed Project. OSHA has established an occupational exposure limit for respirable particles (≤10 µm, i.e. PM₁₀) of nuisance dust at 5,000 µg/m³. These particles are monitored using real-time direct-read instruments. Given that the CAMP requires that action be taken if dust levels exceed the 100 µg/m³ threshold, dust concentrations would not present a health hazard to the surrounding community. The stationary air monitoring instruments would be equipped with sensors that identify the wind direction and velocity. Each device would include an audible alarm to indicate exceedance of the designated action levels, intended to supplement and support the contractor’s continuous on-site supervision and visual monitoring. The units would also have telemetry systems that allow for remote data collection, monitoring, and reporting. If there is any reading that

¹ The 24-hour average PM_{2.5} de minimis threshold is calculated as half the difference between the background concentration and the 24-hour standard of 35 µg/m³

exceeds the stop-work threshold, the site superintendent or project manager would require that work be stopped immediately and additional dust suppression measures (e.g., wetting down exposed soil, halting work until weather conditions improve) would be implemented. Monthly air monitoring reports will be posted to the project website.

Even if soils containing lead are disturbed during construction, lead does not volatilize; thus, the only way for the public to be exposed to lead would be through dust particles containing lead-contaminated soils. Real-time air monitoring would be conducted for PM₁₀, which also functions as a surrogate for other contaminants that may be adsorbed to dust particles. This method is required for remedial sites per NYSDEC and is considered industry standard. This method is preferred to air sampling for specific contaminants, which would not provide real-time data or action alerts which are critical for allowing for early interventions during unacceptable conditions. The thresholds set forth in the CAMP are established by NYSDOH in their Generic CAMP and are also included in NYSDEC's DER-10 Appendix 1B for use on registered New York State remedial sites. These thresholds are applied by NYSDEC and NYSDOH for sites throughout the State of New York and are intended to protect all members of the public, including children.

Given the dust suppression measures that will be implemented and the air monitoring that will be undertaken to ensure that dust is not leaving the work area, there would not be any health or safety risk to the public associated with potential exposure to soil contaminants during construction. (See also Response 58.)

Further, the concentrations of chemicals present do not exceed NYSDEC Restricted Residential Soil Cleanup Objectives (SCOs), which were developed considering adult and children exposures through incidental soil ingestion, inhalation, dermal contact, and homegrown vegetable consumption. This indicates that the soil present at the site does not possess appreciable toxic characteristics as defined by DEC and is acceptable for children to contact. The justification for these criteria, including the process of their derivation, can be found in the NYSDEC Development of Soil Cleanup Objectives Technical Support Document (2020).

Comment 56:

Has BPCA considered that BPM's air conditioners or ventilation systems may provide additional pathways for fugitive dust to enter BPM's indoor classroom areas? (Montessori_049)

Response 56: BPCA and the project team are evaluating the building’s HVAC system to ensure that it can operate safely during construction and will move or mitigate intakes as necessary to protect the health and safety of the building occupants.

Hazardous Materials (Fugitive Dust)

Comment 57: Has BPCA considered that Reach 6 construction work along BPM’s perimeter may place areas where BPM’s children learn, sleep, and play in the “exclusion zone,” meaning that these areas will be considered contaminated or potentially contaminated?

Has BPCA considered that while construction workers in the exclusion zone would be required to use appropriate PPE,¹⁰ infants and young children cannot be expected to do so? Or that occupational standards are not meant to apply to infants or young children?

Has BPCA considered that what is safe for adult construction workers may not be safe for infants and young children?

Or that the standards embodied in the Restricted-Residential Soil Cleanup Objectives do not contemplate the presence of infants or young children during construction work?

Has BPCA considered that infants and young children—whose respiratory systems are still developing, and who consume more air per unit of body weight than adults—are particularly vulnerable to dust and air pollution?

Has BPCA considered that infants and young children have certain behavioral characteristics—such as crawling, playing on the floor, and putting their hands or objects in their mouths—that make them more likely to ingest dust?

Or that the breathing zone of young children is closer to the ground, where respirable particles tend to accumulate?

Has BPCA considered that there is no safe amount of lead exposure for children? Or that exposing infants and young children to PCBs and SVOCs may have negative effects on development?

If BPCA has considered the above, what plans is BPCA going to implement to mitigate the risks, particularly to the young children who will be in the vicinity?

Has BPCA considered that construction work that does not place BPM in the “exclusion zone” may nonetheless expose BPM’s infants and children to harmful fugitive dust or particulate matter?

Has BPCA considered that fugitive dust generated more than 30 feet away from BPM may still enter and settle in areas, such as BPM’s outdoor play areas, where BPM’s infants and young children may be exposed?

Has BPCA considered that water spray during active drilling may not prevent fugitive dust from entering BPM’s environment after active drilling has stopped?

Has BPCA considered that water spray may cause mud or water containing contaminated dust or dangerous material to enter BPM’s outdoor play areas? (Montessori_049)

Response 57:

BPCA engaged a team of experts to evaluate and respond to the public health concerns brought by the Battery Park community. This team included experienced scientists holding PhDs in toxicology/pharmacology, a Diplomate of the American Board of Toxicology (DABT), American Board of Industrial Hygiene (ABIH) Certified Industrial Hygienists (CIH), and a Certified Safety Professional (CSP) through the Board of Certified Safety Professionals (BCSP).

The CHASP references three exposure work zones within the construction site: the exclusion zone, contamination reduction zone, and the support zone. These terms are defined by Occupational Safety and Health Administration (OSHA) (29 CFR, 1910.120) for the purpose of protecting workers who may come into contact with contamination and preventing said workers from bringing contamination off-site by their clothing or equipment. The exclusion zone is the construction area where workers may be directly exposed to contamination; the contamination reduction zone (CRZ) is a buffer zone where materials and equipment are stored, and where decontamination of equipment and personnel would occur when required; and the CRZ is followed by the support zone. The support zone is defined as the area where administrative and other support personnel remain to regulate the activities happening in the other work zones and to oversee the operation at large.

These zones only occupy a portion of the construction site, and do not extend beyond the construction fence nor do they extend to the BPM school or access areas. Establishing three work zones and implementing the previously discussed mitigation measures, including the construction fence, collectively prevent off-site exposure to levels of dust or emissions requiring PPE. Please see the responses to **Comments 56 and 57** above with respect to dust suppression and monitoring and the potential presence of hazardous materials in soil.

Many of the contaminants found in soil can be harmful if people are exposed to sufficient quantities. Indeed, even substances like water and vitamins can be toxic in large doses. To understand whether the contaminants identified in the soil in areas surrounding the school might cause harm, the maximum potential levels of exposure were compared to health guidelines that are meant to protect people's health.

In this evaluation, the focus was on how people might breathe in dust containing these contaminants, especially during construction activities that disturb the soil. Several factors were considered when determining safe exposure limits:

- **Dose:** How much of the contaminant is present.
- **Route of Exposure:** Whether the contaminant is inhaled, absorbed through the skin, or ingested.
- **Frequency:** How often someone is exposed.
- **Population:** Who might be exposed, such as young children or pregnant women.
- **Duration:** How long the exposure lasts, which in this case is about 24 months.

Based on the highest levels of contaminants like lead, arsenic, and mercury found in the soil samples taken during the Phase II Environmental Site Assessment and presented in the RAP, the amount of these substances that might be adsorbed to the dust generating during construction would not exceed the health guidelines, even if one assumes that dust particles (PM₁₀) would remain at the maximum safe level for 8 hours a day.

The safe regulatory exposure limits for each contaminant were determined to protect the general public, including young children (ages 1–5) and pregnant women. These sensitive groups are specifically considered in EPA's NAAQS for particulate matter and lead. The EPA's Integrated Risk Information System (IRIS) provides protective limits for contaminants like chromium, mercury, arsenic, and cadmium. For other contaminants without established protective limits for children and pregnant women, the lowest available inhalation exposure limits were used. For nickel and silver, the OSHA limits were further reduced by a safety factor of 100 to ensure added protection. The conservative estimate based on the EPA's lead NAAQS was applied for essential metals copper and zinc, as these metals play an important role in the body but can still be harmful at high levels.

Worst-case estimated inhalation exposure potential was calculated based on the maximum level for soil contaminants measured around Reach 6/7, and conservatively assumed an individual is outside and exposed to the highest construction PM₁₀ dust emissions air concentration of 100 µg/m³ (the PM₁₀ action

limit) for 8 hours. None of the contaminants exceeded the above health-protective exposure limits.

In addition, even in this worst-case scenario, the potential exposure is expected to remain below background levels, as many of the contaminants identified in the soil samples can be found in ambient urban air, food, cigarette smoke, car/truck exhaust, etc.

With respect to the potential for exposure to contaminated soil in runoff from the construction areas, wetting of dust will be done such that water and mud is contained within the construction area. Erosion and sediment controls will be implemented as required by NYSDEC and outlined in the project's Stormwater Pollution Prevention Plan (SWPPP), thereby mitigating any off-site sediment and run-off migration.

Comment 58: How does BPCA intend to take "extra care" to prevent fugitive dust during windy periods? Has BPCA considered that the South Esplanade and South Cove tend to be windy? Or that wind in these areas can pick up quickly?

What does this extra care entail? Has BPCA considered implementing this heightened level of care as the standard level for construction activities near BPM?

Has BPCA considered sealing areas where dust-creating or ground-disturbing construction activities are taking place? (Montessori_049)

Response 58: As noted in the response to Comment 55, the RAP includes both robust dust suppression measures and the implementation of the CAMP. The evaluation of weather conditions is necessary for proper fugitive dust control as per NYSDEC DER-10, Appendix 1B, 8. Responsive measures could include additional ground wetting. When extreme wind conditions make dust control ineffective, as a last resort, activities will be suspended.

Comment 59: Has BPCA considered whether its construction equipment can be modified to reduce fugitive dust? (Montessori_049)

Response 59: As described in Section 3.11.5, of the DEIS, construction of the Proposed Project is subject to New York City Local Law 77, which requires the use of ultra-low sulfur diesel fuel and best available technologies for equipment, such as diesel-powered non-road construction equipment that would meet EPA's Tier 4 emissions standards, controlled truck fleets that use technology for reducing diesel particulate matter emission and diesel particulate filters on tailpipes.

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- Comment 60:** The Community Engagement Manager should be reporting to the CB directly in case of an event, with updates as close to real-time as possible. The Proposed Project should have a 24-hour manned hotline to report non-compliance with protection plans in addition to 311. All air quality monitoring should be done by a third party and results should be posted online in real-time so the community has access to the data. This should be a part of the RAP. The manned 24-hour hotline should be able to accept calls and coordinate responses regarding any events that regard hazardous materials (Bommer_033dd, 033y)
- Response 60:** As described on page 3.11.1-8 of the DEIS and expanded for this FEIS, implementation of the Proposed Project will include a comprehensive Stakeholder Engagement Plan that will include a newsletter, as well as a webpage with access to up-to-date information on the status of construction of the Proposed Project, including street closures, public area restrictions, planned construction hours and community air monitoring results. There will be a dedicated email address for the Proposed Project, as well as a voicemail that will be monitored daily. The CEM will also update the community at monthly Community Board meetings.
- Comment 61:** Draft RAP/CHASP may be updated after the Sediment Sampling and Analysis Plan (SSAP) results. The Community Board should be informed within 15 days if there will be SSAP revisions and when the final RAP/CHASP are available. (Bommer_033z)
- Response 61:** Comment noted. The approved RAP/CHASP are included in **Appendix F** of the FEIS. Once it is finalized, BPCA will post the SSAP on its website and notify the Community Board.
- Comment 62:** The Community Board should be notified within 15 days of amendments to the SWPPP (Stormwater Pollution Prevention Plan), as well as any other plans amended or completed after the FEIS is accepted. (Bommer_033aa)
- Response 62:** The construction team will keep CB1 informed of any amendments to the SWPPP or other project plans throughout design and implementation and will follow all required guidelines as to notice for amendments.
- Comment 63:** The DEIS discloses that hazmat soils can be stored on-site for up to 90 days. This is far too long. The FEIS should show that these materials will be stored on site for no more than 15 days. If the lead agency is unwilling or unable to make that commitment, it should explain why in the FEIS. The FEIS needs to detail where and how these materials are being stored and the safety protocols it will use to ensure that they are not disturbed by natural events, accidents or malicious acts. (Bommer_033bb)
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- Response 63:** The DEIS states on page 3.6-8 that no grossly contaminated soil or contaminated soil meeting EPA’s criteria of “hazardous waste” is anticipated to be encountered based on the findings of the investigations and assessments performed. In the unlikely event that hazardous contaminated soil is encountered, the EIS explains that handling, storage, and spill prevention protocols will be done in accordance with the procedures outlined in the RAP, NYSDEC Parts 370-374, and all other applicable laws and regulations (including EPA’s 90-day limit on storage of hazardous waste).
- Comment 64:** The FEIS should disclose how these hazardous materials will be moved off-site. The community should be notified through the community engagement website when these materials will be moved off site with at least three days’ notice. The website should have a timeline for excavation and remediation of hazardous materials from their first on-site storage until they are all removed from the site. (Bommer_033cc)
- Response 64:** The DEIS states on page 3.6-8 that no material meeting EPA’s criteria of “hazardous waste” was identified during the investigations and assessments performed and these materials are not anticipated to be encountered during construction. Although not anticipated, if hazardous materials are encountered, they will be removed, transported and handled in accordance with NYSDEC, USEPA, and all other applicable regulations.
- Comment 65:** If there is a spill that requires notification to NYSDEC, the Community Board should be copied on that notification at the time it is made. (Bommer_033dd)
- Response 65:** Spill notification, response, and containment procedures are detailed in the CHASP (see **Appendix F**).
- Comment 66:** Has BPCA considered performing ground-disturbing when BPM is closed to reduce exposure pathways? If so, does BPCA have a plan for cleaning BPM’s outdoor play areas following construction work? If not, can this work be scheduled so that BPM has enough lead time to relocate? (Montessori_049)
- Response 66:** BPCA’s outdoor play area will be demolished and rebuilt as part of the Proposed Project. Although work cannot be performed only when BPM is closed for the reasons explained in **Responses 56 and 57**, a variety of dust suppression measures will be employed, as well as CAMP monitoring, in order to reduce exposure pathways. BPCA will work with BPM to ensure that it can continue to operate in compliance with all applicable laws and regulations during construction.
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Water and Sewer Infrastructure**Comment 67:**

I am the founding President & CEO of the Hudson River Park Conservancy and serve on the Executive Committee of the Hudson River Park Advisory Council. My concern is the plan to discharge untreated rainwater into the Hudson River Park estuary between the northern end of Battery Park City (BPC) and Pier 25. In your June presentation to the Hudson River Park Advisory Council the North/West Battery Park City Resiliency Project Team stated that the surface rainwater collected behind new resiliency infrastructure being built in BPC will be routed to a pumping station under their portion of esplanade at Stuyvesant. That surface water (containing motor oil and other street detritus) will be pumped directly into the estuarine sanctuary via Outfall NCM-073 under the Hudson River Park esplanade between BPC and Pier 25. It would be helpful to know what volume of order the DEIS assumes will be released into the estuary untreated as proposed in the current North/West Battery Park City Resiliency Project plan. (Fox_018)

In my previous comments, I've voiced my concerns about the potential impact on water quality and habitat in the sanctuary from increased CSO discharges precipitated by this plan. After the decades, long struggle to protect the Hudson River Park estuary and declare it a sanctuary, it's unconscionable to increase untreated rainwater discharges into the sanctuary, especially in an area that has very poor water circulation and a variety of on-water activities from sailing and nearby kayaking. Any surface water runoff from Battery Park City should be captured and routed to the appropriate wastewater treatment facility. If not, there should be significant mitigation included in North/West Battery Park City Resiliency Project to protect and enhance the Hudson River Park Estuarine Sanctuary. (Fox_018)

