

STATEMENT OF FINDINGS

NEWTOWN CREEK COMBINED SEWER OVERFLOW (CSO) STORAGE TUNNEL PROJECT

CEQR NO. 24DEP053Y

March 25, 2026

A. INTRODUCTION

In accordance with New York City's Executive Order 91 of 1977 and its amendments establishing City Environmental Quality Review (CEQR), Article 8 of the Environmental Conservation Law establishing the State Environmental Quality Review Act (SEQRA) and its implementing regulations (6 NYCRR Part 617), as well as the State Environmental Review Process (SERP), as required by the State Revolving Fund Loan Program, the New York City Department of Environmental Protection (DEP), acting as lead agency, issued a Notice of Completion of the Final Environmental Impact Statement (FEIS) for the Newtown Creek Combined Sewer Outflow (CSO) Storage Tunnel Project (Project) on February 5, 2026. The Project is classified as a Type I Action.

The DEP issued the Lead Agency Determination, Notice of Positive Declaration and Draft Scope of Work (DSOW) on February 5, 2025 and held a public meeting on the DSOW virtually via Zoom on March 12, 2025. The period for submitting written scoping comments remained open until April 11, 2025. DEP issued a Final Scope of Work that responded to the public comments on September 5, 2025. The Draft Environmental Impact Statement (DEIS) was issued on September 5, 2025. A public hearing to obtain oral testimony on the DEIS was held on January 7, 2026, at the City Planning Commission (CPC) Hearing Room, located at 120 Broadway, Lower Concourse, New York, NY 10271. Written comments on the DEIS were requested and were received by the lead agency until January 20, 2026. The Final Environmental Impact Statement (FEIS) issued on February 5, 2026 included a response to public comments on the environmental review. The FEIS is available for review on CEQR Access, and the DEP web site at: <https://www.nyc.gov/site/dep/about/newtown-creek-cso-storage-tunnel-project.page>

B. PROJECT DESCRIPTION

DEP prepared the environmental review to disclose potential significant adverse environmental impacts from the construction and operation of a combined sewer overflow (CSO) tunnel and additional infrastructure in order to inform City of New York decision makers prior to any decision for siting infrastructure that is the subject of land use approvals under the Uniform Land Use Review Procedure (ULURP). The Proposed Project has been reviewed in accordance with the New York State Environmental Quality Review Act (SEQRA), City Environmental Quality Review (CEQR), and ULURP.

DEP is subject to a CSO Order on Consent, New York State Department of Environmental Conservation (NYSDEC) Case No. CO2-20110512-25 with modification to Case No. C02- 2000107-8. In response to the Order on Consent, DEP prepared the Newtown Creek CSO Long-Term Control Plan (LTCP), which NYSDEC approved in June 2018. Pursuant to the CSO Order on Consent and the LTCP (and recently approved modifications to the LTCP-recommended project), DEP is proposing a 3.26-mile CSO tunnel with a storage volume of 50 million gallons (MG) to divert overflows from outfalls Bowery Bay (BB)-026, Newtown Creek Queens (NCQ)-077, Newtown Creek Brooklyn (NCB)-083, and NCB-015 into Newtown Creek, located on the border of Brooklyn and Queens. Please see the Final Environmental Impact Statement for the complete list of properties along the tunnel alignment.

The Proposed Project would include the CSO tunnel along with diversion chambers, drop shafts, conveyance sewers, new outfalls, and odor control systems. During wet-weather events, the CSO storage tunnel would divert and store CSOs from the combined sewer system at the four outfall locations. The CSOs retained in the tunnel would be pumped to the Newtown Creek Wastewater Resource Recovery Facility (WWRf) for treatment.

The proposed CSO storage tunnel would be at a depth ranging from 80-130 feet below existing ground surface, and approximately 26 feet in diameter. The tunnel alignment would run from a site in Brooklyn (on the southern side of the Creek) near Whale Creek and the Newtown Creek WRRF, east under the Creek into the Blissville neighborhood of Queens, continuing south and east along Review Avenue, underneath the Kosciuszko Bridge toward the Maspeth section of Queens, then curving south and then west into Brooklyn. In addition to the tunnel, the Proposed Project would include:

- A tunnel dewatering pump station (TDPS), located at the Whale Creek site, that would operate on an intermittent basis following wet-weather events to remove the stored combined sewage from the tunnel, as well as removing inflow and infiltration in the tunnel as needed during dry weather, when the Newtown Creek WRRF has capacity to receive tunnel dewatering flows.
- Diversion facilities at outfalls BB-026, NCQ-077, NCB-083, and NCB-015 to divert CSOs from the outfalls to the tunnel.
- A new gravity diversion sewer to connect outfall BB-026 to the tunnel.

