

BROOKLYN BRIDGE PARK DEVELOPMENT CORPORATION

MEETING OF THE DIRECTORS

MONDAY

JUNE 22, 2015

3:00 p.m.

BROOKLYN BRIDGE PARK DEVELOPMENT CORPORATION

at the offices of the
New York State Urban Development Corporation
d/b/a Empire State Development Corporation
633 Third Avenue – 37th Floor
New York, New York 10017

Meeting of the Directors

Monday

June 22, 2015 – 3:00 p.m.

PROPOSED AGENDA

CORPORATE ACTION

1. Appointment of Officer – President
2. Appointment of Officer – General Counsel
3. Approval of the Minutes of the July 15, 2013 Directors' Meeting

FOR CONSIDERATION

4. Adoption of Modification to the Modified General Project Plan; and Authorization to Hold Public Hearing; and Authorization to Take Related Actions
5. Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

ITEM 1



**Brooklyn Bridge
Park Development
Corporation**

A Subsidiary of Empire State Development

FOR CONSIDERATION

June 22, 2015

TO: The Directors

FROM: Elizabeth Fine

SUBJECT: New York (New York County) – Brooklyn Bridge Park Development Corporation

REQUEST FOR: Appointment of Joseph Chan as President

BACKGROUND

It is requested that the Directors appoint Joseph Chan as President of Brooklyn Bridge Park Development Corporation (“BBPDC” or the “Corporation”), effective as of June 22, 2015. In July 2013 the Directors appointed Mr. Chan Vice President of the Corporation. Mr. Chan is currently the Executive Vice President of Real Estate and Public/Private Partnerships at for New York State Urban Development Corporation d/b/a Empire State Development (“ESD”). Prior to joining ESD, Mr. Chan served as the President of the Downtown Brooklyn Partnership, a local development corporation charged with growing Downtown Brooklyn as a mixed-use community. He also served as a Senior Advisor to the New York City Deputy Mayor for Economic Development and Rebuilding, Director of Real Estate and Business Services at the Brooklyn Chamber of Commerce and Director of Economic Development for the Local Development Corporation of East New York. He taught public school in the South Bronx as part of the Teach for America Program. Currently, Joe chairs the Board of Directors for the student enrichment program, Horizons at Brooklyn Friends School, and serves on the Board of Horizons National. He was a recipient of Crain’s New York Business’ “40 Under 40” award in 2008 and the 2009 Distinguished Alumni award from the NYU Wagner School of Public Service. Joe is a Magna Cum Laude graduate of New York University’s Metropolitan Studies Program and holds a Master’s Degree in Urban Planning from NYU’s Wagner School of Public Service. He lives in the Prospect Heights neighborhood of Brooklyn.

REQUESTED ACTION

The Board is requested to appoint Joseph Chan to the office of the President of the Corporation charged with general supervision and direction of the business of the Corporation, carrying out all orders and resolutions of the Board, and being a member of all committees appointed by the Board and to confirm that he is an officer of the Corporation in accordance with and for the purposes of the By-Laws, including the indemnification provisions thereof.

RECOMMENDATION

Based on the foregoing, I recommend approval of the requested action.

ATTACHMENT

Resolution

July 15, 2013

New York (New York County) – Brooklyn Bridge Park Development Corporation – Appointment of Joseph Chan as President

RESOLVED that, based on the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, the Corporation hereby appoints Joseph Chan to the office President of the Corporation, to have and to hold all the powers of President as set forth in the By-Laws and the said materials, effective from June 22, 2015 until his earlier resignation or removal; and be it further

RESOLVED that in accordance with and for all purposes of the Corporation By-Laws, including the indemnification provisions thereof, Mr. Chan is an "officer" of the Corporation.

* * *

ITEM 2



FOR CONSIDERATION

June 22, 2015

TO: The Directors

FROM: Joseph Chan

SUBJECT: Officers of the Corporation

REQUEST FOR: Appointment of Officer – *Ex-Officio* Appointment of General Counsel

BACKGROUND

The office of General Counsel to the Brooklyn Bridge Park Development Corporation (the "Corporation" or "BBPDC") is currently vacant as a result of Lawrence A. Jacobs resignation. Mr. Jacobs who was also Executive Vice President – Legal and General Counsel to the Corporation's parent corporation, the New York State Urban Development Corporation, doing business as Empire State Development ("ESD"). As a subsidiary of ESD BBPDC derives its power and authority from ESD and is governed by ESD's enabling statute and other laws and regulations applicable to ESD. In order to ensure continuity of advice regarding statutory compliance and uniform policy in the exercise of the powers and exemptions afforded by ESD's enabling legislation, and to efficiently utilize staff ESD's General Counsel is also appointed General Counsel to its subsidiaries.

Elizabeth R. Fine has been nominated to the position of Executive Vice President – Legal and General Counsel of ESD, and at its February 20, 2014 meeting, ESD Directors appointed Ms. Fine to that position. It is proposed that Ms. Fine be appointed General Counsel of the Corporation.

Ms. Fine brings over two decades of legal expertise. She served as General Counsel for the New York City Council from 2006 through 2014. During that period, she was responsible for all aspects of legal representation for the Council, Council Speaker, Council Members and Council divisions, including federal and state litigation, external and internal investigations, legal screening of proposed legislation, compliance, and crisis management and strategy in response to media and public inquiries. Before that, Liz was Legal Counsel at Spence-Chapin Services to Families and Children (New York) and Principal Deputy Assistant Attorney General at the U.S. Department of Justice, where she served as senior policy advisor under Attorney General Janet Reno. She also held various counsel positions at the U.S. Citizenship and Immigration Services, The White House and the Georgetown University Law Center.

Also, at this time it is recommended that BBPDC authorize the automatic *ex-officio* appointment as BBPDC General Counsel of the person appointed by the ESD Directors as ESD General Counsel, provided, however, that the Board shall be notified that the ESD Directors have appointed such person as the ESD General Counsel, and, provided, further, that the Board may act to remove such person from that position. This will allow for future staff changes without the need for additional Board actions and ensure that this officer position will not be unnecessarily vacant.

REQUESTED ACTION

The Directors are requested: (i) to approve the appointment of Elizabeth R. Fine to the office of General Counsel, *ex-officio*, to the Corporation and to confirm that she is an officer of the Corporation within the meaning of the New York State Urban Development Corporation Act (the "UDC Act") and the provisions of the Corporation's bylaws, including the indemnification provisions thereof; and (ii) authorize the automatic *ex-officio* appointment as BBPDC's General Counsel of the person appointed by the ESD Directors as ESD's General Counsel and to confirm that such person is an officer of the Corporation within the meaning of the UDC Act and the provisions of the Corporation's bylaws, including the indemnification provisions thereof.

RECOMMENDATION

Based upon the foregoing, I recommend approval of the requested actions.

ATTACHMENT

Resolution

June 22, 2015

Brooklyn Bridge Park Development Corporation Officers of the Corporation -
Appointment of Officer – *Ex-Officio* appointment of General Counsel

BE IT RESOLVED, that Elizabeth R. Fine be, and she hereby is, appointed to the office of General Counsel to the Brooklyn Bridge Park Development Corporation (the "Corporation"); until her earlier resignation or removal, her appointment being effective as of the date indicated in the attached materials, a copy of which is hereby ordered to be filed with the records of the Corporation; and be it further

RESOLVED, that in accordance with and for all the purposes of the New York State Urban Development Corporation Act (the "UDC Act") and the bylaws of the Corporation, including but not limited to the indemnification provisions thereof, the foregoing individual is an "officer" of the Corporation, and be it further

RESOLVED, that it is hereby authorized that the appointment to the position of the General Counsel of the Corporation shall be an automatic ex-officio appointment of the person who is, from time to time, appointed by the New York State Urban Development Corporation d/b/a Empire State Development ("ESD") Directors as ESD's General Counsel, provided, however, that the Board shall be notified that the ESD Directors have appointed such person as the ESD General Counsel, and, provided, further, that the Board of the Corporation may by Board action remove such person from that position; and be it further

RESOLVED, that with respect to each person who receives such automatic ex-officio appointment as General Counsel to the Corporation it is hereby confirmed that this position is an "officer" of the Corporation within the meaning of the UDC Act and the provisions of the Corporation's bylaws, including the indemnification provision thereof.

* * *

ITEM 3

Brooklyn Bridge Park Development Corporation
Meeting of the Directors
Held at the Offices of the
Empire State Development Corporation
633 Third Avenue
New York, New York 10017

July 15, 2013

MINUTES

In Attendance

Directors:

Robert C. Steel, Vice Chairman
Anita Contini
Henry Gutman
Rose Harvey
David Offensend
Nanette Smith
Veronica White
Joanne Witty

BBPDC Staff:

Regina Myer, President
Joseph Chan, Vice President
Regina Stephens, Acting Corporate Secretary

ESD Staff:

Ingrid Barbosa-Santiago, Director of Subsidiary Finance
Richard Dorado, Senior Counsel
Andrew Grossman, Senior Director - Finance & Admin. Operations
Lawrence Jacobs, Executive Vice President, Legal and General Counsel
Carlos Otero, Vice President – Contract Admin. & Subsidiary Finance
Mehul Patel, Chief of Staff

Also Present:

Susan Amron – Office of the Mayor – City Hall
Samara Daly – DBI Construction Consultants
Carolee Fink – Office of the Mayor - City Hall
Peter Fleming – Brooklyn Heights Assoc.
Teresa Gonzalez – Brooklyn Bridge Park Corporation
William Heinzen – Office of the Mayor – City Hall
Sarah Kogel-Smucker – New York City Law Dept.
David Lowin – Brooklyn Bridge Park Corporation

Also Present: Suma Mandel – Brooklyn Bridge Park Corporation
Anthony Manheim – Brooklyn Bridge Park Community Advisory Council
Vicki Metzger – Office of the Mayor – City Hall
Mary Salig – New York City Parks

The meeting of the Brooklyn Bridge Park Development Corporation was called to order at approximately 3:14 p.m. by Vice Chairman Robert Steel. It was noted for the record that the meeting was being web cast and the Directors had received relevant written materials in advance of the meeting. Vice Chairman Steel also stated for the record the Corporation’s policy which welcomes public comments on the items on the current Agenda.

The first order of business was approval of the Minutes of the June 9, 2010, Directors’ meeting. There being no changes or corrections to the minutes, upon motion duly made and seconded, the following resolution was unanimously adopted:

139. APPROVAL OF MINUTES AND RATIFICATION OF ACTIONS TAKEN AT THE JUNE 9, 2010 MEETING OF THE DIRECTORS OF THE BROOKLYN BRIDGE PARK DEVELOPMENT CORPORATION

RESOLVED, that the Minutes of the meeting of the Corporation held on June 9, 2010 as presented to this meeting, are hereby approved and all actions taken by the Directors present at such meeting as set forth in such Minutes, are hereby in all respects ratified and approved as actions of the Corporation.

* * *

Next, Vice Chairman Steel stated that the next Agenda item was to request the appointment of Joseph Chan as Vice President of the Corporation. He asked the Directors if they had any questions in regards to the materials provided to them prior to the meeting, regarding Mr. Chan's appoint.

Director Veronica White commented that Mr. Chan has been involved with the Project for some time and he has been extremely constructive and it is a pleasure to have him continue to be involved with the Project.

Following Director White's comment, Anthony Manheim of Brooklyn Bridge Park Community Advisory Council suggested that the meeting agenda and board materials be posted on the Corporation's website prior to the meeting so that the citizens of the community and others can review the agenda and materials prior to a meeting, enabling them to make a decision whether or not to attend a board meeting. Vice Chairman Steel responded affirmatively, stating that making the information available prior to a board meeting is a good point and a good idea to continually improve the process.

There being no other questions or comments, Vice Chairman Steel requested a motion for approval. Upon motion duly made and seconded the following resolution was unanimously adopted:

140. New York (New York County) – Brooklyn Bridge Park Development Corporation – Appointment of Joseph Chan as Vice President

RESOLVED that, based on the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, the Corporation hereby appoints Joseph Chan as Vice President of the Corporation, to have and to hold all the powers of Vice President as set forth in the By-Laws and the said materials, effective from July 15, 2013 until his earlier resignation or removal; and be it further

RESOLVED that in accordance with and for all purposes of the Corporation By-Laws, including the indemnification provisions thereof, Mr. Chan is an “officer” of the Corporation.

* * *

Vice Chairman Steel then requested that Mr. Chan present the next Agenda item of appointing Lawrence A. Jacobs as General Counsel of the Corporation. In his presentation, Mr. Chan explained to the Board that Lawrence Jacobs is the General Counsel for Empire State Development. He stated that Mr. Jacobs previously worked at News Corporation where he was also General Counsel. He further stated that Mr. Jacobs is immensely qualified and the Corporation is confident that he will be of great service to Brooklyn Bridge Park Development Corporation.

Following Mr. Chan’s presentation, Vice Chairman Steel asked if there were any questions or comments from the Directors. Director Henry Gutman stated that the Corporation is lucky to have Mr. Jacobs on board. There being no other questions or comments from the Directors or the Public, Vice Chairman Steel entertained a motion for

approval. Upon motion duly made and seconded, the following resolution was unanimously adopted:

141. Brooklyn Bridge Park Development Corporation - Appointment of Officer – General Counsel

BE IT RESOLVED, that Lawrence A. Jacobs be, and he hereby is, appointed to the office of General Counsel to the Brooklyn Bridge Park Development Corporation (the “Corporation”) until his earlier resignation or removal, his appointment being effective as of the date indicated in the attached materials, a copy of which is hereby ordered to be filed with the records of the Corporation; and be it further

RESOLVED, that in accordance with and for all the purposes of the New York State Urban Development Corporation Act and the bylaws of the Corporation, including but not limited to the indemnification provisions thereof, the foregoing individual is an “officer” of the Corporation.

* * *

Following the approval of the item, Vice Chairman Steel asked Regina Myer and Richard Dorado to present the next Agenda item requesting authorization to adopt a modification to the modified General Project Plan (“GPP”). Ms. Myers informed the board members that Mr. Dorado would present the item.

In his presentation, Mr. Dorado stated among other things, that the proposed modification to the modified GPP is a clarification regarding the use of the Tobacco Warehouse structure. Currently, the GPP states that the Tobacco Warehouse may be used to house a wall garden, café or space for arts. The proposed modification clarifies the use of the warehouse to be a public open space and cultural facility with community uses. The modified plan also

clarifies that a portion of the warehouse is to remain an unenclosed, publicly accessible, open space, and those other portions will be enclosed.

Mr. Dorado then turned to Ms. Myer to provide information on the plan for the existing structure. Ms. Myer stated among other things, that Brooklyn Bridge Park Corporation has over the past year worked with the Community to incorporate their input into the plan for the Tobacco Warehouse. She stated that St. Ann's is going to move forward with a plan for a theater and community room. The Directors were given brochures which contained pictures and diagrams of the proposed St. Ann's Theater and community room. Ms. Myer further stated that there would be a room reserved for community use in the rectangular portion of the warehouse and that the triangular portion of the warehouse would remain unenclosed without a roof. Ms. Myer explained that the space will be designed to be compatible with the park plan being designed by Michael Van Valkenburgh & Associates.

Following Ms. Myers presentations Vice Chairman Steel thanked both her and Mr. Dorado for their presentation and asked if the Directors had any questions on the proposed material. Director Anita Contini commented that the brochure of the proposed space is extremely beautiful and she thanked Ms. Myers for putting it together. Vice Chairman Steel commented for the record that the brochure that Director Contini was referring to was not a part of the materials provided to the Directors prior to the meeting but given to them at the meeting today as an additional supplement to the materials.

There being no other comments or questions from the Directors or the Public, Vice Chairman Steel entertained a motion for approval, upon motion duly made and seconded, the following resolution was unanimously adopted:

142. Brooklyn (Kings County) - Brooklyn Bridge Park Civic and Land Use Improvement Project; Adoption of a Modification to the Modified General Project Plan; and Authorization to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered filed with the records of the Corporation relating to the Brooklyn Bridge Park Civic and Land Use Improvement Project (the "Project") the proposed modification to the Modified General Project Plan for the Project is hereby adopted; and be it further

RESOLVED, that the President and Chief Executive Officer, or his designee, is hereby authorized to take such action as he or she deems necessary or appropriate, including without limitation, the providing, filing or making available of copies of the modified plan, and/or digests thereof, and other actions respecting the modified plan; and be it further

RESOLVED, that the President or his designees(s) be, and each of them hereby is, authorized in the name and on behalf of the Corporation to execute and deliver any and all documents and to take all actions as he or she may in his or her sole discretion consider to be necessary or proper to effectuate the foregoing resolutions.

* * *

Following approval to modify the modified GPP, Vice Chairman Steel thanked everyone for their participation in the meeting.

There being no other business the meeting was adjourned at 3:23 p.m.

Respectfully submitted,

Regina Stephens
Acting Corporate Secretary

ITEM 4



**Brooklyn Bridge
Park Development
Corporation**

A Subsidiary of Empire State Development

FOR CONSIDERATION

June 22, 2015

TO: The Board of Directors

FROM: Joseph Chan

SUBJECT: New York City (Kings County) – Brooklyn Bridge Park Civic and Land Use Improvement Project

REQUEST FOR: Adoption of Modification to the Modified General Project Plan; Authorization to Hold Public Hearing; and Authorization to Take Related Actions

I. BACKGROUND

The current Modified General Project Plan (“GPP”) for the Brooklyn Bridge Park Civic and Land Use Improvement Project (the “Project”) provides for the construction, operation, and maintenance of the Brooklyn Bridge Park (the “Park”), the development of certain adjacent parcels (the “Development Parcels”) that produce revenue for the Park, and delegates to Brooklyn Bridge Park Corporation (“BBP”), a not-for-profit corporation established by The City of New York, subject to the GPP, all obligations and responsibilities with respect to construction operation, maintenance, and funding of the Park and the Development Parcels. BBP has requested that Brooklyn Bridge Park Development Corporation (“BBPDC” or the “Corporation”) and New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) consider a GPP modification (as described below, the “Modification”) regarding the Development Parcel located on the uplands of Pier 6. The BBPDC Board is requested to adopt and recommend to the ESD Directors that ESD adopt the proposed Modification for purposes of holding a public hearing and collecting public comment on the Modification. If the Board determines to so adopt and recommend adoption, the Modification cannot become effective until after: (i) the ESD Directors have considered the adoption of the proposed Modification and determined to adopt the Modification; (ii) there has been published a public notice regarding the proposed Modification and that a public hearing will be held on the Modification; (iii) the public hearing has occurred; (iv) public hearing testimony and collected written comments on the proposed Modification have been reviewed and considered by BBPDC and ESD; (iv) the BBPDC Board has considered such testimony and comment and, at a subsequent BBPDC Board meeting, recommended to the ESD Directors appropriate action regarding the proposed Modification; and (v) the

ESD Directors have reviewed and considered such public testimony and comment and the recommendation of the BBPDC Directors, and the ESD Directors have taken appropriate action regarding the Modification at a later ESD Directors meeting.

CHANGES FROM THE CURRENT GPP

The Modification concerns the development parcel upland of Pier 6. The modification would (i) retain the current authorization for two residential mixed-use buildings of up to 315 feet and 155 feet respectively, but instead of prescribing the number of units in each building, retain the maximum number of units in both buildings at 430, and allow the BBP Board of Directors to determine within those limits the number and affordability of residential units and the other characteristics of the buildings, consistent with the Technical Memorandum, dated November 18, 2014 prepared by ESD, as lead agency, in accordance with the State Environmental Quality Review Act; (ii) require that such building heights are (x) inclusive of permanent structures and equipment, such as mechanicals, bulkheads and parapets and (y) measured from the flood resistant construction elevation as defined in section 64-11 of the New York City Zoning Resolution; and (iii) amend the reference to the secondary loop road that currently exists in the uplands between Piers 5 and 6 to make clear that the existence of that road is discretionary for BBP.

