

**A. INTRODUCTION**

This chapter of the Final Generic Environmental Impact Statement (FGEIS) summarizes and responds to the substantive oral and written comments received during the public comment period for the Draft Generic Environmental Impact Statement (DGEIS) for the Seward Park Mixed-Use Development Project. The public hearing on the DGEIS was held concurrently with the hearing on the project's Uniform Land Use Review Procedure (ULURP) draft applications on July 11, 2012 at Spector Hall at the New York City Department of City Planning located at 22 Reade Street, New York, NY 10007. The comment period for the DGEIS remained open until 5:00 PM on Monday, July 23, 2012. In addition, this chapter responds to substantive comments contained in Manhattan Community Board 3's ULURP resolution dated June 1, 2012 and in the Manhattan Borough President's recommendations dated July 5, 2012, both undertaken pursuant to ULURP.

Section B identifies the organizations and individuals who provided relevant comments on the DGEIS. Section C contains a summary of these relevant comments and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim.

**B. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT GENERIC ENVIRONMENTAL IMPACT STATEMENT****ELECTED OFFICIALS**

1. Brian Cook, Director of Land Use, Planning and Development for the Manhattan Borough President, oral testimony July 11, 2012 (Cook)
2. Scott M. Stringer, Borough President of Manhattan, Manhattan Borough President Recommendation dated July 5, 2012 (Stringer)

**MANHATTAN COMMUNITY BOARD 3**

3. Dominic Berg, former Chair of Manhattan Community Board 3, oral and written testimony dated July 11, 2012 (Berg)
4. Linda Jones, Co-Chair of Manhattan Community Board 3's Land Use, Zoning, and Public and Private Housing Committee, oral and written testimony dated July 11, 2012 (Jones)

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\* This chapter is new to the FGEIS.

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5. Gigi Li, Chair of Manhattan Community Board 3, oral testimony dated July 11, 2012 (Li)
6. Manhattan Community Board 3 Resolution dated June 1, 2012 (CB3 Resolution)

### **INTERESTED INDIVIDUALS AND ORGANIZATIONS**

7. Gilbert Alicea, oral testimony dated July 11, 2012 (Alicea)
8. Walter Arevalo, oral testimony dated July 11, 2012 (Arevalo)
9. Liang Chen, oral testimony dated July 11, 2012 (Chen)
10. Harriet Cohen, Chair of Seward Park Area Redevelopment Coalition, oral and written testimony dated July 11, 2012 (Cohen)
11. Lisa Davis, written testimony dated July 10, 2012 co-signed by Diane Daniels, Francisca Cruz, Rosa Brobeck, Anthony Feliciano, Eduardo Valenti, Gloria Caban, Guillermina Pizarro, Julio Huerta, Gilbert Alicea (Davis, et al.)
12. Denise Dawson-Seña, representing Reverend Afiya Diane Dawson, oral and written testimony dated July 11, 2012 (Dawson-Seña)
13. Tito Delgado, oral testimony dated July 11, 2012 (Delgado)
14. Yolanda Donato, Workers' Center of the National Mobilization Against Sweatshops, oral testimony dated July 11, 2012 (Donato)
15. Philip Freedman, Retail, Wholesale and Department Store Union, oral and written testimony dated July 11, 2012 (Freedman)
16. Lucille Garrasquero, oral and written testimony dated July 11, 2012 (Garrasquero)
17. Jose Gonzalez, oral testimony dated July 11, 2012 (Gonzalez)
18. Herman Hewitt, President, Lower East Side People's Mutual Housing Association, oral testimony dated July 11, 2012 (Hewitt)
19. Jinny Khanduja, Citizens Housing and Planning Council, oral testimony dated July 11, 2012 (Khanduja)
20. Soo Young Lee, oral testimony dated July 11, 2012 (S. Lee)
21. Wah Lee, Chinese Staff and Workers Association, oral testimony dated July 11, 2012 (W. Lee)
22. Brett Leitner, oral testimony dated July 11, 2012 (Leitner)
23. Tal Lev, oral testimony dated July 11, 2012 (Lev)
24. Fran Marino, St. Mary's Church, oral testimony dated July 11, 2012 (Marino)
25. Richard Moses, President, Lower East Side Preservation Initiative, written comments dated July 19, 2012 (Moses)
26. Valerio Orselli, Executive Director of Cooper Square Mutual Housing Association, oral and written testimony dated July 11, 2012 (Orselli)
27. Joyce Ravitz, Chairperson of Cooper Square Committee, oral and written testimony dated July 11, 2012 (Ravitz)