Construction of the Proposed Project is expected to take 11 years. The Proposed Project's expected year of completion is 2040.'

C. REQUIRED APPROVALS

The construction of the Newtown Creek CSO Storage Tunnel may require several discretionary actions, including approval by the federal, state, and local entities. **Table 1** below summarizes the major permits and approvals that may be required for the Proposed Project.

Table 1

Potential Major Permits, Approvals and Coordination

Agency/Entity	Permit/Approval/Consultation/Coordination
FEDERAL	
U.S. Environmental Protection Agency (EPA)	CERCLA coordination and consultation
Coastal Zone Management Act	Projects affecting New York's coastal zone must be consistent with the Coastal Zone Management Act, through the New York State Department of State's Coastal Management Program and approved Local Waterfront Revitalization Plans
U.S. Army Corps of Engineers (USACE)	Permits under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, including Nationwide Permit 7 "Outfall Structures" and Nationwide Permit 3 "Maintenance," as applicable Approval under Section 408 of the Rivers and Harbors Act for tunnel crossings of Newtown Creek in areas under USACE jurisdiction.
United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS)	Consultations under Section 7 of the Endangered Species Act
Advisory Council on Historic Preservation	Consultation under Section 106 of the National Historic Preservation Act of 1966
STATE	
New York State Department of State (NYS DOS)	Coastal Zone Management Consistency
New York State Office of General Services (NYS OGS)	Potential easement(s) for tunnel alignment under portions of Newtown Creek that are under State jurisdiction
New York State Department of Environmental Conservation (NYS DEC)	State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Construction Activity - GP-0-10-001: erosion and sediment control and post-construction stormwater management in accordance with the stormwater pollution prevention plan (SWPPP)
	Water Withdrawal Permits for dewatering that may occur during construction of underground infrastructure
	Individual SPDES Permit or Application Form NY-2C for Industrial Facilities (Dewatering activities requiring discharge to surface water)
	Tidal Wetlands Permit for construction activities in tidal wetlands and their adjacent areas
	Long Island Well Permit for dewatering activities in Queens and Brooklyn
	Protection of Waters Permit Navigable Waters (Excavation or Fill)
	Section 401 Water Quality Certification
Natural Heritage Program database review to determine potential presence of threatened or endangered species listed in New York State	
New York State Historic Preservation Office (SHPO)	Consultation to determine potential archaeological sensitivity and/or the presence of historic resources and determine project's potential effects
Metropolitan Transit Authority (MTA)	Approval of easements affecting MTA-controlled property
NEW YORK CITY	
New York City Planning Commission (CPC) / New York City Department of City Planning (DCP)	ULURP for property acquisition and site selection
	New York City Waterfront Revitalization Program—Consistency Assessment
New York City Department of Environmental Protection (DEP)	Rulemaking pursuant to City Administrative Procedure Act (CAPA) to establish process for coordination along proposed tunnel alignment.
New York City Landmarks Preservation Commission (LPC)	Consultation to determine potential archaeological sensitivity and/or the presence of historic resources
New York City Public Design Commission	Review of design for above-grade facilities and public amenities, including architecture and landscape architecture.
New York City Department of Transportation (DOT) Office of Construction Mitigation and Coordination (OCMC)	Street closure and roadway construction permits

D. PROBABLE IMPACTS OF THE PROPOSED PROJECT

Land Use, Zoning, and Public Policy

The analysis concludes that the Proposed Project would be compatible with existing land use in the surrounding area and that construction and operation of the Proposed Project would not result in any significant adverse impacts to land use, zoning, or public policy. The Proposed

Project would include new infrastructure that would primarily be underground, and which would not result in changes to land use at the affected properties; changes to land use would occur at the diversion facility sites, which currently contain primarily surface parking, vacant land/buildings, and manufacturing uses. However, the Proposed Project's facilities would be part of the extensive sewer infrastructure system present in the study area and would be compatible with the existing sewer infrastructure and other uses in the study area. The Proposed Project would meet all applicable zoning requirements and would be consistent with and supportive of the public policies applicable to the Proposed Project sites and the study area, including the New York City Waterfront Revitalization Program (WRP).