We find the DEIS basically insufficient, in that it neglects to look at water quality in the Hudson River Park Estuarine Sanctuary. You did assess the sewer water impacts, and you looked at the construction piles and the impact of that on fisheries and such and there was no significant impact. However, the pumping station that you're putting in is designed to transport the surface water that falls behind the resiliency wall in the case of a dual effect that has rain water and tidal surges. It's going to flush that into the Hudson River Park Estuarine Sanctuary, which we worked for 20 years to get to be a protected estuarine sanctuary through New York State. And I didn't see any assessments of the water quality long term or the impact on fisheries or water quality in that or on the sailing vessels that have now moored there. How many will have to be relocated? The impact of water quality surge, if you will, or surface water contaminated with oil and detritus off the street from outfall 078 right into the sanctuary in the corner where there's not a lot of circulation. So, I think it's the worst place to be vacating

all of this water into the Hudson River and I'm wondering if the Final EIS might look at this impact, because I think it was omitted -- not on purpose, I'm sure. (Fox_007)

I am writing to convey my concerns about the North/West Battery Park City Resiliency Project's potential impact on the Hudson River Park Estuarine Sanctuary. The DEIS's proposed new pump station includes plans for a sewer main to be installed below the Hudson River's surface under the Hudson River Park esplanade between BPC and Pier 25 and connected to an existing combined sewer outfall (CSO) in HRP's Estuarine Sanctuary—meaning any surface water collected by the BPC barrier system after a storm event would be pumped into this section of the Sanctuary. The area in question is a corner of bulkhead walls, which will make circulation difficult and any untreated surface water pumped into the area would not dissipate easily, potentially causing harm to the Sanctuary. (Glick_046)

Although the DEIS concludes that there will be no overall volumetric increase in stormwater entering the city's sewer system, it is unclear whether the Proposed Project will cause any change in discharges from either of these outfalls, and to what degree. We are concerned that the new pump station capacity could potentially discharge in a single day the equivalent three times the current yearly discharge from outfall NC-073. Therefore, we urge BPCA to identify in the FEIS what volumetric changes in discharges from each outfall might occur. Any increased CSO discharges could have significant impacts on local waters, especially where there is an embayment that is sheltered from tidal flushing, such as between the northern portion of Battery Park and Pier 25 or in the North Cove Marina. These embayments have low circulation, which compounds the effects of CSOs. (Riverkeeper_049b)

The Estuarine Sanctuary is a critical habitat to a vast array of wildlife including many species of fish and serves as a vital resource for migrating birds. Hudson River Park's careful stewardship of the Sanctuary over many years is a central part of their mission and contributes to the overall health of the river and of New Yorkers who rely on the river for recreation. Untreated surface water polluted with motor oil and other detritus being pumped into the Sanctuary and essentially getting stuck there would be counter to ongoing conservation efforts and could damage this delicate ecosystem. (Glick_046)

I urge Battery Park City to modify the plan in order to prioritize the protection of the Sanctuary. It is my understanding that you are still coordinating with the New York City Department of Environmental Protection on the design of the new pump station and am hopeful that you will work together to find an alternative

method of dispersing captured storm water, which will take that water further into the free flow of the river. (Glick_046)

While I appreciate the complexity of designing appropriate resiliency measures, all climate change mitigation efforts should also strive to ensure the health of New York's waterways. (Glick_046)

The assessment of water and infrastructure impacts does not appear to include the impacts of increased water pollution in the Hudson River Park Estuarine Sanctuary. During the September 18, 2024 public meeting, the project team described how the impact of new piles required for the Proposed Project was reviewed and approved, but little was said about the studies that were done to assess the impact of untreated surface stormwater being pumped directly into the Hudson River Park estuarine sanctuary. The estuarine sanctuary was established in 1998 and comprises 70 percent of the park. The City Club objects to the disposal of untreated surface water into the Hudson River Park estuarine sanctuary. The project team presented the proposed plan at 30 percent design to the Hudson River Park Advisory Council on September 12, 2023. As then proposed, the plan had significant above-ground impacts on the Hudson River Park. The BPC team responded well to the concerns raised by the Advisory Council members and eliminated the proposed incursions into the park. However, at the June 11th, 2024 Advisory Council presentation of the 60 percent completed plan North/West BPC Resiliency Project, team members noted that interior drainage modeling required the addition of a new pumping station because rainwater ponding in Battery Park City would exceed a 1-foot level set by the Federal Emergency Management Administration's (FEMA's) flood insurance rate maps (FIRM). The BPC team stated that a subsurface pumping station would be constructed under the esplanade between Stuyvesant High School and State Route 9A. Surface rainwater from Battery Park City would be pumped to the existing Combined Sewer Outfall (CSO NMN-073) under the Hudson River Park Esplanade between Pier 25 and the northern bulkhead of Battery Park City. Figure 3.7-3 in the DEIS indicates that this CSO NMN-073 is currently connected to the opposite side of State Route 9A with minimal stormwater input from Battery Park City. Therefore, the proposed plan to pump untreated stormwater from Battery Park City to this CSO will result in an increase in water pollution in the estuarine sanctuary. These concerns were brought to the team's attention during their June 11 briefing with the Advisory Council, yet the DEIS fails to acknowledge or address the potential impacts of this element of the revised resiliency plan. At the June 11th Advisory Committee meeting, the BPC team stated that the design of the pumping station was not complete and that the design of this element would lag other aspects of the resiliency plan and would be presented to the public later (see Attachment 1). Have the impacts of this pumping station on the Hudson River

Park Estuarine Sanctuary been studied as part of the DEIS for the overall project? If not, any separate assessment of the pumping station's impact outside the DEIS for this project would result in segmentation. (Miller_032b)

Section 3.5.7.9 speaks to the impact of in-water construction of the seawall elements on the Hudson River. It does not appear to assess the long-term effects of untreated surface wastewater pumped directly into the Hudson River Park Estuarine Sanctuary. What volume of water is expected to be pumped into the sanctuary, and for how long? How often is this activity expected to occur? During what times of the year will the pumping occur? How were the potential impacts on habitat and in-water recreational uses such as kayaking at Pier 26 or on the estuary restoration efforts the Hudson River Park Trust/Billion Oyster Project restoration program between Piers 26 and 34 studied? (Miller_032d)

Section 3.5.2.4 states that the implementation of green infrastructure would minimize the impact of stormwater runoff on water quality and aquatic resources. However, the analysis appears to exclude mention of stormwater runoff being pumped into the estuarine sanctuary. §3.5.2.5 of the DEIS states that the project, "would not have significant adverse impacts to aquatic biota, water quality, or sediment quality, it would not result in any significant adverse impacts to aquatic habitat, including those associated with the designated Essential Fish Habitat (EFH), or defining characteristics the lower Hudson reach Significant Coastal Fish and Wildlife Habitat (SFWH) or the Hudson River Park Estuarine Sanctuary." (Miller_032c)

The planned pumping station is rated at 60 million gallons/day. The SEQRA/CEQR Analysis that highlighted post-construction impacts presented at the public meeting on September 18th indicated that the effects of the proposed pumping station on water and sewer infrastructure had received a detailed analysis and there would be no significant impacts (see Attachment 2). Did that include the water quality impacts of pumping untreated surface water from BPC into the estuarine sanctuary? If so, the technical information that the NWBPC Resiliency Project provided to the NYSDEC for their assessment and approval must be shared with the public. (Miller_032c)

The Trust appreciates BPCA's efforts to engage the Park's statutorily required Advisory Council (the "AC") about this project. A representative from the AC recently attended the DEIS public hearing to share the group's concerns. Specifically, regarding the pump station infrastructure, the AC requested that BPCA address potential impacts to the Estuarine Sanctuary from the additional flow of stormwater through the CSO from the larger sewer main system. Reducing CSO discharge is an important environmental goal of the federal, state and city governments. The planned CSO is located at a point that is surrounded

by two bulkhead walls which could result in less dispersion of the stormwater out into the River. HRPT supports the AC's comments and accordingly also requests that potential impacts from the increased outflow and possible mitigation be considered as part of the FEIS. (Atterbury_031h)

Response 67:

As described in greater detail in **Appendix E**, to address comments related to the potential for water quality impacts on the Estuarine Sanctuary from the proposed pump station's operation, further analysis was performed, which was reviewed and approved by NYCDEP. Consistent with SEQR/CEQR methodologies, the analysis compared the No Action Condition (i.e., a design storm event with no flood protection or pump station) to conditions under the Proposed Project (i.e., same storm event with an activated flood barrier, sewer system isolation and an activated pump station, see the pump station site plan on Figure 1.19a). Per the comment, the objective of this analysis was to assess the potential for significant adverse impacts from the proposed pump station through outfall NCM-073 on the southern portion of the Hudson River Park Estuarine Sanctuary (referred to as 'the Sanctuary'), in the area south of Piers 25 and 26.

Under the No Action Condition during a design storm event, it is projected that approximately 5 feet of storm surge floodwater from the Hudson River would inundate the uplands of Battery Park City, as well as the Sanctuary, before overtopping the bulkhead and flooding State Route 9A/West Street and extending to the inland streets of Tribeca up to Greenwich Street. Additionally, storm surge waters would also be conveyed through stormwater and combined sewer overflow outfalls and inland piping as the normal flow direction in the infrastructure system is reversed by the floodwaters, flooding streets, basements, and ground floors and basements in residential and commercial buildings. As the storm subsides and this extreme surge recedes, waters from the flooded streets and buildings would return to the river, carrying with it combined flow from failing infrastructure, roadway sediment, floating debris, trash and contamination from the inundated residences and commercial structures, submerged vehicles and vessels. Additionally, the lower surface water elevation of the Hudson River and in the Sanctuary would allow CSOs to begin draining from the existing 29 NYCDEP regulators that discharge to the Sanctuary with sediment, debris, and chemical products from the tidally flooded impact area. For a comparative condition, it was noted by DEP in the City's Report *A Stronger, More Resilient New York*, that the surge from Hurricane Sandy resulted in the release of 560 million gallons of untreated combined sewage, stormwater, and seawater from sewers, and another approximately 800 million gallons of partially treated and disinfected wastewater, into the City's waterways.

Under the Proposed Project, approximately 5 million square feet or 110 acres of area consisting of City streets, residential structures and commercial buildings would be protected from storm surge which volumetrically eliminates an estimated 70 million gallons of contaminated floodwater from that projected under the No Action condition and which would otherwise drain into the southern portion of the Sanctuary as the surge recedes. During a tidal storm event, operation of the proposed pump station would protect streets and properties by drawing approximately 2 million gallons of combined sanitary and stormwater flow that would otherwise accumulate and impact the protected area (and would drain to the river in the No Action condition) for discharge through CSO outfall NCM-073 during these infrequent, extreme coastal storm events. During this storm event period there would also be a simultaneous and significant increase in the river water volume that would provide substantially increased mixing conditions in both the river and the Sanctuary. Thus, some or all of this combined discharge to the river after the surge event in the No Build condition as the river recedes would instead be discharged at a time when the river water volume is substantially greater with enhanced mixing capacity. It is recognized by the City that this additional river water volume can mitigate the impacts of the added CSO under the extreme storm design condition, (*A Stronger, More Resilient New York*, p. 211.)

Therefore, given the infrequent nature of the design event coupled with the project benefits of improved flood protection and drainage, it is concluded that the storm event operation of the proposed pump station would not result in any significant adverse impacts on the quality of the Sanctuary or the Hudson River.

Comment 68: Please provide additional information regarding model evaluations conducted in collaboration with DEP confirming there are no significant adverse flooding impacts to the adjacent unprotected areas. (Bommer_33eee)

Response 68: The modeling and analysis undertaken by the PDB team to develop the interior drainage system are contained in the Interior Drainage Report, provided in **Appendix G**. A coupled hydrodynamic and wave model (the Advanced CIRCulation (ADCIRC) and Simulating Waves Nearshore (SWAN) model (ADCIRC+SWAN), described further below) were used to perform the impact analysis. The models were used to determine the impact of the FBS on 100-year storm tide elevations at properties adjacent to and outside of the flood protection alignment. A representative 100-year storm event was simulated using two models: one configured to represent existing conditions and one configured to represent future conditions with the flood protection alignment in place. Simulations were performed for the 100-year storm tide event occurring with both present-day sea level and the 90th percentile SLR projection in the

2050s of 2.5 feet. Comparison of the results from the modeled scenarios is used to quantify the change in maximum still water elevation potentially induced by the project immediately post-construction and in the future.

The ADCIRC is a hydrodynamic model that solves the vertically integrated continuity and conservation of momentum equations for water level and current velocity. ADCIRC uses an unstructured triangular mesh, which is ideal for complex coastal geometries because it avoids many of the complications that are evident when trying to resolve small topographical features near the shoreline. When paired with the SWAN model, the ADCIRC+SWAN modeling system provides a tightly coupled model that solves for sea surface elevation, currents, and waves on an identical unstructured mesh and provides for real-time interaction between the models. ADCIRC+SWAN incorporates the physical processes of wind- and wave-induced momentum transfer, which are essential to properly simulate storm surge. The ADCIRC+SWAN system is a state-of-the-art system that has been successfully used for many years across the coastal regions of the United States to simulate astronomic- and wind-induced changes in water level, velocity, and waves. It is the modeling system used by FEMA to delineate coastal flood hazard areas for New York City. The PDB team utilized NYCDEP guidance throughout the course of the design.

Comment 69:

Pump station impacts on water quality and natural resources. We are concerned that the DEIS for the NWBPC Resiliency Plan fails to adequately assess the Proposed Project's impact on water quality in the NYSDEC designated estuarine sanctuary within the Hudson River Park. The impacts of the planned pumping station on the water, wildlife and users of the Hudson River Park Estuarine Sanctuary should be assessed, and mitigation proposed and assessed in the FEIS, before the Project receives final approval. The DEIS draft scope October 19, 2022, §3.2.3 states that the Proposed Project will require federal approvals, including U.S. Army Corp of Engineers permits or authorization for activities in the waters of the United States (§404 of the Clean Water Act and §10 of the Rivers and Harbors Act) with coordination with the U.S. Fish and Wildlife Service and National Marine Fisheries (among others) to advise the agency regarding activities that affect wetlands, water quality, protected plant and wildlife species, and essential fish habitat. State approvals require NYSDEC permits related to activities in tidal wetlands and adjacent areas (Article 25) or protection of waters (Article 15), including underwater land adjacent to the North Esplanade, and permits related to the State Pollution Discharge Elimination System (SPDES) program. (Miller_032a)

Response 69:

As described in the response to **Comment 72**, under the design storm conditions the Proposed Project would not result in significant adverse impacts to water

quality of the Hudson River, including in the vicinity of the existing NYCDEP Combined Sewer Overflow (CSO) outfall NCM-073 that discharges to the southern portion of the Sanctuary.

Comment 70: Stuyvesant pump station stormwater effluent should be piped farther into the river channel, rather than into the adjacent, poorly circulating cove (it further struck me that perhaps The Billion Oyster project could be involved). (Bogumil_038d)

The current infrastructure proposal is particularly troubling given that the embayment between Pier 25 and Battery Park City has little circulation and existing sailboat anchorages. In addition to impacts on the protected marine habitat, the untreated stormwater could present health hazards for sailors rowing out to their sailboat moorings. If the stormwater is pumped into the estuarine sanctuary on an incoming tide, it could impact kayakers using the Downtown Boathouse at adjacent Pier 26, and the oyster restoration project HRPT and the Billion Oyster Project have established and are actively monitoring between Piers 26 and 34. (Miller_032f)

Response 70: **Appendix G** of the DEIS and this FEIS contains studies undertaken by the PDB team to develop the interior drainage system. Response to **Comment 78** further describes the evaluation of discharging to the CSO outfall further south, NCM-072. See also the responses to **Comments 72, 73, and 74**.

Comment 71: Green Infrastructure. The project should seek to maximize the use of green infrastructure mentioned at the end of Section 3.7.6.2, “Additionally, green infrastructure measures are proposed, etc. The Green Infrastructure measures would include vegetated practices such as standard and high-performance rain gardens and non-vegetated practices such as hydrodynamic separators and porous pavers to reduce imperviousness, reduce peak flows, and provide some pretreatment of runoff.” It should also include “cloudburst” infrastructure that retains rainwater, such as sunken skate parks, basketball and tennis courts, to further reduce stormwater runoff before it is routed to a sewer system. The City has recently begun to implement these infrastructure improvements. <https://www.nyc.gov/office-of-the-mayor/news/681-24/mayor-adams-nextgeneration-new-york-city-s-investments-flood-prevention-and#/0>. (Miller_032e)

We appreciate that the Proposed Project will incorporate a significant amount of green infrastructure and impervious pavement, we urge you to fully consider additional green and gray infrastructure proposed by the City Club, which prudently requests the inclusion of: cloudburst infrastructure, such as sunken park amenities to capture and hold stormwater; porous surfaces to allow for

infiltration; and detention tanks to prevent or slow runoff from entering the CSO system. These infrastructure improvements, taken together or separately, would improve water quality in the estuarine sanctuary in perpetuity. (Riverkeeper_049d)

Response 71:

The proposed design includes maximizing green infrastructure as one of the approaches to addressing stormwater management. As highlighted in the DEIS and FEIS's Chapter 3.7, "Infrastructure," the Proposed Project includes vegetated and non-vegetated practices, such as rain gardens, porous pavers, and hydrodynamic separators. These measures are designed to reduce impervious surfaces, decrease peak flows, and provide pretreatment of runoff which will result in an improvement over current conditions during all rain events, not just the project design storm event.

