

APPENDIX C

Environmental Justice

A. INTRODUCTION

On February 11, 1994, President Clinton issued Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.” This Executive Order mandates that each federal agency “shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” On October 4, 1999, Governor George E. Pataki and New York State Department of Environmental Conservation (NYSDEC) Commissioner John Cahill announced the creation of a New York State program to address environmental justice concerns and community participation in New York State’s environmental permitting process. On March 19, 2003, NYSDEC issued its Policy CP-29, “Environmental Justice and Permitting,” which provides guidance for incorporating environmental justice concerns into the NYSDEC environmental review process and the NYSDEC application of the State Environmental Quality Review Act. Both the federal order and the state environmental justice policy also require public outreach to low-income and/or minority populations that would be affected by a project.

As described in Chapter 1, “Project Description,” the Proposed Project would require several permits and approvals from NYSDEC and will require a Nationwide Permit from the U.S. Army Corps of Engineers (USACOE). Therefore, an analysis of the project’s consistency with the state environmental justice policy and federal environmental justice order was conducted.

As set forth in NYSDEC’s policy, “Environmental justice means the fair treatment and meaningful involvement of all people regardless of race, color, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people, including a racial, ethnic, or socioeconomic group, shall bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.” This analysis was conducted to examine the potential for the Gateway Center at Bronx Terminal Market project to result in significant adverse impacts on any low-income or minority populations and whether any such impacts would be disproportionately high and adverse impacts on those populations. It also describes the Proposed Project’s public outreach program for the affected population.

B. METHODOLOGY

This analysis was prepared consistent with the methodology set forth in NYSDEC’s policy as well as the federal Council on Environmental Quality’s (CEQ) “Environmental Justice Guidance Under the National Environmental Policy Act,” December 1997, which provides guidance for federal agencies regarding incorporating environmental justice concerns into their environmental

justice analyses. The methodology involves three basic steps: (1) establishing a study area by identifying potential adverse environmental impacts and the area to be affected; (2) determining characteristics of the study area population to identify whether potential adverse environmental impacts may affect a low-income and/or minority population; and (3) identifying whether potential adverse environmental impacts would disproportionately affect low-income and/or minority populations.

C. IDENTIFICATION OF LOW-INCOME AND MINORITY POPULATIONS WITHIN THE STUDY AREA

ESTABLISH STUDY AREA

The Proposed Project is a retail and hotel development with a public parking garage. As described in this EIS, the potential significant adverse environmental impacts that could result from the Proposed Project are associated with historic resources, traffic, transit and pedestrians, and noise. The study area for the environmental justice analysis was defined to include all locations where potential significant impacts could occur and is based on the geographic units used by the U.S. Census Bureau. The U.S. Census Bureau collects information using various geographic units such as census tracts, block groups, and blocks. As shown in Figure C-1, the study area extends approximately ½ mile from the project site in the Bronx and encompasses the intersections studied for traffic as well as the study areas for other EIS issues. The Manhattan portion of the study area, which extends roughly ¼ mile to the west of the project site, encompasses the census block groups that are adjacent to traffic study locations. There are 17 census block groups in the Bronx portion of the study area and 10 census block groups in the Manhattan portion of the study area.