Socioeconomic Conditions

The Proposed Project would affect 11 parcels, two of which are City-owned. Use of City-owned lots would not result in displacement of businesses or employees. Therefore, the Proposed Project involves acquisition of nine sites, including eight proposed for permanent acquisition and one proposed for temporary acquisition during construction. Permanent acquisition of the eight parcels would displace the current uses on these lots, and is expected to result in the permanent displacement of up to approximately eight businesses and 85 employees working on these lots.

Based on the screening analysis that was conducted, the Proposed Project would not displace any residents and would not result in adverse effects on specific industries; however, the Proposed Project could potentially displace a business that could be considered unusually important and would be difficult to relocate (i.e., SRM Concrete). Therefore, a Preliminary Assessment was conducted to assess the Proposed Project's potential to result in significant direct or indirect business displacement. The Preliminary Assessment found that, individually and collectively, the approximately eight businesses and 85 employees that could be directly displaced do not provide products or services essential to the local economy that would no longer be available to local residents or businesses in their "trade areas" due to the difficulty of either relocating the businesses or establishing new, comparable businesses. The eight businesses are also not in a category of businesses or institutions that may be the subject of other regulations or publicly adopted plans to preserve, enhance, or otherwise protect them. Their displacement would not significantly affect business conditions in any industry or any category of business within or outside the study area. In addition, the Proposed Project would not introduce any residential or commercial development that could lead to indirect displacement. Therefore, the Proposed Project would not result in any significant adverse socioeconomic impacts.

Community Facilities and Services

The Proposed Project would not have a direct effect on community facilities because there are no community facilities at the Proposed Project sites. Therefore, the CSO tunnel, gravity diversion sewer, TDPS, and diversion facility sites would not physically displace or alter any on-site community facilities.

Concerning the Proposed Project's potential effects on community facilities due to construction, no community facilities (i.e., public or publicly funded schools, libraries, childcare centers, health care facilities, and fire and police stations) would be directly affected by construction activities. Overall, the Proposed Project would not result in any significant adverse impacts to community facilities.

Open Space

The Proposed Project would not result in the permanent loss of or alteration to any existing open space and operation of the Proposed Project would not result in any permanent effects from noise, air pollutants, odors, or shadows which would adversely affect the usefulness of the adjacent open spaces or recreational resources. Although construction of the Proposed Project at the TDPS site would result in significant adverse noise impacts at the Newtown Creek Nature Walk and North Henry Street Restoration open spaces, the construction noise, while noticeable and potentially intrusive during the most intensive construction activities, would not significantly affect the usability of the open spaces.

Furthermore, at the TDPS site and four diversion facility sites, the surface layouts of the sites are currently being designed, and use of the sites would be determined as the design is refined. The inclusion of potential publicly accessible spaces would be determined as the Proposed Project design advances in consideration of the functional and operational needs of the Proposed Project. Therefore, construction and operation of the Proposed Project would not result in direct impacts on open space and recreational resources.

Shadows

The Proposed Project at the TDPS site would result in new shadows on several nearby sunlight-sensitive resources, including sections of the Newtown Creek Nature Walk, the planned North Henry Street Restoration Project, and the adjacent tributaries of Newtown Creek. However, the new shadows would be limited in extent and duration and would not cause significant adverse shadow impacts to these resources.

Historic and Cultural Resources

Archaeological Resources

Pursuant to CEQR and Section 106 of the National Historic Preservation Act (NHPA), consultation was initiated with the New York City Landmarks Preservation Commission (LPC) and the New York State Historic Preservation Office (SHPO). Based on LPC and SHPO feedback, a Phase 1A Archaeological Documentary Study (Phase 1A Study) of the area identified by LPC was prepared by AKRF in March 2025. The study area for the Phase 1A Study (“Phase 1A Study Area”) includes that portion of the tunnel alignment that extends through Block 2520, Lots 6, 22, and 30, and Block 2508, Lot 1. The Phase 1A Study concluded that the Proposed Project would not affect archaeological resources or remains within Calvary Cemetery. In comment letters issued on April 1, 2025 and May 5, 2025, respectively, LPC and SHPO concurred with the conclusions of the Phase 1A Study and determined that no further archaeological analysis is required. Further, in comment letters issued on May 30, 2025 and August 7, 2025, SHPO determined that the Proposed Project “will have No Adverse Effect on historic or archaeological resources”. Therefore, the Proposed Project would not result in significant adverse impacts on archaeological resources.