As the project design moves to completion, BPCA and its design team will coordinate with NYCDEP to implement best management practices for green infrastructure that align with broader citywide flood prevention and green infrastructure practices.

Comment 72:

Detention tanks. The impacts studied in Section 3.7 are focused on the impacts to the water and sewer system, but fail to describe the impact on water quality in the Estuarine Sanctuary. To eliminate water quality impacts on the Estuary Sanctuary a stormwater holding system like the one installed at Paerdegat Basin in Brooklyn by the NYCDEP should be added to the project scope. A large pipe under the Battery Park City esplanade could store any excess stormwater not captured by cloudburst infrastructure or drained through porous roadways and sidewalks during storm events. That stormwater could then be slowly released into the Interceptor Line to be treated at the Newtown Creek wastewater treatment plant when the rain event is over, and the plant is operating at its normal capacity. If the stormwater can't be retained on Battery Park City property or stored in a holding facility for treatment later, alternative off-site disposal mechanisms should be used. There are four existing sewer lines that terminate in the western bulkhead of Battery Park City into the main flow of the Hudson River (Figure 3.7-3 in DEIS). MNM-583 is on Chambers Street, one block south of the proposed pumping station. It could be used to evacuate any residual rainwater that surface modifications within Battery Park City fail to capture. (Miller_032e)

Response 72:

As described in **Appendix G** of the DEIS and this FEIS, during the design phase, additional alternatives were evaluated to manage the sanitary and stormwater flows within the Protected Area during the design storm events, but were found to have additional negative impacts. Underground storage was evaluated, but would require extremely large storage tanks to effectively retain the large

volumes of combined flow that are generated within the Protected Area. For example, just managing the sanitary flows from Vesey Street would require a holding tank that is approximately 67 feet wide by 320 feet long by 10 feet deep. To put this into context, a tank this size would require nearly all of the area between West Street and the Goldman Sachs building between Vesey Street and Murray Street, disrupting the bikeway/walkway, access and extensive excavation and tank installation with no added water quality benefit. Therefore, it was determined that the detention tank approach was not feasible.

Comment 73:

Piping and discharge location alternatives. The DEIS states a separate stormwater sewer system will be installed under the widened North Esplanade. That new stormwater sewage line will terminate at the western bulkhead of Battery Park City. This pipe could route rainwater from the new pumping station directly into the main flow of the Hudson River rather than into Hudson River Park's estuarine sanctuary. Explore the possibility of connecting to a CSO that discharges further west into the Hudson River, thereby avoiding the estuarine sanctuary. (Miller_032e)

If outflow volume from the proposed pump station is unable to be reduced, the Hudson River Park Trust Advisory Committee has asked that alternatives be considered, such as having the flow be released at a different CSO that is not within the Sanctuary. (Atterbury)

Riverkeeper urges BPCA to consider alternative solutions instead of directing drainage to the Estuarine Sanctuary through the CSO system. One solution would be to connect the pump station to the separate sewer system to reduce or eliminate the CSO discharges to the area. While the polluted stormwater should still be treated to remove pollutants, such a modification to the plan would reduce the CSO discharges to the Estuarine Sanctuary. (Riverkeeper 049c)

And secondarily, if the plan might include—you are extending the bulkhead of the wall over Battery Park City, at Stuyvesant on the north end; would it be possible rather than just dumping this sewage into Hudson River Park Estuarine Sanctuary, to run a pipe to the Hudson River? Well, first send it to the sewer treatment plant to be properly treated before it's disposed of in our water, that would be a primary mitigation. But secondarily, if you're going to vacate the water into the Hudson River, don't do it in this uncirculating, corner of the Estuarine Sanctuary. Run the pipe out the Bulkhead of Battery Park City and vacate it in the main flow of the Hudson River, where it can be distributed more quickly and deluded more—and not affect the Estuarine Sanctuary, which is designated as a sanctuary for a reason. (Fox 007)

Response 73:

New drainage infrastructure proposed as part of the Proposed Project is focused on isolating the Protected Area from coastal storm surge and efficiently addressing interior flooding associated with the design storm conditions. The Proposed Project would only direct additional combined sewage to Hudson River during design storm conditions.

The Proposed Project would include a pump station beneath Stuyvesant Plaza to efficiently address interior flooding in the northern portion of the protected area during design storm events when there is a significant risk to health, safety, and property damage. This site was selected based on a robust analysis of several factors, including the proximity to an existing combined sewer outfall, which would limit the amount of additional piping needed to discharge the pump station. Directing the discharge of the pump station to the next CSO to the south, NCM-072, located at the end of Vesey Street, would require the construction of approximately 2,500 linear feet of a 4-foot diameter force main along the existing street right-of-way, past the Irish Hunger Memorial, before discharging near the Brookfield Place Ferry Terminal. This construction would be very disruptive and would likely impact utilities, trees, and other urban infrastructure. An alternative was investigated to discharge the pump station at an existing stormwater outfall located at the northwest corner of Rockefeller Park. While this would require a shorter distance for the force main than extending all the way to NCM-072, it would still result in approximately 1,300 linear feet of construction and associated disturbance. This would also require rebuilding the entire stormwater outfall as it is currently undersized to manage the discharge from the pump station, requiring additional disturbance within Rockefeller Park. As described above, the proposed pump station would only be activated during extreme events when there is extensive inundation due to storm surge, so relocating the pump station discharge would result in significant construction disturbance with no distinct improvement to water quality during these extreme storm events.

Comment 74:

The FEIS and the project-Alternative Water Runoff Solutions should be addressed. Consider alternative means of managing runoff from Battery Park City, such as capturing and routing it to a wastewater treatment facility. (Meltzer_042b) Furthermore, what consideration has been studied for capture, storage and transport to a treatment facility later. (Bommer_033gg)

Response 74:

As described in the DEIS Chapter 1.0, "Project Description," proposed water quality improvements include the installation of contemporary stormwater treatment practices such as rain gardens, Proprietary Treatment Devices (PTD) for treating stormwater runoff (i.e., a subsurface vault that removes sediment and heavy pollutants through a treatment process comprised of baffles and weirs or filtration), additional tree pits to collect and percolate sidewalk drainage, and

permeable pavers to enhance percolation and reduce overland runoff prior to discharge to the Hudson River. Given that BPC is largely a separated sewer system, as specified in **Appendix G**, the proposed modifications cost-effectively improve the water quality of the stormwater runoff in BPC as compared to storing the runoff and conveying it to a treatment facility after the storm. In addition, the Proposed Project includes several stormwater minimization measures such as reduction of impervious area and the incorporation of green infrastructure features including porous pavement, rain gardens, and hydrodynamic separators to meet the City's Unified Stormwater Rule and improve the stormwater quality during more frequent rainfall events.

Comment 75: Given the potential impacts on the Estuary and southern Hudson River Park, it is imperative that the North/West Battery Park City Resiliency Project include substantial mitigation measures to protect and enhance the estuarine sanctuary. (Meltzer_042b)

Response 75: As described above, the proposed infrastructure improvements would not result in any significant adverse water quality impacts and therefore no mitigation is necessary.

Comment 76: All new roadway and sidewalk construction in Battery Park City should use porous surfaces, such as those currently being used by the City to further reduce stormwater ponding. Impervious roadway surfaces and sidewalks in Battery Park City should be replaced with porous surfaces as NYCDOT is now working on the City's roadways. https://www.nytimes.com/2024/09/23/nyregion/street-wars-flooding-pavement-porous.html?te=1&nl=new-york-today&emc=edit_ur_20240929. (Miller_032g)

Response 76: As described above, BPCA and the design team have been including a number of measures to reduce the quantity of stormwater runoff and improve the quality. BPCA and the design team will continue to coordinate with NYCDOT and other agencies through the final design process to ensure that the materials and technologies used in the Proposed Project align with the best practices currently being implemented citywide. This approach aims to balance the need for durability and functionality with the added benefit of reducing stormwater runoff and enhancing flood protection for the community.

Comment 77: Please clarify if BPCA considered connecting to any other local CSO, that terminates in the western bulkhead of BPC into the main flow of the Hudson River (Figure 3.7-3 in DEIS) instead of into the Estuarine Sanctuary. (Bommer_033gg)

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- Response 77:** An analysis of the infrastructure approaches that were considered in the siting and conceptual design of the pump station and outfalls is provided in Comment 63 above, as well as **Appendix G** of the DEIS and this FEIS. As described in that study, siting of the pump station was based on an analysis of drainage in the protected area and optimizing the conveyance of storm and combined flows from the protected area, which led to the selection of NC-073 as the preferred location for the discharge. As described in the response to **Comment 78**, routing the pump station discharge to alternative outfalls would cause significant construction disruption with no distinct improvements to water quality during extreme storm events when the pump station is activated. As also described above and in Chapter 3.7, “Water and Sewer Infrastructure,” there are no adverse water quality impacts with the Proposed Project.
- Comment 78:** Please clarify whether any of the infrastructure categorized as interior drainage improvements, including the West Thames lift station, will be above grade. (Bommer_033hh)
- Response 78:** With the exception of the above grade pump station electrical room structure proposed in Stuyvesant Plaza, the infrastructure elements related to interior drainage improvements pumping equipment would be below grade. Note that the two proposed lift stations have been removed from the Proposed Project.
- Comment 79:** BPM is also concerned that BPCA’s proposed Reach 6 design will expose BPM’s infants and young children to unsafe or unsanitary conditions by building a drainage system in or along BPM’s courtyard, which BPM uses as an outdoor play area for BPM’s infants and young children. Although the DEIS mentions drainage improvements in Reach 6, it does not consider if or how these improvements will impact BPM or BPM’s infants and young children. Answers to the following questions would be helpful for BPM to determine if and how BPCA’s proposed drainage improvements in Reach 6 will impact BPM’s infants and young children:
- Does BPCA intend to implement a drainage system or drainage improvements along the west side of the Regatta Building?
- If so, would any part of this system be located in or near BPM’s courtyard? Or include grates or other open elements in or near BPM’s courtyard?
- Would BPCA’s proposed drainage system be connected to the New York City sewer system? Has BPCA considered the likelihood that sewage could back up or overflow into BPM’s courtyard play area?
- Has BPCA considered that placing a drainage system in BPM’s courtyard may create a safety hazard for BPM’s infants and young children? Or prevent BPM
-

from using this courtyard as a safe, easily accessible outdoor play area for BPM's infants and young children?

If so, does BPCA have a plan for mitigating these impacts? Or has BPCA considered design alternatives?

Has BPCA considered design alternatives? If so, what? (Montessori 049.)

Response 79:

There is an existing drainage system along the south and west side of the Regatta building that comprises a series of area drains and 3-inch pipes. The Proposed Project proposes to remove and upgrade the existing drainage system with 6-inch pipes as part of the construction of the proposed floodwall. With the drainage system upgrades, flows will be directed to the south where they will enter the existing separate stormwater sewer system within Battery Park City on the protected side of the proposed FBS.

The proposed drainage will be connected to the NYCDEP existing drainage system. Within Battery Park City, stormwater flows are separated from sanitary flows, and generally outfall to the Hudson River. Combined sanitary and stormwater pipes exist along 9A, where a NYCDEP interceptor collects flows and directs them to the Manhattan pump station. To prevent the interceptor from backing up into Battery Park City during storm events, NYCDEP will close existing gates that isolate the interceptor within the Protected Area, preventing sewage from backing up into BPM's courtyard.

ADA-compliant grates with a locking feature are specified for the new area drains. This will improve safety and accessibility to the outdoor play area.

No significant adverse drainage impacts to the BPM courtyard are expected with these proposed improvements, and therefore, no additional alternatives or mitigation were considered or needed.

Comment 80:

Regarding the capacity of the discharge pump that will be installed as part of the Battery Park Authority Resiliency Project: The pump capacity does not seem to be sufficient for the need. First some facts:

- The pump capacity is 60 million gallons per day.
- This equals 2.5 million gallons per hour.
- On August 18 2024, 3.7 inches of rain fell on Morristown, NJ in one hour.

To convert the above to the metric system:

- There are 264 gallons per cubic meter.
- There are 39 inches per meter.

Now to convert:

- The pump capacity is 10,000 cubic meters per hour.
- On August 18, Morristown NJ got 0.09 meters of rain in one hour.

A quick look a Google Maps suggests that the catchment basin that the pump will serve is approximately 1,000 meters long, by 500 meters wide. This works out to 500,000 square meters. If 0.09 meters of rain falls on Lower Manhattan in one hour, there will be 47,000 cubic meters of rainwater in this area. Some of it will soak into the ground (not much), and some of it will be taken over to Brooklyn via the sewers (also not much), but most of it will need to be pushed uphill into the harbor by a pump that can only handle 10,000 cubic meters per hour. Please explain.

To be fair, the type of weather scenario that I have described above (i.e., intense rainstorm, plus storm surge) is unlikely to occur soon. But it will occur, and with increasing frequency, as the sea level rises and the climate changes. It is precisely the kind of future weather event that the Battery Park City Resiliency Project is supposed to protect against, yet seemingly it cannot.

I chose the August 18 rainstorm in Morristown as an example, not because it was especially intense, but because it was the only hourly rainfall data that I could find quickly. But I recently attended a talk by the head of the City of Newark sanitation department, who said that on the same day, some parts of Newark got more than 12 inches of rain in 22 minutes. The same is probably true for what Hurricane Helene recently dumped on Asheville NC, but again, I could not find any referenceable data.

The documentation for the Battery Park Authority Resiliency Project should state the maximum rainfall per hour that the discharge pump is designed to handle. It should compare that metric to recent intense rainfall events throughout the country. (Birchall_050)

Response 80:

The proposed pump station is being designed to manage a peak flow of 60 MGD, which equates to 2.5 million gallons per hour. The design criteria are based on the 5-year rainfall event, which includes a peak intensity of approximately 0.5 inches per hour. Interior flooding within the Project Area is primarily influenced by the volume of rainfall and not the intensity, as the limiting factor is draining the stormwater runoff through the existing outfalls which are inundated during coastal storm events.

As mentioned previously, the pump station is part of the flood protection system and would only be utilized during periods when the system is deployed.

Transportation

Comment 81: The analysis on the impact of narrowing sidewalks and the volume of use of cycles and pedestrians talks about the fact that there's still a smaller, but clear path provided, but it does not share what the density of usage is within those clear paths. So, if you are reducing the operative area for mobility, it's not enough to just say what the revised clear path is. It needs to have a density analysis. I would like to see the FEIS address the density of traffic within those narrowed paths. (Parker-Davidson_011)

The proposed action will narrow pathways and affect pedestrian capacities in some locations. Please discuss how pedestrian capacities are impacted by the narrowing of pathways and how pedestrian travel times might be impacted, especially in the areas around the schools in the study area at the time students are arriving in the morning and afternoon. (Bogumil_033jj)

Response 81: As stated in Chapter 3.8, "Transportation," the *CEQR Technical Manual* does not provide guidance or require a capacity analysis of shared use paths nor is there a methodology for determining significant pedestrian or bicycle impacts. Therefore, it is not required under CEQR or possible to provide a comparison of these conditions without and with the Proposed Project for the purpose of an assessment of significant adverse impacts. To determine whether the Proposed Project would continue to maintain acceptable conditions for pedestrian and bike users on shared use paths that would be narrowed, a minimum threshold for an acceptable level of service (LOS) D for walkways was used. Walkway LOS uses the units of Square Feet per Pedestrian which is a density analysis that indicates the quality of pedestrian movement and comfort. On this basis, it was determined that the Proposed Project would maintain acceptable pedestrian and bicycle conditions and there are no significant adverse impacts.

