

**ESCR CAG Meeting -- April 18, 2024**  
(via Zoom)

**CAG members present**

Wendy Brawer Christine Datz-Romero Dov Goldman Frank Avila Goldman Richrd Heitler Trever Holland Charles Krezell Dianne Lake Michael Marino Camille Napoleon Robin Schatell Shaheeda Smith Susan Steinberg
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**Presentation on Section 106 Process (re: potential demolition of the Fireboat House)**

*Julie Freeman, OMB (Office of Management and Budget)*

[Link to slide deck for this presentation](#)

**Introduction**

- ESCR is partially funded with federal Community Development Block Grant – Disaster Recovery (CDBG-DR) funding from HUD.
- NYC OMB acts as both grant administrator and Responsible Entity for CDBG-DR funds.
  - Meaning: we are the entity responsible for ensuring the environmental review is conducted according to federal requirements.
- Federal environmental reviews require compliance with Section 106 of the National Historic Preservation Act of 1966 (aka “Section 106”).

**Section 106**

- Encourages, but does not mandate, preservation
- Requires consideration of the effects of federally-funded projects on historic resources
- Obligates grantees to avoid, minimize, and/or mitigate adverse impacts to historic properties to the extent possible, reasonable, and cost feasible.
- Involves consultation with interested individuals and organizations.
  - Note: “*Consultation does not mandate a specific outcome. Rather, it is the process of seeking, discussing, and considering the views of consulting parties about how project effects on historic properties should be handled.*” (from Advisory Council on Historic Preservation’s “A Citizens Guide to Section 106 Review”)

**Section 106 Review – Steps in the Process**

- 1 - Identify all properties to be impacted by proposed project (“area of potential effect”)
- 2 - Determine whether any impacted properties are historic and how they may be affected

- 3 - Explore options to avoid or mitigate adverse impacts
- 4 - Reach agreement with the State Historic Preservation Office, Tribal Historic Preservation Office(s), Advisory Council on Historic Preservation (if necessary), and any consulting parties to resolve adverse impacts

#### Programmatic Agreements (PA)

- Step 4 is often accomplished through a Programmatic Agreement (PA).
- A PA is a legally-binding document that governs the implementation of a program/project, typically ones that are particularly complex, and how adverse effects will be addressed.
- These are often used when the Responsible Entity cannot fully determine how a particular undertaking may affect historic properties prior to approving a project.
- Parties who may sign a PA fall into one of three categories.

#### PA Parties: Signatories

- A signatory has the authority to execute, amend, or terminate the agreement.
- At a minimum, the Responsible Entity and the State Historic Preservation Office (SHPO) are signatories.
- Other signatories may be the Advisory Council and, when a project may affect historic properties on tribal lands, Tribal Historic Preservation Offices (THPO).
- Signatories *must sign* the agreement for it to be executed.

#### PA Parties: Invited Signatories

- Invited signatories are entities that are invited to sign due to the responsibilities assigned to them under the agreement.
- An invited signatory, upon signing, has the authority to amend and terminate the agreement.
- The refusal of an invited signatory to sign does not prevent the agreement from being executed; however, an agreement cannot impose a duty or responsibility on a party that has not signed it.

#### PA Parties: Concurring Parties

- A concurring party (also referred to as a consulting party) is invited to concur in the agreement but does not have authority to amend or terminate it.
- Certain individuals and organizations with a demonstrated interest in the project may participate due to the nature of their legal or economic relation to the project or affected properties, or their concern with the undertaking's effects on historic properties.
- Concurring signature is essentially an endorsement of the agreement.
- Refusal to sign by a concurring party does not prevent the agreement from being executed.

#### ESCR Programmatic Agreement

- **Signatories:** NYC OMB, NY SHPO, Advisory Council
- **Invited Signatories:** NYC PARKS
- **Concurring Parties\*:** NYC LPC, Landmarks Conservancy, Lower East Side Preservation Initiative, Municipal Art Society, Friends of Corlears Hook Park, Historic Districts Council, Lower East Side Ecology Center

\*East River Park Action has also expressed interest in joining as a concurring party.