Architectural Resources

There are no known or potential historic architectural resources on the project sites; therefore, the Proposed Project would not result in any significant adverse impacts to historic architectural

resources on the project sites. In its May 30, 2025 comment letter, SHPO determined that the Proposed Project “will have No Adverse Effect on historic or archaeological resources” with the condition that further consultation with SHPO will be undertaken, including providing “design documents for the above-ground structures prior to final design”.

There are two known architectural resources in the Proposed Project’s study areas. The industrial building and garage complex at 47-09 30th Street is located within the Degnon Terminal Historic District (State/National Register of Historic Places-eligible [S/NR-eligible]). This resource is located in the study area of the gravity diversion sewer segment between the BB-026 diversion facility site and the Borden Avenue Pump Station. A Construction Protection Plan (CPP) would be prepared and implemented during project construction to protect this architectural resource from inadvertent construction-related damage. The Miller Building (S/NR-eligible) at 425 Greenpoint Avenue is located within 90 feet of the gravity discharge pipe. Should the portion of the gravity discharge pipe be constructed using a cut and cover method within 90 feet of the Miller Building, a CPP would also be prepared and implemented to protect the Miller Building from any unintended construction-related impacts (e.g., vibration effects) to this architectural resource. With the implementation of CPPs as needed, there would be no significant adverse impacts on these historic architectural resources. There are no other known or potential architectural resources in any study areas; therefore, the Proposed Project would not result in any significant adverse impacts on historic architectural resources.

Urban Design and Visual Resources

The Proposed Project would comply with applicable zoning regulations regarding bulk and built form and would result in physical and visual changes consistent with zoning regulations along Newtown Creek. Therefore, the Proposed Project is not anticipated to result in any significant adverse impacts to urban design and visual resources, or the pedestrian’s experience of these characteristics of the built and natural environment.

Natural Resources

Operation of the Proposed Project would not result in significant adverse impacts to natural resources, and would ultimately contribute to improvements in water quality, sediment quality, and aquatic habitat within Newtown Creek through the reduction of CSO volume. The minimal alteration of unvegetated littoral zone tidal wetlands and aquatic habitat, where the removal of bottom material in front of the outfalls would result in deeper water, would not result in significant adverse impacts to habitat or aquatic biota. The deepened areas in front of the outfalls would improve flow at the head of the tributaries within Newtown Creek at the outfall sites, leading to water quality and sediment quality improvements from improved tidal flushing. The permanent loss of trees and vegetation along certain sections of shoreline would be minimal and limited to generalist and invasive plant species and would not result in significant adverse impacts to terrestrial habitat.

Construction of the Proposed Project would not result in any significant adverse impacts to natural resources. Potential impacts to aquatic resources due to suspended sediment resulting from dredging, placement of temporary stone fill, and installation and removal of the temporary cofferdams would be minimized by turbidity curtains and best management practices. These impacts are expected to be minimal and localized to the vicinity of sheet pile installation and removal. Any resuspended sediment would settle over similar substrate within a short period of time and, therefore, would not result in significant adverse impacts to water quality, sediment quality, or aquatic biota. Underwater noise increases would intermittently and temporarily result

in avoidance behavior by fish and excluding them from potential foraging habitat near the Proposed Project sites. However, this temporary loss of some foraging habitat would not result in significant adverse impacts to fish populations within Newtown Creek, and fish would be expected to return to the area during breaks in pile installation and after the temporary cofferdams are in place. Because most of the upland habitats are developed areas with limited vegetation, upland disturbance would have limited potential to adversely affect terrestrial resources, which comprise generalist and urban-tolerant plants and wildlife species.

Hazardous Materials

A review of historic resources including Sanborn maps, aerial photographs, topographic maps and previously prepared environmental assessments revealed widespread contamination throughout the vicinity of the Project Area. Many of the contaminants documented are associated with numerous remedial efforts across several regulatory programs. These programs include the Federal Superfund, State Superfund (Registry of Inactive Hazardous Waste Disposal Sites [SHWS]), the Voluntary Cleanup Program (VCP), and the NYSDEC Brownfield Cleanup Program (BCP), among others. Several high priority remediation sites characterized as part of this analysis are located directly within, adjacent to, or proximate to the CSO tunnel corridor and gravity diversion sewer. Remediation sites in regulatory programs are similarly located adjacent and/or proximate to the TDPS site, discharge pipe, and diversion facility parcels. Further, certain parcels associated with two of the four diversion facilities (Block 2984 Lot 85 at the NCB-083 diversion facility site and Block 2575 Lot 26 at the NCQ-077 diversion facility site) are participating in remedial regulatory programs which have specific regulatory requirements that must be followed.