Comment 82: The analysis here uses the *Highway Capacity Manual* from 2010. Since the latest *Highway Capacity Manual* was published in 2022, please explain why 2010 is being used for the analysis and whether there is a difference between 2010 and 2022 in the methodologies for walkways. (Bogumil_033ii)

Response 82: The *CEQR Technical Manual* and NYCDOT guidance establish the methodology for analysis of pedestrian operations. In 2021, when the latest guidance was established, the 2010 *Highway Capacity Manual* was identified as having the most appropriate methodology for analyzing pedestrian operations in New York City. NYCDOT has reviewed and accepted these analyses.

Comment 83: The DEIS explains that the levels of service on the esplanade walkways will be at an acceptable level of service, but it doesn't disclose the change in the level of

service. Does the action degrade the level of service? If so, by how much? (Bogumil_033kk)

Response 83: The only change in the esplanade design with the Proposed Project is the widening of the north esplanade with enhanced seating. Given this, there would be no degradation in level of service.

Comment 84: The FEIS should provide detailed drawings on the narrowing of the bike paths in the study area during both construction and under With Action conditions. Please discuss the impact of these changes on the usability and service of the bike paths, even if the change is not determined to be a significant change. (Bogumil_033ll)

Response 84: The construction and final operational project conditions would not alter the width or operation of the two-way bike path parallel to State Route 9A/West Street. During construction of the gates and flood protection structure crossing State Route 9A/West Street and the parallel two-way bike path between Chambers Street and Harrison Street, short-term overnight closures of that roadway and bike path would be necessary and the FEIS includes additional descriptions of the effects on traffic; however, daytime closures are not anticipated. The sequential closing and reopening of open spaces containing the waterfront esplanade and other park paths, which accommodate mostly pedestrians and fewer cyclists than the bike path parallel to State Route 9A/West Street, have been described in Chapter 3.11.4, "Construction Transportation," and are shown in Figures 3.11.2-3a through 3.11.2-3l.

Greenhouse Gas Emissions and Climate Change

Comment 85: CB 1 would like to ensure that the FEIS elaborates and clarifies with much more detail how GHG and Climate Change principal objectives will be achieved. This section references NYC resiliency policies but does not evaluate the BPCA Climate Action Plan, Sustainability Plan or Green Guidelines. Please provide analysis of project GHG emissions and if they are consistent with BPCA resiliency plans. Provide more detail about options under consideration for "potential measures for reductions of emissions from construction of the Proposed Project ... [which] may include the use of biodiesel, expanded use of recycled steel and aluminum, as well as expanded construction waste reduction" and other ways to mitigate heat impact by the use of materials and should include a discussion of other materials that will not add to additional heat in the area and may produce fewer GHG during their production. (Blank_002a)

CB 1 would like to ensure that the Final Environmental Impact Statement, elaborate and clarifies with much more detail how these principal objectives will be achieved. For example, with regard to reviewing the Proposed Project's effects

on climate change, the DEIS addresses the impacts of construction. Estimating the Proposed Project's addition of over 44,000 metric tons of CO₂ into the environment. But there seems to be no estimate of the effects demolition has on the carbon footprint. The FEIS should take into account both the construction and demolition associated with the Proposed Project and should detail the specific measures being taken and materials used to reduce the Proposed Project's impactful greenhouse gas emissions. The enormous emission of greenhouse gases expected from this Proposed Project estimated at 44 thousand metric tons is absurd when you consider that the purpose of the Proposed Project is to mitigate impacts from climate change. Cutting mature trees and emitting enormous tonnage of CO₂ from construction exacerbate the very problems that created the need for this resiliency project. Concrete production itself is one of the top CO₂ producing industries. For this reason, and for the fact that the impermeability of concrete creates rather than reduces potential flooding from rainwater, the use of concrete should be minimized and only used where absolutely necessary, whereas the use of permeable surfaces, which have been tested in a few areas, should be considered for use on a larger scale wherever it is structurally sound to do so. (Blank_002a, Ashkin_045g)

Additionally, the FEIS should include a consistent assessment not only of the final built project but should also include the process of construction and demolition of the Proposed Project and the impacts of those actions. For example, the act of demolishing existing features in the Project Area, and constructing new ones will create substantial GHG emissions. How are these actions consistent with the existing sustainability plans? Further, components of the plan, such as the new pump house, should be evaluated in the context of existing plans to determine whether certain elements of the Proposed Project may not be consistent, even though the overall project may be. (Boomer 33a)

Provide more detail about options under consideration for "Potential measures for reductions of emissions from construction of the Proposed Project... [which] may include the use of biodiesel, expanded use of recycled steel and aluminum, as well as expanded construction waste reduction" and other ways to mitigate heat impact by the use of materials. Explain the choice of poured cement over alternative materials. (Bommer_033nn)

Response 85:

Chapter 3.9, "Greenhouse Gases and Climate Change," of the DEIS set forth a variety of design optimization strategies, material specifications, plans to reuse recycled and salvaged materials and processes to track emissions that have and would be utilized to reduce upstream emissions related to the construction of the Proposed Project.

In addition, given that the Proposed Project improvements to provide resiliency to coastal flood and storm surges and increased precipitation (including the proposed flood barrier system, interior drainage improvements, and increased vegetative covering), the Proposed Project is consistent with the resiliency and sustainability goals as described under New York City climate change policies, as well as the Battery Park City Sustainability Plan and the supporting Battery Park City Green Guidelines—specifically emphasizing “[improving] resiliency to protect against major storms, upgrade stormwater infrastructure, and increase the amount of permeable surfaces in Battery Park City.”¹

As described in Chapter 1.0, “Project Description,” of the DEIS, the Proposed Project has been designed to reduce urban heat impacts through an abundant use of planting and, where hardscape is needed, a reliance on high-albedo and pervious materials. These elements would provide resiliency for increased precipitation as well as minimizing the effect of urban heat from surrounding areas and would reduce the amount of surface areas that would otherwise use materials with higher embodied carbon than vegetation elements.

Additionally, the analysis of GHG emissions for the construction of the Proposed Project, as described in the DEIS, includes emissions associated with on-site equipment fuel consumption associated with all construction and demolition activities, highway truck fuel consumption associated with deliveries and waste removal, highway automobile fuel consumption associated with worker travel to/from the Project Site, marine engine fuel consumption associated with deliveries and on-site usage, and embodied carbon from construction materials (e.g. concrete and steel). Construction activities would divert construction and demolition waste from landfills and follow New York State concrete purchasing guidelines to ensure embodied carbon emissions are minimized. As described in the DEIS, the Proposed Project would be consistent with the BPCA goal to “reduce the impact of construction and demolition related activities in the neighborhood and recycle or reuse construction and demolition waste” under the Battery Park City Sustainability Plan.²

Comment 86:

This section references NYC resiliency policies, but does not evaluate the BPCA Climate Action Plan, Sustainability Plan or Green Guidelines. Please provide analysis of project GHG emissions and if they are consistent with BPCA resiliency plans. (Bommer_033mm)

¹ BPCA. *Battery Park City Sustainability Plan. Water*. September 2020.

² BPCA. *Battery Park City Sustainability Plan. Materials and Waste*. September 2020.

Response 86: See the response to **Comment 94**.

Comment 87: The FEIS should include a discussion of other materials that will not add to additional heat in the area and may produce fewer GHG during their production. (Bommer_033oo)

Response 87: As described in the DEIS (see Chapter 3.9, “Greenhouse Gas Emissions and Climate Change”), material choices with the Proposed Project will take into account the need to reduce GHG emissions both in the production of the materials and in their utilization. Additionally, landscape and hardscape choices are being guided by the need to reduce heat absorption, including an overall reduction in hardscape areas with a corresponding increase in landscaped areas. See also the response to **Comment 94**.

Comment 88: Please provide an audited version of the carbon impact model for the entire construction period in the FEIS. Please clarify whether construction GHG includes GHG produced by any required demolition, If it doesn’t, please include it in the FEIS. (Bommer_033qq)

Response 88: **Appendix H** of the FEIS has been updated to include the Proposed Project’s GHG emissions calculations in response to this comment. As discussed in the response to **Comment 94**, GHG emissions were estimated for all construction activities including demolition activities, highway truck fuel consumption associated with deliveries and waste removal, highway automobile fuel consumption associated with worker travel to/from the Project Site, marine engine fuel consumption associated with deliveries and on-site usage, fuel consumption associated with construction equipment, and embodied carbon from construction materials (e.g., concrete and steel).

As discussed in Chapter 3.9, “Greenhouse Gas Emissions and Climate Change,” the Proposed Action condition is anticipated to result in the consumption of approximately 2.5 million gallons of diesel, 131 thousand gallons of gasoline, and 15 thousand gallons of propane throughout the duration of construction from on-site equipment, on-site trucks, and marine engines. Additionally, the Proposed Action condition would generate 2.3 million vehicle miles traveled (VMT) from workers commuting and 14.2 million VMT from truck delivery and waste removal. Approximately 6994 metric tons of cement and 1,874 metric tons of steel would be used for construction of the Proposed Project. Consequently, the Proposed Action condition would result in up to approximately 44,442 metric tons of CO₂e emissions.

Neighborhood Character

Comment 89: The impact that wasn't analyzed in your report here, was the effect on the people who lived here. And that the scars are gone—you know, not visible, but the trauma is still very present. And we were suddenly faced with this new—are we going to have another trauma, where people are going to have to really decide whether they don't want us to continue to live here anymore. And a lot of people moved, some of them stayed and we revived this neighborhood, and there was no consideration of that. (Dougherty_003a)

Response 89: As described in the DEIS in Chapter 3.11.8, "Construction Neighborhood Character," the construction effects of the Proposed Project would be temporary and localized, confined largely to the buildings and streets surrounding the Project Area. However, it was concluded that the Proposed Project would result in a significant adverse impact on open space, traffic, and noise during the construction period. Given that these elements are defining features of neighborhood character, it was determined that the Proposed Project would have the potential for significant neighborhood character impacts during construction. There would be no adverse neighborhood character impacts during the operational phase. Instead, the Proposed Project would protect Battery Park City and surrounding areas from the impacts of a future design storm event.

10.4 Construction

Construction Overview

Comment 90: For kids, five years is a significant chunk of their childhood and for seniors like me, it's a significant chunk of the rest of your life. And so any and everything that can be done to, to try to shrink that duration, without intensifying the impact along the way, really should be done particularly in terms of the public park space that's being consumed during construction. (Galloway_005a)

My husband and I chose BPC to raise our family for quality of life and access to green spaces. My young children will be teens and pre-teens by the time this project finishes – the time when kids do not want to be with their parents. Please consider a faster timeline. I would like to enjoy this area while my kids still like me. Five years is an eternity. (Anonymous_048)

Response 90: As described in the DEIS, a primary objective of the Proposed Project is to ensure that flood protection is delivered as quickly as possible, so that residents, property, and assets within Battery Park City are protected and the risk of damage from storm events in the area proposed for protection is reduced. BPCA will continue to assess opportunities to maximize efficiencies related to advancing the construction schedule and examine the potential for safely keeping parts of

Battery Park City's open space available during construction and reopening any open spaces that have been closed as work is completed.

Comment 91:

During construction, residents and visitors need a point of contact with the project with a phone number and some means of getting into contact online in a real time basis so that residents can reach out if they have any issues during construction, or if they believe that some of the promised mitigation measures are not being implemented. We also need constant communication from the project team—during construction, giving notice in advance of disruptive work so that people can take steps to deal with it. Yes, people may know there's going to be pile driving or whatever it is in theory, but they may not know that it's going to be next week. So continual updates are very important. (Galloway_005d)

The DEIS identifies the position of a Community Engagement Manager (CEM), but it needs more oversight than how it is defined in the DEIS. In addition to a CEM, the Lead Agency should set up a Construction Task Force, to whom the CEM reports. The Construction Task Force will include representatives of all stakeholders impacted by construction and should include a representative of the Community Board, as well as the local elected representatives for the Project Area. The CEM should notify the community and the Community Board about all applications for nighttime work on Reach 1. Once the application has been filed, the CB should receive a copy of the application and a notification once the application has been approved. Notice should be posted by physical signs in the immediate area and to any adjacent buildings at least 2 weeks before nighttime work begins. (Bommer_033rr)

There should be a construction advisory committee including a liaison from the project team who faces the public. The committee should be set up and in operation throughout the construction process to monitor agreements and provide information to the community, with relevant City, State and Federal agencies at the table. There should be regular updates and meetings with the CB and the public. A hotline number to call for issues that are not meeting the plan should be provided to the community. The Community Engagement Officer should regularly report to the Community Board on the progress and issues that arise during construction. Public engagement process. There should be a construction advisory committee including a liaison from the project team who faces the public. The committee should be set up and in operation throughout the construction process to monitor agreements and provide information to the community, with relevant City, State and Federal agencies at the table. There should be regular updates and meetings with the CB and the public. A hotline number to call for issues that are not meeting the plan should be provided to the community. The Community Engagement Officer should regularly report to the

Community Board on the progress and issues that arise during construction. The FEIS should detail how the Applicant will communicate with the public during the construction period. This should include: 1) Prominent signs communicating the action, including: a) Signs or markings on trees that will be removed b) Signs announcing immediate construction activities. If significant noise is anticipated, it should be advertised to the public. 2) A public-facing website/social media should also be maintained including all this information. (Bommer_033rr)

Please provide further detail on any scheduled breaks from the routine daily and scheduled nighttime construction. Are there any scheduled breaks envisioned in the schedule, e.g. major holidays, scheduled testing days at schools, etc. The FEIS should include a range of possible outcomes regarding scheduled delays and cost/time overruns. (Bommer_033rr)

Response 91:

As described in the DEIS (see Section 3.11.1.6.4), there will be a CEM employed by the PDB. The CEM will appear at monthly Community Board meetings to update the Board on construction-related activity, including approved applications to NYCDOT or NYSDOT for After Hours Work Variances (AHVs). Information on AHVs will also be included on a dedicated website that will be created for this Proposed Project during construction and be circulated via a newsletter, registration for which will be ongoing on the dedicated website. See the responses to **Comments 24** and **63**, above, for information on the CEM's role in notifying the public during the construction of the Proposed Project.

Comment 92:

Will you provide advance notice of construction commencement; how long before construction commences will we be notified? How will we be notified? Will you provide advance notice of road closures and how long before closure commences will we be notified? How will we be notified? What is the timing and sequence of commencement in each area of Battery Park City? Will the areas commence simultaneously or in phases? Which phases come first? What are the hours of construction work? Where are the construction vehicles entering and exiting? How often are the construction vehicles entering each day? Will there be construction on weekends? (Smedley_030b)

What are the impact/potential entry closures of Brookfield Place? What is the impact/closure of ferry terminal? What is the impact/closure to South End Avenue? What are the construction fences going to look like? What are the mitigation plans for potential security issues, such as potential for crime and shelter for homeless around the fenced areas of construction? Will NYPD or Turner be responsible for security for residents/tourists/visitors? Will there be adequate noticeable signage, readable in different languages, for visitors and tourists to navigate around construction areas? (Smedley_030b)

Construction Lighting. What are plans for lighting the construction areas in dusk and at night? Although night work may not be typically employed, the community understands from its experience with the South BPC Resiliency Project that temporary construction site lighting is likely to be used during evening, nighttime and early morning hours. The FEIS should address how such lighting's impact on neighboring residents will be mitigated. (Bommer_033ddd, Smedley_030b)

Response 92:

As described in the DEIS (see Section 3.11.1.6.4), there will be a comprehensive communications plan prepared for the Proposed Project that will include a website dedicated to the Proposed Project with construction schedules and planned access restrictions, including any street closures. In addition to the website, there will be comprehensive outreach via social media which will be used for notifications of any street closures and construction activity outside of regular construction hours (7 AM to 6 PM Monday through Friday) and a newsletter. The plan also includes directional signage with a QR code to connect users to the website for information about the Proposed Project and construction schedules. With respect to the other comments raised:

- The timing and sequence of the construction in each reach within Battery Park City are described in Chapter 3.11, "Construction," and Figure 3.11.1-2, "Preliminary Construction Schedule."
- Construction in Reaches 1, 5 and 7 would begin simultaneously and then be followed by a more staggered second grouping of Reaches 3, 4, and 6 as shown in Figure 3.11.1-2.
- Hours of construction within Battery Park City would generally be from 7am to 6pm on weekdays (see Chapter 3.11.1.6.1).
- Construction vehicles would enter the work zones via adjacent streets. Vehicles will be exiting through the same streets or the nearest adjacent entrance/ exit.
- Construction vehicles would be entering and exiting multiple times every day.
- Construction would occur on weekends or off hours when required by permitting agencies such as NYSDOT or NYCDOT (e.g., work within State Route 9A/West Street), or where it is in the interest of public safety, such as the opening of a roadway surface to access or relocate utilities.
- Brookfield Place would remain open for business; however, to accommodate construction logistics and safety requirements, there would be temporary rerouting of pedestrian routes and closure of some entrances.
- The ferry terminal would remain open during construction with a temporary closure of one gangway at a time to accommodate the adjacent construction.