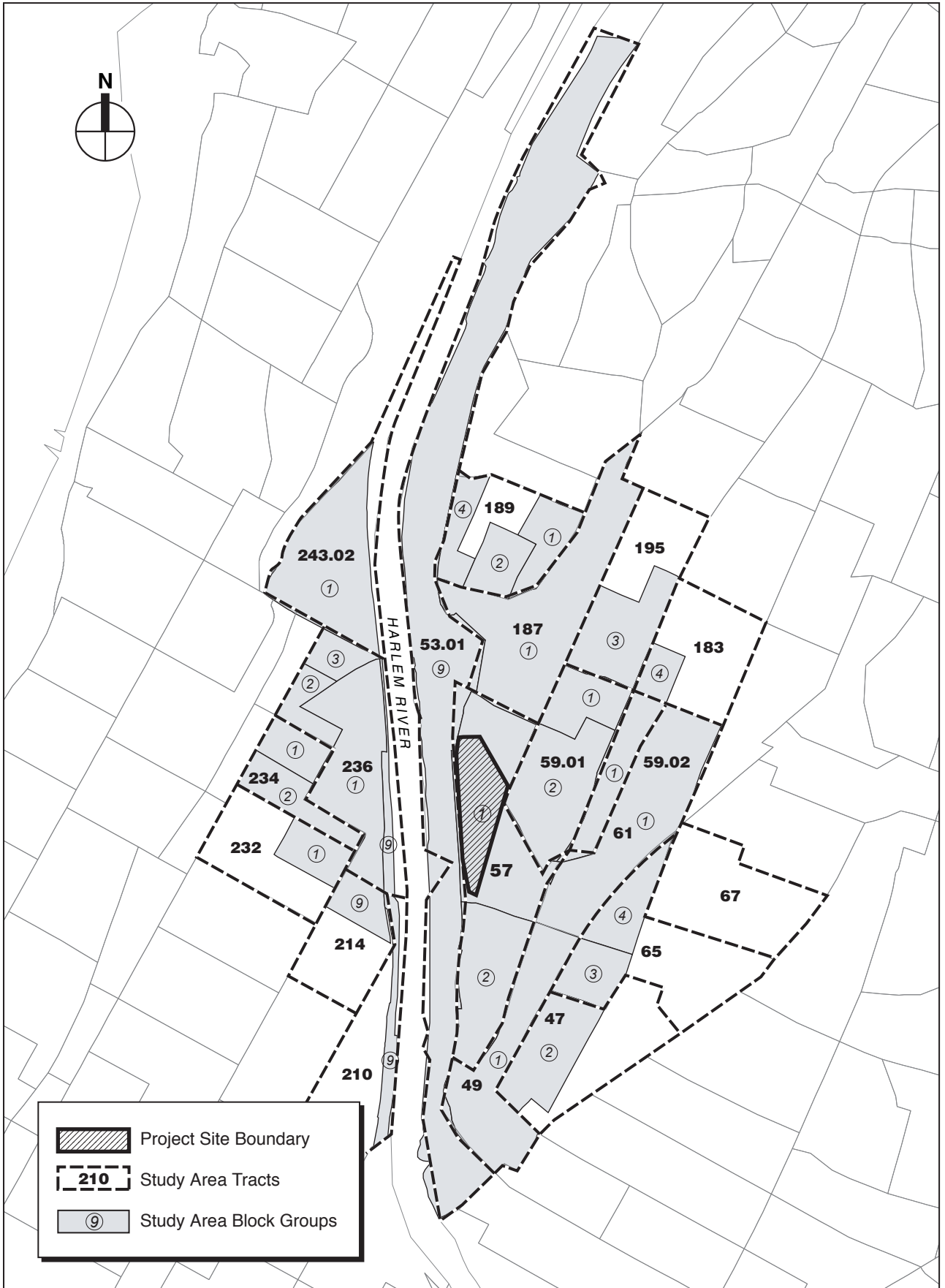
DETERMINE CHARACTERISTICS OF STUDY AREA POPULATION

The next step in the analysis is to determine whether low-income or minority populations are present in the study area. Following NYSDEC's methodology, to identify minority and low-income populations within the study area demographic information was obtained from the U.S. Census Bureau for the year 2000. For the purposes of this analysis, demographic data relating to population, race, median household income, and poverty status were compiled for each of the block groups in the study area. In addition, data were compiled for New York City as a whole to allow for a comparison of study area characteristics to a larger reference area.

IDENTIFICATION OF MINORITY COMMUNITIES

According to NYSDEC's policy and CEQ guidance, minorities include Hispanics, African-Americans, Asian Americans and Pacific Islanders, and American Indian or Alaskan natives. In identifying minority residents within the study area, data from the U.S. Census Bureau were used to determine the population characteristics for the study area. The following information was collected for each census tract:

- *Data on racial and ethnic characteristics:* The population in each census block group in the study area was characterized using the following racial categories provided in the 2000 Census: Non-Hispanic White, Black, Asian, and "Other" (in this analysis, individuals identified by the Census as Hawaiian, Pacific Islander, American Indian, Alaska Native, or members of more than one race are included in the "other" category). The population was also characterized according to Hispanic ethnicity. In addition to racial characteristics, the



Environmental Justice Study Area

Figure C-1

2000 Census also includes information on Hispanic origin, which is considered to be an ethnic rather than racial characteristic. People of this ethnic category can be any race.

- *Total percentage of minority population:* Because Hispanic residents may be of any race, people who characterized themselves as White, Black, Asian, and Other in the 2000 Census may be non-Hispanic or Hispanic. To determine the total number of minority residents in each block group, the number of Black, Asian, Other, and Hispanic Whites were tallied.