II. ENVIRONMENTAL REVIEW

ESD served as the lead agency for the environmental review of the Project. The Final Environmental Impact Statement ("FEIS") was certified by ESD on December 15, 2005, the State Environmental Quality Review Act ("SEQRA") findings were adopted on January 18, 2006, and the GPP was affirmed at that time (it has subsequently been amended).

ESD and BBP staff, working with their environmental consultants, prepared a Technical Memorandum dated November 2014 (the "Tech Memo") to assess whether the proposed changes to the GPP described above, new information, or other changes in circumstances would result in any new significant adverse impacts that were not adequately considered in the FEIS and SEQRA Findings. The Tech Memo concluded there would be no need for a supplemental environmental impact statement ("SEIS").

III. NON-DISCRIMINATION & CONTRACTOR AND SUPPLIER DIVERSITY

ESD's Non-Discrimination & Contractor and Supplier Diversity policies will apply. ESD and BBPDC strongly encourage BBP to include the participation of New York State certified minority and women-owned business enterprises wherever feasible within the context of the related projects and procurements. ESD also encourages greater participation of minorities and women in the project staffing and encourages the inclusion of Equal Employment Opportunity goals where appropriate.

Neither BBPDC nor ESD conducts any contract procurements with respect to the Project. BBP, an entity controlled by The City of New York, has a program to promote participation by minority and women-owned business enterprises (“MBEs” and “WBEs”) in its procurement which is based on Local Law No. 129 of 2005. The intent of the program is to advance the public interest in avoiding discrimination, fraud and favoritism in the procurement process, to increase competition for BBP’s business, and to lower contract costs. BBP applies a 20% MBE and WBE target participation goal and subcontracting percentage goal.

IV. REQUESTED ACTIONS

The Board is requested to: (1) adopt and recommend to the ESD Directors the adoption of the attached draft Modification for purposes of soliciting public comment thereon; (2) authorize a public hearing with respect to the draft Modification; and (3) authorize all actions related to the foregoing.

V. RECOMMENDATION

Based on the foregoing, I recommend approval of the requested actions.

IV. ATTACHMENTS

Resolutions

Exhibit 1: Draft Modification to the Modified General Project Plan

Exhibit 2: SEQRA Technical Memorandum

June 22, 2015

New York City (Kings County) – Brooklyn Bridge Park Civic and Land Use Improvement Project – Adoption of Modification to the Modified General Project Plan; Authorization to Hold Public Hearing; and Authorization to Take Related Actions

RESOLVED, that on the basis of the materials presented to this meeting (the “Materials”), a copy of which is hereby ordered filed with the records of the Corporation relating to the Brooklyn Bridge Park Civic and Land Use Improvement Project (the “Project”), the Corporation does hereby adopt, and recommend to the Directors of the New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) adoption, for purposes of the public hearing required by the New York State Urban Development Corporation Act of 1968, as amended (the “UDC Act”), and as may be required by or appropriate to other applicable laws, regarding the proposed modification (the “Modification”) to the Modified General Project Plan for the Project as set forth in the Materials, together with such other changes as the Chief Executive Officer of the Corporation or his designee(s) may deem appropriate; and be it further

RESOLVED, that the Modification to the Modified General Project Plan shall not be final until appropriate action is taken by the ESD Directors as provided in the UDC Act and until such time as all requirements of the UDC Act and other applicable laws in connection therewith have been satisfied; and be it further

RESOLVED, that the Chief Executive Officer of the Corporation or his designee(s) be, and each of them hereby is, authorized and directed, in the name and on behalf of the Corporation, to hold public hearings, to provide requisite notice of such public hearings, and to execute and deliver any and all documents and to take any and all such actions as may be necessary or appropriate to effectuate the foregoing resolutions.

* * *

EXHIBIT 1

Draft Modification to the Modified General Project Plan

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
D/B/A EMPIRE STATE DEVELOPMENT
AND
BROOKLYN BRIDGE PARK DEVELOPMENT CORPORATION
BROOKLYN BRIDGE PARK
CIVIC AND LAND USE IMPROVEMENT PROJECT
MODIFIED GENERAL PROJECT PLAN
Adopted - July 26, 2005¹
Affirmed as modified - January 18, 2006
Modified Plan Adopted – December 18, 2006
Affirmed as Modified April 19, 2007²
Modified Plan Adopted - March 26, 2010³
Affirmed as Modified – June 15, 2010⁴
Modification Adopted – June ___, 2015⁵

MODIFICATION

PROJECT IDENTIFICATION

The project is the creation of the Brooklyn Bridge Park (the “Project”). The approximately 85 acre Project, consisting of piers, upland and water area, stretching along 1.3 miles of Brooklyn waterfront approximately bounded by Jay Street on the north, Atlantic Avenue on the south, Furman Street on the east, and the East River on the west, and would include Piers 1 through 6.

MODIFIED GENERAL PROJECT PLAN – CONTINUED EXISTENCE

Except as modified by this Modification, the Modified General Project Plan, will remain in full force and effect. Terms used in this Modification, and not otherwise defined in this Modification shall have the meanings given in the Modified General Project Plan. The Modified General Project Plan, as modified by this Modification, is referred to herein as the “GPP.”

PURPOSE AND NEED

Brooklyn Bridge Park Corporation (“BBP”), a not-for-profit corporation established by The City of New York, controls of the Park and the Development Parcels subject to the GPP. BBP requested that Brooklyn Bridge Park Development Corporation (“BBPDC”) and New York State Urban Development Corporation d/b/a Empire State Development (“ESD”) consider a GPP modification regarding the Development Parcel located on the uplands of Pier 6. The Modification would (i) retain the authorization for two mixed-use buildings of up to 315 feet and 155 feet respectively, but instead of prescribing the number of units in each building, retain the maximum number of units in both buildings at 430, and allow the BBP Board of Directors to determine within those limits the number and affordability of residential units and

¹ BBPDC – July 22, 2005

² BBPDC – May 3, 2007

³ BBPDC - March 10, 2010

⁴ BBPDC - June 9, 2010

⁵ BBPDC – June 22, 2015

the other characteristics of the buildings, consistent with the Technical Memorandum, dated November 18, 2014 prepared by ESD, as lead agency, in accordance with the State Environmental Quality Review Act; (ii) require that the building heights are (x) inclusive of permanent structures and equipment, such as mechanicals, bulkheads and parapets and (y) measured from the flood resistant construction elevation as defined in section 64-11 of the New York City Zoning Resolution; and (iii) amend the reference to the secondary loop road that currently exists in the uplands between Piers 5 and 6 to make clear that the existence of that road is discretionary for BBP.

MODIFICATION

In the Modified General Project Plan, in the section titled "Development Parcels", in the subsection titled "Pier 6", the paragraph titled "*Option One*" is deleted in its entirety and replaced with the following (deletions in brackets "[...]" and new language underscored):

[One building would be approximately 315 feet in height and have up to 290 units; the other building would be approximately 155 feet in height and could contain up to 140 units. This building could possibly include a ground floor retail uses.]

Notwithstanding anything else in the GPP, and without regard to Project finances, one building would be not more than 315 feet in height and the other building would be not more than 155 feet in height, measured from the flood resistant construction elevation as defined in section 64-11 of the New York City Zoning Resolution. The height of each building shall be inclusive of all mechanicals, bulkheads, parapets and any other permanent structures and equipment. For the two buildings combined, residential units shall not exceed an aggregate of 430. The Board of Directors of Brooklyn Bridge Park Corporation, the Brooklyn Bridge Park operating entity established by The City of New York, shall have the discretion to determine the number and affordability of residential units in each building and other characteristics of the buildings, including the types and location of community facility and retail uses, if any, consistent with the Technical Memorandum dated November 2014.

In the Modified General Project Plan, in the section titled "Development Parcels", in the third paragraph of the subsection titled "Upland Between Pier 5 and 6", the third paragraph is modified as follows (deletions in brackets "[...]" and new language underscored):

On the west face of 360 Furman Street, the loop road would turn south accommodating two lanes of traffic. The minimum sidewalk width along the building is 15'. The primary loop road would turn east at the southern face of 360 Furman Street, maintaining a width for two lanes of traffic and providing access to parking garages within 360 Furman Street and the eastern residential building. This segment would turn into a north-south roadway in between the two new residential buildings. This last north-south segment would connect to Atlantic Avenue, and accommodate two lanes of traffic and street parking on one side. The sidewalk along the other two residential buildings would be a

minimum of 12' wide. A secondary one way loop road [would] could service the western residential building, accommodating one lane of traffic and street parking on one side.

ENVIRONMENTAL REVIEW PROCESS AND PROJECT PLAN REVIEW

ENVIRONMENTAL REVIEW

ESD served as the lead agency for the environmental review of the Project. The Final Environmental Impact Statement ("FEIS") was certified by ESD on December 15, 2005, the State Environmental Quality Review Act ("SEQRA") findings ("SEQRA Findings") were adopted on January 18, 2006, and the GPP was affirmed at that time (it has been subsequently amended).

ESD and BBP staff, working with their environmental consultants, prepared a Technical Memorandum dated November 2014 (the "Tech Memo") to assess whether the proposed changes to the GPP described above, new information, or other changes in circumstances would result in any new significant adverse impacts that were not adequately considered in the FEIS and SEQRA Findings. The Tech Memo concluded there would be no need for a supplemental environmental impact statement ("SEIS").

GENERAL PROJECT PLAN REVIEW

ESD and BBPDC, in conformance with the requirements of the UDC Act, held a duly noticed public hearing on the proposed modification of the General Project Plan, on July __, 2015, at which oral and written comments were received from the general public. Further written comments were accepted through August __, 2015. Based on those comments the Modified General Project Plan has been modified as described in this Modification.

EXHIBIT 2

SEQRA Technical Memorandum

Technical Memorandum

for the Pier 6 Upland Development for the Brooklyn Bridge Park Project

A. INTRODUCTION

This technical memorandum was prepared to determine whether the previously approved development of two residential buildings in the upland area of Pier 6 of the Brooklyn Bridge Park Project, as modified by certain changes as described hereafter (the “Pier 6 project” or “proposed project”) would have the potential for any significant adverse environmental impacts not previously identified in the Final Environmental Impact Statement (the “FEIS”) for the Brooklyn Bridge Park Project. Implementation of these changes and construction of the proposed project would require the approval of a lease for the residential sites by the Brooklyn Bridge Park Corporation (BBP) Board of Directors and the adoption by Empire State Development (ESD) and by Brooklyn Bridge Park Development Corporation (BBPDC), a subsidiary of ESD, of any potential associated modifications of the Brooklyn Bridge Park General Project Plan (GPP). ESD is the lead agency for this review.

As detailed hereafter, this technical memorandum concludes that the proposed project, considering relevant changes in background conditions and any relevant changes in City Environmental Quality Review (CEQR) 2014 *Technical Manual* methodologies, would not result in any significant adverse environmental impacts not previously identified in the FEIS for the Brooklyn Bridge Park Project.

BACKGROUND

The Brooklyn Bridge Park Project was analyzed in the December 2005 *Brooklyn Bridge Park Project Final Environmental Impact Statement* (2005 FEIS). ESD served as the lead agency for the environmental review of the Brooklyn Bridge Park Project. The 2005 FEIS was certified by ESD on December 15, 2005, the State Environmental Quality Review Act (SEQRA) findings were adopted on January 18, 2006, and the GPP was adopted at that time (it has subsequently been amended).

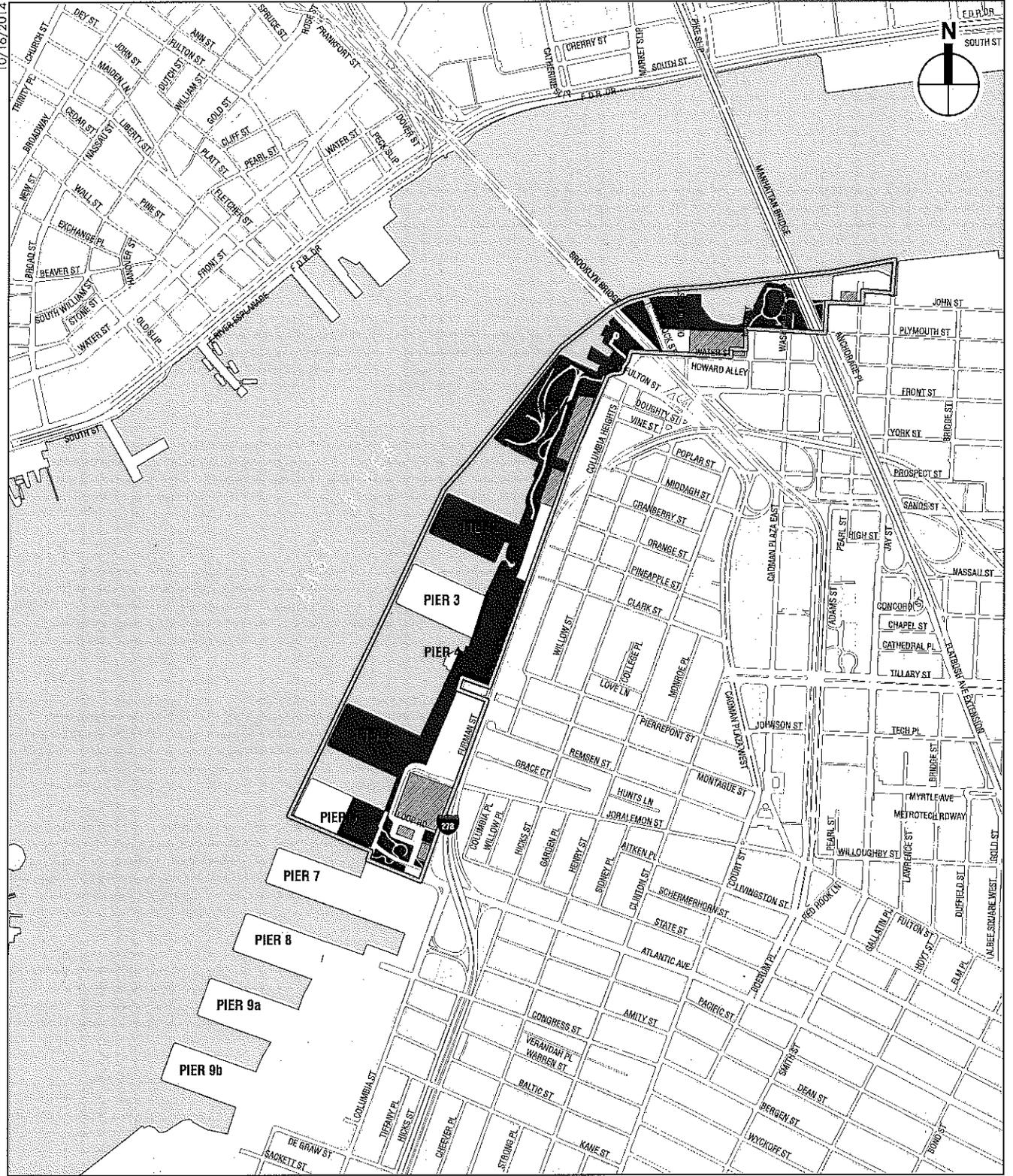
The Brooklyn Bridge Park Plan analyzed in the 2005 FEIS comprised 85 acres, along approximately 1.3 miles of Brooklyn’s East River waterfront from Jay Street in the north to Atlantic Avenue in the south (see **Figure 1**). In addition to public recreational facilities and landscaped areas, the project analyzed in the FEIS provided for various development components within the project area, as discussed below.

PARK COMPONENTS

Construction of the park commenced in January 2009 and is now more than 70 percent complete or under construction. The development of the Brooklyn Bridge Park Project is being carried out by BBP, a not-for-profit corporation that in July 2010 took over the responsibilities of the planning, design, construction, and maintenance of Brooklyn Bridge Park from BBPDC.

At the northern end of the project area, the John Street open space is under construction. Main Street Park, between the Manhattan and Brooklyn Bridges, now includes a playground and a dog run. The DEP Building and the Main Street Reconstruction are under construction in this portion of the project area, and are expected to be completed in 2015. South of Main Street Park, Empire-Fulton Ferry State Park has

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-  Brooklyn Bridge Park Project Boundary
-  Brooklyn Bridge Park Components Completed to Date
-  Development Sites

0 1,000 FEET

BROOKLYN BRIDGE PARK
Pier 6 Uplands Development

Project Site Location
Figure 1

Brooklyn Bridge Park Project Pier 6 Upland Development

been renovated with an upgraded lawn, landscaping, and a picnic area, and historic Jane's Carousel has been installed on the waterfront.

Pier 1, completed in 2010, includes lawns, waterfront promenade, and a playground. The Squibb Park Bridge, completed in 2012, links Squibb Park at the Brooklyn Heights Promenade to the upland of Pier 1. The upland area between Piers 1 and 2 contains a temporary pool and concession area. Pier 2, completed in 2014, includes basketball, handball, bocce and shuffleboard courts, a multi-use turf, fitness and play equipment, a roller rink, and picnic tables. The Pier 2 upland and Pier 3 have been funded, though no completion date has been determined.

The Pier 4 beach and Bird Island nature preserve were completed in 2014. Pier 5, completed in 2012, includes multi-use turf fields, promenade and seating. The upland of Pier 5 includes the completed Picnic Peninsula; the remainder of the upland areas is slated to be completed in 2016 and will include lawns, pathways, a boat house and a maintenance facility.

Completed portions of Pier 6 include volleyball courts and a concession area, as well as a destination playground, dog run, pathways and seating on the Pier 6 upland. The Pier 6 outboard is under construction, and will include a rain garden and play lawns

DEVELOPMENT COMPONENTS

Construction began in mid-2014 on the John Street development site in the northern end of the project area, and is expected to be completed in late 2015. The development will be primarily residential, with ground floor retail and cultural space.

South of the John Street development site and Main Street Park, construction began in 2014 on the Empire Stores, a row of historic warehouses containing approximately 400,000 square feet. This site will be redeveloped with a mix of commercial, retail and office uses. Construction is expected to be completed in late 2015. The Tobacco Warehouse next to the Empire Stores will be adaptively reused as a cultural facility and performance space, and is currently under construction.