- South End Avenue would remain open.
- Construction fencing would be a minimum of 8 feet tall, and painted green per NYC DOB requirements. BPCA would place artwork on portions of the fencing.
- Construction fencing would be placed to re-direct pedestrian traffic. Existing security cameras, if blocked by construction fencing, would be repositioned to provide line of sight. Security guards would be located at strategic points during the work to monitor worker and pedestrian activities. In the event of a security issue, the guards would contact NYPD, BPCA and Brookfield Place Security. The construction fence would be reviewed every day for cleanliness and to prevent homeless encampments. Any observed homeless activity would be referred to BPCA or Brookfield Place security.
- NYPD would be responsible for security for residents, tourists and visitors.
- Lighting within the construction areas would be lit at dusk and night using temporary lighting poles. Areas outside the construction fence would be lit by adjacent street lights. In the event the construction fence configuration blocks existing lighting, additional lighting would be installed on temporary light poles or on the fence.

Comment 93:

The DEIS does not consider the likelihood that the Project's extensive ground disturbances will cause major movements of the Project area's large rodent population. The FEIS should address the Project construction's risk that rodent populations will be disturbed and that rodents will seek new shelter locations, including within the nearby residential buildings. The FEIS should describe rodent-related mitigation measures. (Bommer_033xx)

Response 93:

There will be rodent-related mitigation measures implemented as part of construction as follows: Prior to the beginning of construction in each reach, there will be a walk through with BPC Parks and each adjacent reach stakeholder(s) to review existing conditions and determine any necessary remedial work, such as closures of existing rodent holes or places of rodent refuge along building facades, trash storage locations, as well as to identify locations where baits and traps can be safely located and maintained. Additionally, a rodent monitoring and extermination program will be implemented with no less than one visit per month by a qualified pest control company. Frequency of rodent control visits will be adjusted based on results of monitoring. For the ongoing monitoring and control protocols, there will be pre-baiting along the construction fence perimeter, closure of existing rodent refuge locations, traps set adjacent to and underneath all construction material storage areas, storage

boxes and dumpsters, use of garbage and refuse containers with closed lids, regular refuse disposal schedules to avoid build-up, ongoing visual surveys for evidence of rodents and swift treatment of locations where any evidence of new rodents exists.

Comment 94:

Socioeconomic Impacts of construction: The DEIS does not include any discussion or disclosure of socioeconomic impacts. The FEIS should disclose these impacts, including the direct displacement of businesses that will be affected by construction activities, as well as businesses that may not be directly displaced, but which will have their operations impacted by construction activities, including noise and changes in traffic flow. This includes the direct displacement of the marina and the impacts of construction activities on businesses in the area. The FEIS should include the disclosure of these socioeconomic impacts and include a plan for mitigation of their impacts. (Bommer_033yy)

The FEIS should include a discussion of how businesses will get deliveries during construction and the plan for staging of activities to minimize impacts on these establishments. (Bommer_033ggg)

Response 94:

In response to public comment, the Chapter 2, "Analysis Framework," of the FEIS includes additional information on the screening criteria for conducting a socioeconomic impact analysis. Further assessment of the potential for construction-related socioeconomic impacts was not warranted under CEQR. With the exception of the North Cove Marina, which would be closed for the duration of construction at Reach 5 (approximately 56 months), and the Pier 25 mooring field, which would be closed during Reach 2 construction (approximately 35 months), construction of the Proposed Project would not preclude access to any businesses in the area. Maintaining access to residences, businesses, and community facilities would be addressed through the Final Maintenance and Protection of Traffic plans, reviewed and approved by NYCDOT. Required temporary sidewalk and lane narrowing and/or closures would ensure the safety of the construction workers and the public passing through the area. Approval of these plans and implementation of the closures would be coordinated with DOT's Office of Construction Mitigation and Coordination (OCMC). A list of potential corridors and MPT locations is provided in Table 3.11.1-3 in the DEIS and FEIS Chapter 3.11.1, "Construction Overview". The locations for the temporary staging of construction materials, equipment, and trucks, as well as truck loading/unloading activities for the Proposed Project, are provided in Table 3.11.1-2.

Construction-Property Access (Montessori School)

Comment 95: BPM is deeply concerned that BPCA's proposed Reach 6 design and/or construction work will make it impossible for BPM to use its courtyard as a means of egress that meets New York's egress requirements for preschool and childcare programs, which, in turn, would make it impossible for BPM to operate legally or safely in its current space. Specifically, to comply with the Department of Health ("DOH") Code, preschool and childcare programs in New York City must have two unobstructed emergency exits that are separated by at least half of the diagonal dimension of the occupied space of the building. These exits must also meet the New York City Building Code, and compliance with both sets of regulations is needed to obtain (and retain) a license to operate a preschool or childcare program.

Currently, BPM has two emergency exits on its south side, and one on its west, which uses BPM's courtyard and the adjoining courtyard that runs north along the west side of the Regatta Building as an exit path. But as the attached diagram illustrates, the exits on BPM's south side are too close to one another to meet DOH's separation requirement. Rather, BPM must maintain at least one exit on BPM's south side and one on its west. And if BPCA's project design intrudes too far into BPM's courtyard egress, or if BPCA's construction work obstructs it, BPM would not be able to meet a fundamental legal and safety requirement of its license. This is an existential issue for BPM. As a result, further clarity is needed to determine how BPCA's proposed Reach 6 design or construction would impact BPM's courtyard, and whether these impacts would have the effect of displacing BPM. To this end, it would be helpful if BPCA could provide answers to the following questions:

- Has BPCA considered that BPM cannot operate safely or in compliance with its operating licenses or state and local regulations without a legal means of egress on the west side of its space?
- Would BPCA's proposed Reach 6 wall design decrease the width of the courtyard that runs along the west side of the Regatta Building at any point? If so, where? And by how much?
- Would BPCA's proposed Reach 6 wall be situated at least 48 inches away from the exterior wall of the west side of the Regatta Building?
- If not, has BPCA considered design alternatives that would leave at least 48 inches of clearance between BPCA's proposed Reach 6 wall and the exterior wall of the west side of the Regatta Building?

- To comply with New York Building Code, parts of BPM's courtyard space may need to be even wider than 48 inches to account for the swing of BPM's exit door. Would BPCA's proposed Reach 6 wall design provide this additional clearance? If not, has BPCA considered design alternatives that would do so?
- Would BPCA's proposed Reach 6 design otherwise obstruct any portion of the courtyard along the west side of the Regatta Building? If so, how? And has BPCA considered design alternatives that would avoid this obstruction?
- Even if BPCA's Reach 6 project design would not permanently preclude BPM from using its courtyard and the adjoining courtyard as a legal means of egress, would BPCA's proposed Reach 6 construction work temporarily obstruct BPM's courtyard egress?
- If so, what would be the nature of the obstruction? Has BPCA considered any alternatives, such as placing construction materials and equipment on the esplanade side of the existing privacy wall, that would keep BPM's courtyard egress clear?
- To the extent that there are portions of BPCA's proposed construction work that cannot be performed without blocking BPM's courtyard egress, how long would these portions take to complete? Has BPCA considered limiting this work to weekends or periods when BPM is closed for vacation?
- Has BPCA considered that, in addition to meeting New York Building Code requirements, BPM must satisfy DOH that its second means of egress is safe and appropriate for young children?
- Has BPCA considered that DOH must approve any changes to BPM's current egress plan?
- If so, has BPCA considered that this approval could take months to obtain? And that even if approval is ultimately granted, BPM would not be able to operate in its current space in the interim? How does BPCA plan to address this issue? (Montessori_049)

Response 95:

The proposed construction work is anticipated to take approximately 50 months. During this time, the outdoor space at BPM will be unavailable for use; however, the space will be fully restored as part of the project construction and at project completion the proposed flood wall will not encroach into the courtyard.

Construction within Reach 7A will allow for egress from both the west and south sides of the building. Construction within Reach 6C, which is expected to last approximately 24 months, will close the current access/egress point on the west side of the building. BPCA will continue to coordinate with BPM representatives to determine an acceptable means of alternate access/egress during construction

to ensure that legally required access and egress will be maintained at all times during construction and will assist BPM in obtaining the necessary permits and approvals.

Comment 96: Construction Lighting. Although night work may not be typically employed, the community understands from its experience with the South BPC Resiliency Project that temporary construction site lighting is likely to be used during evening, nighttime and early morning hours. The FEIS should address how such lighting's impact on neighboring residents will be mitigated. (Bommer_033ddd)

Response 96: Temporary construction lighting is proposed using temporary lights on poles or portable lights. The lights will be shielded and directed away from the buildings with reflectors to keep light waves focused on the construction site and away from the buildings.

Construction - Open Space

Comment 97: I am a resident of North BPC. Will this project start when South BPC is finished? We are moving in a few years and would hate not to have any green space in our last years living here. (Conner_029)

Response 97: As described in Chapters 3.2, "Open Space," and 3.11.2, "Construction Open Space," the South Battery Park City Resiliency Project is projected to be completed in early 2026, with Wagner Park reopening in the second half of 2025. Some open space resources throughout Battery Park City will remain open throughout construction, including the entirety of Rockefeller Park. Additional nearby open spaces that would be open throughout the duration of construction are further detailed in Chapter 3.11.2, "Construction Open Space."

Comment 98: As requested by HRPT, the DEIS does address the multitude of uses at Piers 25 and 26 that may be impacted during construction in Reach 2. HRPT appreciates BPCA's recognition of the public and commercial uses in this area that include beach volleyball and minigolf, non-motorized boating, children's playgrounds, restaurants, marine uses and an upland basketball court and a skatepark. However, the DEIS is unclear on the potential economic impacts of these uses during the project construction. For example, the DEIS states that most of the moorings in the Pier 25 Marina would be temporarily inaccessible during construction of Reach 2 for approximately 35 months (Chapter 3.11.1, Construction Overview). HRPT and the operators of various businesses will need more clarity on the extent and timing of this construction in order to make important business and operational decisions. For example, if construction is expected to begin in fourth quarter 2025, a key question is whether the moorings south of Pier 25 will be able to operate during the full 2025 season which ends in

November. A second question is whether the construction work would impact the transportation vessel operated by Citigroup, or other vessels that use the town dock at Pier 25. Grand Banks, a historic vessel with a food concession, is also located on the southwest side of Pier 25 and may be impacted due to noise and visual impacts during construction. Accordingly, HRPT requests that BPCA commence consulting with us and potentially with all impacted HRP tenants so that the economic impact to the Pier 25 businesses and HRPT along with possible mitigation are considered during the permitting discussions between HRPT and BPCA. (Atterbury_031j)

Response 98:

These temporary displacements of recreational boating facilities are not conditions that warrant additional analysis per the *CEQR Technical Manual*. There are approximately 15 public marinas operated by NYC Parks for docking and mooring an individual's boat, along with private marinas located throughout New York City and across the Hudson River in Jersey City. Private marinas located nearby include the Chelsea Piers Marina, which is a 65-slip marina for vessels of all sizes, as well as ONE15 Brooklyn Marina, which offers over 100 berths for vessels up to 350 feet and a sailing club and school. Despite the temporary disturbance to the Pier 25 mooring field operations, there would be similar services offered within the trade area to supplement the needs of local users. Details outlining the temporary displacement of these recreational resources are discussed in the DEIS and FEIS Chapter 3.11.2, "Construction Open Space."

During the closure of the HRPT mooring field south of Pier 25, up to approximately 15 seasonal recreation jobs would be directly displaced by the Proposed Project. See **Response 101** for additional information. Other businesses immediately fronting the Proposed Project's construction activities would remain accessible to patrons for the duration of construction, though some outdoor seating areas are expected to be temporarily closed or more limited and businesses may experience some loss in patronage because of construction activities. However, pursuant to the *CEQR Technical Manual*, even if one or more of these businesses were to close (temporarily or permanently), such displacement would not warrant an analysis of socioeconomic impacts.

Comment 99:

My question is very simple, will we be able to get another season in North Cove for 2025? A full season is from April until November or October. And that's my whole question. Thank you. (Caporale_008)

Response 99:

Under the current project schedule, the North Cove marina is projected to remain open and operational through the end of October 2025.

Comment 100:

Has BPCA considered that BPM also uses its courtyard as an outdoor play area for infants and young children? And that BPM is required by law to provide its infants

and young children with a safe and easily accessible outdoor play area, and daily opportunities for outdoor play?

Has BPCA considered that, setting aside indoor noise levels, BPM is required by law to provide its infants and young children with adequate, easily accessible outdoor play areas and daily outdoor play? (Montessori_049)

Response 100:

BPM's outdoor play area will be demolished and rebuilt as part of the Proposed Project. BPCA will work with BPM to ensure that it can continue to operate in compliance with all applicable laws and regulations during construction. The alignment of the east face of the proposed new flood wall will be in the same location as the east face of the existing privacy wall, as such upon project completion the width of the courtyard will be unchanged. There is currently approximately 10 feet clear between the building facade and the privacy wall and there will be the same clearance once the flood wall is installed.

Construction-Natural Resources

Comment 101:

The DEIS concludes that construction will not result in a significant adverse impact on natural resources, including the many species of fauna that make Battery Park City their home, in part because construction impacts on natural resources are deemed to be temporary. Given that the construction period is projected to span 5 years, the FEIS should not dismiss these impacts, but should describe mitigation measures to lessen them. (Bommer_033ww)

Response 101:

As described in greater detail in Chapter 3.11.3, "Construction Natural Resources," construction of the Proposed Project would avoid or minimize impacts on natural resources through implementation of measures such as the following:

- Groundwater recovered during construction dewatering would be treated in accordance with permitting requirements prior to discharge.
- Construction of the Proposed Project would not adversely affect hydrology or the floodplain, nor would it exacerbate flooding conditions. In addition, the construction zone would be protected from flooding in the event of major tidal storm event or relocated.
- Potential temporary impacts to littoral zone tidal wetlands during in-water construction and increases in turbidity and suspended sediment would be temporary and minimized using best management practices (e.g., silt curtains).
- Upland erosion and sediment control measures would be implemented in accordance with a Stormwater Pollution Prevention Plan to minimize the

discharge of materials to littoral zone tidal wetlands and the waters of the Hudson River during construction.

- All construction activities would be completed in accordance with the requirements of any additional measures required by USACE, NYSDEC or other applicable permits.
- To minimize resuspension of bottom sediment, barges would maintain sufficient distance from the river bottom.
- Containment booms and full-length turbidity curtains would be used around work areas to minimize the potential for impacts from sediment resuspension and to create an exclusion zone for fish and other aquatic organisms.
- The use of bubble curtains around pile driving activities would reduce the effects of underwater noise on aquatic species such that pile installation would not result in temporary increases underwater noise levels that would not be expected to exceed the threshold for physiological injury to fishes.

With the implementation of such measures, the Proposed Project will not result in any significant adverse impacts to natural resources during construction and thus, mitigation is not required.

Comment 102: There are impacts to water quality that will potentially cause harm to a protected sanctuary affected by the construction zone. Why is this acceptable? Steps must be taken to prevent the diminishment of water quality and subsequent impact to the Hudson River Estuary, a vital estuary ecosystem which has suffered from decades of toxic pollution and is only beginning. (Ashkin_045c)

Response 102: The DEIS concluded there would not be any significant adverse water quality impacts from construction. See also the response to **Comment 72**.