### Original ESCR Programmatic Agreement

- Executed 12/4/2019
- Identified 17 historic properties in ESCR Area of Potential Effect, one of which was the Fireboat House (eligible for the State/National Registers of Historic Places)
- City commitments regarding Fireboat House:
  - Evaluate flood resilience options (Stipulation V)
    - Coordinate proposed measures with SHPO/LPC for review/approval;
    - Share prelim/final designs with consulting parties for comment
  - Develop Construction Protection Plan (Stipulation VI)
    - Submit to SHPO, LPC, and consulting parties for comment

### Amended Programmatic Agreement

- Executed 10/12/2021
- Recognized 2 additional Historic Properties in the APE (area of potential effect) – East River Park Track House and Tennis Center Comfort Station
- Reiterated/revised commitments regarding Fireboat House:
  - Submit pre-final design plans for resilience measures to SHPO and consulting parties for 30-day comment period;
  - City shall consider and revise plans to address comments to extent feasible;
  - If City doesn't agree with comments or if Party(ies) don't agree with plans, City will follow Dispute Resolution process in original PA Stipulation VII.

### Recent Developments

- In 2023, City learns piles supporting the Fireboat House are substantially deteriorated.
- Building shows signs of stress (e.g., cracks in foundation walls and slabs).
- On 12/8/2023, several City agencies met with NY SHPO and LPC to inform them of conditions.
- SHPO requested the City complete an Alternatives Analysis to evaluate options for the site.

### Alternatives Analysis

- An alternatives analysis is a process through which alternatives for addressing impacts to an historic site are explored.
- Advantages and disadvantages of each alternative assessed.
- Explains reasoning behind preferred/proposed action
- Note: an alternatives analysis is not a feasibility study.

### Next Steps - it will take about half a year to complete the process

<i>Step</i>	<i>Estimated Duration</i>
• Preparation of Alternatives Analysis ( <i>We are here!</i> )	6 weeks
• Present AA findings and preferred option to PA Signatories and consulting parties	2 - 3 weeks
• 30-day comment period	4.5 weeks
• Review comments	2 weeks
• Respond to comments, schedule follow-up meeting with PA signatories and consulting parties, discuss possible mitigation options (if demolition is the preferred action)	2 - 3 weeks
• Prepare draft amendment to the PA*	1 – 2 weeks
• Circulate PA amendment for 30-day comment period*	4.5 weeks

- Review/respond to comments, execute amendment\*

2 weeks

\*If rehabilitation & floodproofing remain preferred option, these steps will not be necessary

## Q & A

Frank: For me, the directly impacted party is clearly LESEC. Is this the first presentation that they would have seen of this, or were they briefed beforehand about this? Also, they should be driving who the concurring parties are and the involvement in all this.

Julie: LESEC has received at least one presentation

Parker: That's my understanding as well, and they've been added as a consulting party.

Julie: If there are other organizations that are interested, any of them can feel free to reach out to me, and we can discuss adding them. We've added several organizations in the last six weeks.

Dianne: Can the CAG be a consulting party?

Julie: I don't know. Is the CAG a formal body with leadership? There's a requirement that whoever signs on behalf of an organization needs to be able to speak for the whole organization. We could explore this. Depending on the structure of the organization, I'd have to ask HUD.

Dianne: We could pursue this offline with Paula and Tara. If we're going to have a consultant party that's community-based, it would be ideal to have this group be one since it's broadly community-based. This group represents a collection of "friends of" organizations, private and public housing representatives, and other community organizations that are interested in resiliency and green space. Everyone has a stake in the project and therefore a stake in what becomes of this building in the process.