According to NYSDEC's policy, a "minority community" is present when 51.1 percent or more of the population is minority. According to the CEQ guidance, a "minority community" is present when the percentage of minorities in the study area is "meaningfully greater" than the minority percentage of the general population or when the percentage of minorities in the community exceeds 50 percent. For this analysis, any block group with a minority population of 50 percent or more was considered to be a minority community.

IDENTIFICATION OF LOW-INCOME COMMUNITIES

NYSDEC's policy defines a low-income population as a population with an annual income below the poverty threshold as defined by the U.S. Census Bureau. In determining poverty status, the Census Bureau considers income as well as family size and the presence of individuals below the age of 18. The poverty threshold increases as family size increases. In the 2000 Census, the poverty threshold was \$13,290 for a family of three and \$17,029 for a family of four.

Data were compiled on the percentage of persons in each block group in the study area living below the poverty threshold. As another measure of low-income status, the median household income was also gathered for the study area block groups, and an estimate was made of the median income of the study area. NYSDEC's policy defines a low-income community to be any area where the low-income population (i.e., percent living below the poverty threshold) is equal to or greater than 23.59 percent of the total population. The CEQ guidance also recommends use of poverty thresholds established in the Census to identify low-income populations, but does not specifically define what proportion of a population must be living below the poverty level for an area to constitute a low-income community. Therefore, any block group with 23.59 percent or more of its population living below the poverty level was considered to be a low-income community in this analysis.

POPULATION CHARACTERISTICS OF THE STUDY AREA

Using the methodology described above, the study area is a low-income and minority population for the purpose of analyzing environmental justice. The characteristics of the study area are summarized in Table C-1 and described below. The Census recorded no residential population for three of the block groups: Tract 57, Block Group 9 in the Bronx, which is comprised of industrial and community facility uses; and Tract 236, Block Group 9 and Tract 210, Block Group 9 in Manhattan, which make up a narrow strip of land along the Harlem River waterfront where no residences are located.

Table C-1
Ethnicity and Income Characteristics of the Study Area Population

Area	Total Population	Race and Ethnicity (Percent)						Percent Below Poverty Level**
		Non-Hispanic White	Black	Asian	Other	Hispanic*	Total Minority	
Bronx Portion of Study Area								
CT 47, BG 2	43	2.3	11.6	4.7	74.4	72.1	97.7	100.0
CT 49, BG 1	246	0.4	28.0	0.4	50.8	71.5	99.6	28.1
CT 53.01, BG 9	34	5.9	70.6	0.0	8.8	50.0	94.1	N/A
CT 57, BG 1	858	4.0	47.4	1.7	26.5	50.1	96.0	19.7
CT 57, BG 2	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CT 59.01, BG 1	1,895	3.4	30.9	12.2	38.5	56.1	96.6	34.5
CT 59.01, BG 2	3,077	1.6	38.1	1.5	43.6	64.9	98.4	38.1
CT 59.02, BG 1	2,682	3.4	41.6	1.6	32.3	57.5	96.6	25.5
CT 61, BG 1	4,039	2.1	82.4	0.4	9.2	15.5	97.9	15.9
CT 65, BG 3	25	8.0	24.0	0.0	56.0	68.0	92.0	N/A
CT 65, BG 4	2,147	1.1	46.9	1.3	30.8	55.8	98.9	34.1
CT 183, BG 4	1,727	3.0	42.7	2.8	34.7	53.2	97.0	31.7
CT 187, BG 1	33	15.2	48.5	0.0	30.3	45.5	84.8	N/A
CT 189, BG 1	2,489	1.4	48.4	0.9	36.8	51.9	98.6	37.9
CT 189, BG 2	1,932	3.3	32.6	1.3	49.7	65.8	96.7	45.1
CT 189, BG 4	1,134	1.9	50.1	0.3	37.2	48.1	98.1	50.8
CT 195, BG 3	2,590	2.7	31.1	2.2	44.7	67.4	97.3	37.3
<i>Bronx Total</i>	<i>24,951</i>	<i>2.4</i>	<i>46.8</i>	<i>2.2</i>	<i>33.8</i>	<i>51.7</i>	<i>97.6</i>	<i>32.7</i>
Manhattan Portion of Study Area								
CT 210, BG 9	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CT 214, BG 9	20	0.0	95.0	0.0	5.0	5.0	100.0	0.0
CT 232, BG 1	1,087	7.0	73.2	0.6	19.1	30.2	99.6	31.6
CT 234, BG 1	1,519	1.8	89.9	0.3	8.0	7.6	98.9	34.1
CT 234, BG 2	2,011	6.3	78.8	0.7	14.2	20.7	99.0	34.5
CT 236, BG 1	3,873	0.8	95.1	0.2	3.9	5.0	99.5	21.3
CT 236, BG 2	1,730	4.7	84.0	0.4	10.9	17.6	98.3	28.8
CT 236, BG 3	85	0.0	74.1	0.0	25.9	37.6	100.0	44.0
CT 236, BG 9	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A
CT 243.02, BG 1	7,386	6.8	71.2	1.2	20.9	29.4	99.4	52.2
<i>Manhattan Total</i>	<i>17,711</i>	<i>0.8</i>	<i>80.3</i>	<i>0.7</i>	<i>14.2</i>	<i>20.1</i>	<i>99.2</i>	<i>38.2</i>
Study Area	42,662	12.0	60.7	1.6	25.7	38.6	98.3	35.0
New York City	8,008,278	44.7	26.6	9.8	18.9	27.0	65.0	20.8
Notes: * Hispanic is an ethnic group that can include members of any racial category. Both white and non-white Hispanics are listed in this column. ** Percent of persons with incomes below the established federal poverty level; poverty level varies depending on household size.								
Sources: U.S. Department of Commerce, Bureau of the Census, 2000 Census, Summary Files 1 & 3.								