Comment 103: There will be impacts to wildlife, including mammals and birds whose habitat, food sources, nesting materials, nesting areas, and shelter will be completely destroyed. There has been no discussion of how to mitigate the impacts to our local wildlife, and how we are going to provide them the resources they require. Reproductive cycles must also be considered in terms of when trees are to be removed. Dozens of species of migratory birds and many native species build nests in the spring. Squirrels give birth in fall and spring and their young require at least 10 weeks of parental care. They cannot survive without trees and without their nests. Artificial nesting boxes must be provided and placed in the trees that are not slated for removal. This still does not address their need for nest material such as fallen leaves, and food sources which will be completely gone. Whether or not the birds and mammals that reside here fall into the category of

endangered species does not relinquish the responsibility of BPCA and partners to ensure that they are not killed when trees are destroyed, or left to suffer injury and starvation as a result of this project. (Ashkin_045h)

Response 103: As described in greater detail in Chapter 3.11.3, “Construction Natural Resources,” with respect to upland communities, these previously modified and landscaped communities that typically provide habitat for disturbance-tolerant wildlife species common to urban settings; accordingly, there would be no significant adverse the impacts to natural resources.

Construction-Infrastructure

Comment 104: Does BPCA intend to implement a temporary drainage system along BPM’s courtyard for construction effluent produced during Reach 6 construction?

If so, has BPCA considered that this construction effluent may contain contaminated dust, dirty water, or other material that may be harmful to BPM’s infants and young children?

Has BPCA considered that construction effluent from BPCA’s construction effluent may contain contaminated dust, dirty water, or other material that may be harmful to BPM’s infants and young children?

Does BPCA have a plan to prevent or mitigate these impacts? If so, what? (Montessori_049)

Response 104: The contractor will be required to comply with the SWPP, which will prevent runoff from the construction areas. Regardless, the courtyard area on the west and south side of the Regatta building, which is adjacent to the proposed flood barrier system, would be demolished to facilitate the construction of the flood barrier system wall foundation and would not reopen until constructed was completed in this area.

Construction-Transportation

Comment 105: I’d like to understand what the impact is on transportation for this neighborhood during the construction period. Especially the M9 and M20 buses and the Downtown Alliance Connection bus, as well as any car services and means that we have to get in and out of the area. (Kavelman_006)

The Construction Transportation chapter describes the impacts of the Proposed Project on the transportation system including traffic, bike, and pedestrian impacts are described in DEIS Chapter 3.11.4. As described in that chapter, no bus routes or service changes related to the Downtown Alliance Connection bus service would be necessary during construction. With respect to access by car services, the Proposed Project would maintain street access with certain

construction restrictions that are described in the DEIS and car services would be subject to the traffic temporary construction period traffic delays described in this FEIS. As HRPT had previously requested, the DEIS qualitatively addresses impacts to bicycle riders on the adjacent State Route 9A bikeway and to pedestrians entering the southern end of HRP during construction. Based on the analysis, the DEIS has identified the impacts to pedestrians and bicyclists in the area where the two parks meet as significant and unmitigated during the construction of the Proposed Project (See Chapter 3.11.4 on Construction Impacts and Chapter 4 on Mitigation). As mitigation, BPCA states that bikeway and pedestrian detours will be established through permits issued by NYSDOT and NYCDOT. To the extent that detours are proposed on or touching HRP property, HRPT will also need to approve through its construction permit. HRPT requests that BPCA consult with HRPT early in the process and in coordination with the transportation agencies regarding the location, size and design of the proposed detours. It is important that HRPT be involved in decisions on how the public will have access to the southern portion of HRP. HRPT has historically worked well with NYSDOT and NYCDOT on such planning prior to mitigation measures being included in the required NYSDOT permits. (Atterbury_031i)

Response 105: Permit applications with HRPT will take into account detours that impact or abut HRPT property and BPCA and its PDB team will coordinate outreach to HRPT through BPCA prior to submission of the permit applications.

Comment 106: The CB should be notified of any Maintenance and Protection of Traffic Plans required for temporary road closure, sidewalk closure, lane closures, rerouting of pedestrian and bicycle circulation and confirmation/changes to Table 3.11.1-3. The CEM or responsible agency must post physical signs to notify the public of closures at least 2 weeks in advance and during closures, and at every public meeting they attend. (Bommer_033ss)

Response 106: The final MPTs will be submitted for review and approval by NYCDOT with a separate approval process for the State Route 9A/West Street construction period measures. BPCA and its PDB team will also coordinate the review of these plans with the Community Board.

Comment 107: Please provide an assessment for how construction traffic will impact routes to school in the Project Area. The FEIS should include a discussion of the use of traffic enforcement agents and pedestrian managers as a way of mitigating construction impacts on pedestrians. This is especially important for Chambers Street near Stuyvesant High School. Please provide further detail on any scheduled breaks from the routine daily and scheduled nighttime construction. Are there any scheduled breaks envisioned in the schedule, e.g. major holidays, scheduled

testing days at schools, etc. The FEIS should include a range of possible outcomes regarding scheduled delays and cost/time overruns. (Bommer_033uu)

Response 107:

The DEIS disclosed the potential for significant adverse pedestrian and traffic impacts associated with the MPT plan. Since the DEIS, there have been design refinements for the State Route 9A/West Street gate crossing. During construction of the two swing gates crossing State Route 9A/West Street, the MPT plan would have a duration of approximately 36 months and maintain three southbound lanes and reduce the northbound direction from four to three lanes during the daytime and reduce both directions to two lanes overnight. The State Route 9A/West Street gate crossing construction would not affect pedestrians or bicyclists. A Traffic Management Plan would be developed to lessen traffic impacts and advise motorists to avoid the area, and is described in further detail in the FEIS. Pedestrian routes would be affected by the MPT plan to build the floodwall. Where sidewalks are temporarily closed to construct the project, alternate routes are available, and the FEIS pedestrian analysis of the MPT plan analyzes the impacts of these alternate routes and sidewalk closures. Construction period management techniques such as those cited in the comment will be determined in construction specifications stipulated by NYSDOT and NYCDOT. In addition, the DEIS acknowledged the need for NYSDOT approvals for a Highway Use and Occupancy Agreement and Construction permits for work in State Route 9A/West Street in addition to design coordination. Additional references to NYSDOT approvals have been made in the FEIS. The PDB team has also been coordinating with Stuyvesant High School to account for and accommodate testing periods for the Stuyvesant students. During testing periods, any noise-intensive work would occur during after school hours, starting on the 2nd or 3rd shift. The testing periods will occur over three weeks in May, two weeks in June and one week in January. Quieter work may still occur during the regular workday while school is in session. No work would be undertaken on major holidays.

Comment 108:

Please provide detail on how BPCA and City agencies will work with the task force at 250 Vesey to move cars off the street. Indicate which agencies will be involved in enforcement during the construction process for private and placard vehicles. (Bommer_033vv)

Response 108:

While BPCA has no parking enforcement authority, BPCA will continue working with the NYPD's 1st Precinct to facilitate construction in the vicinity of 250 Vesey Street.

Construction Noise and Vibration

Comment 109: Construction intensity and in particular noise and vibration is going to be very significant for all of the residential buildings that are adjacent to the project. (Galloway_005b)

Yes, this “resiliency” project will cause the community to suffer by adding to the already overwhelming noise pollution we suffer in this neighborhood and this neighborhood is teeming with young children who will be very adversely affected by the inevitable pollution caused by the construction (as well as by the noise). (Tekeria_037b)

Response 109: Chapter 3.11.7, “Construction Noise and Vibration,” presents a detailed analysis of the potential for construction-period noise impacts generated by the operation of construction equipment and construction-related vehicles. The detailed analysis of construction noise concluded that construction pursuant to the Proposed Actions has the potential to result in construction noise levels that would be readily noticeable and potentially disruptive for an extended period of time at various open space, residential, hotel, school, and community facility receptors surrounding the proposed construction work areas. The analysis evaluated the construction periods with the potential to result in the greatest levels of construction noise; however, the predicted maximum levels would not persist throughout construction, and the noise levels would fluctuate throughout the construction period. Construction of the Proposed Project would follow the construction noise control requirements of the NYC Noise Control Code and would employ measures to control construction noise that go beyond those required by Code. However, the most noise-intensive construction activity nearest the receptors experiencing significant adverse impacts would only be partially mitigated. Significant adverse impacts that cannot be fully mitigated through reasonably practicable measures would be considered unavoidable.

Between the DEIS and the FEIS, a thorough survey of each of the buildings that were identified as having significant adverse construction noise impacts from the Proposed Project was conducted, and it was determined that all include the measures that would provide attenuation of exterior construction noise, i.e., modern façade construction including insulated glass windows and an alternate means of ventilation allowing for the maintenance of a closed-window condition.

In addition, BPCA and its PDB team conducted further investigation since the DEIS to identify additional construction noise source mitigation measures. These additional measures are described in Chapter 4, “Mitigation,” of this FEIS.

Chapter 3.11.7, “Construction Noise and Vibration,” also presents a detailed analysis of vibration resulting from construction of the Proposed Project, in

particular on buildings and other structures (including historic bulkhead) adjacent to pile installation locations. Vibration levels at all of these buildings and structures was predicted to remain below the 0.50 inches/second PPV limit considered acceptable for historic structures. However, as described in the DEIS, vibration monitoring would be required for all historic structures within 90 feet of the project work areas according to the Proposed Project's Instrumentation and Monitoring Plans to ensure vibration does not exceed the acceptable limit at any of these historic structures.

Comment 110:

I have a comment about noise, because this is a very big construction project. What kind of noise are we going to hear? Jack hammers, compressors, pile drivers, truck noise—that wonderful sound when they're backing up "Beep, beep, beep." There's going to be a lot of dust, they're going to be vibrations, and if this is going to be years, then the people who live anywhere near River Terrace, it sounds like it's going to make living there practically unlivable with such high noise levels every day. I don't know if that's going to happen, but that's what it sounds like. So, I'm hoping that there's going to be some comments about the noise levels and what kind of construction equipment are going to be out there over this extended period and whether there's going to be any compensation for the people who live near River Terrace. (Keenan_010)

Impact of extreme noise on residents and lack of adequate mitigation. Based on what I experienced the first two weeks that construction work was beginning on Rector Place it is clear that noise mitigation is not being addressed and that the noise from jackhammers and other machinery is at unsatisfactory and unhealthy levels. I submitted a personal comment about this on the 18th with additional detail. Please review. (Ashkin_045a)

Every conceivable measure needs to be taken to mitigate noise and vibration impacts. And those mitigation measures need to be described in detail in the FEIS. (Galloway_005c)

Mitigation measures addressing construction equipment noise, including but not limited to pile driving machinery, generators, compressors, and pneumatic tools, should be specifically addressed in the FEIS. (Bommer_033bbb)

Response 110:

BPCA and its PDB team are committed to minimizing the usage of most impactful pieces of equipment as much as possible. The Proposed Project has over a thousand deep foundation elements. Therefore, as stated in the DEIS (Chapter 4.0, "Mitigation"), the PDB team is proposing to use the drilled method of pile installation, rather than impact driving, in order to minimize noise and vibration impacts. As analyzed in the DEIS, this method alone would reduce the level of potential noise impacts. Additional noise control measures that were evaluated

since the release of the DEIS and are included in the FEIS mitigation sections (see double underlined added text).

Other construction mitigation approaches that were presented in the DEIS and are expanded on in this FEIS (see Chapter 4's double underlined additions) include the following:

No blasting is proposed or would be allowed. The use of jackhammers and hoe rams would also be minimized.

Construction equipment would be fitted with well-maintained, manufacturer-recommended exhaust mufflers to mitigate the amount of noise escaping with the diesel exhaust.

The PDB team would limit nighttime work to necessary tasks such as utility work and work to construct the flood barrier system, including installation of piles, wall foundation, the wall, and deployable gates, in the NYSDOT right-of-way. Nighttime work may be needed for other reasons, for example, nighttime marine construction may be required due to PANYNJ coordination, but otherwise, marine construction would also be planned as daytime work.

The PDB team would attach sound blankets on the inside of the construction fence. Where practicable, such fences would also include an angled section at the top of the wall which would tilt toward the construction area to capture additional noise. This would also be constructed with plywood, studs and sound blankets. In areas where the work would be immediately adjacent to a building and there is no space available for a site fence, the PDB team is proposing draping sound blankets 15 to 20 feet high immediately in front of the work area.

Cranes would be equipped with well-maintained, manufacturer-recommended exhaust mufflers to mitigate the amount of noise escaping with the diesel exhaust.

The PDB team would minimize the use of vacuum excavation to excavate around critical infrastructure, utilities, or sensitive root protection as required by the project plans.

The PDB team re-sequenced the project to minimize simultaneous work while maintaining the project schedule, prioritizing the construction of the FBS at the most vulnerable locations, and addressing community and other stakeholder feedback.

To ensure that the Proposed Project includes a full range of current and future feasible measures that assist in minimizing the impacts of construction, the construction team has continued to explore and investigate the ability to utilize a combination of diesel and electrically powered construction equipment that is

undergoing demonstration testing, or may evolve in the near-term thereby becoming available during the course of Project construction (e.g. 2025–2030). Predicated on continued technical advancement by the equipment industry and corresponding availability of electrically powered equipment types that have equivalent operating capability, BPCA has established a goal of requiring its contracting team to power at least 20 percent of the on-site, mobile construction equipment with electric battery-operated generators that will also be fitted-out with special, OSHA compliant noise reducing back-up alarms. Based on industry input, the most likely types of mobile, battery-operated construction equipment with sufficient capacity to perform the required works are excavators, loaders and vibratory rollers.

Comment 111: Please identify any buildings on the clearly unacceptable noise level list that do not have appropriate ventilation for closed-window operation or likely don't have modern window insulation to attenuate noise level. The FEIS should discuss in detail how noise impacts on these directly impacted buildings will be mitigated. (Bommer_033tt)

Please provide in the FEIS any additional construction noise mitigation measures identified since the DEIS was published. Because of the significant impacts due to construction noise, please consider making available quiet work locations to impacted residents who would otherwise have to work from home in noisy conditions as a mitigation measure. Alternatively, the applicant should install noise dampening windows or noise dampening devices at the homes and facilities of the most impacted community members, including schools, places of business and senior residences. (Bommer_033aaa)

Response 111: Between the DEIS and the FEIS, a thorough survey of each of the buildings that were identified as having significant adverse construction noise impacts from the Proposed Project was conducted, and it was determined that all include the measures that would provide attenuation of exterior construction noise, i.e., modern façade construction including insulated glass windows and an alternate means of ventilation allowing for the maintenance of a closed-window condition. In addition, BPCA and its PDB team conducted further investigation since the DEIS to identify additional construction noise source mitigation measures. These additional measures are described in Chapter 4, "Mitigation" of this FEIS. See the response to **Comment 102**.

Comment 112: BPM is concerned that BPCA's proposed construction work in Reaches 6 and 7 will expose BPM's infants and children to harmful and unsafe levels of indoor and outdoor noise and unacceptable noise and vibrations if BPM does not relocate during construction. Further clarity is needed to determine whether adequate

safeguards could be implemented to protect BPM's infants and children from harmful noise effects during some or all of this construction. To this end, it would be helpful if BPCA could provide answers to the following questions:

The DEIS's analysis of noise impacts of Reach 6 construction work on BPM appears to be limited to BPCA's proposed construction work in Stage 6C. Has BPCA considered that noise and vibrations emanating from Stages 6A, 6B, and 6D could also have harmful impacts on BPM's infants and young children? And that if so, BPCA's Reach 6 construction work could expose BPM's infants and young children to harmful noise levels for 14, rather than eight, months?

Will BPCA's proposed Reach 6 construction work include construction activities other than demolition/excavation, drilling, pile installation, and platform reconstruction? If so, what? What equipment would be used? How much noise would this equipment generate? How long will these activities take to complete?

With respect to Reach 7, the DEIS states that BPCA's proposed construction work "would result in significant adverse noise impacts at construction-facing façades of residential buildings along Reach 7." Although Reach 7 starts at BPM's corner and runs along BPM's south wall and terrace, the DEIS does not identify BPM or the Regatta Building as a potential receptor of Reach 7 construction noise. Has BPCA considered that BPM is a construction-facing façade along Reach 7?