Based on this review, contamination may be, or is likely present in the soil and groundwater, which could be encountered during construction at all locations (i.e., along the CSO tunnel corridor, along the gravity diversion sewer, and at the TDPS site, discharge pipe, and all diversion facility parcels).

To address any hazardous materials located within the Project Areas during construction, supplemental investigations would be conducted to properly characterize subsurface conditions within the limits of disturbance. The potential for exposure to hazardous materials would be minimized during construction based upon the requirement to investigate and remediate potential hazardous materials within the Project Area in accordance with Remedial Action Plans (RAPs) or Remedial Action Work Plans (RAWPs) that would be prepared and approved by the respective agency that maintains oversight of the respective portions of the Project Areas (i.e., by DEP for the majority of the Project Areas, or NYSDEC for parcels participating in the ERP and BCP). Construction Health and Safety Plans (CHASPs) would be implemented to protect construction workers and occupants during construction. In addition, any suspect asbestos-containing material (ACM), lead-based paint (LBP), and mercury- and/or polychlorinated biphenyl (PCB)-containing building materials, if encountered during construction on the diversion facility parcels, would be evaluated and abated in accordance with applicable local, state and federal regulatory requirements as part of standard demolition procedures.

Beyond construction, all post-remedial requirements during operation, including potential future institutional controls (ICs) or engineering controls (ECs) placed within the Project Area would be followed in accordance with regulatory agency-approved Site Management Plans

(SMPs). With the measures described above, no significant adverse construction or operational impacts relating to hazardous materials would result from the Proposed Project.

Water and Sewer Infrastructure

The Proposed Project would meet the goals of the NYSDEC Consent Order to reduce CSO and would not adversely affect wastewater treatment performance at the Newtown Creek and Bowery Bay WRRFs or sanitary and stormwater drainage and management. Therefore, the Proposed Project would not result in any adverse impacts on water and sewer infrastructure.

Energy

Operation of the Proposed Project is expected to result in an energy demand of approximately 13,137 million British thermal units (MMBtu) of energy per year (approximately 0.006 percent of New York City's forecast future total annual energy demand). During construction of the Proposed Project, the use of an electric-powered tunnel boring machine (TBM) is estimated to result in a temporary demand of up to 596,057 kilowatt-hours (kWh) (2,034 MMBtu) of electricity within a single year—less than the total projected energy consumption during operation of the Proposed Project. Consequently, construction and operation of the Proposed Project would generate incremental increases in energy demand that would be considered negligible when compared with the overall demand within the Consolidated Edison (Con Edison) New York City and Westchester County service area. Therefore, the Proposed Project would not result in any significant adverse impacts related to energy.

Transportation

While the operation of the completed Proposed Project would generate minimal travel activities and no disruptions to the surrounding transportation network, there would be construction worker and truck activities at the TDPS site, each outfall, and diversion facility, as well as temporary disruptions to the surrounding roadways and pedestrian facilities, during construction of the Proposed Project. To assess the anticipated effects from these activities, detailed construction period analyses were prepared for vehicular traffic, pedestrians, street user safety, and parking. These analyses concluded that potential significant adverse impacts would be expected for 11 lane groups at four traffic intersections over one or more of the eight analysis time periods. Conclusions from the construction-period pedestrian analyses are that there would not be any significant adverse impacts to pedestrian elements (sidewalks, corner reservoirs, and crosswalks). Since a detailed transit analysis was determined to not be warranted, the Proposed Project would also not result in any significant adverse transit impacts. In addition to the traffic and pedestrian impact analyses, street user safety and parking assessments were prepared to identify high crash locations and disclose the potential for project-induced parking shortfalls. Neither of these assessments concluded the potential for additional transportation-related impacts.

Between DEIS and FEIS, continuing consultations with DOT led to the incorporation of planned capital improvements into the traffic analyses and refinements of the presented parking supply and utilization statistics. Although these changes resulted in some different analysis results from those presented in the DEIS, the overall conclusions made above have remained the same.