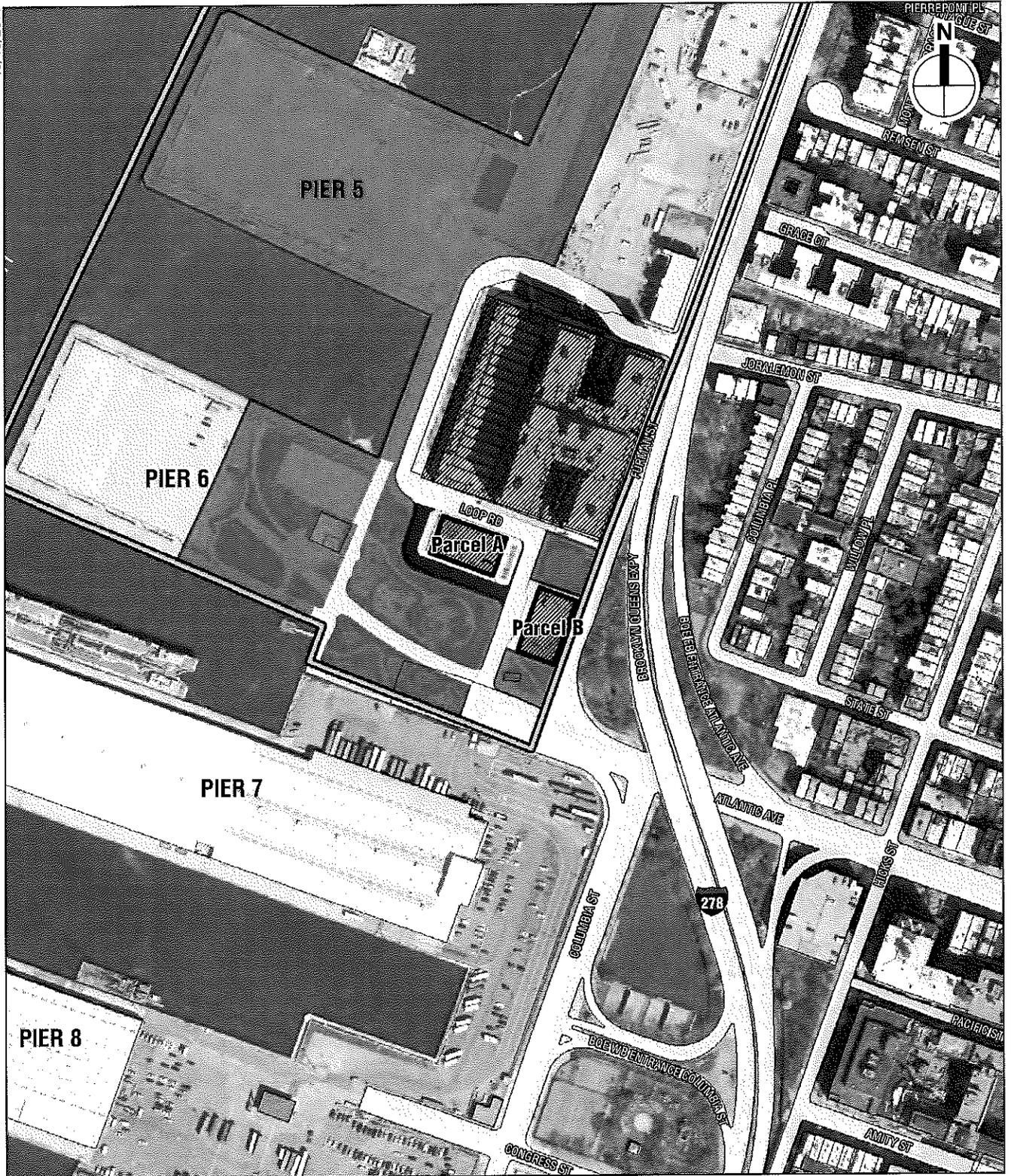
South of the Brooklyn Bridge, the upland of Pier 1, near the Old Fulton Street entrance to the park, includes two development parcels. In 2012, BBP selected a developer to develop the sites with hotel, residential, restaurant, retail and other uses, as well as parking. Construction began in spring 2013 and is expected to be completed by late 2015.

Just south of Joralemon Street, between Piers 5 and 6, 360 Furman Street is a residential condominium in a converted warehouse building. The project was completed in 2008 and includes more than 440 residential units, as well as ground floor retail and a parking garage. The Pier 6 upland includes two development parcels near the south end of the park that are the subject of this technical memorandum (see **Figure 2**). Each parcel is approximately 130 feet by 76 feet, with a footprint of approximately 9,800 square feet. Parcel A is bounded by the park Loop Road and sits just south of 360 Furman Street. Parcel B is to its east along Furman Street and just south of the dog run. The GPP provides for up to 430 residential units at the Pier 6 upland, including a building of up to 315 feet on Parcel A, with up to 290 residential units, and a building of up to 155 feet with 140 residential units and ground floor retail on Parcel B. The GPP also includes up to 72 parking spaces total for both sites.

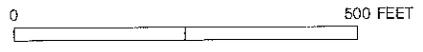
PIER 6 UPLAND—PROPOSED DEVELOPMENT

On May 13, 2014 BBP issued an RFP for development of the Pier 6 upland development parcels; responses are currently under consideration. Consistent with the 2005 FEIS and in conformance with the GPP, the proposed project would involve the redevelopment of the project site with two buildings

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-  Project Site
-  Brooklyn Bridge Park Project Boundary
-  Park Components Completed to Date
-  Area of Potential Loop Road Elbow Closure
-  Development Sites



BROOKLYN BRIDGE PARK
Pier 6 Uplands Development

Project Site
Figure 2

containing up to 430 residential units. The buildings would occupy the same footprint and be subject to the same height restrictions contained in the GPP and analyzed in the FEIS. As part of the RFP process, BBP is considering several modifications to the buildings analyzed in the 2005 FEIS and associated clarifications or modifications to the GPP's land use controls. First, a portion of the proposed project's residential program would now include up to approximately 190 units dedicated to residents who earn no more than 165 percent of Area Median Income (AMI), of which up to 50 units could be affordable to residents who earn no more than 80 percent of AMI.¹ Second, the number of residential units on Parcel B may increase above the 140 units analyzed in the 2005 FEIS provided that the overall unit count for both parcels would still not exceed the 430 units established by the GPP. Third, the proposed project would also include up to 5,000 sf of neighborhood-oriented retail or non-fast food restaurant space on Parcel A, up to 10,000 sf of community facility use on the ground floor and second floor, divided between Parcel A and Parcel B, and up to 72 parking spaces. The community facility use could include any combination of a pool, a universal pre-K (accommodating up to 75 students), non-profit office or art gallery space, public game room or meeting rooms. It is possible that the total amount of community facility square footage could be higher than 10,000 sf; in this case there would also be a reduction in the amount of neighborhood-oriented retail or restaurant space. Finally, a portion of the vehicular park road that lies between Parcel A and open space uses to the south and west, known as the Loop Road "elbow," may be closed to traffic.

PROPOSED ACTIONS

The proposed actions are the BBP Board's authorization to enter into a lease with the developer of the project site and any associated potential modifications by ESD and BBPDC of the GPP approved in 2005 and subsequently amended. The potential modifications could include the following:

- While the GPP currently specifies a maximum of 140 units on Parcel B, the number of residential units on this parcel may increase. There would be a corresponding and equivalent reduction in the number of units on Parcel A, such that the overall unit count for both parcels would still not exceed the 430 units established in the GPP.
- Community facility uses would be permitted on the ground floor and second floor of both parcels, and retail would be allowed on the ground floor of parcel A.
- The GPP would confirm that residential uses may include affordable units as well as market rate units.
- The Loop Road "elbow," a portion of the vehicular park road that lies between Parcel A and open space uses to the south and west, may be closed.

ANALYSIS FRAMEWORK

Because specific designs for the proposed buildings have not yet been determined, this analysis conservatively assumes the maximum building height and bulk for the two parcels. The program assumed for the development parcels in this technical memorandum is described above under "Pier 6 Upland—Proposed Development." These assumptions allow for a conservative analysis reflecting the range of

¹ The AMI is set annually for metropolitan areas and non-metropolitan counties by the U.S. Department of Housing and Urban Development (HUD), and varies according to family size. Median income for the New York, NY HUD Metro Fair Market Rent (FMR) Area for FY 2014 was \$62,500 (not accounting for family size).

development being considered for the site. The analysis accounts for completion and occupancy of the Pier 6 development by 2018. The analysis accounts for changes in background conditions in the area subsequent to completion of the FEIS as well as changes to CEQR methodologies where relevant.

B. CHANGES IN ENVIRONMENTAL CONDITIONS AND CONSIDERATION OF POTENTIAL IMPACTS

B.1 LAND USE, ZONING, AND PUBLIC POLICY

The overall program analyzed in the 2005 FEIS included public open space, a marina, residential units—including two residential buildings on the Pier 6 upland area—a hotel, retail space and restaurants, a mix of education, office and other commercial uses, and a 1,000 seat multi-use theater. A detailed discussion of potential impacts to land use, zoning, and public policy—including consistency with the City's waterfront policies—was included in the 2005 FEIS. The 2005 FEIS concluded that the development of the Brooklyn Bridge Park Project in place of vacant and underutilized land was compatible with and in support of the surrounding neighborhoods and would not result in any significant adverse impacts on land use, zoning, or public policy.

This analysis describes land uses and development trends in the area that have changed since the 2005 FEIS, and determines whether the proposed project is compatible with those conditions. The analysis also considers the project's compliance with, and effect on, the area's zoning and other applicable public policies, including the most recent policies of the New York City Waterfront Revitalization Program (WRP). Consistent with the 2005 FEIS, this analysis examines a roughly 2,000-foot study area, representing those areas most sensitive to potential land use impacts due to the proposed project (see **Figure B.1-1**).

EXISTING CONDITIONS

Land Use

The project site is located in the upland area of Pier 6 in the Brooklyn Bridge Park Project area, at the foot of Atlantic Avenue (see **Figure B.1-1**). Parcel A is bounded by the park's Loop Road on all four sides, and Parcel B is located on a block bounded by Furman Street to the east and Loop Road to the west, with the Pier 6 dog run directly adjacent to the north, and park open space to the south. Both portions of the project site are currently vacant and surrounded by fencing. Parcel A contains a small temporary structure.

The study area is bounded by Clark Street to the north, Sackett Street to the south, Cadman Plaza West and Court Street to the east, and the East River to the west (see **Figure B.1-1**). The study area contains portions of the Brooklyn Heights, Columbia Street Waterfront, Cobble Hill, and Boerum Hill neighborhoods.

The area immediately surrounding the project site includes Pier 6 and its upland areas. Since the 2005 FEIS, the maintenance garage and storage sheds on the Pier 6 upland area have been demolished. The area directly north of Parcel B has been developed with a dog run, and the areas west of Parcel B and south of Parcel A contain play areas, including water jets, jungle gyms, and a sandbox. Since the 2005 FEIS, the vacant pier shed on Pier 6 has been demolished, and the pier now contains a restaurant with rooftop seating areas and ground floor public restrooms, as well as sand volleyball courts and lawn areas. The southern edge of the pier includes a ferry dock providing limited service to Governors Island. North of the project site is the 16-story 360 Furman Street residential condominium building. The building is a



- | | |
|-----------------------------------|------------------------------------|
| Project Site | Public Facilities and Institutions |
| Study Area | Residential |
| Commercial and Office Buildings | Residential with Commercial Below |
| Hotels | Transportation and Utility |
| Industrial and Manufacturing | Vacant Land |
| Open Space and Outdoor Recreation | Vacant Building |
| Parking Facilities | Under Construction |

0 1,000 FEET

former warehouse that was converted in 2008 and includes 438 residential units, approximately 80,000 square feet of ground floor retail, and over 500 parking spaces.

The Brooklyn-Queens Expressway runs north-south through the study area. North of Atlantic Avenue, it runs above grade, separating waterfront uses from residential uses in Brooklyn Heights. South of Atlantic Avenue, it runs below grade, separating the Columbia Street Waterfront and Cobble Hill neighborhoods.

Land use along the waterfront has changed dramatically since the 2005 FEIS, with active warehousing, storage, and commercial uses redeveloped into open space and recreation uses. Land use trends identified in the 2005 FEIS in the southern portion of the study area have continued, with residential and commercial growth in the Columbia Street Waterfront neighborhood. While some working waterfront and warehousing uses remain, many of the light industrial uses have been converted to residential use along Hicks Street and the east-west side streets, and mixed-use along Columbia Street.

The remainder of the study area has remained largely similar to conditions described in the 2005 FEIS. The Cobble Hill neighborhood remains an established residential area, protected in part by its New York City historic landmark designation. Atlantic Avenue and Court Street remain the major commercial corridors, and institutional uses are scattered throughout. Similarly, north of Atlantic Avenue, the Brooklyn Heights neighborhood and landmarked historic district contains a well-established mix of residential, office, retail, and institutional uses. The neighborhood is characterized by 19th century brick and brownstone residential rowhouses, as well as a number of larger apartment buildings that date from the first half of the 20th century. The eastern portion of the Brooklyn Heights neighborhood, along Court Street and along Cadman Plaza West, transitions to the institutional, commercial and office use in Downtown Brooklyn.

Zoning

Since the 2005 FEIS, the southern portion of the study area was rezoned as part of the Carroll Gardens/Columbia Street Rezoning, adopted by City Council on October 28, 2009. Previously zoned entirely R6, the area was rezoned with R6A, R6B, and R7A contextual zoning districts, with C2-4 commercial overlay districts in some areas (see **Figure B.1-2**). R6A zoning districts are mapped along Congress Street between Hicks and Columbia Streets, and along Columbia Street from Kane south beyond the study area. R6B districts are mapped along a portion of Warren Street west of Hicks Street, and along Columbia Street between Baltic and Kane Streets. South of Degraw Street, the study area is also mapped in R6A districts generally along the north-south Streets, and R6B districts on the east-west midblocks. R7A zoning districts are mapped on Hicks Street between Warren and Baltic Streets, and between Kane and Degraw Streets. The rezoning aimed to preserve the neighborhood characters and scale with height limits that better reflect the existing, predominantly row house character; prevent out of scale development while still allowing for building upgrades, improvements and modest expansions; reduce the depths of commercial districts to reflect existing development patterns and preclude commercial intrusions into residential side streets; and to promote vibrant, mixed-use corridors on certain local commercial thoroughfares.

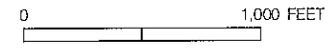
Public Policy

PlaNYC

In 2007, the Mayor's Office of Long Term Planning and Sustainability (OLTPS) released *PlaNYC: A Greener, Greater New York*. In 2011, OLTPS released an update to the plan. It includes policies to address three key challenges the city faces over the next 20 years, including population growth, aging infrastructure, and global climate change. Elements of the plan are organized into six categories—land, water, transportation, energy, air quality, and climate change—with corresponding goals and objectives



- Project Site
- Study Area
- Zoning Districts
- Limited Height District
- Special Purpose District
- Commercial Overlay Districts



Brooklyn Bridge Park Project Pier 6 Upland Development

for each. An assessment of a project's consistency with PlaNYC is not required under CEQR, except in cases of large-scale public projects. As the proposed actions would not constitute a large-scale public project, pursuant to the *CEQR Technical Manual* they would not warrant a review of consistency with PlaNYC.

Waterfront Revitalization Program

The 2005 FEIS analyzed the Brooklyn Bridge Park Project's consistency with coastal zone policies, specifically the New York City Waterfront Revitalization Program (WRP). The development of the Brooklyn Bridge Park Project was found to be consistent with the 10 WRP policies. Since the publication of the 2005 FEIS, revisions to the WRP were approved by the City Council on October 30, 2013. The revisions are intended to reflect policy elements included in DCP's 2011 *Vision 2020* comprehensive waterfront plan, including incorporation of climate change and sea level rise considerations to increase the resiliency of the waterfront area, promotion of waterfront industrial development and both commercial and recreational water-borne activities, increased restoration of ecologically significant areas, and design of best practices for waterfront open spaces.

The changes still must undergo review and approval by the New York State Department of State (NYSDOS) and the U.S. Department of Commerce. The proposed project's consistency with the WRP has been assessed using the 2013 revisions. This is described below, and a NYSDOS Coastal Management Program Coastal Assessment Form has also been prepared (see Attachment A).

THE FUTURE WITHOUT THE PROPOSED PROJECT

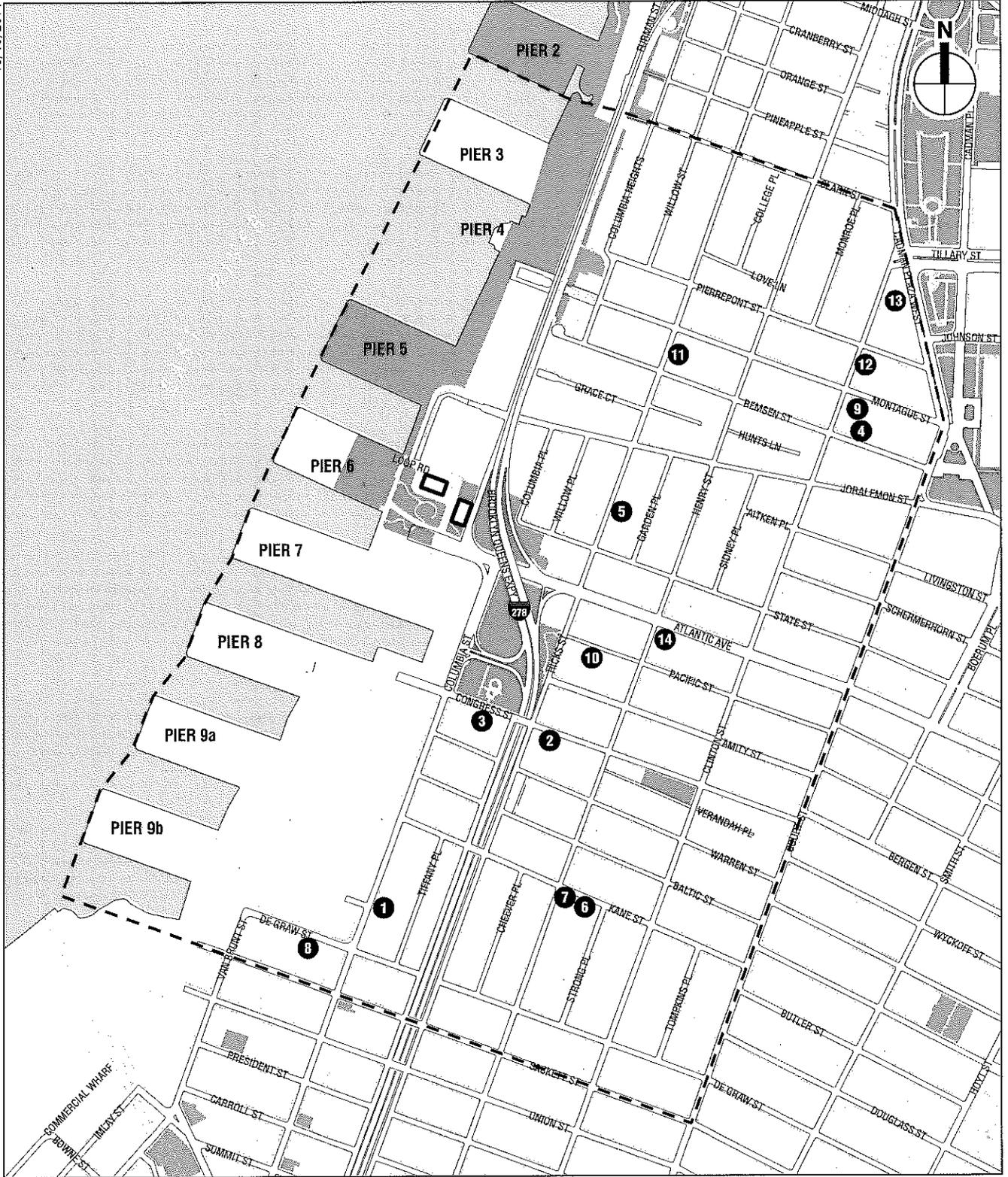
Within the present land use study area for the proposed project, the 2005 FEIS only identified one development project anticipated for completion by the Brooklyn Bridge Park Project's 2012 analysis year—360 Furman Street, which has since been completed. As detailed in **Table B.1-1** and **Figure B.1-3**, since the 2005 FEIS, development has continued in the study area, and there are several projects anticipated for completion by the 2018 analysis year. Notable planned projects include the redevelopment of the Long Island College Hospital campus, the program for which is undetermined; the redevelopment of the Brooklyn Heights branch of the Brooklyn Public Library at 280 Cadman Plaza West with a new library space, residential and retail use; and the redevelopment of the Bossert Hotel building at 98 Montague Street, which will include 280 rooms. Three additional projects will add between 60 and 75 residential units each on Remsen Street, Montague Street, and Boerum Place. There are also several single-family unit projects planned throughout the study area. The no build projects are consistent with land use trends described in the 2005 FEIS for this area, which anticipated additional residential uses in the surrounding area and mixed-use development in the Columbia Street Waterfront neighborhood.

PROBABLE IMPACTS OF THE PROPOSED PROJECT

Land Use

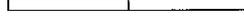
The proposed actions would not alter the maximum amount of residential use on the site compared to the analysis in the 2005 FEIS. While the proposed actions would allow more residential units on Parcel B, there would be a corresponding and equivalent reduction in the number of units on Parcel A. In addition to the ground floor retail uses on Parcel B analyzed in the 2005 FEIS, the proposed actions would also allow community facility uses on the ground and second floors of both Parcels A and B, and ground floor retail use on Parcel A. The additional retail use would be compatible with retail use on the ground floor of 360 Furman Street, and the community facility use would complement the surrounding residential and park uses. The proposed project would be compatible with land use trends that have continued in the Columbia Street Waterfront neighborhood, and planned projects in the study area. The potential closure

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-  Project Site
-  Study Area
-  No Build Projects

0 1,000 FEET



BROOKLYN BRIDGE PARK
Pier 6 Uplands Development

No Build Projects
Figure B.1-3

the Loop Road elbow would not affect land use in a way that could cause significant adverse impacts. Therefore, the proposed actions would not result in any significant adverse impacts on land use not previously identified in the 2005 FEIS.