28. Sara Romanoski, East Village Community Coalition, oral testimony dated July 11, 2012 (Romanoski)
29. Emilie Rosenblatt, Good Old Lower East Side, oral testimony dated July 11, 2012 (Rosenblatt)
30. Maritza Silva-Farrell, Alliance for a Greater New York, oral and written testimony dated July 11, 2012 (Silva-Farrell)
31. Xi Yan So, oral testimony dated July 11, 2012 (So)
32. Mei Rang Song, oral testimony dated July 11, 2012 (Song)
33. Benjamin Tirado, oral testimony dated July 11, 2012 (Tirado)
34. Walmart-Free NYC Coalition, written testimony dated July 18, 2012 (Walmart-Free)
35. Yana Walton, Retail Action Project, oral testimony dated July 11, 2012 (Walton)
36. Xiu Hua Xu, oral testimony dated July 11, 2012 (Xu)
37. Quan Yan, oral testimony dated July 11, 2012 (Yan)
38. Stephanie Yazgi, Walmart Free NYC Coalition, oral and written testimony dated July 11, 2012 (Yazgi)
39. Bob Zuckerman, Executive Director of the Lower East Side Business Improvement District, oral testimony dated July 11, 2012 (Zuckerman)

## C. COMMENTS AND RESPONSES

### PROJECT REVIEW PROCESS AND PUBLIC PARTICIPATION

**Comment 1:** The public hearing was not well announced in the community. (W. Lee, Song, Donato, S. Lee, Rosenblatt)

**Response:** The noticing of the public hearing for the draft ULURP applications and DGEIS was done in conformance with all applicable rules and regulations on the ULURP and CEQR process. The public hearing was calendared at the City Planning Commission's public meeting on Wednesday, June 20, 2012. In accordance with CEQR requirements, the public notice appeared in the *City Record* on June 27 and June 28, 2012 and in the *New York Daily News* on June 27, 2012. The public notice was posted on the website of the Mayor's Office of Environmental Coordination on June 21, 2012. The notice also was placed on NYCEDC's website in English and Spanish on June 29, 2012.

**Comment 2:** On May 22nd after three-and-a-half years of debate, discussions and public input from members of the community, Community Board 3 voted unanimously to support the Seward Park Mixed-Use Development Project with conditions. But I would like to say that the plan before you represents the kind of responsible and balanced development that the communities surrounding the Seward Park sites would like to see come to fruition. (Li, Berg, Jones)

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**Response:** Comment noted.

### COMMUNITY FACILITIES

**Comment 3:** The proposed project should also include a community center and child care facilities. (W. Lee, Yan, Gonzalez)

**Response:** A community center and child care facilities would not be precluded from future development as part of the proposed actions.

**Comment 4:** The Request for Proposals (RFP) must expressly prohibit dormitories. The City will not select a developer to develop dormitories. (CB3 Resolution)

**Response:** Although this comment is outside the scope of the GEIS, it is noted that the City committed to Community Board 3 that the RFP will expressly prohibit dormitories, and the City will not select a developer to build dormitories.

### SOCIOECONOMIC CONDITIONS

**Comment 5:** The proposed project should provide affordable space for small businesses. (So, Xu)

**Response:** The reasonable worst-case development scenario (RWCDs) studied approximately 632,300 gross square feet (gsf) of commercial uses, which could include offices, a relocated Essex Street Market, and retail such as local and neighborhood services and some retail stores with a larger draw. As described in Chapter 3, "Socioeconomic Conditions," of the GEIS, the retail mix selected for the purposes of analysis provides a range of retail goods, price points, and store sizes that could be expected under zoning in the future with the proposed actions. The new, larger public market would create entrepreneurship opportunities for additional vendors and would allow for a variety of vendor price points.

**Comment 6:** If this plan goes through, there's going to be massive displacement through luxury development in our community. We all know that when there's a luxury building that comes into our neighborhood, everything around it starts to get more expensive, including our rents, to the point that we can no longer live there. (S. Lee)

**Response:** The analysis of potential indirect residential displacement in the DGEIS and this FGEIS follows *City Environmental Quality Review (CEQR) Technical Manual* step-by-step methodology in determining that the population introduced by the proposed actions would not result in significant adverse impacts due to indirect residential displacement. Since the population increase would be less than 5 percent of the total study area population, it would not be expected to introduce

a population that could substantially affect residential market conditions. In addition, by allocating half of the residential component in the proposed actions to affordable housing, the proposed actions could balance the ongoing upward momentum of rents in the area caused by current trends and future project site redevelopment. The 450 affordable housing units would also expand housing options available to the lower-income residents in the study area, protecting them against indirect displacement in the future.

**Comment 7:** The RWCDS in the DGEIS states that the worst-case scenario for the commercial and retail portion of the project is “a large-scale department store or discount department store.” Many big box stores and supercenters, including Walmart, for example, are not adequately characterized as discount department stores, but rather as general merchandise stores. Under the current proposal for SPURA, a big box store would be able to locate in SPURA, which is a worst-case development scenario not accounted for in the DGEIS.

According to the NAICS coding system, which identifies industry types, “general merchandise stores” is the broadest category. “Department stores” and discount department stores” are subcategories of general merchandise stores, which means that the impact of a general merchandise store would be more unique and more widespread than for a department or discount department store.

In addition, we fear that the opening of a Walmart will not necessarily lead to increased consumer spending, but rather create a reallocation of sales amongst retailers in the area that would extend beyond the ½-mile indicated in the study. Devastating to the local urban retail landscape, this is a worst-case scenario that is not at all captured or addressed by the DGEIS.