Air Quality

Operational Air Quality

The Proposed Project's odor control units would not result in an exceedance of the 1 parts per billion (ppb) significant odor threshold for sensitive receptors or the 10 ppb New York State Ambient Air Quality Standard (NYSAAQS) in ambient air. There would be no on-site combustion sources, and no regular traffic generated by the operation of the Proposed Project. Therefore, the Proposed Project would not result in significant adverse operational air quality impacts.

Construction Air Quality

An emissions reduction program would be implemented to minimize the effects of construction activities on the surrounding community. Measures would include dust suppression measures, use of ultra-low sulfur diesel (ULSD) fuel, idling restrictions, diesel equipment reduction, and best available technologies as required by New York City Local Law 97 of 2003. With the implementation of these emission reduction measures, the dispersion modeling analysis of construction-related air emissions for both nonroad and on-road sources determined that particulate matter (PM is regulated in two size categories: particles with an aerodynamic diameter of less than or equal to 2.5 micrometers [PM_{2.5}] and particles with an aerodynamic diameter of less than or equal to 10 micrometers [PM₁₀, which includes PM_{2.5}]), nitrogen dioxide (NO₂), and carbon monoxide (CO) concentrations would be below their corresponding de minimis thresholds and/or National Ambient Air Quality Standard (NAAQS), respectively, from activities at the TDPS site and at the BB-026, NCB-083, and NCB-015 diversion facility sites.

PM₁₀, NO₂, and CO concentrations from construction sources at the NCQ-077 diversity facility site were also determined to be below the applicable NAAQS. However, the PM_{2.5} concentrations from construction sources at the NCQ-077 diversity facility site were determined to exceed the short-term and annual PM_{2.5} de minimis thresholds at limited sidewalk receptor locations immediately adjacent to the site, but all concentrations were below the NAAQS. Based on the magnitude of the predicted concentrations, the duration of the impact on the sidewalk locations adjacent to the NCQ-077 diversion facility site, and that the predicted PM_{2.5} concentrations are below the NAAQS, these impacts are considered temporary and transient in nature and would not result in significant adverse construction air quality impacts.

The predicted non-criteria pollutant concentrations from the groundwater treatment systems would not exceed the applicable Short-term Guideline Concentrations (SGCs) and the Annual Guideline Concentrations (AGCs).

Finally, to mitigate odors from excavation to the greatest extent practicable, DEP would implement an odor control program during construction and all necessary means would be employed to prevent on- and off-site odor nuisances. The Proposed Project would implement a Community Air Monitoring Program (CAMP) during soil disturbance activities to monitor applicable threshold levels and to implement any corrective actions if necessary. If applicable threshold levels in the CAMP are exceeded, to minimize and control on- and off-site odor nuisances, the Proposed Project would implement odor control measures during construction that could include wet suppression, daily cover foams/shells, covered conveyors, and activated carbon scrubbers. Therefore, no significant adverse air quality impacts are anticipated from the construction of the Proposed Project.

Greenhouse Gas Emissions (GHG) and Climate Change

While the Proposed Project would include permanent buildings to house TDPS pumping, screening, and degritting facilities for CSO stored in the tunnel, the buildings will be designed to utilize fully electric systems and would not represent a substantial increase in energy demand. Additionally, the Proposed Project would result in the construction of facilities that require electricity use at the diversion facilities but would not include construction of new permanent buildings. Therefore, the Proposed Project would be consistent with the efficient buildings goal, and clean power goal defined in CEQR Technical Manual as part of the City's GHG reduction goal. The total fossil fuel use in all forms associated with construction under the Proposed Project would result in up to approximately 39,489 metric tons of carbon dioxide equivalent (CO₂e) emissions. Under high-end (90th percentile) estimated flood levels, the Proposed Project would be resilient to anticipated future flood elevations for the TDPS building's lifetime considering anticipated future flood levels and would be resilient to projected flood increases through about the end-of-the-century. Consequently, the Proposed Project would be resilient to future climate conditions.

Noise

Operational Noise

Noise resulting from operation of the Proposed Project would not result in any exceedances of the CEQR Technical Manual noise impact criteria or the New York City Noise Control Code noise level limits for circulation devices. Additionally, the Proposed Project would introduce minimal traffic within the surrounding areas once complete. Consequently, operation of the Proposed Project would not result in any significant adverse noise impacts.