**Table B.1-1
Development Projects Planned in the Study Area by 2018**

Ref. no. ¹	Project/ Location	Potential Program	Status / Build Year
1	161 Columbia Street	4-story, 5,434 zsf residential use (4 units)	TBD
2	110-118 Congress Street	9, 4-story single-family residential units	Under Construction
3	84 Congress Street	5-story, 6,720-zsf residential use (4 units)	Under Construction / 2015
4	153 Remsen Street	19-story, 75,124-zsf residential use (60 units); 4,576-zsf restaurant and retail use	Under Construction
5	295-299 Hicks Street	3, 4-story single-family residential units	Parking lot
6	158 Kane Street	2-story single-family residence	Under Construction
7	435 Henry Street	4-story single-family residence	Under Construction / 2015
8	96-98 Degraw Street	2, 3-story single-family residential units	Vacant
9	172 Montague Street	19 stories; 134,632 zsf residential (62 units); 13,673 zsf retail	Under construction / 2015
10	Long Island College Hospital (LICH) 339 Hicks Street	800,000 sf of residential use, 135,000 sf of healthcare use	TBD
11	Bossert Hotel 98 Montague Street	Conversion into a 280-room hotel	Under Construction / 2015
12	177 Montague Street	Conversion into a 12-unit residential building	Under Construction
13	Brooklyn Public Library (280 Cadman Plaza West)	20-story building; redevelopment of 21,000-sf library; 132 market rate units; small retail space ²	2019
14	112 Atlantic Avenue	4-story, 17,355 sf residential use (8 units); 6,000 sf of retail	TBD
Note: 1. See Figure B.1-3 for project locations. 2. The project would also include 114 off-site affordable units, but the exact location is not yet known.			
Sources: New York City Department of Buildings; media coverage; field visits in August 2014.			

Zoning and Public Policy

Waterfront Revitalization Program

The following policies are new and relevant to the proposed project:

Policy 1.4: In areas adjacent to SMIA's, ensure new residential development maximizes compatibility with existing adjacent maritime and industrial uses.

The proposed Pier 6 upland developments are near the Red Hook Significant Maritime Industrial Area (SMIA). The City's six SMIA's were designated in the 1992 Comprehensive Waterfront Plan and encourage concentrated waterfront uses. The Red Hook SMIA begins on the southern border of Atlantic Avenue and encompasses an area along the waterfront southwest to Wolcott Street. The proposed developments would have the buffer of Brooklyn Bridge Park and/or Atlantic Avenue between the buildings and the nearest possible industrial activity. Moreover, the technical analysis for noise, air, and traffic did not indicate the potential for any significant adverse impacts. Further, in accordance with Policy 1.4, the lease for the proposed development would require that the developer disclose to potential residents that the development is located within one block of the Red Hook SMIA and that active

Brooklyn Bridge Park Project Pier 6 Upland Development

industrial uses are present in the SMIA consistent with City policy. For these reasons, the proposed project would be consistent with this policy.

Policy 1.5: Integrate consideration of climate change and sea level rise into the planning and design of waterfront residential and commercial development, pursuant to WRP Policy 6.2.

Policy 6.2: Integrate consideration of the latest New York City projections of climate change and sea level rise (as published by the NPCC, or any successor thereof) into the planning and design of projects in the city's Coastal Zone.

The New York City Panel on Climate Change (NPCC) projects that by the 2080s, sea levels would likely be between 18 and 39 inches higher than they are today (based on mid-range projections) and may increase by as much as 58 inches (90th percentile projections). As noted in the 2005 FEIS, the design and construction of the Pier 6 upland residential buildings would include measures to minimize potential floodplain impacts and losses due to flooding. The project's design would take into account potential sea level rise due to climate change and would include measures to address resiliency.

In evaluating a building's resiliency for future sea level rise, it is important to understand the resiliency measures incorporated into the New York City Building Code. The Building Code has a long history of leadership in the field of flood resiliency. Starting in 1983, the City adopted standards into the Building Code to ensure that buildings in New York would incorporate nationally recognized flood-resistant construction methodologies. The City, State and Federal standards for flood resiliency are incorporated into Appendix G of the Building Code, which outlines the flood-resilient construction techniques that are required for buildings in the 100-year floodplain (the area which would potentially flood with a probability of 1 percent in any given year). These requirements include dry flood-proofing to ensure watertight structures, wet flood-proofing, to allow for flood drainage, and elevating structures above the 100-year flood plain level.

More recently, the City has updated the Building Code in response to Hurricane Sandy to improve the resiliency of all new buildings in flood zones. Specifically, an emergency rule was issued in January 2013 adopting the New York State Building Codes elevation standards, which exceed those required by the National Flood Insurance Program (NFIP) by requiring minimum base flood elevations to exceed the current 100-year floodplain elevations. The City also adopted the new preliminary FEMA flood maps, with flood elevations raised due to the most recent reevaluation of current conditions. The project is located in an area with a current 100-year flood elevation of 11 feet NAVD88. Lastly, in response to the recommendations issued by the City's Building Resiliency Task Force and Special Initiative for Rebuilding and Resiliency, the City adopted a series of technical measure in several Local Laws, including elevating critical systems, to further strengthen the New York City Building Code's flood resiliency to current flood conditions.

The lease for the proposed developments on the Pier 6 upland will require the buildings to comply with the New York City Building Code and thus incorporate the Building Code's many resiliency measures. The proposed buildings would include preemptive design decisions to not only be responsive to the risk of flooding due to current storm flood levels, but also to future storm flood levels when accounting for future sea level rise. These preemptive measures include either raising all utility infrastructure to, at minimum, the second floor, and/or enclosing systems below 16 feet NAVD88 (the 100-year flood level projected for 2080), that could not be raised, in a watertight enclosure as appropriate. These utilities would include:

- Electrical service;

- Incoming telephone and data connection and distribution rooms and other related building technology spaces;
- Chilled water plant;
- Hot water boiler plant;
- Domestic hot water heaters;
- Building heating systems; and
- Fuel oil storage tank.

The buildings would have backup generators, likely located on the buildings' roofs.

There would not be any residential units located on the ground floor of either building—since the ground floor is required to be elevated one foot above current 100-year flood level, second floor residential units would all be above the 16 feet NAVD88 (the 100-year flood level projected for 2080). These preemptive measures are all either required by the NYC Building Code or will be enforceable through the lease for the proposed developments. If rising sea levels require additional modifications, such as flood proofing the outer perimeter of the ground floor, these modifications would be possible at a later date and are not inhibited by any of the proposed project designs. Therefore, the proposed project would be consistent with these policies.

Policy 5.5: Protect and improve water quality through cost-effective grey-infrastructure and in-water ecological strategies.

While the proposed project is not expected to implement grey-water strategies (e.g., capacity increases at wastewater treatment plants or the construction of new detention facilities and pumping stations), the 2005 FEIS committed to implementation of a Stormwater Pollution Prevention Plan (SWPPP) during construction and operation and stormwater management to minimize impacts on water quality and aquatic biota from discharge of stormwater during construction and operation of the park. These commitments have been executed, as needed, with the development of portions of the Brooklyn Bridge Park Project.

The following policy has not been revised since the FEIS, but is relevant to the proposed project in light of changed background conditions (specifically Hurricane Sandy).

Policy 6.1: Minimize losses from flooding and erosion by employing non-structural and structural management measures appropriate to the condition and use of the property to be protected and the surrounding area.

As described above, the proposed buildings would comply with Building Code, which has been updated to improve the resiliency of all new buildings in flood zones. In addition, the proposed buildings would include preemptive design decisions to be responsive to the risk of flooding due to current and future storm flood levels, as detailed above. If rising sea levels require additional modifications, such as flood proofing the outer perimeter of the ground floor, these modifications could be made at a later date and are not inhibited by any of the proposed project designs. Therefore, the modified proposed project would be consistent with this policy.

B.2 SOCIOECONOMIC CONDITIONS

The proposed project continues to be located on a portion of the Brooklyn Bridge Park Project area that does not contain any residents and the maintenance garage and storage sheds formerly located on the site have been demolished. Therefore, as analyzed in the 2005 FEIS, there would be no adverse impacts due to direct residential or business displacement. The proposed project would also not increase the number of residential units analyzed in the 2005 FEIS. Residential development has continued in the study area,

generally consistent with trends identified in the 2005 FEIS. As predicted in the FEIS, relative to the study area as a whole, there has been less new development in Brooklyn Heights, which is an historic and largely built-out neighborhood. However, at the time of the FEIS, there were no planned projects in the Columbia Street Waterfront District. As discussed above, since the 2005 FEIS, residential development has increased in that area, and it has become more mixed use in character. Overall, trends since the 2005 FEIS indicate increasing residential development throughout the study area, which is compatible with the proposed project. In addition, the proposed project would add affordable housing to the study area, which would help ensure housing opportunities for lower-income residents and would help maintain a more diverse demographic composition within the study area. Therefore there would be no potential for the proposed actions to alter the conclusions of the 2005 FEIS with respect to indirect residential displacement due to increased property values or rents. The small proposed retail and community facility space would not be expected to substantially increase the number of employees on the project site, nor would these uses introduce trends that could change socioeconomic character of the study area. Therefore, the proposed project would not result in any new significant adverse socioeconomic impacts not disclosed in the 2005 FEIS.

B.3 COMMUNITY FACILITIES AND SERVICES

The program analyzed in the 2005 FEIS did not exceed the *CEQR Technical Manual* thresholds warranting an analysis of libraries, health care facilities, police and fire, or day care facilities; however, it did warrant an analysis of elementary and intermediate schools. The FEIS concluded that because the Brooklyn Bridge Park Project would increase utilization of elementary schools to only 75 percent and intermediate schools to only 69 percent in Region 2 of Community School District (CSD) 13, the Brooklyn Bridge Park Project would not result in significant adverse impacts to elementary schools or intermediate schools.

The proposed project would not physically displace or alter any existing community facilities, and would therefore not result in any direct effects on community facilities. However, since the 2005 FEIS, the residential population in the area has grown, increasing demand for community facilities and services; and warranting a reassessment of community facility impacts. The proposed project would not exceed the *CEQR Technical Manual* thresholds for Brooklyn for the following community facilities: public child care services (threshold is 110 low- to moderate-income residential units), libraries (threshold is 734 residential units), health care facilities (threshold is the introduction of a sizable new neighborhood), fire and police protection services (threshold is the introduction of a sizable new neighborhood), or public high schools (threshold is 1,068 residential units). However, the proposed project would exceed the *CEQR Technical Manual* threshold warranting an analysis of potential impacts on public elementary and intermediate schools. Therefore, an assessment was conducted to determine whether the proposed project, considering relevant changes in background conditions, would result in any significant adverse impacts to public schools not previously identified in the 2005 FEIS.

PUBLIC SCHOOLS

Following the methodologies in the *CEQR Technical Manual*, the study area for the analysis of elementary and intermediate schools is the school districts' "sub-district" (also known as "regions" or "school planning zones") in which the project is located. The project site is located in Sub-district 2 of Community School District (CSD) 13. According to the most recent enrollment/capacity/utilization data (for the 2013-2014 school year), there are eight elementary schools with 3,279 students and seven intermediate schools with 1,849 students in Sub-district 2/CSD 13. Elementary schools are operating at 98.14 percent utilization with a surplus of 62 seats and intermediate schools are operating at 62.83 percent utilization with a surplus of 1,094 seats.

Future conditions are predicted based on School Construction Authority (SCA) enrollment projections and data obtained from SCA's Capital Planning Division on the number of new housing units and students expected at the sub-district level. The future utilization rate for school facilities is calculated by adding the estimated enrollment from proposed residential projects in the schools' study area to Department of Education's (DOE's) projected enrollment, and then comparing that number with projected school capacity. In accordance with the *CEQR Technical Manual*, projected school capacity does not include temporary classroom buildings or charter school seats. Elementary school utilization is projected to grow in Sub-district 2/CSD 13, from 3,279 students under existing conditions to 4,697 students by 2018 (140.59 percent utilization). Intermediate school utilization is also projected to grow, from 1,849 students under existing conditions to 2,359 students by 2018 (80.16 percent utilization).

According to *CEQR Technical Manual* methodologies, new capacity from new school projects identified in the DOE Five-Year Capital Plan are included if construction has begun or if deemed appropriate to include in the analysis by the lead agency and the SCA. One new intermediate school is identified for the sub-district in the current capital plan. I.S. 611, located at 60 Water Street, is expected to open in 2016 and provide 333 new seats. Additionally, the Proposed 2014-2019 Capital Plan for new school construction designates funding for 757 seats for an elementary and intermediate school facility in District 13. However, as a conservative measure, this additional capacity is not included in the quantitative analysis. If this additional capacity were taken into consideration, utilization rates could be somewhat lower in the future with or without the proposed project.

Based on the proposed development of approximately 430 incremental residential units and the student generation rates provided in the *CEQR Technical Manual* (0.29 elementary and 0.12 intermediate students per housing unit in Brooklyn), the proposed project would generate approximately 125 elementary school students and 52 intermediate school students.

While the new elementary school students would add to the predicted shortfall in 2018, it would not be to a degree considered significant following the guidance of the *CEQR Technical Manual*. According to the *CEQR Technical Manual*, a project may result in a significant adverse impact to schools if it would result in both a collective utilization rate of the elementary or intermediate schools of 100 percent or more in the future with the proposed project and an increase of five percent or more in the collective utilization rate as a result of the proposed project. Enrollment for elementary schools would increase by 3.74 percent (from 140.59 to 144.33 percent utilization) in the future with the proposed project. Intermediate school utilization would increase by 1.77 percent in the future with the proposed project, but would remain below 100 percent (from 80.16 to 81.92 percent). While utilization would be above 100 percent for elementary schools, the percentage point increases for both elementary and intermediate schools would be below the 5 percentage point change that is considered a significant adverse impact. Therefore, the proposed project is not expected to result in any significant adverse impacts to public schools.

B.4 OPEN SPACE

The Brooklyn Bridge Park Project analyzed in the 2005 FEIS would provide a net increase of 68.8 acres of open space for passive and active recreational use. The 2005 FEIS concluded that the development of the Brooklyn Bridge Park Project would result in substantial beneficial effects to open space conditions and would not result in any significant adverse impacts on open space.

While the proposed project would not result in an increase in residential population as compared to the project analyzed in the 2005 FEIS, demand for and supply of open space has changed since the FEIS. The residential population in the study area has grown, and new open spaces have been developed, primarily in the park. Due to changed background conditions since the 2005 FEIS, a preliminary assessment was conducted to examine the effects of the added population on the active and passive public open spaces in

Brooklyn Bridge Park Project Pier 6 Upland Development

the study area and to determine whether the population increase would significantly impact the local open spaces. According to *CEQR Technical Manual* methodology, a preliminary assessment is used to determine the need for a more detailed open space analysis. If the preliminary assessment indicates the need for further analysis, then a detailed analysis of open space is performed. Since the proposed development would result in a nominal increase in commercial space, an assessment of potential impacts on the non-residential (worker) population is not warranted.

PRELIMINARY ASSESSMENT

A preliminary assessment of open space consists of calculating total residential and worker population, tallying the open space acreage within the ½-mile study area, and comparing the open space ratios for the future without and with the proposed project with the City's acceptable open space ratios.

As detailed in **Table B.4-1**, the study area contains eight open spaces that provide approximately 36.38 acres of open space.

Table B.4-1
Existing Open Space Resources Within the Residential Study Area

Name/Address	Owner/Agency	Features	Total Acres	Active Acres	Passive Acres
Brooklyn Bridge Park	BBP				
Pier 6 Upland		Sand volleyball courts, paths, seating, promenade, seating, playground area including water play, tot lot, and active play area	7.00	2.80	4.20
Pier 5		Multi-use recreation fields, play area, promenade, paths, seating	5.30	4.77	0.53
Pier 2-4 Upland		BBP Greenway, granite terrace, sculpture, lawn areas, seating	6.20	1.55	4.65
Pier 2		In-line and ice skating rink, handball, basketball, basketball, and bocce courts, play equipment, exercise equipment, paths, seating	4.60	4.14	0.46
Pier 4 Beach		Beach and tidal pool	1.30	0.00	1.30
Brooklyn Heights Promenade	DPR	Esplanade with vistas, playgrounds, sitting areas, trees, plants	2.56	1.02	1.54
111 Livingston Street		Seating	0.13	0.00	0.13
Adam Yauch Park	DPR	Benches, playground equipment, game tables, fitness equipment, dog run, comfort station, spray showers, sculpture, trees, plantings, basketball courts, community garden	1.36	0.68	0.68
Van Vorhees Park	DPR	Tennis, handball, and basketball courts, asphalt play area, play equipments, swings, comfort station, spray showers, sculpture, benches, flowers and trees	5.74	2.88	2.88
LICH Open Spaces	LICH	Playgrounds, seating	0.93	0.39	0.54
Cobbie Hill Park	DPR	Play equipment, landscaping, trees, benches, tables	0.59	0.13	0.46
P.S. 29 Playground	DOE	Mostly paved play area, play equipment	0.67	0.67	0.00
Total Existing Open Space, Residential Study Area			36.38	19.03	17.37
Sources: Brooklyn Bridge Park Development Corporation; New York City Department of Parks and Recreation; 2005 <i>Brooklyn Bridge Park Project Final Environmental Impact Statement (FEIS)</i> ; field visits August 2014.					

As shown in **Table B.4-2**, the study area also contains approximately 25,835 residents. With the proposed development, there would be approximately 801 new residents. The total open space ratio between the No Action and With Action conditions would be reduced from 1.91 to 1.86 acres per 1,000 residents. According to the *CEQR Technical Manual*, if a potential decrease in an open space ratio does not exceed

5 percent, it is generally not considered to be a substantial change warranting a detailed analysis. As shown in the table, the total open space ratio, and the active and passive open space ratios would all decrease by approximately 2.76 percent. Additionally, the open space ratio in the With Action condition would remain above the citywide average of 1.5 acres per 1,000 residents. Therefore, a detailed open space assessment is not warranted, and the proposed development would not result in any significant adverse impacts on open space resources.

**Table B.4-2
Adequacy of Public Open Space Resources in the Study Area**

	Existing Condition	No Action	With Action
Study Area Population^{1,2}			
Residents	25,835	28,285	29,086
Open Space Acreage³			
Total	36.38	53.98	53.98
Passive	17.37	26.51	26.51
Active	19.03	27.49	27.49
Open Space Ratios (acres per 1,000 residents)			
Total/Residents	1.41	1.91	1.86
Passive/Residents	0.67	0.94	0.91
Active/Residents	0.74	0.97	0.94
Percent Change, No Action to With Action			
		Total/Residents	-2.76%
		Passive/Residents	-2.76%
		Active/Residents	-2.76%
Notes:	Planning Goal Ratios: 2.5 total acres/1,000 residents; 0.5 passive acres/1,000 residents; 2.0 active acres/1,000 residents City-wide Average Opens Space for Residents: 1.5 total acres/1,000 residents 1. Existing residential totals based on 2010 U.S. Census populations for Census Tracts 3.01, 5.01, 5.02, 7, 9, 45, 47, and 49. 2. The residential population in the future without the proposed project was estimated by applying the weighted average household size for the study area (1.86 persons per household) to the number of new dwelling units expected to be added by developments in the study area. 3. See Table B.4-1.		
Sources:	Brooklyn Bridge Park Development Corporation; New York City Department of Parks and Recreation; 2005 <i>Brooklyn Bridge Park Project Final Environmental Impact Statement (FEIS)</i> ; field visits August 2014.		