Based on this finding, we request that the DGEIS be amended to include an accurate RWCDS. (Walmart-Free)

**Response:** At this time, no retail tenants have been identified. In the future with the proposed actions, retail uses would be determined by what is allowed under zoning.

In order to provide a conservative analysis, Chapter 3, “Socioeconomic Conditions,” of the GEIS, assumes that the retail program could include, in addition to various small and mid-size retail stores, a 125,000-gsf department or discount department store, a 115,000-gsf home improvement store, and a 65,000-gsf grocery store. This retail mix was selected for the purposes of analysis because it provides the range of retail goods, price points, and store sizes that could be expected under zoning in the future with the proposed actions. While the analysis does not use the term “big box store,” it considers the types of retail and store formats that fall within what is typically defined as a big box store.

The categorization of a “big box store” as either a general merchandise store or as a discount department store would not change the analysis in the DGEIS. The preliminary analysis of indirect business displacement due to retail market saturation analyzes capture rates in the Primary Trade Area, which is defined as a 2-Mile perimeter around the project site. The capture rate estimates for shoppers’ goods stores includes general merchandise stores (as noted in Table 3-8 in Chapter 3, “Socioeconomic Conditions”) in addition to furniture and home furnishings stores; electronics and appliance stores; clothing and clothing accessories stores; sporting goods, hobby, book, and music stores; office supply, stationary, and gift stores; and used merchandise stores.

The consideration of a ½-Mile Local Trade Area in the detailed analysis presented in the DGEIS and this FGEIS does not imply that retail sales are expected to be drawn only from this ½-mile area. As stated in the chapter, large-scale department or discount department stores tend to draw sales from a broad trade area. They are not relying on a particular local residential population for their customer base and therefore do not typically have the potential to result in significant adverse impacts due to indirect business displacement from retail market saturation of the local market. Nonetheless, discount department stores and other forms of potential retail would be expected to draw frequent, repeat visits from customers of existing retail concentrations within a more local area, and therefore a detailed analysis is conducted of a ½-Mile Local Trade Area. The detailed analysis states that although there could be some overlap between products offered at existing and proposed project shoppers’ goods stores (which analyzed a large scale 125,000-square-foot department or discount department store), concentrations of existing shoppers’ goods stores distinguish themselves in different ways (e.g., focus on tourists, a focus on ethnic populations, a concentration of a particular type of product). Therefore, many of these stores would not be in direct competition with stores expected from the proposed actions. The categorization of a big box store as a general merchandise store or as a discount department store would not change the detailed analysis that was prepared in the DGEIS.

## **RESIDENTIAL DEVELOPMENT AND AFFORDABLE HOUSING COMPONENT**

**Comment 8:** The applicants have publicly committed to make the affordable units permanent. To date, however, this commitment has not been codified in the application materials. Given that permanency protects diverse housing for future generations and ensures city residents continue to benefit from this project, the application materials should be updated to reflect this commitment. (Stringer, CB3 Resolution)

**Response:** The term of housing affordability is not a land use or GEIS issue and, therefore, is outside the scope of the ULURP application and the GEIS. The commitment

to permanent affordability will be recorded in the Council and Mayoral approvals of the UDAAP application.

**Comment 9:** The language of the ULURP documents must include a guarantee that each residential development built (with the exception of senior housing) must have apartments to accommodate all income groups outlined in the plan. In addition, all of the affordable units must be integrated with the market rate housing without discernible differentiation by location, unit mix, size, and material or design quality; there may, however, be differentiation by unit finishings. (CB3 Resolution)

The affordable housing may be built in stages, provided that the ratio of affordable units is never less than 50 percent of all residential units built in any phase. Therefore, the City must guarantee that they will not build only commercial development in any phase of construction. (CB3 Resolution, Gonzalez, Rosenblatt)

**Response:** Comment noted.

**Comment 10:** The proposed project includes a significant amount of public benefits and economic generators. The RFP and proposed actions, however, do not prescribe when the affordable housing units need to be constructed. The recent economic downturn has demonstrated that projects can become stalled, and if the affordable housing is not included in the early phase of the project, then the chances of it not being developed are potentially higher. Measures should be taken to ensure that the potential benefits of this project are realized throughout the project's phasing. As such, the RFP should indicate a preference for developments providing significant affordable housing at every stage of the project. (Stringer, Alicea)

**Response:** The delivery of affordable housing is an essential aspect of the proposed project. The ULURP language will be amended to ensure that there will always be sufficient square footage available across the project sites within the General Large-Scale Development to produce the desired housing program. In addition, property tax incentives exist that strongly encourage the integration of affordable housing units into each residential development.

**Comment 11:** The applicants should continue to work with the community on the amount of housing constructed, and to determine the feasibility of increasing the number of affordable units. (Stringer, Dawson-Seña)

**Response:** Comment noted.

**Comment 12:** The proposed development should contain 100 percent affordable housing. (W. Lee, So, Song, Xu, Donato)

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We would like to see where the market rate housing would be 40 percent of the units. The affordable units should be 60 percent, and the low-income division under the affordable rate should gain the 10 percent that could come from the middle-income division, which should be joined to the market-rate division. (Davis, et al.)