Christine: We certainly have received presentations about the Fireboat House and the flood mitigation plans that the City came up with, but this is the first presentation we're seeing about the Section 106 process. We signed on as a consultant party, which I'm happy about. I would second Dianne's comment that it makes a lot of sense to have a big tent for people to really have input into what happens to the building. The more voices that are heard, the better. Hopefully we can come to a consensus about what makes sense for everyone. What I do want to make a point about is that in 2023, it seems like the City already knew by the summertime that the building is compromised. It's disappointing that nobody received any communication about that. We're interested in planning and coming up with solutions about how to return to the park once it's finished. There are commitments to build whatever is going to be there for us to do programming, but it feels like time is running out on that process because all of that takes a long time. I'd like to express my displeasure about the community not hearing earlier that there are some real problems there.

Wendy: The walkthrough last week really drove home the work that LESEC did in the park to make it green, to manage 1,000 volunteers a year, to produce an endless supply of topsoil and a planting medium, and right now I can't imagine that park's going to thrive without them. Please do your best to make sure that LESEC has a home where they can actually do the kind of stewardship and environmental education that is so meaningful and important to this city on the frontlines of climate change.

## **DDC Presentation of Updates**

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Parker MacLure, HNTB-LiRo

### 1. Overview of Contracts (*see slide 20*)

- a. Most of the work remains the same for PA1; fields 1 and 2 are in progress; the nature exploration area is in progress; the Phase 1 esplanade is taking shape. Passive lawn is closed to provide staging ground for pedestrian bridges.
- b. For PA2, the new thing is that all the gates for PA2 were installed at the end of March. There's been over 3,000 feet of floodwall installed.
- c. Parallel Conveyance
  - i. Corlears Hook Park
    - 1. Prep work for interceptor gate chamber and building construction
    - 2. Utility relocations investigations in progress to begin sewer work.
  - ii. Houston and Delancey Streets
    - 1. Subsurface investigations in progress
    - 2. Utility relocations in progress
  - iii. Avenue C (E. 18 - E. 23) locations
    - 1. ConEd abatement in progress

### 2. PA1 Construction Activities (*see slide 22*)

- a. Esplanade removal and reconstruction activities along the waterfront. Deep sewer activities/pile install and park drainage work. Floodwall (Combi-wall) pre-drilling and installation. Fill material delivery by barge and placement onsite. Ballfields 1 and 2 are under construction. Nature exploration area under construction
- b. Delancey Street bridge pier, foundation, and wall construction.
- c. Construction for Corlears Hook bridge
- d. Passive lawn was leveled to create staging area for assembly of the Delancey Street bridge and the Corlears Hook bridge
- e. Ongoing utility work around Montgomery and South Streets. Floodwall construction work should begin soon.
- f. Montgomery St. – Cherry St. greenway floodwall activities
- g. Continued pile installations at E. Houston Street. Pedestrian detour shift. Construction operations at ballfields 3, 4, 5.
- h. Preparation for microtunneling operations at E. 10<sup>th</sup> Street. Moving along with sewer work along E. 10<sup>th</sup> Street.
- i. Ongoing partial FDR land closures continue at various locations.

### 3. PA1 CAG Site Walk – Summary of Points (*see slide 24*)

- a. We're finalizing our written responses to questions that were submitted beforehand
- b. Amenity Opening Schedule:
  - i. The ballfields are scheduled to open September 1st, in time for the fall permitting season.
  - ii. The schedule for opening of any additional amenities is still being determined and will be shared with the CAG when finalized.
- c. Ballfield Access:
  - i. The ongoing construction activities that must occur around the ballfields—involving large cranes and heavy construction equipment to install the hardscaping and other items—interferes with any safe public access path
  - ii. We expect the Delancey Street Bridge and connecting paths to be in place and open in time for the September 1st opening.