B.5-SHADOWS

The proposed buildings would fall within the maximum building envelope analyzed in the 2005 FEIS and the heights of the two buildings would not increase from what was analyzed in the 2005 FEIS. Since the issuance of the FEIS, no sunlight-sensitive resources have been added to the area beyond those considered in the FEIS. Therefore, the proposed actions would not result in any new significant adverse shadows impacts not disclosed in the 2005 FEIS.

B.6 HISTORIC AND CULTURAL RESOURCES

As described above, the proposed project would not change the building heights or overall building envelopes analyzed in the 2005 FEIS. The proposed project would not result in any additional ground

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disturbance that could affect archaeological resources. Therefore, the proposed actions would not result in any additional adverse impacts to historic and cultural resources beyond those previously disclosed in the 2005 FEIS. Changed background conditions would not affect the potential for the proposed project to result in significant adverse impacts to historic or cultural resources. Therefore, the proposed actions would not result in any new significant adverse impacts to historic and cultural resources not disclosed in the 2005 FEIS. For the same reason, the proposed project would not require modifications to the commitments contained in a Letter of Resolution (LOR) among the New York State Office of Parks, Recreation and Historic Preservation (OPRHP), the Empire State Development Corporation (ESDC), and BBPDC executed in January 2006 pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law, and amended in 2009 and 2010, committing to further testing, and if appropriate, development of mitigation measures in consultation with OPRHP.

B.7 URBAN DESIGN AND VISUAL RESOURCES

The proposed buildings would fall within the same building envelope analyzed in the 2005 FEIS. Since the issuance of the FEIS, the urban design of the area has been improved with the development of the project area, and new visual resources have been added as the park project has been developed. These changes are in line with the analysis presented in the FEIS. Therefore, the proposed actions would not result in any new significant adverse impacts to urban design and visual resources not disclosed in the 2005 FEIS.

B.8 NATURAL RESOURCES

Compared to what was analyzed in the 2005 FEIS, the proposed actions would not increase the amount of impervious surface on the Pier 6 upland area, and therefore would not affect flooding in or near the Brooklyn Bridge Park Project area or increase the amount of surface runoff. The construction of the two proposed buildings would comply with all relevant stormwater management commitments and permitting requirements. Since the issuance of the FEIS, no changes in background conditions have occurred that would affect the proposed project's potential to result in significant adverse impacts on natural resources. The proposed development would not displace any natural habitats or affect any threatened and endangered species, and would have no potential impacts on natural resources. Therefore, the proposed actions would not result in any new significant adverse impacts to natural resources not disclosed in the 2005 FEIS.

B.9 HAZARDOUS MATERIALS

No additional subsurface disturbance would result from the proposed actions beyond what was considered in the 2005 FEIS. Changed background conditions would not affect the potential for the proposed project to result in significant adverse impacts due to hazardous materials. Construction and any soil disruption activity for the proposed buildings would follow all relevant remediation commitments outlined in the 2005 FEIS and the September 2013 Remedial Action Plan (RAP) and associated Construction Health and Safety Plan (CHASP). Therefore, the proposed actions would not result in any new significant adverse impacts due to hazardous materials not disclosed in the 2005 FEIS.

B.10 WATER AND SEWER INFRASTRUCTURE

The proposed actions would not increase the number of residential units analyzed in the 2005 FEIS, and would therefore not substantially increase infrastructure demand beyond what was analyzed in the 2005 FEIS. The construction of the proposed buildings would comply with all relevant permitting requirements and stormwater management commitments, such as the Stormwater Pollution Prevention Plan (SWPPP).

While new development in the area since the FEIS has increased demand for water supply, sanitary and stormwater sewers and sewage treatment, capacity for these services is still adequate (based on data from the New York City Department of Environmental Protection, the Red Hook Wastewater Treatment Plant operates at less than half of its permitted capacity, with estimated dry weather flows of 28 million gallons per day and a capacity of 60 million gallons per day). Therefore, the proposed actions would not result in any new significant adverse impacts on infrastructure services not disclosed in the 2005 FEIS.

B.11 SOLID WASTE AND SANITATION SERVICES

The proposed actions would not increase the number of residential units analyzed in the 2005 FEIS, and therefore the proposed project would not result in a substantial increase in the amount of solid waste generated by the proposed buildings. Solid waste and sanitation services have not changed substantially since the FEIS and, as indicated in the 2014 *CEQR Technical Manual*, the capacity of the New York City Department of Sanitation (DSNY) to serve New York City is sufficiently flexible to accommodate increased demand for waste and recyclables collection generated by most proposed projects as needed. Therefore, the proposed actions would not result in any new significant adverse impacts on solid waste and sanitation services not disclosed in the 2005 FEIS.

B.12 ENERGY

The proposed actions would not increase the number of residential units analyzed in the 2005 FEIS, and therefore the proposed project would not result in a substantial increase to energy consumption beyond what was analyzed in the 2005 FEIS. Energy infrastructure has not changed substantially since the FEIS, and, as indicated in the 2014 *CEQR Technical Manual*, a detailed assessment of energy impacts would be limited to projects that may significantly affect the transmission or generation of energy. Therefore, the proposed actions would not result in any new significant adverse impacts on infrastructure services not disclosed in the 2005 FEIS.

B.13 TRANSPORTATION

As discussed above, consistent with the previous approvals for the Brooklyn Bridge Park Project, the proposed Pier 6 upland project would involve the redevelopment of the two development parcels on the project site. Together, they would include up to 430 residential units, community facility and commercial uses, and up to 72 parking spaces. Based on trip generation estimates, a restaurant would generate higher vehicle trips and comparable person trips when compared to local retail, and a universal pre-K would generate higher vehicle and person trips than other types of community facility uses. Therefore, for the purposes of the transportation analysis, the community facility and commercial uses are conservatively assumed to be a 5,000 sf restaurant, and a 10,000 sf universal pre-K accommodating up to 75 students.

CEQR SCREENING METHODOLOGY AND ANALYSES

The 2014 *CEQR Technical Manual* identifies procedures for evaluating a proposed project's potential impacts on traffic, parking, transit, and pedestrian conditions. This methodology begins with the preparation of a trip generation analysis to determine the volume of trips associated with the proposed project. The results are then compared to *CEQR Technical Manual*-specified thresholds (Level 1 screening analysis) to determine whether additional quantified analyses are warranted. If the proposed project would result in 50 or more peak hour vehicle trips or 200 or more peak hour transit or pedestrian trips, a Level 2 screening analysis would be undertaken.

For a Level 2 screening assessment, project-generated trips are assigned to specific intersections, transit routes, and pedestrian elements. If the result of this analysis determines that the proposed project would

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generate 50 or more peak hour vehicle trips per intersection, 50 or more peak hour bus riders on a bus route in a single direction, 200 or more peak hour subway passengers per station, or 200 or more peak hour pedestrian trips per pedestrian element, further quantitative analyses may be warranted to assess the potential impacts on transportation conditions.

TRIP GENERATION ANALYSIS

Travel demand factors for the proposed project were based on information provided in the *CEQR Technical Manual*, the U.S. Census, the 2005 *Brooklyn Bridge Park Project FEIS*, and other established sources and approved studies, as presented in **Table B.13-1**. According to the *CEQR Technical Manual*, transportation analyses of potential impacts associated with residential uses are conducted for weekday peak hours, as presented below. In addition, taking into account the full program for analysis, which includes a pre-K component, the overall number of incremental trips would be highest on weekdays.

**Table B.13-1
Travel Demand Factors**

Use	Residential			Restaurant			School - Staff			School - Student			School - Parent		
Total Daily Person Trip	(1) Weekday 8.075 Trips / DU			(2) Weekday 173.0 Trips / KSF			(1) Weekday 2.0 Trips / Staff			(1) Weekday 2.0 Trips / Student			(1)(6) Weekday 4.0 Trips / Parent		
Trip Linkage	0%			0%			0%			0%			0%		
Net Daily Person trip	Weekday 8.075 Trips / DU			Weekday 173.0 Trips / KSF			Weekday 2.0 Trips / Staff			Weekday 2.0 Trips / Student			Weekday 4.00 Trips / Parent		
Temporal	AM	MD	PM	AM	MD	PM	AM	MD	PM	AM	MD	PM	AM	MD	PM
	(1) 10%			(2) 1.0%			(1) 40%			(1) 49.5%			(1)(6) 49.5%		
Direction	(2) 5%			(2) 1.0%			(4) 40%			(4) 49.5%			(4) 49.5%		
	In	50%	67%	85%	65%	65%	50%	0%	0%	50%	0%	0%	50%	50%	50%
Out Total	84%	50%	33%	6%	35%	35%	0%	50%	100%	100%	100%	100%	100%	100%	100%
Modal Split	(3)			(2)			(5)			(4)			(4)		
	AM	MD	PM	AM	MD	PM	AM	MD	PM	AM	MD	PM	AM	MD	PM
Auto	9.0%	9.0%	9.0%	30.0%	30.0%	30.0%	33.0%	33.0%	33.0%	19.0%	19.0%	19.0%	0.0%	0.0%	0.0%
Taxi	2.0%	2.0%	2.0%	5.0%	5.0%	5.0%	1.0%	1.0%	1.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Subway	70.0%	70.0%	70.0%	5.0%	5.0%	5.0%	40.0%	40.0%	40.0%	5.0%	5.0%	5.0%	0.0%	0.0%	0.0%
Bus	2.0%	2.0%	2.0%	5.0%	5.0%	5.0%	14.0%	14.0%	14.0%	3.0%	3.0%	3.0%	0.0%	0.0%	0.0%
School Bus	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	2.0%	2.0%	2.0%	0.0%	0.0%	0.0%
Walk	17.0%	17.0%	17.0%	55.0%	55.0%	55.0%	12.0%	12.0%	12.0%	71.0%	71.0%	71.0%	100.0%	100.0%	100.0%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Vehicle Occupancy	(2)(3) Weekday			(2) Weekday			(5) Weekday			(4) Weekday					
	Auto	1.17	1.40	2.20	2.30	2.30	1.10	1.10	1.10	1.75	1.75	1.75			
Taxi															
School Bus	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	7.0	7.0	7.0			
Daily Delivery Trip Generation Rate	(1) Weekday 0.06 Delivery Trips / DU			(2) Weekday 3.60 Delivery Trips / KSF						(4) Weekday 0.03 Delivery Trips / Student					
Delivery Temporal	AM	MD	PM	AM	MD	PM				AM	MD	PM			
	(1) 12%			(2) 6.0%						(4) 9.6%					
Delivery Direction	(1)			(2)						(4)					
	In	50%	50%	50%	50%	50%				50%	50%	50%			
Out Total	50%	50%	50%	50%	50%	50%				50%	50%	50%			
Total	100%	100%	100%	100%	100%	100%				100%	100%	100%			
Sources:	(1) 2014 <i>CEQR Technical Manual</i> (2) <i>Brooklyn Bridge Park Project FEIS (2005)</i> (3) U.S. Census Bureau, ACS 2008-2012 Five-Year Estimates - Journey-to-Work (JTW) Data (4) Based on data from <i>Atlantic Yards Arena and Redevelopment Project FSEIS, 2014</i> (5) U.S. Census Bureau, ACS 2006-2010 Five-Year Estimates - Reverse Journey-to-Work (RJTW) Data (6) Assumes 1 parent for every 2 students walking to school and the same temporal distribution as students.														

As summarized in **Table B.13-2**, the proposed project is forecast to generate approximately 487, 294, and 582 person trips and 61, 43, and 70 vehicle trips during the weekday AM, midday, and PM peak hours, respectively.

**Table B.13-2
Trip Generation Summary: Proposed Project**

Peak Hour	In/Out	Person Trip							Vehicle Trip				
		Auto	Taxi	Subway	Bus	School Bus	Walk	Total	Auto	Taxi	School Bus	Delivery	Total
AM	In	23	1	46	4	0	94	168	15	5	0	3	23
	Out	26	6	204	6	0	77	319	30	5	0	3	38
	Total	49	7	250	10	0	171	487	45	10	0	6	61
Midday	In	31	6	65	6	0	57	165	17	5	0	2	24
	Out	20	4	63	4	0	38	129	12	5	0	2	19
	Total	51	10	128	10	0	95	294	29	10	0	4	43
PM	In	36	7	181	7	0	95	326	34	7	0	0	41
	Out	34	4	96	7	0	115	256	22	7	0	0	29
	Total	70	11	277	14	0	210	582	56	14	0	0	70

LEVEL 1 SCREENING

Traffic

As summarized in **Table B.13-2**, the incremental vehicle trips generated by the proposed project would be 61, 43, and 70 during the weekday AM, midday, and PM peak hours, respectively. Since the incremental vehicle trips would be greater than 50 vehicles during the weekday AM and PM peak hours, a Level 2 screening assessment (presented in the section below) was conducted to determine if there is a need for additional quantified traffic analyses.

Transit

The proposed project is located in the vicinity of multiple transit options including the Court Street Station (R train), Borough Hall Station (No. 2, 3, 4, and 5 trains), Jay Street/MetroTech Station (A, C, F, and R trains), and Bergen Street Station (F and G trains), as well as New York City Transit (NYCT) B61 and B63 local bus routes (See **Figure B.13-1**). As detailed in **Table B.13-2**, the incremental transit trips generated by the proposed project would be 250, 128, and 277 person trips by subway during the weekday AM, midday, and PM peak hours, respectively. The subway trips would be dispersed onto the area's multiple subway stations/lines such that no single subway station/line would exceed the *CEQR Technical Manual* analysis threshold of 200 or more peak hour subway trips per station. Therefore, a detailed analysis of subway facilities is not warranted and the proposed project is not expected to result in any significant adverse subway impacts.

The proposed project is estimated to generate 10, 10, and 14 incremental bus trips and 55, 28, and 61 incremental subway-to-bus transfer trips in the weekday AM, midday, and PM peak hours, respectively. The incremental bus trips and subway-to-bus trips would be dispersed onto the B61 and B63 bus routes such that no single bus route would exceed the *CEQR Technical Manual* analysis threshold of 50 or more peak hour bus riders in a single direction. Therefore, a detailed bus line-haul analysis is also not warranted and the proposed project is not expected to result in any significant adverse bus line-haul impacts.

Pedestrians

As summarized in **Table B.13-2**, the estimated incremental pedestrian trips are 487, 294, and 582 in the weekday AM, midday, and PM peak hours, respectively. Because the incremental pedestrian trips would be greater than 200 during all peak hours, a Level 2 screening assessment (presented in the section below) was conducted to determine if there is a need for additional quantified pedestrian analyses.



--- Project Site

57 Bus Route

Subway Route

Subway Station

Subway Stairs

BROOKLYN BRIDGE PARK
Pier 6 Uplands Development

Pier 6-Public Transit Options
Figure B.13-1



LEVEL 2 SCREENING

As part of the Level 2 screening assessment, project-generated trips were assigned to specific intersections and pedestrian elements near the project site. As previously stated, further quantified analyses to assess the potential impacts of the proposed project on the transportation system may be warranted if the trip assignments were to identify key intersections incurring 50 or more peak hour vehicle trips or pedestrian elements incurring 200 or more peak hour pedestrian trips.

Potential Loop Road Elbow Closure

Potential closure of the Loop Road elbow, which is a private park road that lies between Parcel A and open spaces to the south and west is under consideration. Such closure would require consultation with Metropolitan Transportation Authority (MTA) and possibly the New York City Fire Department (FDNY). As the Loop Road elbow is not a City Street, it would not require consultation with the New York City Department of Transportation. The Loop Road elbow primarily serves as a layover area for the B63 bus route. In the event a site plan is selected which entails a closing of the Loop Road elbow, there would be a modest reassignment of project and baseline traffic; however this potential modification to the circulation plan would not alter the conclusions presented below.

Traffic

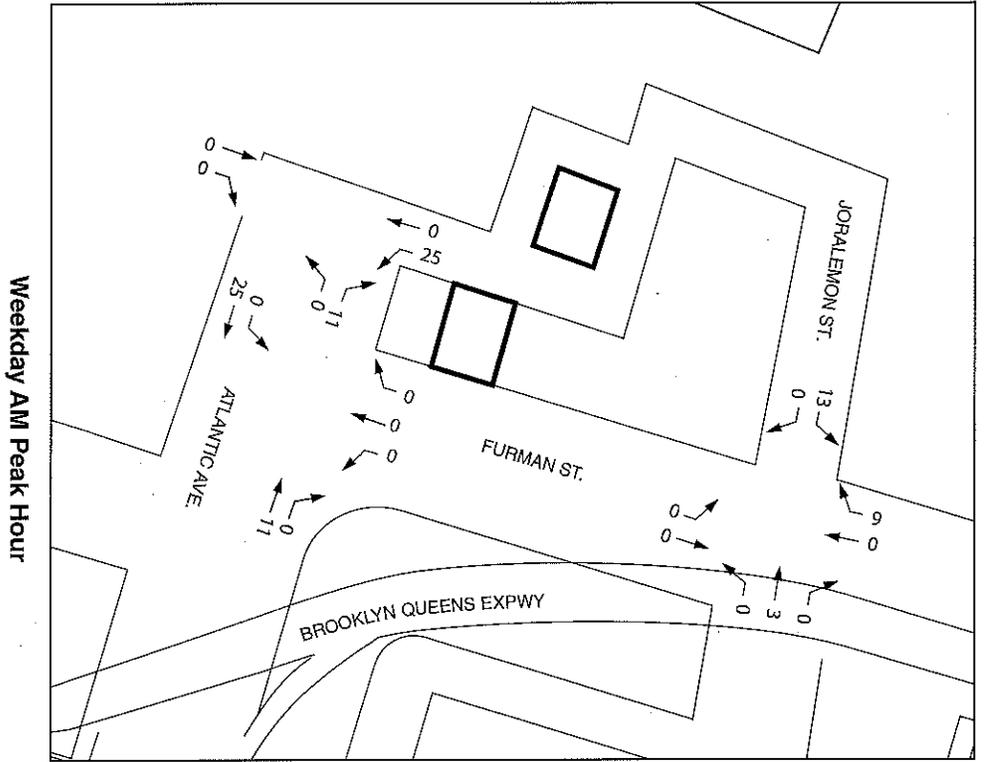
The weekday AM and PM peak hours vehicle trips were assigned to area intersections based on the most likely travel routes to and from the two development parcels, prevailing travel patterns, commuter origin-destination (O-D) summaries from the census data, the configuration of the roadway network, and the anticipated locations of site access and egress. Auto trips were assigned to the new accessory garages at the two development parcels with access and egress from the Loop Road. Site plan options for the two development parcels could include a potential curb cut along Furman Street to provide access and egress to the Parcel B on-site parking garage. However, since auto trips would still have to travel through the Furman Street intersections at Joralemon Street and Atlantic Avenue in order to access the garage, the curb cut would not materially affect the volume of auto trips traveling through these two Furman Street intersections. Taxi trips were assigned to the various block faces of the development sites along the Loop Road. All delivery trips were assigned to the development parcels via NYCDOT designated truck routes.

As shown in **Figure B.13-2**, intersections adjacent to and near the development parcels are expected to incur fewer than 50 (maximum of 36) vehicle trips from the proposed project during the weekday AM and PM peak hours. Based on criteria described in the *CEQR Technical Manual*, a detailed traffic analysis with intersection capacity and delay results is not warranted and the proposed project is not expected to result in any significant adverse traffic impacts.