The affordable housing in the plan should be low-income housing and more low and moderate income housing. The affordable housing should be 50 percent low- to moderate and 50 percent middle-income to market rate. Units should be affordable to a variety of incomes within the income ranges, not just the upper limits of each. (Alicea, Orselli, Rosenblatt, Cohen, Marino, Hewitt, Yan)

**Response:** The proposed program that includes 50 percent of the residential units categorized as affordable units and 50 percent as market rate units is consistent with the project guidelines developed by Manhattan Community Board 3 over an approximately three-year period in a process that included a range of community stakeholders and public input. Further, the proposed project balances a number of project goals, including providing an integrated mixed-income housing program and a thriving, financially viable, mixed-use development.

**Comment 13:** There should be more low-income housing for seniors. (Alicea, Rosenblatt, Marino)

**Response:** The proposed project specifies that 10 percent of the total number of residential units (of which 50 percent are categorized as affordable) be dedicated to senior housing, and this program component will be a City commitment specified in the UDAAP Summary included as part of the ULURP application, and it will also be a requirement in the project RFP. In addition, this provision for senior housing is consistent with the project guidelines developed by Manhattan Community Board 3 over an approximately three-year period in a process that included a range of community stakeholders and public input. However, for analysis purposes, the DGEIS and this FGEIS did not assume a senior housing component in the RWCDS, since that would not be the conservative assumption regarding demand for public school seats or publicly-funded day care services. Nothing in the DGEIS or FGEIS analyses would preclude senior housing from being built as part of the project.

**Comment 14:** The site can likely accommodate a minimum of 1,000 units, thus generating more affordable housing. (Orselli)

We believe that limiting the number of residential units is unnecessary and we would welcome a higher limit or removal of the limit entirely. (Khanduja)

**Response:** Comment noted.



**Comment 15:** There should be a Lower East Side community land trust that would retain ownership of the city-owned land and lease it to the developers. The community land trust can then monitor the restrictions designed to protect the affordability of the proposed housing. (Marino)

**Response:** Comment noted.

**Comment 16:** The percentage of commercial development seems to us unnecessarily high. In a neighborhood that has lacked adequate housing to meet demand for many decades, we believe there's a higher need for development of housing and we would have welcomed a ratio that is more in favor of residential development. (Khanduja)

**Response:** The proposed project balances a number of project goals, including providing an integrated mixed-income housing program and a thriving, financially viable, mixed-use development.

**Comment 17:** By limiting the number of residential units overall and requiring 50 percent of permanently affordable units, the land use plan, as it stands, effectively restricts the development of smaller units for single adults. We also believe that there's a greater need for housing that accommodates smaller households. (Khanduja)

**Response:** Comment noted.

#### **FORMER SITE TENANTS**

**Comment 18:** The applicants should follow through on commitments to work with community groups, the community board, elected officials and city agencies to identify former site tenants and notify them of their right to occupy affordable units subject to income requirements. The City in partnership with CB3, must conduct extensive and credible outreach to identify, locate and notify all qualifying former site tenants about the proposed new housing development on the project site, their continued right to return to the site, and the application process for priority inclusion in the new housing that is built. (Stringer, CB3 Resolution, Rosenblatt, Jones, Cohen, Marino, Orselli, Ravitz)

**Response:** The City is working in an ongoing manner with Community Board 3 regarding identification of and outreach to former site tenants of the Seward Park Extension Urban Renewal Area in order to be able to inform people about the housing opportunities for which they may be eligible.

#### **RETAIL STORES**

**Comment 19:** To encourage retail diversity, reduce traffic impacts, maintain the character of the neighborhood and promote the vitality of small businesses in the area, the

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project should limit the size of the certain use groups to prevent stores of unlimited size. While some flexibility may be desired for specific uses like supermarkets and cinemas, the flexibility should not be extended carte blanche to all uses. The applicants should craft an RFP that favors development proposals that limit retail store sizes to 30,000 square feet with the exception of neighborhood-oriented uses such as grocery stores. A 30,000 square feet restriction would still allow stores large enough to take up nearly an entire floor plate of the proposed buildings (minus circulation, mechanicals, etc.) without significantly altering the neighborhood's character. (Stringer, CB3 Resolution, Rosenblatt, Cohen, Marino, Yazgi, Silva-Farrell, Orselli, Walton, Ravitz, Romanoski)

**Response:** Comment noted.

**Comment 20:** The selected developers should be required to choose local stores over national big box retailers and to specify that they won't choose Walmart as a tenant. If Walmart were to try to enter New York City through the project, it would not only devastate and drive down wages for retail workers across the city, but the city would also likely have to contend with a host of environmental issues such as increased traffic and carbon emissions. (Yazgi, Silva-Farrell, Freedman, Walton, Ravitz, Romanoski, Arevalo, Dawson-Seña)

**Response:** Specific tenants for the proposed development have not been identified, and the selection of tenants is outside the scope of a CEQR analysis.