According to the 2000 Census, the study area had a total population of 42,662 residents, of which African-Americans represented almost 61 percent of the total population, followed by Others (26 percent), White (12 percent), and Asian (2 percent). Of those characterized as White, most are also Hispanic: White Hispanic residents made up about 10 percent of the population in the study area. At the block group level, all of the block groups that make up the study area are

minority. With minorities making up approximately 98 percent of the total population, the study area is a minority community.

As shown in Table C-1, approximately 35 percent of the residents in the study area live below the poverty level (compared to 21 percent in New York City). Therefore, the study area meets NYSDEC's definition of a low-income community. Of the 21 block groups for which poverty data are available, 17 are below NYSDEC's low-income threshold. Therefore, overall the study area can be considered low-income.

D. SUMMARY OF SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACTS

The significant adverse impacts identified in this EIS are summarized below. As described throughout the EIS, the Proposed Project would result in significant adverse impacts to historic resources, traffic, transit and pedestrians, and noise. All of the impacts identified can be mitigated, with the exception of a noise impact on the off-site public open space to be developed by the City with contributions from the project sponsor.

HISTORIC RESOURCES

The proposed demolition of the historic buildings on the project site—Building B and the Bronx House of Detention—would constitute a significant adverse impact on historic resources. Measures to mitigate this impact are being developed in consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP). The mitigation measures are anticipated to include retaining and reutilizing Building D for retail development in conjunction with the Proposed Project; reutilizing ornamental elements from the Bronx House of Detention within the River Avenue façade of the proposed Retail Building B/F as well as the plaza on River Avenue at the entrance to the southern passageway through the site; affixing a plaque to the side of Retail Building B near the plaza or incorporating one into the plaza design, describing the Bronx House of Detention's significance as an example of WPA-era institutional architecture designed by Joseph Freeland; affixing a plaque to the side of Building D describing the history of the Bronx Terminal Market and its role in the development of terminal markets in the United States; and recording Buildings B and D and the Bronx House of Detention through a Historic American Buildings Survey (HABS)-level photographic documentation and accompanying narrative. With these measures, the adverse impact of the Proposed Project on historic resources would be partially mitigated. The construction of the off-site open space to be developed by the City with contributions from the project sponsor would presumably require the demolition of Bronx Terminal Market Buildings F and G.

TRAFFIC

Under the Build condition (see Chapter 16, "Traffic and Parking"), 11 locations within the local street network of the Bronx portion of the study area would experience significant traffic impacts during one or more of the analyzed peak periods:

- Grand Concourse and East 149th Street;
- Grand Concourse and East 161st Street;
- Major Deegan Expressway Northbound Exit Ramp, 145th Street Bridge Approach, 149th Street, Exterior Street, and River Avenue;
- River Avenue and 150th Street;

Gateway Center at Bronx Terminal Market FEIS

- River Avenue and 151st Street;
- River Avenue and 153rd Street;
- River Avenue and 161st Street;
- Jerome Avenue and 161st Street;
- Major Deegan Expressway Northbound Ramp and Service Road, and 157th Street;
- Lenox Avenue and 145th Street; and
- Macombs Place and 155th Street.