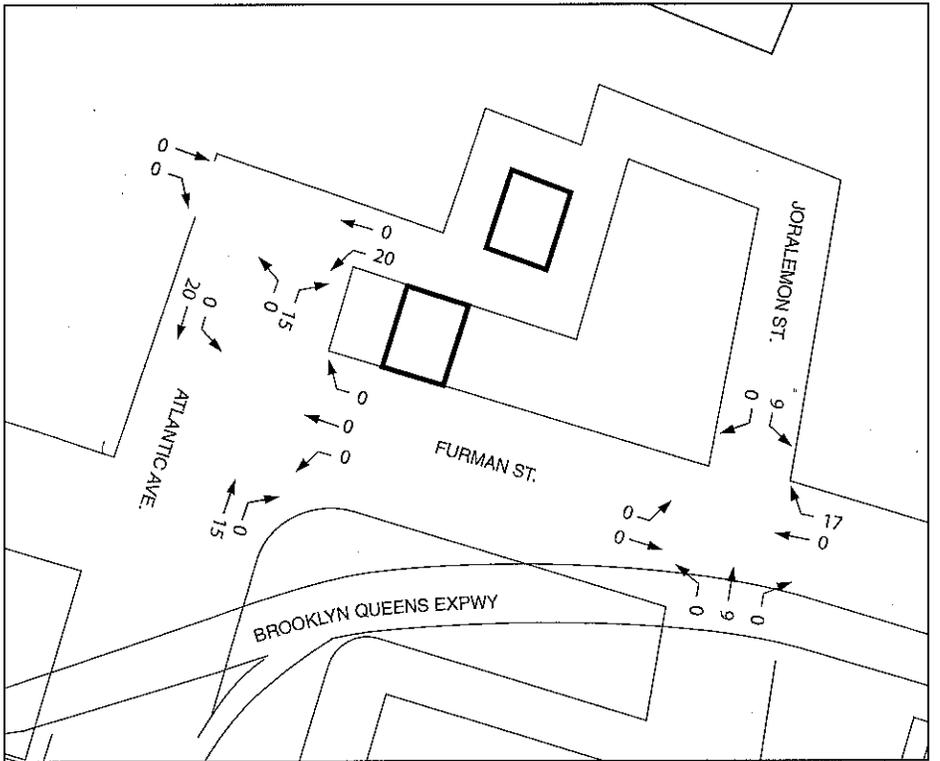
Pedestrians

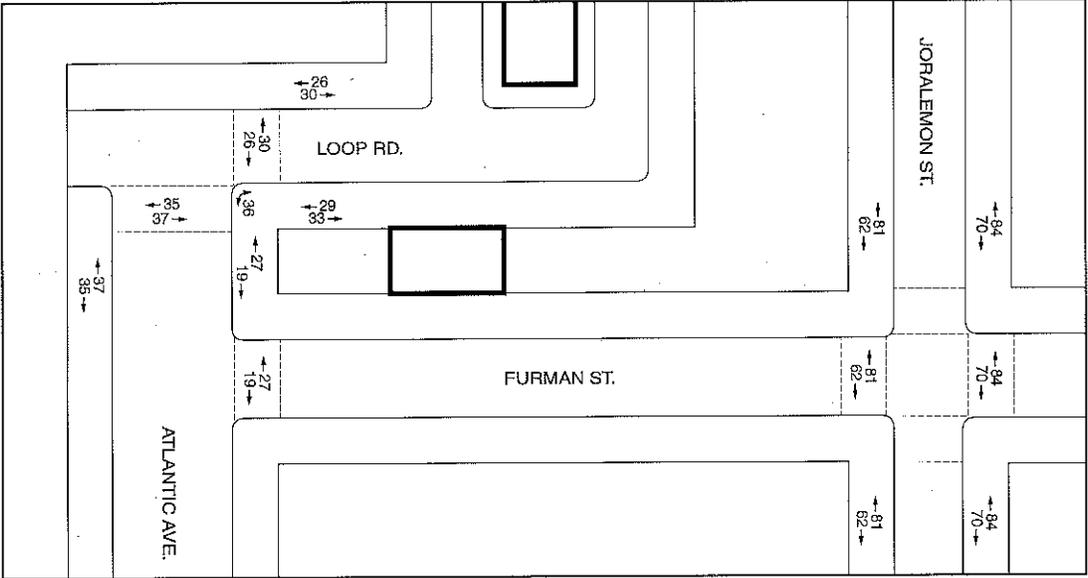
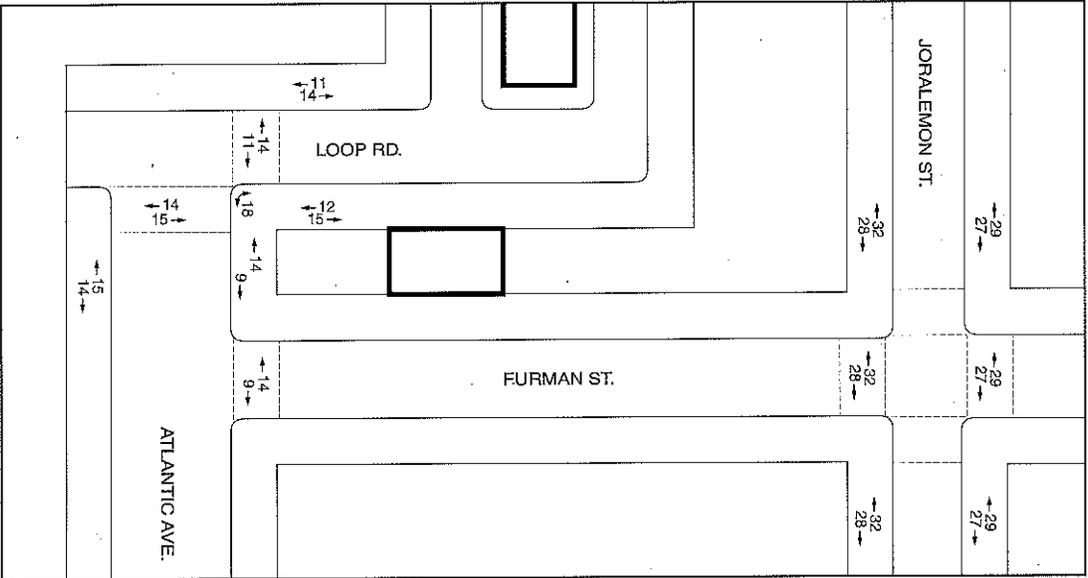
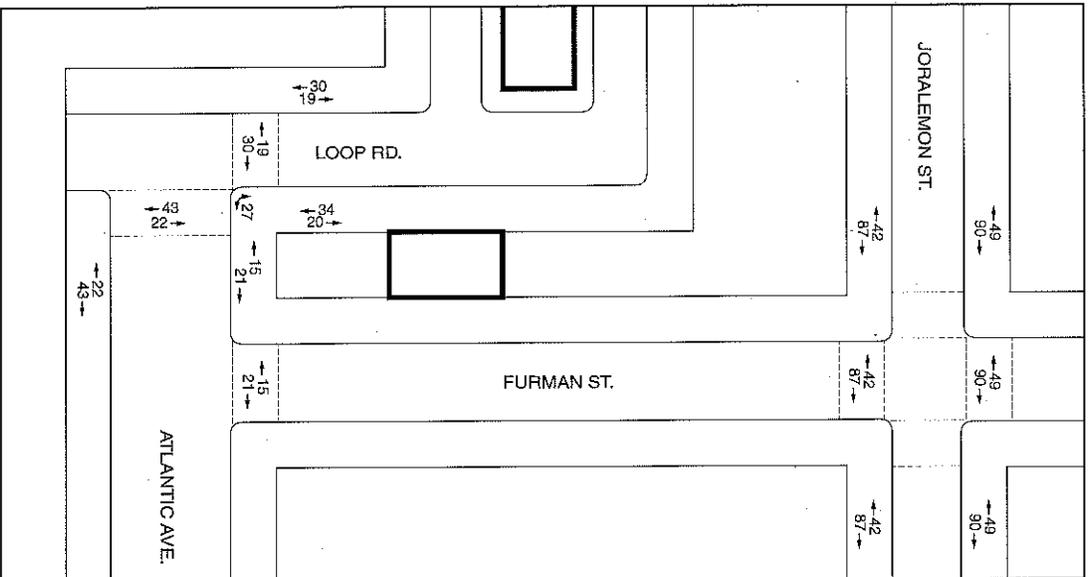
Level 2 pedestrian trip assignments were individually developed for all the proposed development components and are shown in **Figure B.13-3** and discussed below. This analysis relied on the following assumptions.

- Auto Trips – Motorists would park at the project site’s off-street parking facilities.
- Taxi Trips – Taxi patrons would be dropped off and picked up along the Loop Road adjacent to the two buildings on the project site.
- City Bus Trips – City bus riders would use buses stopping on Atlantic Avenue, Columbia Street, and Loop Road, and would utilize bus stops nearest to the project site.



Project Site





Project Site

BROOKLYN BRIDGE PARK
Pier 6 Uplands Development

Project Generated Pedestrian Trips
Figure B.13-3

- Subway Trips – Subway riders were assigned to the Borough Hall Station (No. 2, 3, 4, and 5 trains), the Court Street Station (R train), the Jay Street/MetroTech Station (A, C, F, and R trains), and the Bergen Street Station (F and G trains). Approximately 22 percent of all subway trips were assumed to transfer to and from the B63 and B61 buses, which have stops near the project site and the Borough Hall and Jay Street/MetroTech Stations.
- Walk-Only Trips – Pedestrian walk-only trips were distributed to surrounding pedestrian facilities (i.e., sidewalks, corner reservoirs, and crosswalks) based on population data as well as the land use characteristics of the surrounding neighborhood.

Based on the detailed assignment of pedestrian trips, none of the pedestrian elements in the vicinity of the project site would exceed the *CEQR Technical Manual* analysis threshold of 200 (maximum of 154) or more peak hour pedestrian trips per element. Therefore, a detailed pedestrian analysis is not warranted and the proposed project is not expected to result in any significant adverse pedestrian impacts.

PARKING

As described above, the proposed project would provide up to 72 accessory parking spaces to accommodate the proposed project's parking demand. The *CEQR Technical Manual* states that if a quantified traffic analysis is not required, it is likely that further parking assessment is also not warranted. As discussed above, a detailed quantitative traffic study is not warranted and the proposed project is not expected to result in any significant adverse traffic impacts. Therefore, an on- and off-street parking analysis is not required and the proposed project is similarly not expected to result in significant adverse parking impacts.

B.14 AIR QUALITY

The 2005 FEIS concluded that there would be no potential significant adverse air quality impacts from HVAC systems at the proposed Brooklyn Bridge Park Project. Since the time the FEIS was prepared, some changes have occurred in National Ambient Air Quality Standards (NAAQS), NAAQS attainment status, and subsequently the methods for evaluating potential impacts under CEQR. EPA revised the NAAQS for particulate matter (PM), lowering the levels of the standards for PM less than 2.5 microns in diameter (PM_{2.5}) and revoking the annual average standard for PM less than 10 microns in diameter (PM₁₀). The area has since been redesignated as in attainment of the PM_{2.5} standards, and the *CEQR Technical Manual* analysis methodology, therefore, now applies revised thresholds for determining the significance of potential PM_{2.5} impacts. EPA established a 1-hour average nitrogen dioxide (NO₂) standard in addition to the existing annual average standard, and a 1-hour average sulfur dioxide (SO₂) standard replacing the 24-hour and annual average SO₂ standards. Therefore, the air quality analysis was updated to determine if the proposed actions would have the potential to cause significant adverse impacts not identified in the 2005 FEIS under the new standards and using the latest approved methodology.

METHODOLOGY FOR PREDICTING POLLUTANT CONCENTRATIONS FROM THE PROPOSED PROJECT'S HVAC SYSTEM

The proposed project would include fossil fuel-fired HVAC equipment. Therefore, a stationary source analysis was conducted to evaluate potential air quality impacts. An analysis was conducted to determine air quality impacts associated with emissions from the proposed Pier 6 Parcel B building's heating, ventilation, and air conditioning (HVAC) system on receptors at the proposed Pier 6 Parcel A building. The lease agreement with the designated developer will include provisions that any new development on Parcel B must ensure that fossil fuel-fired heating and hot water equipment utilize only natural gas, and heating and hot water equipment must be fitted with low-NO_x burners with a maximum emission

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concentration of 30 ppm. Since the building on Parcel A would be substantially taller than the building on Parcel B and other buildings in the surrounding area, the exhaust from Building A would not impact surrounding buildings and does not require analysis. Potential 1-hour and annual NO₂ concentrations and PM₁₀, added to representative background concentrations in the area, are compared with the NAAQS. Potential 24-hour and annual incremental concentrations of PM_{2.5} are compared with the City's PM_{2.5} *de minimis* criteria.

Since building specific design information is not yet available, it was conservatively assumed that conventional boiler equipment would be used to provide building heat and hot water. Stack exhaust parameters and emission estimates for the conceptual boiler installation were conservatively estimated. The boiler fuel usage was estimated based on the building's size (in square feet) and development type, using the methodology referenced in the *CEQR Technical Manual*.

Based on initial evaluation, the exclusive use of natural gas-fired boilers equipped with low NO_x burners (30 ppm or less) would be required to ensure that significant adverse air quality impacts do not occur. PM emissions rates were calculated based on emission factors obtained from the EPA *Compilation of Air Pollutant Emission Factors, AP-42, Fifth Edition, Volume I: Stationary Point and Area Sources*.

The emissions rates and stack parameters used for analyzing the Parcel B Building's HVAC source are presented in **Table B-14.1**.

**Table B.14-1
Estimated HVAC Emissions from the Proposed Project**

Parameter	Pier 6 Parcel B ⁽¹⁾
Exhaust Height (ft)	158
Inside Diameter ⁽¹⁾ (ft)	1.0
Exit Velocity ⁽²⁾ (ft/s)	24.2
Exit Temperature ⁽¹⁾ (F)	300
NO _x Emission Rate (1-hour) (lbs/hr)	0.158
NO _x Emission Rate (Annual) (lbs/hr)	0.043
PM Emission Rate (24-hour) (lbs/hr)	0.032
PM Emission Rate (Annual) (lbs/hr)	0.009
Notes:	
(1) The stack exhaust diameter and temperature are based on similar sized equipment.	
(2) The stack exhaust velocity is estimated based on the type of fuel and heat input rate.	

Dispersion Modeling

Potential impacts from the proposed project's HVAC emissions were evaluated using the EPA AERMOD dispersion model. The AERMOD model was designed as a replacement to the EPA Industrial Source Complex (ISC3) model and has been approved for use by the EPA. AERMOD is a state-of-the-art dispersion model, applicable to rural and urban areas, flat and complex terrain, surface and elevated releases, and multiple sources (including point, area, and volume sources). AERMOD is a steady-state plume model that incorporates current concepts about flow and dispersion in complex terrain, including updated treatments of the boundary layer theory, understanding of turbulence and dispersion, and includes handling of terrain interactions.

The AERMOD model calculates pollutant concentrations from one or more points (e.g., exhaust stacks) based on hourly meteorological data, and has the capability of calculating pollutant concentrations in cases where the plume from the exhaust stack would be affected by the aerodynamic wakes and eddies

(downwash) produced by nearby structures. The analyses of potential impacts from exhaust stacks were made assuming stack tip downwash, urban dispersion and surface roughness length, and elimination of calms.

The AERMOD model also incorporates the algorithms from the PRIME model, which is designed to predict impacts in the “cavity region” (i.e., the area around a structure that under certain conditions may affect an exhaust plume, causing a portion of the plume to become entrained in a recirculation region). The Building Profile Input Program (BPIP) program for the PRIME model (BPIPRM) was used to determine the projected building dimensions modeling with the building downwash algorithm enabled. The modeling of downwash from sources accounts for all obstructions within a radius equal to five obstruction heights of the stack. The analysis was performed without downwash, similar to 2005 FEIS, since this option results in the calculation of worst-case impacts at elevated receptor locations.

Methodology Utilized for Estimating NO₂ Concentrations

Annual NO₂ concentrations from emission sources were estimated using an NO₂ to NO_x ratio of 0.75, as described in EPA’s *Guideline on Air Quality Models*.¹

EPA has developed guidance for assessing 1-hour average NO₂ concentrations for compliance with the NAAQS.² Background concentrations are currently monitored at several sites within New York City, which are used for reporting concentrations on a “community” scale. Because this data is compiled on a 1-hour average format, it can be used for comparison with the new 1-hour standards. Therefore, background 1-hour NO₂ concentrations currently measured at the community-scale monitors can be considered representative of background concentrations for purposes of assessing the potential impacts of the HVAC systems.

EPA’s preferred regulatory stationary source model, AERMOD, is capable of producing detailed output data that can be analyzed at the hourly level required for the form of the 1-hour standards. EPA has also developed guidance to estimate the transformation ratio of NO₂ to NO_x, applicable to HVAC sources, as discussed further below. Therefore, an analysis was prepared.

1-Hour average NO₂ concentration increments from the HVAC systems were estimated using AERMOD model’s Plume Volume Molar Ratio Method (PVMRM) module to analyze chemical transformation within the model. The PVMRM module incorporates hourly background ozone concentrations to estimate NO_x transformation within the source plume. Ozone concentrations were taken from the nearest available NYSDEC ozone monitoring stations, i.e., the Queens College monitoring station in Queens for the years 2009-2013. An initial NO₂ to NO_x ratio of 10 percent at the source exhaust stack was assumed for the boiler which is considered representative for this source type.

Total 1-hour average NO₂ concentrations were determined following methodologies that are accepted by the EPA as appropriate and conservative. The methodology used to determine the compliance of total 1-hour average NO₂ concentrations from the proposed source with the 1-hour NO₂ NAAQS³ was based on adding the monitored background to modeled concentrations. The background 1-hour average NO₂ concentrations applied represent the seasonal 98th percentile by hour of the day averaged over five years. The highest combined daily 1-hour NO₂ concentration was determined at each receptor location and the

¹ EPA. “Appendix W to Part 51: Guideline on Air Quality Models”. *40 CFR Part 51*. Section 5.2.4. November, 2005.

² EPA. “Memorandum: Additional Clarification Regarding Application of Appendix W, Modeling Guidance for the 1-Hour NO₂ National Ambient Air Quality Standard”. March 1, 2011.

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98th percentile daily 1-hour maximum concentration for each of the five modeled years was calculated within the AERMOD model and then averaged over the latest five years. This refined approach is recognized as being conservative by EPA and the City and is referenced in EPA modeling guidance.

Meteorological Data

The meteorological data set consisted of five consecutive years of meteorological data: surface data collected at La Guardia Airport (2009–2013) and concurrent upper air data collected at Brookhaven, New York. The meteorological data provide hour-by-hour wind speeds and directions, stability states, and temperature inversion elevation over the five-year period. These data were processed using the EPA AERMET program to develop data in a format which can be readily processed by the AERMOD model. The land use around the site where meteorological surface data were available was classified using categories defined in digital United States Geological Survey (USGS) maps to determine surface parameters used by the AERMET program.

Receptor Placement

A comprehensive receptor (i.e., location at which concentrations are projected) network was developed for the modeling analyses. Discrete receptors were analyzed and included locations on the proposed Parcel A building, at operable windows, and air intake locations.

Background Concentrations

To estimate the maximum expected total pollutant concentrations, the calculated impacts from the analyzed sources must be added to a background concentration that accounts for existing pollutant concentrations from other sources (see **Table B.14-2**). The background levels are based on concentrations monitored at the nearest DEC ambient air monitoring stations over a recent five-year period for which data are available (2009-2013), with the exception of PM₁₀, which is based on three years of data (2011-2013), consistent with current guidance from the New York City Department of Environmental Protection. For the 24-hour average PM₁₀ concentration the maximum second-highest measured values over the 3-year period was used. The annual average background values are the highest measured average concentrations for these pollutants. The measured background concentration was added to the predicted contribution from the analyzed source to determine the maximum predicted total pollutant concentration. It was conservatively assumed that the maximum background concentrations occur on all analysis days.