Construction Noise

Construction of the Proposed Project is predicted to result in elevated noise levels at several of the analyzed receptors, which represent the residences, hotels, and publicly accessible open spaces. Specifically, at the Newtown Creek Nature Walk and future North Henry Street Restoration open spaces, construction of the TDPS is predicted to result in potential temporary significant adverse construction noise impacts. Construction of the TDPS would result in noticeable and potentially intrusive increases in noise levels at the Newtown Creek Nature Walk and the future North Henry Street Restoration open spaces and total noise levels that would be considered "clearly unacceptable" at the future North Henry Street Restoration open space. Potentially intrusive noise level increases at the Nature Walk are predicted to occur for a duration of 12 consecutive months at the Nature Walk. Potentially intrusive noise level increases are predicted to occur for a duration of 110 months at the North Henry Street Restoration project, with "clearly unacceptable" noise levels predicted to occur for up to 16 of those months.

Construction Vibration

Historic buildings and other structures located within 90 feet of the Project sites, as appropriate, would incorporate vibration monitoring, and peak particle velocity (PPV) during construction would not be permitted to exceed the 0.50 inches/second threshold. Vibration-producing equipment would not operate in proximity to non-historic structures such that it could potentially result in damage to these structures, which are less-vibration sensitive than historic structures. Furthermore, construction of the Proposed Project would not result in extended

periods of perceptible or annoying vibration at surrounding receptors. Blasting would be carefully controlled and monitored with explosives being detonated sequentially, breaking the rock while spreading the release of energy from the explosives over a period of several seconds so as not to compromise the integrity of the surrounding structures (e.g., the shafts) due to vibrations. Therefore, construction of the Proposed Project would not have the potential to result in significant adverse vibration impacts.

Public Health

Although the Proposed Project would result in significant adverse noise impacts during construction, these impacts would not have a significant effect on public health. As the significant adverse noise impacts would only occur during construction, they would be temporary and would not affect a sizable population or any residential area. In addition, the significant adverse noise impacts would not exceed standards related to health outcomes. Therefore, the Proposed Project would not result in a significant adverse impact to public health.

Neighborhood Character

The defining features of the neighborhood around the Proposed Project include the neighborhood's low-scale industrial land uses, industrial history, and waterfront location along Newtown Creek. A preliminary assessment did not identify any potentially significant adverse impacts to neighborhood character either singularly, or in combination with potential impacts in other relevant technical areas. Many of the Proposed Project's components are below ground, which limits their ability to impact neighborhood character. The Proposed Project's above-ground components are consistent with the neighborhood's low-scale industrial land uses and existing water and sewer infrastructure. Although the Proposed Project would result in potential temporary significant adverse noise impacts during construction, these impacts would be limited to the construction period and would only occur at open space receptors immediately adjacent to the TDPS; therefore, they would not result in widespread noise impacts affecting the area's neighborhood character. Additionally, while the Proposed Project would result in significant adverse traffic impacts at four intersections during construction, the temporary impacts would be limited to portions of the construction period, for approximately as little as 2 years to no longer than 6 years in duration, and would occur in areas that already experience high levels of truck and other industrial traffic. Overall, the Proposed Project would be consistent with the existing low-scale industrial land uses and water and sewer infrastructure in the neighborhood and would not detract from any of the neighborhood's defining features.

Environmental Justice

The analysis of effects on Disadvantaged Communities (DACs) and minority and low-income communities (collectively, "environmental justice communities") concluded that the Proposed Project would not result in disproportionate impacts on environmental justice communities, nor would it cause or increase a disproportionate pollution burden.

Mitigation

Significant adverse impacts resulting from the Proposed Project have been identified for transportation and noise during construction.

Potential improvement measures (i.e., signal timing adjustments) have been recommended for DOT consideration to mitigate significant adverse traffic impacts identified at one of the four impacted intersections. At all four impacted intersections, the identified impacts during one or more analysis peak hours would remain unmitigated and would be unavoidable significant adverse impacts of the Proposed Project. Additional mitigation strategies, such as the deployment of Traffic Enforcement Agents (TEAs) and the placement of Variable Message Signs (VMSs), could be considered at intersections where identified impacts could not be readily mitigated with typical mitigation measures to potentially improve traffic operations during construction. Between Draft and Final Environmental Impact Statement, DEP committed to fund the deployment of Traffic Enforcement Agents (TEAs) during peak travel periods at the two impacted intersections listed below to alleviate traffic congestion, facilitate cyclist and pedestrian passage, and ensure roadway safety:

- Greenpoint Avenue and Kingland Avenue
- Greenpoint Avenue/Van Dam Street and Review Avenue

The duration and circumstances during construction under which the TEA deployment is warranted will be determined in coordination with DOT.