- iii. In the event the Delancey Street Bridge is not open by September 1st, access will be provided via the Corlears Hook Temporary Bridge, esplanade, and connecting paths from the south.
  - iv. Installing a new temporary bridge is both infeasible and would interfere with necessary construction activities.
- 4. PA1 Construction photos (*see slide 25*)
  - a. Old esplanade piers with new footings
  - b. Stadium light foundation
  - c. Nature exploration area
- 5. PA1 Construction photos (*see slide 26*)
  - a. Delancey Street bridge staging area (used to be passive lawn)
  - b. Sea rail mockup on esplanade
- 6. PA2 Floodgate Installation Update (*see slide 28*)
  - a. All PA2 floodgates (7-18) have been installed!
- 7. PA1 Air Quality Monitoring Update
  - a. We only have it for PA1; we'll send it for PA2 to Paula and Tara next week
- 8. PA1 Air Quality Monitoring locations (*see slide 30*)
  - a. Planning is underway to adjust the locations as construction activity moves north around E. 10<sup>th</sup> Street as well as north of the bridge in the former ballfields area. When the plan is finalized, we'll update you as to where the monitors are being moved.
- 9. PA1 Air Quality Monitoring March 2024 update (*see slide 31*)
  - a. There were very few alerts; all were under an hour long, and whenever it was caused by construction activities, dust suppression techniques were applied.
- 10. PC (Parallel Conveyance) Construction Progress (*see slide 33*)
  - a. Location 1 – Jackson St. & Water St. & Corlears Hook Park
    - i. Utility relocation
    - ii. Prep work for excavation for south interceptor gate chamber
    - iii. Sewer work to begin soon (meat and potatoes of PC)
  - b. Location 2 – Lewis St. & Delancey St.
    - i. Utility relocation
  - c. Location 3 – Baruch Dr. & Delancey St.
    - i. Utility relocation
    - ii. Water main relocation work
  - d. Location 4 – Houston & Columbia Streets
    - i. Test pits
    - ii. Utility relocation
    - iii. To close bus stop
  - e. Location 5 – Avenue C & E.18th
    - i. ConEd steam main abatement work
  - f. Location 6 – Avenue C, E.20th to E.23rd
    - i. ConEd steam main abatement work
    - ii. Test pits
    - iii. Water main relocation

11. PC Construction Photos (*see slide 34*)

- a. Installation of ConEd manhole casting
- b. Streetlight conduit installation at Delancey and Baruch Dr.
- c. Steam main abatement at Columba Street

**Q & A**

Frank: Given the recent earthquake, are there vibration monitors interspersed throughout the project?

Parker: Yes, there are 24-hour vibration monitors throughout though we don't report on them the same way we do for air quality monitoring.

Frank: Would the city report if there were any anomalies after that earthquake?

Parker: I can ask our environmental team, but it might need to be FOIL'd. I'll let you know.

Wendy: I was on the walkthrough, and Robin noticed there's nothing for shade on the dugouts. Was any note made of that?

Parker: There is not currently a plan for temporary shade structures around the field, but I can take that suggestion back.

Wendy: That would be great; the plastic field is going to be a lot hotter. Which city agency will manage the gates in PA2?

Parker: DEP will manage the flood gates.

Wendy: Will there be any test closings?

Parker: They've tested many of the gates that have already been installed. They haven't been able to test the new ones just yet, but they do test all of the gates. The contractors test the gates now, but after they're turned over to DEP, that agency will be responsible for routine testing of the gates.

Robin: Thanks to Wendy for bringing up the shade issue.

Parker: Yes, I'll take it back and see if there's anything we can do.

Wendy: When we were out there, machines were going, and it was pretty dusty, but the construction workers weren't wearing masks. Is that typical?

Parker: I'm not sure; I'd have to ask our team what the proper PPE is for people doing different operations. I can ask and let you know.

Wendy: I also noticed that the fill material in the turf is leaking out the side. Is there any process to keep that out of the river and the sewage system?

Parker: During construction we're required to follow the SWIP (stormwater pollution prevention) plan, but I'd have to check the design of the park and preventing them from getting into the river.

Wendy: It's already a concern on Pier 42 after the first storm.

Dianne: For those not on the walkthrough, could you quickly explain the process of what's going to happen with the bridges?