Additionally, significant impacts are expected at two locations on the Major Deegan Expressway: the northbound Major Deegan Expressway approaching Exit 4 (149th Street) and the southbound Major Deegan Expressway approaching the exit ramp at 161st Street at Exits 5 and 6.

All of these impacts can be mitigated with standard traffic mitigation measures, as described in Chapter 23, “Mitigation.”

TRANSIT AND PEDESTRIANS

The Proposed Project would result in a decrease in the pedestrian level of service of the north crosswalk at 149th Street and River Avenue from LOS A under No Build conditions to LOS D under Build conditions. This impact would be mitigated by widening of the north crosswalk.

NOISE

As described above, in the future with the proposed project, an off-site, 2-acre public open space would be constructed by the City with contributions from the project sponsor on a portion of the Bronx Terminal Market area west of Exterior Street. The City is committed to developing the off-site public open space by the Proposed Project’s 2009 Build year. Noise levels at this off-site public open space would be higher than the 55 dBA L₁₀₍₁₎ noise level for outdoor areas requiring serenity and quiet contained in the CEQR Technical Manual’s Table 3R-3, “Noise Exposure Guidelines for Use in City Environmental Impact Review” because of the proximity of the elevated Major Deegan Expressway. There are no practical and feasible mitigation measures that could be implemented to reduce noise levels within the open space to below the 55 dBA L₁₀₍₁₎ guideline noise level, as a sound barrier on Exterior Street would raise aesthetic and safety issues. Unless the barrier was of excessive height, it would not be effective in reducing noise from the elevated Major Deegan Expressway. Therefore this impact would be be unmitigated. While noise levels in the open space would be above the 55 dBA L₁₀₍₁₎ guideline noise level, they would be comparable to noise levels in a number of existing parks in New York City that are also located adjacent to heavily trafficked roadways.

E. OTHER EFFECTS OF THE PROPOSED PROJECT

As described in Chapter 3, “Socioeconomic Conditions,” the Proposed Project would displace the businesses currently operating on the Bronx Terminal Market. Almost all of these businesses are engaged in food wholesaling or the sale of related restaurant or grocery products, such as paper goods and refrigeration equipment, and they cater to a minority population. The customer base for the businesses located in the Bronx Terminal Market largely consists of restaurants and small grocery stores in Harlem, Washington Heights, and the South Bronx, as well as African, Caribbean, and Hispanic residents who live within the ¼-mile study area and the larger metropolitan area. These restaurants and stores cater to the ethnically diverse populations of

Harlem, Washington Heights, and the Bronx that purchase African, Caribbean, and Latin American meats, fish, and vegetables offered at the market. All of the ethnic food products sold at the market are currently available from at least two other wholesalers in New York City. In addition, most restaurant and grocery store customers in the South Bronx, Harlem, and Washington Heights purchase a majority of their ethnic food products directly from suppliers overseas or from importers near Port Newark. For these reasons, and because the businesses on the Bronx Terminal Market site make up a small proportion of food wholesalers in the Bronx and citywide and can be relocated to other sites, their displacement is not considered a significant adverse impact.

Although the businesses on the project site serve a predominantly minority population, their displacement would not result in a significant adverse impact with respect to environmental justice. Most of the businesses are wholesale operations serving other businesses outside of the study area rather than residents of the adjacent neighborhoods. Customers travel from other parts of the Bronx or Manhattan, or even from elsewhere in the metropolitan region, to reach the businesses at the Bronx Terminal Market and could continue to do so if these businesses were relocated. The new locations of the wholesale suppliers currently at the Bronx Terminal Market may not be less accessible to customers than the current location. Additionally, there are other small groceries in the South Bronx that carry African and Caribbean products, some of which are supplied through direct importers or through other large wholesalers in Brooklyn, Queens, and New Jersey.

As noted above, the study area includes a low-income population. As described in Chapter 21, “Public Health,” a recent study by investigators at the Mount Sinai School of Medicine found that children living in poor New York City neighborhoods were hospitalized for asthma at a higher rate than children in wealthy neighborhoods. This difference reflects some combination of variations in asthma prevalence, triggers for asthma exacerbations, access to health care, and hospitalization practices.

Given concern that exposure to particulate matter (PM)—in particular, emissions of fine particulate matter with an aerodynamic diameter less than 2.5 micrometers in diameter (PM_{2.5}) from activities associated with the Proposed Project—could either aggravate pre-existing asthma or induce asthma in an individual with no prior history of the disease, the potential for emissions of PM_{2.5} to precipitate onset of an exacerbation is examined in Chapter 21. Based on that analysis, the Proposed Project is not expected to result in adverse public health impacts.