How close to BPM's south wall and terrace is Stage 7A located? What about Stage 7B? 7C?

Has BPCA considered that construction work in Reach 7 could expose BPM's infants and young children to harmful levels of noise?

Will BPCA's construction work in Reach 7 involve construction activities other than demolition/excavation and pile installation? If so, what? What equipment and procedures will be used? How long will these activities take to complete? (Montessori_049)

Response 112:

Since these comments were received, the proposed construction phasing has been updated and Reaches 6C and 7A are now proposed to be constructed sequentially (as opposed to simultaneously). Construction in Reach 6C would take 24 months, while Reach 7A would last for 26 months. As was the case in the DEIS, construction in Stage 6C would produce the greatest predicted construction noise levels at receptor 15 (which represents BPM).

In both Reach 6C and 7A, construction activities would include demolition/excavation, drilling, pile installation, hardscape, landscape, flood barrier system installation and other miscellaneous works. Reach 6C will also include platform reconstruction.

There will be different pieces of equipment in use throughout the construction period including excavators, loaders, skid steers, concrete pumps, drill rigs, assist cranes, concrete saws, forklifts, generators, manlifts, pumps and other miscellaneous equipment. See FEIS Table 3.11.7-3 for equipment noise emission levels.

All construction will be conducted in compliance with NYC Noise Control Code, including section 24-228, "Construction devices," which limits aggregate noise from all equipment, as well as noise emissions from individual pieces of construction equipment and requires construction noise barriers when noise-intensive equipment would operate close to noise-sensitive uses such as residences or schools.

Even with these mitigation measures in place, the construction noise analysis identified significant adverse construction noise impacts, as interior noise levels were predicted to exceed the threshold recommended for community and classroom uses in the *CEQR Technical Manual*. As described in Section 3.11.7.7.5 of the DEIS and **Response 126**, such impacts would be temporary in nature and noise levels would vary throughout the course of construction activities. However, as further detailed in **Response 125**, the predicted construction noise effects at the BPM facility would not be considered an impact to public health.

Comment 113: Has BPCA considered that vibrations from pile drivers and other equipment used in Reaches 6 and 7 may be perceptible to BPM's infants and young children, and may impair their ability to sleep and learn? How does BPM propose to mitigate these vibrations? (Montessori_049)

Response 113: As described in the DEIS, Section 3.11.7.6, pile installation would be conducted by means other than impact driving in order to minimize both noise and vibration impacts. Section 3.11.7.8.3 of the DEIS acknowledges that vibration may be perceptible at times, but that due to its limited duration would not rise to the level of a significant adverse impact.

Comment 114: The DEIS posits that BPM's insulated glass windows and through-wall air conditioning units would provide at least 30 dBA of window/wall attenuation, resulting in indoor noise levels up to approximately 50 dBA. Has BPCA tested this hypothesis? (Montessori_049)

Response 114: While testing has not been conducted directly on BPM's building facade, this level of attenuation has been developed based on laboratory testing of comparable insulated glass window systems, has been accepted by NYCDEP and is used for projects throughout New York City.

Comment 115: Has BPCA considered that noise caused by construction-related traffic could have harmful impacts on infants and young children? Has BPCA considered the cumulative impacts of construction-related traffic noise and noise caused by on-site construction activities? (Montessori_049)

Response 115: As described in the DEIS and FEIS, construction truck activity was assigned to roadways in the construction noise model and is therefore included in the construction noise level predictions in the construction noise analysis. The DEIS and FEIS analyze the potential air quality impacts associated with construction, including traffic, and concluded that there would be no significant impacts or exceedance of health-based air quality standards, which were developed to be protective of all of the public, including children.

Comment 116: Has BPCA considered that construction activities that are not as noisy as demolition/excavation, drilling, or platform reconstruction, may still have harmful effects on infants and young children? Has BPCA considered that infants and young children are especially susceptible to noise, since their auditory systems are still developing? Or that young children's external ear anatomy differs from adult anatomy; and smaller ear canals more greatly intensify high-frequency sound? Has BPCA considered that noise can negatively impact young children's sleep and learning and have harmful physiological effects? Has BPCA considered that noise may be especially harmful to younger children who are developing language and auditory discrimination skills? (Montessori_049)

Response 116: The FEIS predicts interior noise levels at BPM during the noisiest construction activities up to approximately 54 dBA, which is approximately 9 dBA greater than the threshold considered "acceptable" for a classroom use. As a reference, a modern 12,000 BTU window air conditioning unit (i.e., the type common for residential applications) emits 54 dBA on its "mid" setting. Also for reference, noise levels in the mid-50s dBA are typical for a commercial office environment. It does not approach the threshold for potential hearing damage (i.e., prolonged exposure to noise levels above 85 dBA per *CEQR Technical Manual* page 20-6). Additionally, because the activity that would produce the greatest noise within the school would occur intermittently and for a limited duration, the noise would not be considered "chronic." Finally, because the activity that would produce the greatest noise within the school would be vibratory sheeting installation, which is not an impact source (defined as noise with a rapid onset and short decay such as an impact hammer hitting a pile), it would not result in short-term impacts of noise at high decibel levels. As such, the predicted construction noise, while it would be greater than the level recommended for classroom use, would not impact public health.

Comment 117: Has BPCA considered that constant background noise levels of 50 dBA may impair infants' and young children's sleep and learning? Or that the American Academy of Pediatrics has recommended that early care and education settings accommodate young children by keeping the decibel level at or below 35 dB for at least 80 percent of the time?

Has BPCA considered that BPM is required by law to provide its infants and young children with developmentally appropriate periods of quiet rest?

Has BPCA considered that even short exposures to loud noise can have harmful effects on infants and young children? (Montessori_049)

Response 117: The City's *CEQR Technical Manual*, which provides guidance used in the EIS analyses, considers interior noise levels above 45 dBA in community facilities, including schools and day care facilities, to constitute a significant adverse impact, which is what was analyzed in the DEIS. BPCA and its various experts have not identified any city, state or federal agency which has adopted the cited recommendation from the American Academy of Pediatrics. HUD, EPA and the New York City School Construction Authority all utilize the 45 dBA threshold. The background noise levels during construction would not be constant, as the EIS results indicate that exceedances between 45-54 dBA would occur approximately 10 percent of the time within any given hour. With respect to short-term exposure to outdoor noise levels of 85 dBA occurring on entering/exiting BPM (as the comment implies would occur), the maximum exterior noise exposure predicted to occur at BPM is less than 80 dBA. Additionally, maximum measured existing noise levels along and near West Street (Sites M3, M4, M9) consistently exceed 85 dBA, as is common near heavily trafficked roadways in New York City. While exposure to noise levels greater than 85 dBA would not be recommended for prolonged periods on an ongoing basis, it is not uncommon for children (presumably including the children who attend BPM) to walk along such roadways for limited periods of time.

The evaluation of noise effects at BPM from construction of the Proposed Project is consistent with the typical practice of construction noise evaluation in New York City under *CEQR Technical Manual* guidance, and the predicted outcomes are comparable to those of other projects. The FEIS for 250 Water Street (CEQR# 21DCP084M) considered construction noise effects on two adjacent schools (The Blue School private school serving pre-K through 8th grade and P.S. 343 serving pre-K through 5th Grade) and predicted interior noise levels at these schools between 55 and 58 dBA occurring over the course of approximately three years. The FEIS for New York Blood Center (CEQR# 21DCP080M) considered construction noise effects on the adjacent Julia Richman Education Complex (including four high schools, a kindergarten through 8th grade school, a middle

school for autistic students, and a nursery for children of students in the complex) and predicted interior noise levels at up to 59 dBA occurring over the course of approximately 12 months. In each of these cases, as with the Proposed Project, the predicted construction noise effects were determined to be a significant adverse impact.

The Jewish Home Lifecare FEIS (CON# 121075) considered construction noise effects on the adjacent P.S. 163 (pre-K through 5th grade) and predicted interior noise levels at up to 54 dBA occurring over the course of approximately 9 months. Due to the reduced duration of the interior noise level threshold exceedances in this case, the predicted construction noise effects were determined not to constitute a significant adverse impact.

Refer to response to **Comment 108** for additional information. BPCA will continue to work with BPM to ensure that it can continue to operate in compliance with all applicable laws and regulations during construction.

Noise Impact Mitigation Measures

Comment 118: With respect to Reach 6, the DEIS states that BPCA's proposed construction would expose BPM to "clearly unacceptable" noise for up to eight months. Has BPCA considered ways to mitigate this noise and its potential impacts on BPM's infants and young children? If so, what? (Montessori_049)

Response 118: As described in Section 3.11.7.6 and Chapter 4 of the DEIS, construction of the Proposed Project will include numerous construction noise control measures, including measures that go beyond the requirements of the NYC Noise Control Code. These measures include limits on noise emissions from individual pieces of construction equipment, avoidance of impact pile driving in favor of drilled-shaft piles or vibratory-driven sheeting, limiting the use of the most noise-intensive equipment (e.g., vacuum excavators, hoe rams, jackhammers), use of grid power rather than diesel generators wherever possible, configuration of the work area to minimize or avoid use of back-up alarms, and noise barriers with sound-absorptive blankets surrounding the construction work area.

Comment 119: With respect to mitigation, the DEIS focuses on limiting construction activities to weekdays between the hours of 7am and 6pm. Has BPCA considered that BPM operates during these hours? And that as a result, this timing will not have a mitigating effect on BPM's infants and young children? Has BPCA considered performing noisy construction activities overnight or on weekends instead? To the extent that some amount of prohibitive daytime construction noise and vibrations may be unavoidable, can this work be limited to weekends or periods

when BPM is closed for vacation? If not, can this work be scheduled so that BPM has enough lead time to relocate? (Montessori_049)

Response 119: The NYC Noise Control Code limits construction to weekdays between 7AM and 6PM; this is not a project-specific commitment. The NYC Noise Control Code generally prohibits construction activities overnight or on weekends, absent special permission from the New York City Department of Buildings (NYCDOB). Moreover, limiting construction activities to nights and weekends or other periods of school closure would result in unacceptable increases in project cost and a significant extension of the construction schedule, which would increase the duration of construction impacts on the community and would delay the flood protection that the Proposed Project will provide. Prohibitive daytime construction noise and vibration is not anticipated.

Comment 120: Has BPCA considered implementing additional mitigation measures, such as noise blankets or noise walls?

Has BPCA considered whether its construction equipment can be modified to further reduce noise? (Montessori_049)

Response 120: As noted in Chapter 4 of the FEIS and **Response 121** above, noise blankets will be implemented where practicable. The mitigation chapter of the DEIS and this FEIS outline mitigation measures to reduce construction noise emissions and impacts. As noted in Section 4.0.4.2, the construction team will be required to continue to investigate any additional measures to minimize noise emissions from equipment that may become available throughout the construction period.

Comment 121: Does BPCA have contingency plans if construction noise is louder than anticipated? Or if BPCA's noisy construction activities cannot be completed on schedule? (Montessori_049)

Response 121: The equipment that was analyzed and updated as part of the FEIS construction noise analysis is specialized equipment (i.e. specialized drill rigs) that were identified by the design team and required for the FBS installation. The equipment has known noise emission factors that were used in the analysis model, and so the construction noise is not anticipated to be louder than the DEIS and FEIS disclosed. As described above and in Chapter 4, "Mitigation," a variety of noise mitigation measures will be employed.

In addition, construction activities will be required to follow the Construction Noise Mitigation Plan, which is reviewed and approved by NYCDEP in accordance with §24-219 and §24-220 of the New York City Noise Control Code. The plan will be readily available for inspection at the construction site. If construction noise were to exceed the NYC Noise Control Code limits, BPCA and the construction

team would review construction means and methods as well as noise control measures with the contractors to determine potential alterations to means and methods or additional noise controls to the extent feasible and practicable to reduce construction noise. Delays from work stoppage due to noise issues may lead to a prolonged work schedule.

Construction-Air Quality

Comment 122: Impact of poor air quality, particulates, fumes, etc. This must be fully addressed as it is a serious health concern that will unquestionably impact the well-being of: (a) residents who live and work in their homes; (b) children and elderly who are more susceptible to the health issues related to these types of pollutants; and (c) everyone who is consistently exposed to these pollutants for the 5-year duration of this project. (Ashkin_045b)

Response 122: DEIS Chapter 3.11-5, "Construction Air Quality," presents an analysis of air quality during construction, including a quantitative analysis of both on-site and on-road sources of air emissions. With the implementation of a robust emissions reduction program, including the use of ultra-low sulfur diesel (ULSD) fuel, dust suppression measures, idling restrictions, diesel equipment reduction, and use of best available technology, the dispersion modeling analysis demonstrated that the Proposed Project would not result in significant adverse air quality impacts due to construction sources.

Comment 123: Air quality monitoring during construction The FEIS should detail how air quality will be monitored during construction. Air quality monitoring must: (1) Be contracted to an independent third party that is onboard from day 1; (2) Output information by air quality sensors in real-time to a publicly accessible website, which is prominently featured on the applicant's website; (3) Indicate air quality events, which occur when air quality exceeds maximum permitted thresholds. The Community Board asked to be notified whenever an air quality threshold is exceeded within 3 days; (4) Run the entire duration of the project; and (5) Provide masks and HEPA filters for places that are directly impacted. (Bommer_033eee)

Response 123: A description of the Community Air Monitoring Program (CAMP) is provided in Section 3.12 of the RAP (**Appendix F** of the DEIS). As described in the RAP, and further detailed in response to **Comment 55** above, this would include continuous, real-time air monitoring for VOCs and particulates around the perimeter of work areas during any ground-intrusive activities and during the handling of contaminated or potentially contaminated media. Action levels and response actions are provided in the CAMP. Monthly air monitoring reports will be posted to the project website.

Construction-Neighborhood Character

Comment 124: In support of what other members said, I'm a shareholder, we purchased here two years ago on at 20 River Terrace, and very concerned about the quality of life in the next five years. I'm a senior, it is a significant part of my life and I moved here for the beauty. I had no idea of what I was buying into with this project. (Greenwald_013)

Response 124: As described in DEIS Chapter 3.11-8, "Construction Neighborhood Character," the construction impacts from the Proposed Project would be temporary and localized, confined largely to the buildings and streets surrounding the Project Area. However, since the Proposed Project would result in significant adverse open space, traffic, and noise impacts during the construction period and that these elements are part of the defining features of neighborhood character, the Proposed Project is expected to result in significant adverse neighborhood character impacts during the construction period. As presented in DEIS Chapter 4.0, "Mitigation," measures would be implemented during construction to minimize the adverse open space, traffic, and noise effects to the extent practicable. These measures would include the relocation of open space programming during the construction period, funding for the construction of new open space at HRP, the implementation of signal timing changes at impacted intersections and a robust noise mitigation program.

Comment 125: Although BPM hopes to remain in its current location, it is possible that aspects of the N/WBPCR or its construction will displace BPM from its current location, at least temporarily. Given this reality, further information would be helpful to determine whether BPCA has fully considered the impact of the N/WBPCR on BPM and its effects on the surrounding community. For example: BPM is a longtime member of the Battery Park City community and offers the neighborhood's only trilingual Montessori program. Has BPCA considered that displacing BPM would displace an important community resource? Has BPCA considered that displacing BPM will not only decrease the community's access to Montessori-based childcare and early education, but also decrease the overall availability of childcare and preschool resources in the community? Has BPCA considered that displacing BPM and its 90 early care and education seats could strain other childcare, nursery school, and preschool facilities in the community? Has BPCA considered that displacing BPM could leave the families of BPM's 90 infants and young children struggling to find childcare? Particularly if other childcare facilities along Reach 6 are also displaced during construction? Has BPCA considered that BPM's enrollment cycle for 2025 has already started? And that families are already relying on BPM to provide childcare and preschool

services in 2025? Has BPCA considered that BPM is a leader in the Montessori community, which relies on BPM to train teachers in the Montessori method? And that displacing BPM would have ripple effects on the availability of Montessori education programs in other places? Has BPCA considered that finding and building out an adequate alternative location where BPM could continue operating and serving infants and young children of Battery Park City could take 18 months or more? Has BPCA considered that Battery Park City is a family friendly neighborhood? And that access to local preschool and childcare programs is an important component of Battery Park City's family-friendly character? Has BPCA considered that BPCA's current construction timeline does not give BPM enough lead time to find a suitable alternate location? How does BPCA intend to mitigate these impacts? (Montessori (049))

Response 125:

As noted above, the NWBPCR project is being implemented for the purposes of protecting the residents and employees of Battery Park City, as well as the various residential, commercial and community facilities, from the impacts of a design storm. Project construction will be undertaken in compliance with all applicable requirements in order to ensure the safety of all those who live and work and attend school in Battery Park City. BPCA has committed to implementing all feasible mitigation measures that have been identified in order to minimize the impacts of the Proposed Project and its construction and to ensure the health and safety of all those who might be impacted by such construction.