In order to provide a conservative analysis, the GEIS assumes that that the retail program could include, in addition to various small and mid-size retail stores, a 125,000-gsf department or discount department store, a 115,000-gsf home improvement store, and a 65,000-gsf grocery store. This retail mix was selected for the purposes of analysis because it provides the range of retail goods, price points, and store sizes that could be expected under zoning in the future with the proposed actions. While the analysis does not use the term "big box store," it considers the types of retail and store formats that fall within what is typically defined as a big box store. Further, the GEIS assesses the traffic and air quality impacts from the proposed program. The consideration of a project's effects on wages is beyond the scope of a CEQR analysis.

## PUBLIC SCHOOLS

**Comment 21:** School overcrowding continues to be an ongoing concern in Manhattan. As the Borough President has found through three separate reports on the subject of overcrowding, the city's process of identifying needs for school seats is highly flawed. As a result, many of Manhattan's communities have felt that agencies like the Department of Education (DOE) do not proactively address overcrowding and only respond after significant public outrage.

The DGEIS shows that many existing elementary schools are at or near capacity. The study also projects that the elementary schools in the area will be well over capacity in the next ten years even without the proposed project. This is in part due to Community School District 1 (CSD1) being one of the fastest growing school districts in the city.

As this project does not *significantly* add to the projected overcrowding problem, the creation of a new school is not legally required mitigation. However, this site is one of the few city-owned properties with the potential for locating a new school. Public services, such as schools must keep pace as more housing is built and the city continues to grow.

The proposed development anticipates up to 600,000 square feet of community facilities, more than enough square footage to construct a public school. While DOE does not currently believe there is a need to place a school on the site, the DGEIS demonstrates that the need will exist in the near future. Therefore, as part of the development approvals, the city should develop a means to evaluate school overcrowding as construction commences, and reserve land until the final phase of the project that could be developed with a public school. With appropriate thresholds in place, if the utilization rate demonstrated by the DGEIS is realized, then a new school can be incorporated into the development plan before construction is completed. This safeguard will give the project some flexibility without completely discarding the opportunity of building a school on publicly owned land. (Stringer, W. Lee, Yan, Rosenblatt, Cohen, Marino, Orselli, Dawson-Seña, Ravitz, Hewitt, Leitner)

**Response:** The RWCDs does not include a school. However, the GEIS studied 114,000 square feet of community facility uses, and a school would not be precluded from development on the project site as a community facility use.

Using methodologies outlined in the *CEQR Technical Manual*, the proposed actions would not result in significant adverse impacts on elementary schools. Although elementary schools within the three sub-districts analyzed would operate with a shortage of seats in 2022, the proposed actions would introduce a small number of students relative to the overall enrollment of the study area. Because the proposed actions would increase the elementary school utilization rate by less than five percentage points, the proposed actions would not result in a significant adverse impact on elementary schools in any of the sub-districts analyzed. Therefore, the proposed actions would not result in a significant adverse impact on elementary schools.

**Comment 22:** CB3 finds that there is a demonstrable need for a shared District 1 and District 2 Pre-K to 8th grade school to be built as part of the Seward Park Mixed-Use Development Project. The project site straddles the current boundary of Community School Districts 1 and 2. (CB3 Resolution, Jones, Leitner)

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A middle school has to be part of the proposed project. (Lev)

**Response:** The RWCDS does not include a school. However, the DGEIS and this FGEIS studied 114,000 square feet of community facility uses, and a school would not be precluded from development on the project site as a community facility use.

Following methodologies in the *CEQR Technical Manual*, the study area for the analysis of elementary and intermediate schools is the school districts' sub-district in which the project is located. The proposed project site is located in three sub-districts: Sub-districts 1 and 2 of CSD 1 and Sub-district 1 of CSD 2. The analysis considers the potential for impacts on each sub-district, based on the number of units that the proposed project would introduce into the sub-district, and concludes that the proposed actions would not result in significant adverse impacts on elementary and intermediate schools. Therefore, no mitigation (such as a new public school) is required.

### LOCAL HIRING AND WAGES

**Comment 23:** The applicant should follow through on commitments to create an enforcement mechanism for local hiring goals and work with local employment training agencies to ensure local residents benefit from the new jobs created by the project. (Stringer, Yazgi)

**Response:** The project will utilize the HireNYC program, which connects the City's job seekers and workforce development organizations to economic development projects. Through the program, a developer or business operator agrees to make good-faith efforts to achieve hiring, retention, advancement, and training goals put forth in the project RFP, and in exchange they are able to connect to the public workforce system and receive no-cost business and hiring services. The program works with City agencies and their community partners to market the program and opportunity to local geographies.