F. BENEFITS TO COMMUNITY FROM THE PROPOSED PROJECT

If fully developed, the Proposed Project would support the economic revitalization of the West Haven neighborhood of the Bronx by converting a large underused site into a productive retail and hotel use. The development would represent a dramatic change to the project site, replacing underutilized and dilapidated buildings with a major retail center and the only hotel in this area of this city.

Additionally, the project sponsor would contribute financially to the City’s development of a 2-acre public open space on a portion of the Bronx Terminal Market area west of Exterior Street. It is anticipated that this off-site public open space would be maintained by the New York City Department of Parks and Recreation (NYCDPR).

ECONOMIC DEVELOPMENT

The Proposed Project would create new employment opportunities, convenient shopping and dining opportunities, and create economic and fiscal benefits to the City in the form of economic revitalization and tax revenue. As described in Chapter 3, “Socioeconomic Conditions,” the Proposed Project is expected to create more than 1,920 permanent jobs in the buildings on the project site and 494 permanent jobs elsewhere in New York City. Additionally, the Proposed Project is expected to generate \$48.25 million annually (in 2005 dollars) in non-property related tax revenues for New York City, the Metropolitan Transportation Authority, and New York State. As described above, the study area is a low-income community. The retail establishments included in the Proposed Project would create new employment and shopping opportunities for local residents.

BROWNFIELD REMEDIATION

In conjunction with the Proposed Project, the hazardous materials currently present in the soils, groundwater, and buildings on the project site would be remediated under the auspices of the Brownfield Cleanup Program. This would remove a potential environmental hazard to the community and return the site to productive use.

G. CONCLUSIONS ON DISPROPORTIONATE PROJECT IMPACTS

The study area is a minority and low-income community. As detailed above, the Proposed Project, in the absence of mitigation, would be expected to have significant adverse impacts in the following areas: historic resources, traffic, transit and pedestrians, and noise. These impacts would occur to low-income and minority populations. However, these adverse effects—with the exception of historic resources—would be fully mitigated. Therefore, the impacts would not adversely affect the population of the study area or any other area, and a disproportionate significant adverse impact to an environmental justice community would not occur.

One partially unmitigated adverse impact from the project would occur: the impact of demolition of the historic structures on the project site. This impact would occur to the residents of the study area and also to the larger community of New York City, as a loss to the city’s built heritage reflecting the history of WPA architecture and food distribution practices. Therefore, the loss of the historic structures would not constitute a disproportionate impact to the minority and low-income community present in the study area.

Furthermore, as described above, the Proposed Project would bring notable benefits to the study area’s population. These include economic development and brownfield remediation. Therefore, the Proposed Project on balance would not result in disproportionate significant adverse impacts to minority or low-income populations.

H. PUBLIC PARTICIPATION

Public participation is an important component of NYSDEC’s Environmental Justice policy. The Proposed Project has an extensive public outreach program, including frequent meetings with the local community board and interested community organizations. A public scoping meeting was held for the Proposed Project on September 9, 2004, and a final scope of work, reflecting comments made on the draft scope of analysis for the EIS, was issued on October 8, 2004. In accordance with the final scope of work, a DEIS was prepared.

Once the lead agency is satisfied that the DEIS is complete, it issues a Notice of Completion and circulates the DEIS for public review. Publication of the Notice of Completion of the DEIS starts public review. During this period, which must extend for a minimum of 30 days, the public may review and comment on the DEIS either in writing or at a public hearing. Because the CEQR process is coordinated with land use review, the hearings are held jointly. All substantive comments become part of the CEQR record and are summarized and responded to in this FEIS.

As the Proposed Project moves through the City's Uniform Land Use Review Procedure (ULURP), the public has a number of opportunities to comment on the project and the DEIS at public hearings held by Community Board 4, the Bronx Borough President, the City Planning Commission, and the City Council. Public hearings on the Proposed Project were held by Community Board 4 on September 7, 2005, by the Bronx Borough President on October 6, 2005, and by the City Planning Commission on November 2, 2005.

In addition to these required opportunities for public participation, the project sponsor has met and will continue to meet with local elected officials and any interested community groups to present the project and address issues. Therefore, the Proposed Project would be consistent with NYSDEC's Policy in terms of public outreach to environmental justice communities. *