Parker: Sure, let's go back to slide 26. The bridges were built in Italy, and then they did a test assembly to make sure everything fit together properly and then they disassembled it and shipped the pieces of the Delancey Street bridge over a barge. Now the bridge is in Newark, and it will be brought partially by bridge and partially by truck to the site. Once they're all there, they will assemble the bridge on pedestals. Once everything is fitted together and they've tested it, they'll have remote-controlled machines on wheels

that will go under it and pick it up. It will require an overnight FDR closure, and then the team will remotely roll the bridge onto the FDR and then roll it up to where it needs to be placed. After it's put into place, they'll do the final finishings, like paving the bridge so that the path is continuous to get from the ramps onto the bridge. They'll test it once it's in place to make sure it's safe to cross and then will eventually open it. I'll try to find a video of a bridge placement process to share with you all. Then they'll do the same exact thing with the Corlears Hook bridge. The team will set up a time-lapse camera for the assembly of the bridge at the passive lawn.

Dianne: Desiree told me that the Delancey Street bridge has to go in first because otherwise you couldn't get it past the Corlears Hook Park bridge.

### **CAG-only portion**

Dianne: Regarding the idea of the CAG as consultant party, it was discouraging to hear that HUD might disqualify us because we don't have an elected leader. I think we should look into that because it seems like the best way to get all the voices heard.

Michael: I also think it's a good idea, but I agree with you that we're probably going to be disqualified because there's no central leadership, and we're not a 501(c)(3) though I'm not 100% sure that's a requirement.

Christine: Maybe we can have an informal meeting where we talk to people about the comments they have, and then as consultant partners, Friends of Corlears Hook Park, LESEC, and LESPI<sup>1</sup> could talk about/include those comments in ours. Of course, it would be best if the CAG had a voice so we should try to find that out. But if not, there could be a workaround.

Paula: So, does anyone object to my reaching out to Julie Freeman about this?

Frank: Maybe one workaround would be to tailor it just to this specific issue if we need to elect leadership; it might be easier and simpler. We could appoint a specific representative on this Fireboat House issue rather than as leadership of the CAG in totality.

Michael: I agree with you, Frank. It's in our by-laws that one member cannot speak for anybody else. We'd be going against our by-laws if we have one person represent us, so we would either need to make an exception for this one particular thing or create some sort of leadership structure for the CAG in general. I would vote for an exception for this one particular thing.

Dianne: Yes, that's what I was thinking the workaround could be, an exception for this one issue.

Paula: What do people think about that?

Wendy: I think it's so important to the future of the park that it makes sense.

Trever: I'd like to echo Frank's concern that it would be for this one particular issue and not for speaking on behalf of all issues because there are other issues. Also, there are people who are on the list of Consultant Parties who are part of the CAG.

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<sup>1</sup> Lower East Side Preservation Initiative



Paula: Should I reach out to Julie to see if, just in case, the CAG can be a consultant party? And if not, we'll consider this workaround?

Dianne: Julie said that the issue was that someone would have to sign the agreement, and if there's a way for the CAG to authorize someone to do that in this case on this specific issue that would be the only obstacle.

Michael: I don't know how Christine feels about this, but maybe to make it easier the person who signs that agreement is either me or Christine since we've signed it already for our own organizations.

Paula: I'll reach out to Julie, and we'll take it from there. The next topic is Dina's offer to take the CAG on walkthrough of Stuy Cove Park as a cautionary tale for some of the factors in its redesign. I will reach out to her to get some dates for that. Is there anything else on this topic?

Wendy: Dina said that they didn't put any kind of edging around the plant beds and that washout was happening. So I've now reached out to Rick Fogarty about this regarding Pier 42 which has the same condition. I asked if the job could be completed so that there isn't soil on the walkways. It also helps keep pets out. So maybe we'll end up with a little ledge. Also, do people know that the new Manhattan Commissioner for Parks was on the walkthrough? She was asking a lot of questions; it was not very familiar to her. I wonder if we can offer her a tour of the north end of the park because it caught my ear when they said they've made design changes in PA1. Some of that's about that esplanade that Parker talked about today. I would still like to see that grove of trees at Sixth Street protected. I don't know if that's remotely possible, but maybe that's something the Parks Commissioner would respond to, or other concerns about that end of the park in PA2.