**Comment 24:** Every effort must be made to reach a goal of 50 percent of all jobs being given to CB3 residents, with prevailing wages for construction jobs and living wage for permanent jobs. Of the 50 percent, 25 percent must be new positions, not positions transferred from other sites. Should such efforts be made in consultation with the task force [see below] and it appears that meeting the 50 percent goal is not achievable, agreement can be reached between the task force and the developer as to another reasonable goal. If the project proceeds in phases, each and every phase must commit both in effort and in results to these local hiring provisions. (CB3 Resolution, Rosenblatt, Cohen, Marino, Silva-Farrell, Orselli, Ravitz, Dawson-Seña)

**Response:** Comment noted.

**Comment 25:** Issued RFPs should require that the winning developer(s) will provide funding for each phase of development to the Lower East Side Employment Network to support the ongoing monitoring and training of local candidates. This is similar to CB11's requirement on the East 125th Street project. (CB3 Resolution)

**Response:** Comment noted.

**Comment 26:** The RFP should specify that selected developers bring in tenants and employers, including for the construction jobs, with a proven track record of supporting workers' rights, good wages, and affordable benefits. A restrictive covenant should be signed that requires all businesses in the project to pay the prevailing wage in construction and building service workers, and a living wage, as defined by \$10/hour with benefits or \$11.50/hour without benefits to all other workers. (Yazgi, Silva-Farrell, Freedman, Walton, Ravitz)

**Response:** Comment noted.

#### **MULTIPLE DEVELOPERS**

**Comment 27:** Pending the successful completion of the ULURP process, the applicants have committed to design the RFP to select either a single or multiple developers. However, there are several advantages to selecting multiple developers, given the scale of the proposed project. First, the project would have multiple funding streams, which would prevent construction work from being completely stalled as a result of potential financial setbacks of a single developer. Second, multiple developers could create a more interesting combination of building forms with a wider range of designs and built materials. A variety of buildings would be more fitting for the existing neighborhood as it reflects the mixture of building types in the immediate surrounding area. Lastly, selecting multiple developers would provide greater opportunity to engage local community development corporations (CDC) that have experience developing affordable and supportive housing and working in the specific neighborhood. To achieve the aforementioned benefits and advantages of selecting multiple developers for a project this size, the selection criteria in the RFP should be designed to favor multiple developers. If for any reason a single large developer is selected, the RFP should favor developers that not only have reliable funding streams, but plan on having other advantages found with multiple developers such as varied building form and the inclusion of local CDCs that have experience in the community. Preference should also be given to Lower East Side and/or other local non-profit developers. The cumulative effect of their proposals and subsequent actions must result in a development that adheres to CB3's guidelines and underlying principles. A single developer will have too much leverage against the City and will be able to seek modifications of the RFP from

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the city as the negotiation process moves forward as seen in numerous other developments throughout NYC. (Stringer, CB3 Resolution)

**Response:** Comment noted.

### **ESSEX STREET MARKET**

**Comment 28:** The Essex Street Market vendors must be charged approximately the same or similar rent that they are paying at the time of moving for the same amount of space in the new facility. The applicants should continue to work with the Essex Street Market vendors to assess the impacts of relocation to ensure a potential move of the market does not displace small businesses. If the cost proves prohibitive to vendors, the applicants should either reassess the market's relocation or explore the feasibility of covering the associated costs, or find other partners or otherwise make available additional resources so that the vendors will not be responsible for paying for their own moving costs. (Stringer, CB3 Resolution, Rosenblatt, Jones, Cohen, Marino, Silva-Farrell, Orselli, Ravitz, Romanoski, Zuckerman, Dawson-Seña)

**Response:** If a new Essex Street Market facility is built, vendors at the existing facility would be given the opportunity to relocate their businesses to the new market building. The rent schedules in the new market building would be commensurate with rents and planned increases at the time of the move. NYCEDC will continue to work closely with the vendors as the larger project moves forward, meeting with them over the summer of 2012 to discuss relocation costs and logistics and gathering vendor input for market facility design.

**Comment 29:** We urge the City Planning Commission to adopt the Essex Street Market alternative outlined in the EIS which preserves the market in its current location. We are not convinced of the need to relocate the market to site 2 in the southeast corner of Delancey and Essex Streets. The existing site is functional and has been so for the last 70 years and it shows its vitality at this location. It tells the history of push cart peddlers in the competitive small business environment that characterizes the neighborhood. The physical limitations of the existing site we believe can be resolved through physical modifications that are part of this expansion and demolition. (Romanoski)

**Response:** As described in the DGEIS and this FGEIS, the existing Essex Street Market has several physical limitations such as insufficient storage capabilities, garbage handling, and climate control. Addressing these physical shortcomings in the future may require changes to the existing facility's operations. The new, larger public market would create entrepreneurship opportunities for additional vendors and would allow for a variety of vendor price points. A new facility would be an opportunity for capital investment in the market to address many of

the physical limitations of the existing facility. The new market facility would have an improved internal layout, better connections with the street, and expanded common gathering areas for public seating and market events. In addition, the new facility would be energy efficient, be fully compliant with the Americans with Disabilities Act, and have improved storage capabilities, garbage handling, and climate control.

As described in the DGEIS and this FGEIS, potential mitigation measures that could partially mitigate the significant adverse historic resources impact of the demolition of the Essex Street Market may include, to the extent practicable and feasible: a site commemoration plan; architectural salvage; and design of the new buildings on Sites 2, 8, 9, and/or 10 to reference the design of the Essex Street Market.