**Table B.14-2
Maximum Background Pollutant Concentrations
For Stationary Source Analysis**

Pollutant	Average Period	Location	Concentration (µg/m ³)	NAAQS (µg/m ³)
NO ₂	1-Hour	Queens College, Queens	(1)	188
NO ₂	Annual	Queens College, Queens	40.7	100
PM ₁₀	24-hour	Division Street, NY	48.0	150
PM _{2.5}	24-hour	Division Street, NY	25.3	35

Notes:
 (1) The 1-Hour NO₂ background concentration is not presented in the table since the AERMOD model determines the total 98th percentile 1-Hour NO₂ concentration at each receptor, so a single representative background concentration is not used.
Source: New York State Air Quality Report Ambient Air Monitoring System, DEC, 2009–2013.

PM_{2.5} impacts are assessed on an incremental basis and compared with the PM_{2.5} *de minimis* criteria. The PM_{2.5} 24-hour average background concentration of 25.3 µg/m³ (based on the 98th percentile concentrations, averaged over the 2011 to 2013 period) was used to establish the *de minimis* value.

EXISTING CONDITIONS

Recent concentrations of all criteria pollutants at DEC air quality monitoring stations nearest the study area are presented in **Table B.14-3**. All data statistical forms and averaging periods are consistent with the definitions of the NAAQS. It should be noted that these values are somewhat different than the background concentrations presented in **Table B.14-2**, above. These existing concentrations are based on recent published measurements, averaged according to the NAAQS (e.g., PM_{2.5} concentrations are averaged over the three years); the background concentrations are the highest values in past years, and are used as a conservative estimate of the highest background concentrations for future conditions.

**Table B.14-3
Representative Monitored Ambient Air Quality Data**

Pollutant	Location	Units	Averaging Period	Concentration	NAAQS
CO	Queens College, Queens	ppm	8-hour	1.0	9
			1-hour	1.9	35
SO ₂	Queens College, Queens	µg/m ³	3-hour	42.1	1,300
			1-hour	52.6	196
PM ₁₀	Division Street, Manhattan	µg/m ³	24-hour	39	150
PM _{2.5}	Division Street, Manhattan	µg/m ³	Annual	10.8	15
			24-hour	25	35
NO ₂	Queens College, Queens	µg/m ³	Annual	33	100
			1-hour	114	188
Lead	IS 52, Bronx	µg/m ³	3-month	0.005	0.15
Ozone	Queens College, Queens	ppm	8-hour	0.079	0.075

Notes: Based on the NAAQS definitions, the CO and 3-hour SO₂ concentrations for short-term averages are the second-highest from the year. PM_{2.5} annual concentrations are the average of 2011, 2012, and 2013, and the 24-hour concentration is the average of the annual 98th percentiles in 2011, 2012, and 2013. 8-hour average ozone concentrations are the average of the 4th highest-daily values from 2011 to 2013. SO₂ 1-hour and NO₂ 1-hour concentrations are the average of the 99th percentile and 98th percentile, respectively, of the highest daily 1-hour maximum from 2011 to 2013.

Source: DEC, New York State Ambient Air Quality Data.

With the exception of ozone, there were no monitored violations of NAAQS at these monitoring sites in 2013.

PROBABLE IMPACTS OF THE PROPOSED PROJECT'S HVAC SYSTEM

The maximum concentrations of NO₂ and PM₁₀ projected at any receptor location from the proposed project's HVAC system are presented in **Table B.14-4**. The maximum concentrations were projected to occur at elevated locations on the proposed Parcel A building. As shown in the table, the total pollutant concentrations, when added to ambient background levels, for each of the pollutant time averaging periods shown, would be below the applicable standards.

**Table B.14-4
Future Maximum Modeled NO₂ and PM₁₀ Concentrations
from the Proposed Project (in µg/m³)**

Pollutant	Averaging Period	Concentration Due to Stack Emission	Maximum Background Concentration	Total Concentration	Standard
NO ₂	Annual ⁽¹⁾	0.3	40.7	41	100
	1-hour ⁽²⁾	-	-	166.3	188
PM ₁₀	24-hour	3.8	48	51.8	150

Notes:
 (1) Annual NO₂ impacts were estimated using a NO₂/NO_x ratio of 0.75.
 (2) Reported concentration is the maximum total 98th percentile concentration at any receptor using seasonal-hourly background concentrations.

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The air quality modeling analysis also determined the highest potential increase in PM_{2.5} concentrations. The maximum projected 24-hour and discrete (local) annual average PM_{2.5} increments are presented in **Table B.14-5**. The maximum projected PM_{2.5} increments would be less than the applicable *de minimis* criteria.

Table B.14-5
Future Maximum Projected PM_{2.5} Concentrations from the Proposed Project
($\mu\text{g}/\text{m}^3$)

Pollutant	Averaging Period	Maximum Concentration	De Minimis
PM _{2.5}	24-hour	3.8	4.9 ⁽¹⁾
	Annual (discrete)	0.08	0.3

Note:
⁽¹⁾ PM_{2.5} *de minimis* criteria — 24-hour average, not to exceed more than half the difference between the background concentration and the 24-hour standard of 35 $\mu\text{g}/\text{m}^3$.

There would not be any significant adverse air quality impacts due to the proposed Parcel B building's HVAC system. As described above, the lease agreement with the designated developer will include provisions requiring low-emission equipment.

B.15 GREENHOUSE GAS EMISSIONS

The 2005 FEIS did not include a greenhouse gas (GHG) analysis since CEQR did not require it at that time. Generally, a GHG emissions assessment is conducted only for larger projects undergoing an EIS, City capital projects subject to city-wide GHG reduction goals, and projects with special energy needs or other GHG considerations such as power generation or fundamental changes to the City's solid waste systems. The proposed project does not meet these criteria, and therefore an analysis of GHG is not warranted. In addition, the proposed actions would not intensify the energy requirements of the proposed residential buildings and as such, does not have the potential to result in any significant adverse impacts.

B.16 NOISE

The 2005 FEIS concluded that the proposed project would not result in any significant adverse noise impacts at off-site noise receptor locations. The FEIS found that noise levels at the project area are relatively high due to noise contributions from the Brooklyn-Queens Expressway and Manhattan Bridge. While on-site noise levels were higher than those recommended by *CEQR Technical Manual* guidelines for open space, there would be no feasible and practicable mitigation measures to reduce noise levels at the open space included in the proposed project. Building attenuation levels were specified for project buildings to ensure acceptable interior noise levels.

The analysis of noise levels at the Pier 6 upland was reviewed to determine if the proposed actions would have the potential to result in significant adverse impacts not identified in the 2005 FEIS. Since the time the FEIS was prepared, the building attenuation requirements in the *CEQR Technical Manual* have been updated, and the latest 2014 *CEQR Technical Manual* building attenuation requirements have been used to determine necessary levels of attenuation at project buildings. As part of this assessment, the noise exposure at buildings included in the proposed Pier 6 upland project was reviewed based on an updated noise survey.

As described above in the "Transportation" section, the number of vehicle trips generated by the proposed Pier 6 upland project is lower than the threshold that would require any detailed analysis. Consequently, it is not expected that the proposed Pier 6 upland project would generate sufficient traffic to have the potential to cause a significant noise impact (i.e., it would not result in a doubling of noise passenger car

equivalents [Noise PCEs] which would be necessary to cause a 3 dBA increase in noise levels). However, the effect of ambient noise (primarily noise from vehicular traffic) at the project site is addressed and an analysis is presented that determines the level of building attenuation necessary to ensure that the proposed Pier 6 upland project buildings' interior noise levels satisfy applicable CEQR interior noise criteria.

NEW YORK CEQR NOISE CRITERIA

The 2014 *CEQR Technical Manual* defines attenuation requirements for buildings based on exterior noise level (see **Table B.16-1**). Recommended noise attenuation values for buildings are designed to maintain interior noise levels of 45 dBA or lower for residential or community facility uses and interior noise levels of 50 dBA or lower for commercial uses and are determined based on exterior $L_{10(1)}$ noise levels.

Table B.16-1

Required Attenuation Values to Achieve Acceptable Interior Noise Levels

	Marginally Unacceptable				Clearly Unacceptable
Noise Level With Proposed Action	$70 < L_{10} \leq 73$	$73 < L_{10} \leq 76$	$76 < L_{10} \leq 78$	$78 < L_{10} \leq 80$	$80 < L_{10}$
Attenuation ^A	(I) 28 dB(A)	(II) 31 dB(A)	(III) 33 dB(A)	(IV) 35 dB(A)	$36 + (L_{10} - 80)^B$ dB(A)
Notes:					
^A The above composite window-wall attenuation values are for residential dwellings and community facility development. Commercial uses would be 5 dB(A) less in each category. All the above categories require a closed window situation and hence an alternate means of ventilation.					
^B Required attenuation values increase by 1 dB(A) increments for L_{10} values greater than 80 dBA.					
Source: New York City Department of Environmental Protection.					

2005 FEIS BUILDING ATTENUATION RESULTS

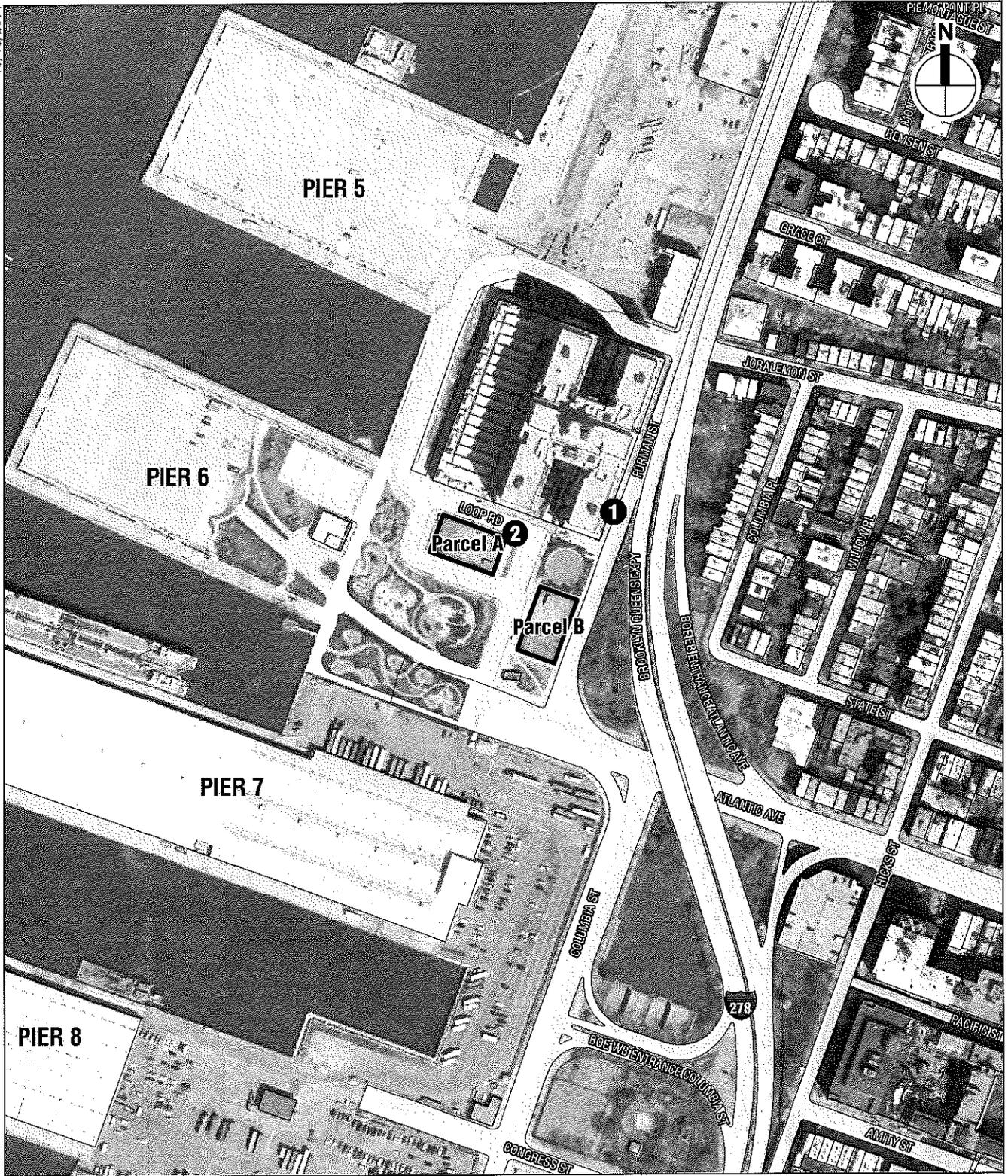
The 2005 FEIS prescribed 35 dBA of building attenuation for buildings on the Pier 6 upland based on an exterior $L_{10(1)}$ noise level of 78.2 dBA. This noise level was the maximum $L_{10(1)}$ noise level predicted for this location based on the noise level measured adjacent to the Brooklyn-Queens Expressway and adjusted to reflect projected 2012 traffic levels.

2014 EXISTING NOISE LEVELS

Existing noise levels at the Pier 6 upland project site were measured at two (2) locations. Site 1 was located at the east façade of 360 Furman Street just above the Brooklyn-Queens Expressway, and Site 2 was located at-grade on the Loop Road at the northeast corner of Parcel A (See **Figure B.16-1**). At sites 1 and 2, 1-hour spot measurements were conducted during the AM, MD, and PM peak time periods on October 7, 2014.

EQUIPMENT USED DURING NOISE MONITORING

Measurements were performed using a Brüel & Kjær Sound Level Meters (SLM) Type 2260 and Type 2270, Brüel & Kjær ½-inch microphones Type 4189, and a Brüel & Kjær Sound Level Calibrator Type 4231. The Brüel & Kjær SLMs are a Type 1 instrument according to ANSI Standard S1.4-1983 (R2006). The SLMs have a laboratory calibration date within one year of the date of the measurements. The microphones were mounted away from any large, reflecting surfaces that could affect the sound level measurements. The SLMs were calibrated before and after readings with a Brüel & Kjær Type 4231 Sound Level Calibrator using the appropriate adaptor. Measurements at the location were made on the A-



- Project Site
- 1 Noise Receptor



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scale (dBA). The data were digitally recorded by the SLM and displayed at the end of the measurement period in units of dBA. Measured quantities included L_{eq} , L_1 , L_{10} , L_{50} , and L_{90} . A windscreen was used during all sound measurements except for calibration. All measurement procedures were based on the guidelines outlined in ANSI Standard S1.13-2005.

RESULTS OF BASELINE MEASUREMENTS

The results of the existing noise level measurements are summarized in **Table B.16-2**.

At each receptor site, vehicular traffic on the Brooklyn-Queens Expressway was the dominant noise source. Measured levels are moderate and reflect the level of vehicular activity on the adjacent highway. In terms of the CEQR criteria, the existing noise levels at site 1 are in the “clearly unacceptable” category, and noise levels at site 2 are in the “marginally acceptable” category.

**Table B.16-2
Existing Noise Levels (in dBA)**

Receptor Site	Measurement Location	Time	L_{eq}	L_1	L_{10}	L_{50}	L_{90}
1	Outside Third Floor of 360 Furman Street East Façade Overlooking Brooklyn-Queens Expressway	AM	83.3	89.7	85.1	82.5	80.1
		MD	83.1	88.8	85.1	82.3	80.2
		PM	81.9	87.6	83.4	81.2	79.5
2	Loop Road at Northeast Corner of Parcel A	AM	66.3	74.3	67.8	65.0	63.1
		MD	67.5	78.2	68.9	64.4	62.3
		PM	63.3	73.0	64.5	60.0	56.9

Note: Measurements were conducted on October 7, 2014

NOISE ATTENUATION MEASURES

As shown in **Table B.16-1**, the 2014 *CEQR Technical Manual* has set noise attenuation quantities for buildings based on exterior $L_{10(1)}$ noise levels in order to maintain interior noise levels of 45 dBA or lower for residential dwellings and community facility development and interior noise levels of 50 dBA or lower for commercial uses.

Measured noise levels at site 1 represent the east façade of 360 Furman Street, at a horizontal distance of approximately 42 feet from the Brooklyn-Queens Expressway. The distance from the east boundary of Parcel B to the Brooklyn-Queens Expressway is at least 100 feet. Since the Brooklyn-Queens Expressway is the dominant source of noise at these locations, the measured noise level from site 1 was adjusted to determine the noise level at the east boundary of Parcel B. The Brooklyn-Queens Expressway can be approximated as a “line source” of noise so, as is indicated in the *CEQR Technical Manual*, the noise level was adjusted based on a 3 dBA reduction per doubling of distance. Consistent with city practices, noise levels were conservatively estimated to be 3 dBA less at an elevation more than 100 feet above the height of the Brooklyn-Queens Expressway.

The building attenuation requirements are summarized in **Table B.16-3**.

**Table B.16-3
Minimum Building Attenuation Requirements**

Parcel	Façade	Elevation (in feet)	Associated Noise Site	Maximum L ₁₀₍₁₎ (in dBA)	Attenuation Required (in dBA) ¹
A	All	All	2	68.9	N/A ²
	North, East, South	0 to 130	1	81.3 ³	38
		131 through top	1	78.3 ³	35
B	West	All	2	68.9	N/A ²

Notes: ¹The composite window-wall attenuation values are for residential development. Retail and commercial uses would be 5 dB(A) less.
²"N/A" indicates that the L₁₀ value is less than 70 dB(A). The *CEQR Technical Manual* does not address noise levels this low, therefore there is no minimum attenuation guidance.
³Adjusted by 3 dBA per doubling of horizontal distance from the Brooklyn-Queens Expressway and a 3 dBA reduction at elevations more than 100 feet above the Brooklyn-Queens Expressway.

The attenuation of a composite structure is a function of the attenuation provided by each of its component parts and how much of the area is made up of each part. Normally, a building façade consists of wall, glazing, and any vents or louvers associated with the building mechanical systems. The building façades would be designed to provide a composite Outdoor-Indoor Transmission Class (OITC) rating¹ greater than or equal to those listed above in **Table B.16-3**, along with an alternative means of ventilation in all habitable rooms of the residential units.

Based upon the L₁₀₍₁₎ values measured at the project site, the proposed project's design measures would be expected to provide sufficient attenuation to achieve the CEQR interior noise level requirements.

In addition, the building mechanical system (i.e., heating, ventilation, and air conditioning systems) would be designed to meet all applicable noise regulations (i.e., Subchapter 5, §24-227 of the New York City Noise Control Code and the New York City Department of Buildings Code) and to avoid producing levels that would result in any significant increase in ambient noise levels.

COMPARISON TO 2005 FEIS BUILDING ATTENUATION REQUIREMENTS

At the north, east, and south façades of Parcel B up to 130 feet above grade, the attenuation requirements are 3 dBA greater than those prescribed in the 2005 FEIS. At the north, east, and south façades of Parcel B more than 130 feet above grade, the attenuation requirements are the same as those prescribed in the 2005 FEIS. All attenuation requirements will be included in the lease for the site. At the west façade of Parcel B and all facades of Parcel A, noise levels would be below the range requiring specific attenuation requirements according to *CEQR Technical Manual* noise exposure guidelines.

B.17 PUBLIC HEALTH

The 2005 FEIS did not provide an analysis of public health, as the development of Brooklyn Bridge Park did not meet the any of the thresholds warranting a public health assessment according to the guidelines

¹ The OITC classification is defined by ASTM International (ASTM E1332) and provides a single-number rating that is used for designing a building façade including walls, doors, glazing, and combinations thereof. The OITC rating is designed to evaluate building elements by their ability to reduce the overall loudness of ground and air transportation noise.

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of the 2001 *CEQR Technical Manual*, which applied at the time. The 2014 *CEQR Technical Manual* requires an analysis of potential public health impacts only for projects that result in unmitigated significant adverse impacts in areas such as air quality, water quality, hazardous materials, or noise, or when the lead agency determines that a project may have potential public health consequences not related to these technical areas. As described above, the proposed actions, taking into account change in background conditions, would not result in significant adverse impacts in any of these technical areas. Therefore a public health analysis is not warranted, and the proposed actions would not result in any significant adverse impacts to public health.