Construction activities would result in noise levels at Newtown Creek Nature Walk and future North Henry Street Restoration open spaces that would constitute a significant adverse noise impact. No practical and feasible mitigation measures have been identified that could be implemented to reduce noise levels below the applicable threshold. Therefore, at these receptors, the significant adverse construction noise impacts would be unavoidable.

Alternatives

No Action Alternative

The No Action Alternative is the No Action condition, as discussed in Chapter 2, “Analysis Framework,” and analyzed in this EIS. Under the No Action Alternative, the Proposed Project would not be constructed: the sites that would be affected by the Proposed Project for construction of the diversion facilities would remain in their existing condition, the TDPS site would be vacated, and there would be no reduction in CSO volumes discharged to Newtown Creek from outfalls BB-026, NCQ-077, NCB-083, and NCB-015.

The No Action Alternative would not result in any significant adverse impacts; in particular, it would avoid the significant adverse impacts to traffic and noise that would occur during construction of the Proposed Project. However, as the No Action Alternative would not provide a reduction in CSO volumes, it would not have the beneficial effect that would occur with the Proposed Project (particularly improvements in water quality, sediment quality, and aquatic habitat within Newtown Creek), and unlike the Proposed Project, it would not further the goals of the LTCP and the NYSDEC CSO Order on Consent.

No Unmitigated Impact Alternative

The No Unmitigated Impact Alternative considers an alternative that would eliminate the Proposed Project’s unmitigated significant adverse impacts. The EIS analyses identified significant adverse impacts for which no practicable mitigation has been identified to fully mitigate the impacts in the areas of traffic and noise during the construction period.

There is no practicable alternative that could be developed to avoid all of the unmitigated significant adverse impacts of the Proposed Project. In order to eliminate the Proposed Project's unmitigated significant adverse impacts in the areas of traffic and noise during construction, the Proposed Project would have to be modified to a point where it would not realize the goals and objectives of the Proposed Project, which include reducing CSO discharges to Newtown Creek in furtherance of the goals of the Newtown Creek LTCP and the CSO Consent Order. Therefore, there is no practicable alternative that could be developed to avoid the unmitigated significant adverse impacts of the Proposed Project.

Unavoidable Significant Adverse Impacts of the Proposed Project

As described above in "Mitigation," the Proposed Project would result in significant adverse transportation and noise impacts during construction. To the extent practicable, mitigation has been proposed for the identified significant adverse impacts. However, no practicable mitigation was identified to fully mitigate the significant adverse construction transportation and noise impacts; therefore, they would constitute unavoidable significant adverse impacts.

Growth-Inducing Aspects of the Proposed Project

While the Proposed Project would include the construction of new infrastructure, it would not result in an expansion of the sewer infrastructure capacity and is not anticipated to induce additional development.

Irreversible and Irretrievable Commitment of Resources

The Proposed Project would utilize a minimum amount of land and would result in a negligible commitment of other resources such as labor, energy, and building materials; and would reduce CSO discharges to Newtown Creek in furtherance of the goals of the Newtown Creek LTCP and the CSO Consent Order.

E. CONCLUSIONS AND FINDINGS

Having considered the relevant environmental impacts, facts, and conclusions disclosed in the FEIS, the Commissioner, Lisa Garcia, on behalf of DEP, concurs with the findings of the FEIS and certifies that:

- The requirements of Article 8 of the New York State Environmental Conservation Law (SEQRA) and its implementing regulations found at 6 NYCRR Part 617 and the requirements of City Environmental Quality Review (CEQR) found at Title 62, Chapter 5, of the Rules of the City of New York and as set forth in Executive Order 91 of 1977, as amended, have been met.
- Consistent with social, economic, and other essential considerations of state and city policy, from among the reasonable alternatives available, the Project is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the approval, those mitigation measures that have been identified as feasible and practicable.

The FEIS and the Notice of Completion of the FEIS constitute the written statement of facts and analysis of the environmental, social, economic, and other factors and standards that form the basis of this decision, pursuant to Section 617.11(d) of the SEQR regulations.

For additional information, please reach out to the contact person listed below:

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