**Comment 30:** Authors of the report state preservation would reduce overall development and conclude that the maximum number of housing units would be diminished. We do not believe this projection is an inevitability of preserving the Essex Street Market. We trust that the displacements of the units on that site can be disbursed also around the site. (Romanoski)

**Response:** The floor area that could be developed on Site 9 is not transferrable to any of the project's other development sites under the actions in this ULURP and, therefore, if the site is not redeveloped, that development square footage would not be realized and the project's overall development square footage would be reduced. As the RWCDS is based on the full development potential of all nine development sites, and its program components (including total residential square footage) are a balance of the commercial, residential and community facility uses as set forth in the CB3 guidelines, removing Site 9 from the development proposal would reduce the project's overall development square footage and, therefore, the total square footage that could be developed as residential.

## HISTORIC RESOURCES

**Comment 31:** We do not believe it is appropriate for state and federal funds to be used to demolish or significantly damage a historic site that is either listed or deemed eligible for listing in the State or National Register of Historic Places. (Moses)

**Response:** At this time, no specific state or federal funding has been identified or allocated for the proposed project. As described in Chapter 1, "Project Description," of the DGEIS and this FGEIS, construction financing for the residential buildings may come from a variety of private and public (local, state, and federal) sources, including, but not limited to funding from the City of New York Department of Housing Preservation & Development (HPD), the New York City Housing Development Corporation, the United States Department of Housing and Urban

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Development, New York State Homes & Community Renewal and the New York State Housing Finance Agency. Accordingly, the historic and cultural resources analysis in the DGEIS and this FGEIS has been prepared in accordance with the New York State Historic Preservation Act of 1980 (Section 14.09 of the New York Parks, Recreation and Historic Preservation Law) and Section 106 of the National Historic Preservation Act of 1966, so that the analysis may be used as the basis for further review of the proposed actions pursuant to Section 106. It was also prepared in accordance with CEQR guidelines and the State Environmental Quality Review Act (SEQRA).

Neither the State Historic Preservation Act of 1980 (SHPA) nor the National Historic Preservation Act of 1966 (NHPA) preclude a state or federal agency from funding a project that demolishes or significantly damages a historic site. The SHPA was established as a counterpart to the National Historic Preservation Act of 1966 and declares historic preservation to be public policy and in the public interest of New York State. The act created the New York State Register of Historic Places, the official list of sites, buildings, structures, areas or objects significant in the history, architecture, archeology or culture of the state, its communities or the nation. SHPA requires that state agencies consider the effect of their actions on properties listed on or determined eligible for listing on the State Register of Historic Places (SR). This includes consulting with the State Historic Preservation Officer (SHPO) of OPRHP for actions that may cause any change, beneficial or adverse, in the character of a property that is listed on or determined eligible for listing on the SR. It also requires state agencies to avoid or mitigate adverse impacts on such properties to the fullest extent practicable, and to fully explore all feasible and prudent alternatives that would avoid or mitigate adverse impacts on such properties.

Section 106 of the NHPA, as implemented by federal regulations appearing at 36 CFR Part 800, mandates that federal agencies consider the effect of their actions on any properties listed on or determined eligible for listing on the National Register of Historic Places (NR). Federal agency preservation officers, in consultation with the SHPO, must determine whether a proposed action would have any effects on the characteristics of a site that qualify it for the State and National Registers and, if the analysis indicates that the proposed actions would have an adverse effect on a historic property, to seek ways to avoid, minimize, or mitigate effects on historic properties.

In accordance with Section 14.09 and Section 106, potential mitigation measures that could partially mitigate the impact of the demolition of the Essex Street Market and former fire station, to the extent practicable and feasible, were identified in Chapter 21, "Mitigation Measures," of the DGEIS and this FGEIS. In addition, the GEIS included the assessment of an alternative that retained the four Essex Street Market buildings and the former fire station.



**Comment 32:** Several types of mitigation have been proposed for the identified significant adverse historic resources impact. We strongly assert that mitigation for demolition typically does not come close to balancing the loss of the cultural/historic resource. Mitigations such as creating museum exhibits on a demolished building’s history within the new structure, and preserving a section of the building’s façade and building the new structure behind it (i.e., facadism) do not address historic preservation concerns or values. (Moses)

**Response:** As described in Chapter 7, “Historic and Cultural Resources,” of the DGEIS and this FGEIS, the project sponsors are undertaking continuing consultation with LPC, in accordance with CEQR guidelines, regarding the development of mitigation for the significant adverse historic resources impacts and the evaluation of alternatives that may avoid or fully mitigate these significant adverse impacts. Further, because construction financing may come from HUD and/or New York State, the project sponsors are also undertaking continuing consultation with OPRHP pursuant to Section 106 and Section 14.09. The mitigation measures identified in Chapter 21, “Mitigation Measures,” of the GEIS are potential mitigation measures subject to continuing consultation with LPC and OPRHP.