Paula: Are there any responses to that idea?

Christine: I think that what would be helpful for the CAG is for Parks to just be present in this process. I asked her about this when we parted after the walkthrough. A lot of times we have issues that come up and Parker or Desiree say that they'll have to check with Parks to get the question answered. I think it would be super helpful for us to have a Parks representative at CAG meetings and at the Community Board who understands ESCR and can answer questions.

Trever: Was there a response?

Dianne: She kind of nodded her head and said, "I hear you."

Trever: They have a new resiliency who they said was going to come to the meeting.

Dianne: I thought I saw him on the call at the very, very beginning. When I looked again later, he wasn't there.

Trever: The people in both of those positions are new with Parks.

Paula: We talked about the desire to have a Parks representative at meetings at the last CAG meeting, so I reached out to them and thought that someone from Parks was going to be here today. I'll reach back out to see what's going on.

Dianne: Parks was able to do a walkthrough of the north end with us a couple of years ago. I forget who was there representing Parks.

Christine: It was Bonnie Phillips and our manager, Jamil Philips.

Dianne: I think there are two issues. One is that the Parks budget has been completely slashed. The north end is going to be open longer than anticipated because the south is not reopening. At the walkthrough Desiree did tell us that if they don't open anything up on the south end, they won't close anything up in the north end. So we have to keep the north end as usable and pleasant as possible. Then we have everything that's going on in the south end. I don't know if Luc can play both of those roles or if we need someone who's more on the day-to-day operations side or Parks as well.

Trever: At the last meeting someone raised the issue of the ballfield conditions. Is there a list of those conditions that we can follow up on?

Dianne: I think we can do our own individual walkthroughs. I spend a lot of time there and was thinking of starting a list anyway, so we could handle it that way.

Trever: Yeah, I wasn't thinking so much of a walkthrough but, "here are the issues that we have" so there's more follow-up on the progress of items such as the ballfields' unusable conditions. This could be done on behalf of the CAG but is something that should also be discussed at the Community Board. I'd like to give them a chance to address it before the meeting.

Wendy: One example for that list is two fenced-in areas just north of the track. I asked if these fallow areas could be opened up and used. They cleaned the area up but never opened the gate, so now we have clear areas that are fenced in.

Dianne: I can volunteer to get a master list put together on behalf of the CAG. Trever, do you want individual citizens to submit stuff to you, or do you want it to come from the CAG? It can come from the CAG, but it should really focus on park issues as opposed to construction issues so we can pressure them to get the only usable portions in proper shape.

Robin: We've been asking for Parks' participation in these meetings because it's more about the existing park.

Trever: Yeah, but I think this might be a little different because it's more about the existing park and it being usable which isn't really a construction issue but one of Parks doing their job or lack thereof.

Robin: We've also been asking about what other spaces they've opened up.

Christine: I just want to interject that with East River Park we're really in trouble in the northern end because we have two people who've been in the park forever, and they just retired. Drummond was one of them; he was amazing. He lives in the neighborhood and really took care of this park, going out there at 6 in the morning to clean up during picnic season. I'm concerned that Parks will say they don't have the resources to put a crew in there that will really take responsibility and do the job of cleaning this park. It will be a shame if the last season during which this park is open it will not be very pleasant because right now garbage is just piling up everywhere. It's pretty dire now, and it's not even peak season for the park.

Robin: I love Wendy's idea of having the Manhattan Parks Commissioner do a tour of the north end.

Dianne: Paula, was it Max that you reached out to at Parks?

Paula: No

Robin: I can reach out to him.

Dianne: I actually did reach out to him about all this but didn't hear anything back, so I thought that maybe Paula already contacted him and he thought I was just wasting his time being redundant.

Paula: Dianne, can you share your list with me so I can share it with the CAG so they can add their issues?

Dianne: Yes, and I would encourage them to not think of this as just a one-time thing. The CAG wants a relationship with Parks so that it's not just about the construction.

Paula: Yes, that's how I made the request to them, asking if they could regularly be at future CAG meetings.