Overall, during the Proposed Project's construction, businesses may experience some loss in patronage because of construction activities. However, pursuant to *CEQR Technical Manual* guidance, even if one or more of these businesses were to close (temporarily or permanently), such displacement would not warrant an analysis under CEQR. According to the *CEQR Technical Manual*, the following circumstances (in italics) warrant analysis for potential significant adverse socioeconomic impacts: *The project would directly displace more than 100 employees; and/or the project would directly displace a business that is unusually important because its products or services are uniquely dependent on its location; that, based on its type or location, is the subject of other regulations or publicly adopted plans aimed at its preservation; or that serves a population uniquely dependent on its services in its present location.*

BPCA will continue to work with BPM to ensure that all applicable regulatory requirements can be satisfied throughout the construction period; however, if BPM decides to relocate voluntarily, it would not be considered direct displacement (described as the involuntary displacement of a business). Even if the school were to be indirectly displaced, it would not present conditions warranting assessment for potential significant adverse socioeconomic impacts

under CEQR. While all businesses contribute to neighborhood character and provide value to the City's economy, BPM is not essential to the local economy as defined by CEQR: it does not employ more than 100 employees; it is not the subject of regulations or publicly adopted plans based on its preservation; and it does not serve a population uniquely dependent on its services in its present location. Preschool services would continue to be available to study area residents and businesses through other preschools within a trade area for those services.

10.5 Mitigation

Comment 126: Construction Lighting. Although night work may not be typically employed, the community understands from its experience with the South BPC Resiliency Project that temporary construction site lighting is likely to be used during evening, nighttime and early morning hours. The FEIS should address how such lighting's impact on neighboring residents will be mitigated. (Bommer_033ddd)

Response 126: Temporary construction lighting is proposed using temporary lights on poles or portable lights. The lights will be shielded and directed away from the buildings with reflectors to keep light waves focused on the construction site and away from the buildings.

Open Space

Comment 127: DEIS states there are still investigations ongoing into other possibilities to mitigate noise and the loss of open space. Please provide in the FEIS any additional mitigation measures identified since the DEIS was published, including more details on the proposed locations and description of mitigation measures during construction for play areas, parklets and street seats, pop-up parks, seating, open streets. Since these are not yet decided, the CB should provide suggested locations or the nature of use for consideration. (Bommer_033zz)

Response 127: Noise mitigation is addressed in the responses to **Comments 127 to 132**. With respect to open space, BPCA has engaged a design team to create and implement a master plan for interim accessibility, wayfinding signage, public furnishings and art that will address how Battery Park City will function and look during the multi-phase, five-year resiliency initiative and capital construction project. The plan will identify opportunities for temporary public spaces and temporary furnishings and/or programming of existing public spaces, establish a wayfinding strategy involving both temporary signage and supplemental permanent signage, facilitate bicycle and pedestrian circulation, and propose an approach to and locations for both temporary public art installations and the future permanent expansion of BPC's portfolio of public artwork. In addition, as noted in Chapter

4.0, "Mitigation," as mitigation for temporary open space impacts during construction, BPCA would make a contribution to the construction cost of the Estuarium, an environmental education center devoted to marine education.

10.6 Miscellaneous Comments

Quality of Life Impacts and Compensation

Comment 128:

As a resident in Gateway for the last 40 years, I'm talking about this from a residential occupancy point of view. Residential occupancy in the area is either rental, condominium, or co-op -- condominium and co-op meaning ownerships and rentals of course being tenancy. Now without even looking at the business side, which should be included on some level as well. This project should include a significant tax abatement for co-ops and condominiums. And it also should include some kind of subsidy for what everyone who's going to be dealing with now, with their rental property. And it should not be borne, for the rental properties, by the owner of the rental property. It should be borne by the city, state, or the federal government or whoever it is that would be doing such an abatement. So that it could be passed along to the tenants, and we can continue to live here and deal with the significant noise and the significant time that this is going to take. And what's happening is it's pretty much taking away every aspect of why we live here and so we need to be compensated for that. (Weidner_012)

I feel also that in terms of abatements and costs of maintaining our property, with the quality of life coming down to the spirit of life. I would like that to be addressed. (Greenwald_013)

If this project must go forward BPC residents experiencing unmitigated adverse effects should be considered and compensated financially or otherwise for a project that does not provide clear benefits. (Wolfe_027)

Response 128:

The Proposed Project will protect Battery Park City and surrounding areas of Lower Manhattan from the significant property damage that would otherwise result from the design storm and is anticipated to help reduce property insurance premiums for properties with federally backed mortgages. No other climate adaptation project in New York City has offered tax abatements or direct subsidies to residents and to do so would significantly increase the project cost. As is discussed in more detail in Chapter 4, "Mitigation," mitigation is being provided to address the significant adverse impacts of the Proposed Project, in particular noise impacts during construction.

Comment 129:

In response to your proposal, we have just learned of this project. We disagree with this proposal. We recently moved into the Solaire building and one of the reasons we bought this property has to do with its proximity to the Hudson River.

This view upon leaving the front of the building is superb and it seems that you're building a wall to hide this will detract and affect the value of our property. We regret we did not know of this proposal prior to our purchase. Was the value of properties taken into consideration when launching this project? (Singer_036)

Impact to the value of our rental properties and reduced value to homeowners who want to sell their apartments. This is not being addressed at all. I am greatly concerned about property values and how this will affect my ability to sell my apartment should I find it necessary to move. I am sure I am not alone with this very real concern. (Ashkin_045d)

Response 129:

While the DEIS and FEIS have identified the potential for temporary significant adverse impacts to neighborhood character during construction, the Proposed Project will protect Battery Park City and surrounding areas of Lower Manhattan from climate change and the significant property damage associated with the design storm, protecting significant property interests, as well as the health and safety of tens of thousands of New Yorkers. In addition, the Proposed Project is anticipated to ultimately result in reduced property insurance premiums for properties with federally backed mortgage.

Comment 130:

Quality of life concerns raised at the meeting. The enormous disruption to residents' quality of life including emotional well-being resulting from this long-term project has not been addressed in any reasonable or satisfactory way. For at least the next five years of our lives we will be living in an active, noisy, dirty, unhealthy construction zone, deprived of the peace and the beauty that attracted us to this area and motivated us to buy our properties. I cannot imagine how I am going to live here seeing everything I love destroyed, the peace and quiet gone, and the reason for living here becoming a thing of the past. How are we being compensated for the emotional and - for those who want to rent or sell given that they no longer want to live with this ongoing situation - the potential financial burdens they will be forced to endure? (Ashkin_045e)

Response 130:

See the response to comments on Construction - Neighborhood Character.

Miscellaneous**Comment 131:**

The FEIS should detail how the Applicant will communicate with the public during the construction period. This should include: (1) prominent signs communicating the action, including: (a) signs or markings on trees that will be removed; and (b) signs announcing immediate construction activities. If significant noise is anticipated, it should be advertised to the public; (2) a public facing website/social media should also be maintained including all this information. (Bommer_033ccc)

Response 131: As noted above and stated in the DEIS and FEIS, BPCA will specify that the contractor have a CEM for all public involvement related interfaces between the Progressive Design-Builder and external stakeholders during the entire construction period and will serve as a point of contact for the community and local representatives for the purposes of addressing concerns, problems and issues that arise during the construction of the Proposed Project. The CEM would maintain a webpage with access to up-to-date information on the status of the Proposed Project and the construction status, including construction air quality and noise data, street closures, public area restrictions and planned construction hours.

Comment 132: The proposed mitigation for the inability to provide onsite wetland mitigation is the purchase of tidal wetland mitigation bank credits from the Saw Mill Creek Wetland Mitigation Bank (Staten Island, New York). The public should be provided with details about this program and other potential mitigation options. (Bommer_33t)

Response 132: Mitigation options for impacts to tidal wetlands and/or waters within New York City include on-site or off-site creation, restoration, enhancement or preservation of wetlands or the purchase of credits from the Saw Mill Creek Wetland Mitigation Bank (SMCWMB). In many cases, USACE considers compensatory mitigation provided through purchase of credits at mitigation banks or in-lieu fee programs to be the environmentally preferable compensatory mitigation (rather than permittee-responsible compensatory mitigation projects) because they usually consolidate compensatory mitigation projects where ecologically appropriate, provide financial planning and scientific expertise and reduce uncertainty over project success. As noted, the Proposed Project does not have the ability to provide on-site mitigation. Given the developed nature of the NYC waterfront, off-site mitigation is extremely challenging. SMCWMB was specifically developed by the New York City Economic Development Corporation (NYCEDC) for the purpose of solving challenges of locating right-sized wetland mitigation and ensuring high quality long-term management and protection of restored eco-system services within New York Harbor. Therefore, the purchase of credits from SMCWMB is consistent with the USACE hierarchy for wetland mitigation and is the preferred/selected option for mitigation for the Proposed Project.

10.7 Comments of Opposition and Support

Opposition

Comment 133: We strongly oppose this measure. (Meltzer_042a)

We are residents of lower Manhattan and very strongly oppose the resiliency project because the construction would transform this idyllic, peaceful place into a noisy, dusty place to avoid (we have enough of those areas in the city) and the financial implications of all of this planning for a scenario that may never come when we have homelessness problems, out of control crime, infrastructure upgrade needs, the list is nearly endless. This amounts to insurance for the future against a potential (currently unknown) problem. We have existing problems in this city that require our attention and funds. (McBride_041)

Much of the anger that has greeted resiliency plans for Battery Park City springs from the manner in which they were initially presented to the residents of the New York City neighborhood that was most heavily damaged in the 2001 World Trade Center terror attacks—and that was, ironically, one of the least damaged by Superstorm Sandy flooding in 2012. (Dougherty_034)

Now, 23 years after 9-11, in a neighborhood where it is impossible not to “Never Forget,” many residents fear another trauma is at hand. The North/West Resiliency Project, we have been told, “will have no significant impacts on categories such as air quality, community facilities, and natural resources.” And yet little to zero concern for the impact that the project will have on residents was in evidence two years ago when plans for the demolition of Wagner Park, a neighborhood jewel that became a gathering place that helped the community heal in the aftermath of 9-11, were unveiled. The project was presented as a fait accompli many of us felt and residents’ concerns were dismissed as the selfish “parochial” interests of a few who should not be allowed, one official said, to delay the project from going forward. Pleas to consider alternatives to the plans in store for Wagner Park, one of the most lovely spots in all Manhattan, full of flower gardens and shade trees, with an architectural award-winning brick pavilion that gracefully framed views of the Statue of Liberty, Ellis Island and New York Harbor beyond, were dismissed. The pavilion would be demolished. The trees cut down. The gardens uprooted. (Dougherty_034)

Saving Wagner Park is a battle lost. As the project moves forward let’s hope that resident concerns—that every effort is made to preserve rather than destroy the very things—including the shade trees and the public art installations that grace the esplanade—that give its residents reason to stay. (Dougherty_034)

We are all owed transparency in understanding what companies and what officials this project benefits directly, because we residents (and the citizens who visit this neighborhood in droves) know that this resiliency project is an unnecessary burden for our community. (Tekerian_037c)

This project is an environmental calamity and must be paused and reconsidered. Climate change is real, but the removal of thousands upon thousands of mature trees – most of which will not be replaced – will only worsen climate change and lower our resilience. The drawings provided with the EIS do not reflect this, and thus are fraudulent. Accordingly, the Battery Alliance requests that the BCPA pause this project and conduct a determinative analysis and risk analysis. Then, if appropriate, should apply for a variance to preserve trees. These measures are necessary to allow for a hard look at feasible options for alignments and designs, permit the public to provide meaningful input at public meeting and comment proceedings, and enhance community buy-in on the chosen plan. (Dellaportas_043)

Response 133:

Comments noted.

Support**Comment 134:**

It is important for me to support the North/West Battery Park City Resiliency Project. The draft EIS is an accurate document and necessary to be implemented. Our organization, since 1986, has been a resource for families. Our community and city are fortunate to have such resources to protect us from rising sea levels. The barriers are intended to protect Tribeca at N. Moore Street along West Street and then over into the North End of Battery Park City where it would protect The Downtown Community Center and to that area of Tribeca. (Whole Foods, PS 234, various preschools). Hurricane Sandy's rushing waters were 20 feet high as it caused 2 million dollars of damage in our community center. The water rose from The Hudson River at Harrison Street just south of Pier 25. The waters then flooded West Street and went up to the block to 200 Chambers/120 Warren and our center. Thankfully, no one was killed in our facility as the waters rushed in. Others perished in Tribeca. Other important institutions in the North End of our neighborhood would also be protected. Stuyvesant High School, PS / IS 89. The Asphalt Green and of course the only ballfield in community board one. Our organization linked to these very important institutions and any significant delay in rebuilding to them would be devastating. So, let's protect them. (Townley_020)

Asphalt Green applauds the Battery Park City Authority for leading the vital and proactive work, preparing our downtown community for the impending impact of climate change. As an organization that was greatly impacted by superstorm Sandy, delaying our opening by a year, we recognize that long-term planning is essential to protect our public and community spaces in the years ahead, and we are grateful for the opportunity to be a part of conversations relating to this effort. While the BPC Ball Fields & Community Center Resiliency Project has helped fortify our Battery Park City campus that each year helps thousands of

New Yorkers live active and healthier lives, we know that further collaboration and work, including the North/West Battery Park City Resiliency Project is needed to protect Asphalt Green and our neighbors going forward. In our 11th year in Battery Park City, we take comfort in knowing the strength and resilience of our community members and look forward to serving them throughout the next decade and beyond, despite whatever disruptions are required to ensure the longevity and prosperity of Battery Park City. (Borsari_023)

The Hudson River Park Trust (“HRPT” or “the Trust”) has reviewed the North/West Battery Park City Resiliency Project: Draft Generic Environmental Impact Statement (the “DEIS”) as released by Battery Park City Authority (“BPCA”) on August 28, 2024 and has the following comments on the Proposed Project. Overall, the DEIS addresses many of the comments previously raised by HRPT, beginning with BPCA’s early planning of the Proposed Project several years ago and continuing through current planning meetings with respect to construction that would occur within Hudson River Park and within the Park’s Estuarine Sanctuary.

First, pursuant to HRPT’s early concerns about the Proposed Project’s impacts to Hudson River Park (“HRP”), HRPT is pleased that BPCA’s preferred alternative for its “Proposed Action” is to locate the flood protection measures on the eastern side of State Route 9A and to cross State Route 9A near Harrison Street as opposed to earlier plans that would have had the project extended further north into HRP while hugging the adjacent State Route 9A bikeway that runs parallel to HRP. HRPT is also pleased that Chapter 1 of the DEIS (Project Description) acknowledges that HRPT will be involved in detailed inter-agency design coordination in the area where the two parks meet as it is important that the aesthetics and pedestrian experience for those entering HRP meets the design standards of HRPT and works logistically for both public benefit corporations and their patrons. Further, Chapter 3.11.1 on Construction also acknowledges that BPCA and its community liaisons will need to work closely with HRPT during construction, particularly related to utility replacement and other disturbances that will affect HRP’s operations temporarily. (Atterbury_031b)

In sum, HRPT appreciates the many meetings BPCA has scheduled to keep HRPT up to date on project planning and to hear the Trust’s concerns. Overall, HRPT believes the DEIS addresses impacts to HRP during construction and operation of the Proposed Project and understands that certain details cannot yet be communicated until BPCA’s design and construction plans are further progressed.

HRPT appreciates BPCA’s ongoing partnership and looks forward to continuing to work together on this project and others. (Atterbury)

Riverkeeper strongly supports onshore storm surge and flooding protections for New York City like the Proposed Project. (Riverkeeper_049a)

Response 134: Comments noted.