**Comment 33:** The best way to minimize impacts to the area’s historic districts—either listed or considered eligible—is for the scale and materials of the new buildings to be sensitive to the surrounding historic sites. This does not mean that the new buildings should slavishly imitate the style of the historic buildings, or resort to apologetically bland generic designs. Conversely, it is most appropriate for the new design to be robustly modern, and to develop a dialogue with the historic buildings in the spirit of the robust architecture of the neighborhood’s historic structures. (Moses)

**Response:** Comment noted.

#### **REAR YARD WAIVER**

**Comment 34:** CB3 recommends that the ULURP document include an action to waive the rear yard requirement for the three sites located north of Delancey Street (Sites 8, 9, and 10). Although the document assumes that these three sites will produce approximately 100 residential units, they are very narrow, no deeper than 70 feet at the widest point, making them difficult to redevelop for residential use. Most of these three sites are in a C4-4A zone, which requires a rear yard. We fear that a building of only 40 or 50 feet in depth will be expensive to build, will make awkwardly designed dwelling units, or may never yield the desired housing. A waiver of the rear yard requirement would make these sites more suitable for housing development. (CB3 Resolution)

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**Response:** Although this topic is outside the scope of the GEIS, it is noted that the three sites north of Delancey Street have sufficient depth to be developed with buildings that have a single-loaded corridor and a 20-foot rear yard and, as such, a waiver of the rear yard requirement is not warranted.

### **PUBLIC AMENITY PHASING**

**Comment 35:** Regarding the production of community spaces, open spaces, and other “amenities,” if the project proceeds in phases as a result of the RFP process, these amenities cannot be “back-ended” to the final phases and the developer(s) must verify the provision of these amenities on a phasing schedule acceptable to CB3. (CB3 Resolution)

**Response:** Comment noted.

### **TASK FORCE**

**Comment 36:** The City of New York must ensure that representatives selected by CB3 (no less than 3 members and no more than 7 appointed by the CB3 Chairperson) participate fully and transparently on a task force (similar to what was established for Manhattan Community Board 11 on the East 125th Street project) to provide input in the drafting of the RFP(s) which results from the ULURP action. This task force will meet at a minimum on a bi-monthly recurring basis with City officials.

The task force should be led by and include the above-mentioned CB3 members, as well as one representative from each of the members of the City Council Districts represented in CB3 and one from the Manhattan Borough President, as well as representatives of two local stakeholder groups as appointed by the CB3 Chair. The majority of members of the task force will be composed of CB3 members.

The City should commit to continuing its partnership with the community on the Seward Park Mixed-Use Development Project, including the community’s participation within the City’s RFP process as follows:

- Prior to releasing the RFP, the City will meet with the task force to request their priority goals. This will include, but not be limited to, a discussion about preferences for ground-floor and retail uses. The task force will review final RFP goals and selection criteria prior to the City’s release of the RFP.
- One of the selection criteria in the RFP will be that the task force preferences will be considered in final selection.
- Upon receipt of developer proposals, the City will provide summaries—with identifying information removed—to the task force of viable responses and discuss the proposals. The task force will provide feedback as to which

proposal(s) and aspects of proposal(s) it considers to best meet the community goals. As noted, this feedback will be formally considered as part of the selection criteria.

- Prior to final selection, the City will discuss the proposed selection with the task force.
- Issued RFPs will state that developers will be required to work with the task force during the development, construction, leasing and operation of the project phase(s) in order to ensure ongoing dialogue between the Developer and the community.

The City of New York must ensure that the task force will have the ability to examine and review the RFP(s) regarding compliance with CB3 project goals. The task force will rank proposals in priority order and the City will make all diligent efforts to comply with those recommendations. In addition, CB3 requires written assurances from the City that the RFP will be consistent with the conditions laid out within this approval and will include the attached original CB3 Guidelines passed in January 2011 and June 2011. (CB3 Resolution)

**Response:** Although this topic is outside the scope of the GEIS, it is noted that the City has committed to the following:

- Prior to releasing the RFP, the City will meet with a task force designated by Community Board 3 to request their priority goals. This will include, but not be limited to, a discussion about preferences for ground-floor and retail uses. The task force will review final RFP goals and selection criteria prior to the City's release of the RFP.
- One of the selection criteria in the RFP will be that the task force preferences will be considered in final selection.
- Upon receipt of developer proposals, the City will provide summaries—with identifying information removed—to the task force of viable responses and discuss the proposals. The task force will provide feedback as to which proposal(s) and aspects of proposal(s) it considers to best meet the community goals. As noted, this feedback will be formally considered as part of the selection criteria.
- Prior to final selection, the City will discuss the proposed selection with the task force.

#### **LOCAL DEVELOPER TEAMING**

**Comment 37:** Issued RFPs will require that all major developers must partner with local nonprofit developers, as has been agreed to by the City in other projects. In addition, those nonprofit partners must be required to build a substantial amount of affordable housing (not less than 20 percent of units). (CB3 Resolution)

**Response:** Comment noted.

**PEDESTRIAN SAFETY**

**Comment 38:** There should be a pedestrian bridge across Delancey Street. (Gonzalez)

**Response:** A pedestrian bridge is not included as part of the proposed actions. As described in the FGEIS, in June 2012, the New York City Department of Transportation began implementation of the Delancey Street Safety Improvements plan to improve traffic and pedestrian safety along the Delancey Street corridor. Once this plan is fully implemented, it is expected that the pedestrian safety conditions at the high accident locations along the Delancey Street corridor would improve.

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