B.18 NEIGHBORHOOD CHARACTER

The proposed actions would not adversely affect the defining features of the neighborhood, nor create new significant adverse impacts on any of the elements that contribute to neighborhood character. Since the issuance of the FEIS, the character of the area has improved with the development of the project area. The development of portions of the park and several of the development sites has improved many of the factors that contribute to neighborhood character, including land use, open space, and visual resources. The proposed actions would be in keeping with the plan considered in the 2005 FEIS, and would further enliven the area with activity and improve the character of the area. Therefore, the proposed actions would not result in any new significant adverse impacts on neighborhood character not disclosed in the 2005 FEIS.

B.19 CONSTRUCTION IMPACTS

The 2005 FEIS analyzed the effects of the proposed project's construction activities, focusing on areas where construction activities may pose specific environmental problems such as transportation, air quality, and noise. The 2005 FEIS concluded that although there may be localized, temporary disruptions due to the construction of the Brooklyn Bridge Park Project, as is the case with any construction activity, the analysis found that the proposed project would not result in any significant adverse impacts due to construction activities. Since the 2005 FEIS, updated and more detailed construction plans have been developed for the two development parcels on the upland on Pier 6. Therefore, the construction analysis in the 2005 FEIS was revisited to determine if the proposed actions and the updated construction plans for Parcels A and B would have the potential to cause significant adverse impacts not identified in the 2005 FEIS, taking into consideration the guidelines of the 2014 *CEQR Technical Manual*.

CONSTRUCTION SCHEDULE AND TASKS

Parcels A and B on the upland of Pier 6 are anticipated to be constructed simultaneously and would proceed in three primary stages: excavation and foundation; superstructure, and; interiors and finishing. Construction would begin with the excavation of the soils, any required remediation, and the construction of the foundations. When the below-grade construction is completed, construction of the superstructure (the building's beams, columns, floor decks, and core) would begin. Superstructure construction would also include the installation of the exterior façades of the proposed buildings. Finally, interiors and finishing would commence and would include the construction of nonstructural building elements such as interior partitions and interior finishes (i.e., flooring, painting, etc.). **Table B.19-1** presents the anticipated schedule for the construction of Parcels A and B. As shown in **Table B.19-1**, based on responses to the RFP, the overall construction duration of Parcels A and B is anticipated to be approximately 19-months, a duration that is considered to be short-term (less than two years) according to the *CEQR Technical Manual* and thus not requiring detailed assessment.

**Table B.19-1
Anticipated Construction Schedule**

Construction Task	Anticipated Schedule	Approximate Duration (months)
Excavation and Foundation	January 2016 to July 2016	7
Superstructure	August 2016 to December 2016	6
Interiors and Finishing	January 2017 to July 2017	6
Source: Brooklyn Bridge Park		

CONSTRUCTION PRACTICES

Construction of the proposed project would be carried out in accordance with New York City laws and regulations, which allow construction activities between 7:00 AM and 6:00 PM on weekdays. Construction work would typically begin at 7:00 AM on weekdays, with most workers arriving between 6:00 AM and 7:00 AM. Normally, work would end at 3:30 PM. Necessary permits would be obtained from the appropriate agencies if work is required outside of normal construction hours (i.e., weekend and after-hour work). No work outside of normal construction hours could be performed until such permits are obtained.

Access to the construction sites for Parcels A and B would be controlled. The work areas would be fenced off, and limited access points for workers and trucks would be provided. Flaggers would be posted as necessary to control trucks entering and exiting the site to ensure the safety of pedestrians and vehicles passing through the area.

If necessary, the contractor would carry out a rodent (mouse and rat) control program.

PROBABLE IMPACTS DURING CONSTRUCTION

Construction of the proposed project, as is the case with any construction activities, may be disruptive to the surrounding area for limited periods of time throughout the construction period. The following analyses describe the overall temporary effects on transportation, air quality, noise, historic and cultural resources, hazardous materials, natural resources, infrastructure, and socioeconomic conditions during construction.

Transportation

As described in the *CEQR Technical Manual*, construction activities may affect several elements of the transportation system, including traffic, transit, pedestrians, and parking. A transportation analysis of construction activities is predicated upon the duration, intensity, complexity and/or location of construction activity.

Most of the proposed project’s construction staging (i.e., storage of construction materials, construction truck loading/unloading areas, etc.) would occur within the project sites, thereby limiting any effects on surrounding roadways and pedestrian elements. However, similar to many other construction projects in New York City, temporary curb-lane and sidewalk closures are expected to be required adjacent to the project sites during construction. In addition, if the Loop Road elbow is closed, it may be used for construction staging. As currently envisioned, the sidewalk immediately adjacent to the project sites along Loop Road and the curb-lane west of Parcel A would be closed for varying periods of time during construction. Maintenance and Protection of Traffic (MPT) plans would be developed for any lane and/or sidewalk closures during construction. If the lane and/or sidewalk closures are on NYCDOT-mapped streets, then approval of these plans and implementation of the closures would be coordinated with NYCDOT’s Office of Construction Mitigation and Coordination (OCMC).

Brooklyn Bridge Park Project Pier 6 Upland Development

As described above, construction would normally take place from 7 AM to 3:30 PM on weekdays. Construction workers are expected to park on weekdays at nearby parking resources (i.e., within ¼-mile of the project site), either on-street or within off-street parking facilities (e.g., Quik Park Garage adjacent to Pier 6, 44 State Street Corporation at 38-44 State Street, and Pro Park America at 352 Hicks Street).

Throughout the construction period, construction workers would travel to and from the project sites by personal vehicle or public transportation. In addition, the proposed project would also generate truck trips from the deliveries of materials and excavated materials. Given that construction worker commuting trips and construction truck deliveries generally occur during off-peak hours, and over a short duration of construction period (i.e., less than 24 months), the proposed actions and the construction plans as currently envisioned would not result in significant adverse transportation impacts during construction.

Air Quality

Emissions from on-site construction equipment and on-road construction-related vehicles, as well as dust generating construction activities, have the potential to affect air quality. In general, much of the heavy equipment used in construction has diesel-powered engines and produces relatively high levels of nitrogen oxides (NO_x) and particulate matter (PM). Fugitive dust generated by construction activities also contains particulate matter. Finally, gasoline engines produce relatively high levels of carbon monoxide (CO). As a result, the primary air pollutants of concern for construction activities include nitrogen dioxide (NO₂), particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (PM₁₀), particulate matter with an aerodynamic diameter of less than or equal to 2.5 micrometers (PM_{2.5}), and CO.

With regard to the air quality impacts during construction, the *CEQR Technical Manual* suggests that potential impacts should be analyzed only when construction activities would affect a sensitive receptor over a long period of time. Construction duration as defined by the *CEQR Technical Manual* is broken down into short-term (less than two years) and long-term (two or more years). As described above, the overall construction duration of Parcels A and B is anticipated to be completed over a 19-month construction period, a duration that is considered to be short-term and would not require a detailed assessment.

As appropriate, all necessary measures (i.e., watering of exposed areas and dust covers for trucks) would be implemented during construction to ensure adherence to the New York City Air Pollution Control Code regulating construction-related dust emissions.

Therefore, based on the information presented above, the proposed actions and the construction plans would not result in any significant adverse construction air quality impacts, and no further analysis is required.

Noise

Impacts on community noise levels during construction would include noise from the operation of construction equipment and noise from construction and delivery vehicles traveling to and from the site. Noise levels at a given location are dependent on the type and quantity of construction equipment being operated, the acoustical utilization factor of the equipment (i.e., the percentage of time a piece of equipment is operating), the distance from the construction site, and any shielding effects (from structures such as buildings, walls, or barriers). Noise levels caused by construction activities would vary widely, depending on the stage of construction and the location of the construction activities relative to noise-sensitive receptor locations.

Construction noise is regulated by the requirements of the *New York City Noise Control Code* (also known as Chapter 24 of the Administrative Code of the City of New York, or Local Law 113), the DEP Notice of Adoption of Rules for Citywide Construction Noise Mitigation (also known as Chapter 28), and

the USEPA's noise emission standards. These local and federal requirements mandate that specific construction equipment and motor vehicles meet specified noise emission standards; that construction activities be limited to weekdays between the hours of 7:00 AM and 6:00 PM; and that construction materials be handled and transported in such a manner as not to create unnecessary noise. As part of the Code, a site-specific noise mitigation plan would be developed and implemented that may include source controls (i.e., reducing noise levels at the source or during most sensitive time periods), and path controls (e.g., placement of equipment and implementation of barriers between equipment and sensitive receptors).

For impact determination purposes, significant adverse noise impacts are based on whether maximum predicted incremental noise levels at sensitive receptor locations off-site would be greater than the impact criteria suggested in the *CEQR Technical Manual* for more than two years. As described above, the duration of the proposed project's construction is expected to be short-term (less than two years), and while noise associated with the proposed construction activities may be considered noisy and intrusive, as is the case with any construction activities, potential increases in noise levels as a result of construction-related activities would be of limited duration and therefore not considered significant.

Therefore, based on the information presented above, the proposed actions would not result in any significant adverse construction noise impacts, and no further analysis is required.

Historic and Cultural Resources

None of the architectural resources identified in the 2005 FEIS are located on or adjacent to the Pier 6 upland area. The proposed project would result in a shift in residential units from Parcel A to Parcel B, but would not change the building locations or overall building envelopes analyzed in the 2005 FEIS. Therefore, the proposed actions would not result in any additional adverse impacts to historic and cultural resources during construction. The proposed project would also not result in any additional ground disturbance beyond what was analyzed in the FEIS that could affect archaeological resources. As noted above, to the degree that archaeological resources could be affected by construction and depending on the methods of construction ultimately employed, the LOR would be followed and the archaeological testing protocol that was developed and has been implemented as construction in the Brooklyn Bridge Park Project area has progressed would be implemented as warranted.

Hazardous Materials

In accordance with the 2005 FEIS, a Remedial Action Plan (RAP)/Construction Health and Safety Plan (CHASP) was prepared in August 2005 for implementation during excavation and construction work involving soil disturbance to assure that the construction workers, the surrounding community, and the environment are not adversely affected by the construction activities. The plan specifies the appropriate monitoring by field personnel during construction and excavation activities and details appropriate measures in the event that underground storage tanks, soil and groundwater contamination, or other unforeseen environmental conditions are encountered, including notification of the proper regulatory agencies as necessary and clean-up under regulatory guidance. With these measures, no significant adverse impacts related to hazardous materials would be expected to occur as a result of the construction activities related to the proposed project.

Natural Resources

As discussed above under "Natural Resources," the proposed actions would not increase the amount of impervious surface on the Pier 6 upland area compared to the previously-approved project, and therefore would not affect flooding in or near Brooklyn Bridge Park or increase the amount of surface runoff. The proposed development would not displace any natural habitats or affect any threatened and endangered species and would therefore have no impacts on natural resources beyond what was analyzed in the 2005

Brooklyn Bridge Park Project Pier 6 Upland Development

FEIS. The construction of the two proposed buildings would comply with all relevant stormwater management commitments and permitting requirements. Therefore, the proposed actions would not result in any significant adverse natural resources impacts during construction.

Infrastructure

As discussed above under “Water and Sewer Infrastructure,” the construction of the proposed project would comply with all relevant stormwater management commitments and permitting requirements. Therefore, the proposed actions would not result in any significant adverse infrastructure impacts during construction.

Socioeconomic Conditions

Construction activities associated with the proposed project would not result in any significant adverse impacts on socioeconomic conditions. Construction of the proposed project would not block or restrict access to any facilities in the area including the nearby Brooklyn Bridge Park components (e.g., Pier 6 dog run to the east of Parcel B) and the Quik Park public garage to the southeast of Parcel A, affect the operations of any nearby businesses, or obstruct major thoroughfares used by customers or businesses. Therefore, the proposed actions would not result in any significant adverse socioeconomic conditions impacts during construction.

C. CONCLUSION

Based on the analyses above for each of the impact categories, neither changes in background conditions nor changes to the proposed actions would result in any significant adverse environmental impacts that were not identified in the 2005 FEIS. Therefore, a Supplemental Environmental Impact Statement is not required. *

ATTACHMENT A

New York State Department of State Coastal Management Program
Coastal Assessment Form

NEW YORK STATE DEPARTMENT OF STATE
COASTAL MANAGEMENT PROGRAM

Coastal Assessment Form

A. INSTRUCTIONS (Please print or type all answers)

1. State agencies shall complete this CAF for proposed actions which are subject to Part 600 of Title 19 of the NYCRR. This assessment is intended to supplement other information used by a state agency in making a determination of significance pursuant to the State Environmental Quality Review Act (see 6 NYCRR, Part 617). If it is determined that a proposed action will not have a significant effect on the environment, this assessment is intended to assist a state agency in complying with the certification requirements of 19 NYCRR Section 600.4.
2. If any question in Section C on this form is answered "yes," then the proposed action may affect the achievement of the coastal policies contained in Article 42 of the Executive Law. Thus, the action should be analyzed in more detail and, if necessary, modified prior to either (a) making a certification of consistency pursuant to 19 NYCRR Part 600 or, (b) making the findings required under SEQR, 6 NYCRR, Section 617.11, if the action is one for which an environmental impact statement is being prepared. If an action cannot be certified as consistent with the coastal policies, it shall not be undertaken.
3. Before answering the questions in Section C, the preparer of this form should review the coastal policies contained in 19 NYCRR Section 600.5. A proposed action should be evaluated as to its significant beneficial and adverse effects upon the coastal area.

B. DESCRIPTION OF PROPOSED ACTION

1. Type of state agency action (check appropriate response):

- (a) Directly undertaken (e.g. capital construction, planning activity, agency regulation, land transaction)
- (b) Financial assistance (e.g. grant, loan, subsidy)
- (c) Permit, license, certification

2. Describe nature and extent of action:

The proposed project would involve the redevelopment of the project site with two buildings containing up to 430 residential units. It would also include up to 5,000 sf of neighborhood-oriented retail or non-fast food restaurant space; up to 10,000 sf of community facility use on the ground floor and second floor; and up to 72 parking spaces. The community facility use could include any combination of a pool, a universal pre-K (accommodating up to 75 students), non-profit office or art gallery space, public game room or meeting rooms.

3. Location of action:

<u>Kings</u> County	<u>New York City</u> City, Town or Village	<u>Parcel A is bounded by the BBP Loop Road on all four sides; Parcel B is bounded by Furman Street to the east and Loop Road to the west, with the Pier 6 dog run directly adjacent to the north, and BBP open space to the south.</u> Street or Site Description
------------------------	---	---

4. If an application for the proposed action has been filed with the state agency, the following information shall be provided:

- (a) Name of applicant: _____
- (b) Mailing address: _____
- (c) Telephone Number: Area Code _____

(d) State agency application number: _____

5. Will the action be directly undertaken, require funding, or approval by a federal agency?
Yes _____ No X If yes, which federal agency? _____

C. COASTAL ASSESSMENT (Check either "YES" or "NO" for each of the following questions)

	<u>YES</u>	<u>NO</u>
1. Will the proposed activity be <u>located</u> in, or contiguous to, or have a <u>significant effect</u> upon any of the resource areas identified on the coastal area map:		
(a) Significant fish or wildlife habitats?	_____	<u>X</u>
(b) Scenic resources of statewide significance?	_____	<u>X</u>
(c) Important agricultural lands?	_____	<u>X</u>
2. Will the proposed activity have a <u>significant effect</u> upon:		
(a) Commercial or recreational use of fish and wildlife resources?	_____	<u>X</u>
(b) Scenic quality of the coastal environment?	_____	<u>X</u>
(c) Development of future, or existing water dependent uses?	_____	<u>X</u>
(d) Operation of the State's major ports?	_____	<u>X</u>
(e) Land and water uses within the State's small harbors?	_____	<u>X</u>
(f) Existing or potential public recreation opportunities?	_____	<u>X</u>
(g) Structures, sites or districts of historic, archeological or cultural significance to the State or nation?	_____	<u>X</u>
3. Will the proposed activity <u>involve</u> or <u>result in</u> any of the following:		
(a) Physical alteration of two (2) acres or more of land along the shoreline, land under water or coastal waters?	_____	<u>X</u>
(b) Physical alteration of five (5) acres or more of land located elsewhere in the coastal area?	_____	<u>X</u>
(c) Expansion of existing public services of infrastructure in undeveloped or low density areas of the coastal area?	_____	<u>X</u>
(d) Energy facility not subject to Article VII or VIII of the Public Service Law?	_____	<u>X</u>
(e) Mining, excavation, filling or dredging in coastal waters?	_____	<u>X</u>
(f) Reduction of existing or potential public access to or along the shore?	_____	<u>X</u>
(g) Sale or change in use of state-owned lands located on the shoreline or under water?	_____	<u>X</u>
(h) Development within a designated flood or erosion hazard area?	<u>X</u>	_____
(i) Development on a beach, dune, barrier island or other natural feature that provides protection against flooding or erosion?	_____	<u>X</u>
4. Will the proposed action be <u>located</u> in or have a <u>significant effect</u> upon an area included in an approved Local Waterfront Revitalization Program?	<u>X</u>	_____

D. SUBMISSION REQUIREMENTS

If any question in Section C is answered "Yes", AND either of the following two conditions is met:

Section B.1(a) or B.1(b) is checked; or
Section B.1(c) is checked AND B.5 is answered "Yes",

THEN one copy of the Completed Coastal Assessment Form shall be submitted to:

New York State Department of State
Office of Coastal, Local Government and Community Sustainability
One Commerce Plaza
99 Washington Avenue, Suite 1010
Albany, New York 12231-0001

If assistance of further information is needed to complete this form, please call the Department of State at (518) 474-6000.

E. REMARKS OR ADDITIONAL INFORMATION

A Technical Memorandum (see attached) has been prepared to assess whether the proposed project would result in any significant adverse impacts not identified in the FEIS prepared for the Brooklyn Bridge Park project in 2005. The Technical Memorandum concluded that the proposed project is consistent with the State's coastal policies and NYC's LWRP.

Preparer's Name: Rachel Shatz
(Please print)

Title: VP, Planning & Environmental Review Agency: Empire State Development

Telephone Number: (212) 803-3252 Date: November 18, 2014

ITEM 5



FOR CONSIDERATION

June 22, 2015

TO: The Directors

FROM: Joseph Chan

SUBJECT: Procurements Guidelines

REQUEST FOR: Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts

BACKGROUND

Due to changes in law and regulations over the past year, Empire State Development's ("ESD") Procurements Manager and staff from the ESD Legal, Contracts Administration, and Finance Departments prepared the attached revised Guidelines for adoption by ESD and its subsidiaries.

PROCUREMENT CONTRACTS GUIDELINES SUMMARY

The proposed Guidelines set forth the policies and procedures to be followed by the ESD and its subsidiaries when seeking to contract for goods or services. Each subsidiary must approve for itself the Guidelines. These Guidelines will not have the force of law, and are intended as a statement of best practices and procedures. No contract is invalid merely because the Guidelines have not been followed.

The Guidelines define the universe of procurement transactions to which the Guidelines apply. Generally, all procurements must be competitive, except where State law provides for non-competitive sourcing (e.g., goods purchased from approved non-profit agencies for the blind, and procurements from the Office of General Services Centralized Contracts List). Based on the expected cost of procured goods and/or services, procurement contracts must be obtained after advertisement in the NYS Contract Reporter, except in limited instances where an exemption is obtained, generally for sole or single source procurements when only one vendor offers the desired goods or services or when a single vendor has unique qualities or experience that obviate a competitive process. The proposed Guidelines explain the various means of obtaining goods and services in an open, accountable and transparent manner, including incorporation of the ESD's Bid Opening Guidelines and the compilation of a Procurements Record for every covered Procurement Contract.

The proposed Guidelines comply with the applicable provisions of the Public Authorities Law, the State Finance Law and the State Tax Law, and the Guidelines are consistent with the State Procurement Council's Guidelines and with the Governor's directive that all state agencies and public authorities (including their subsidiaries) make responsible spending decisions, and are accountable for adequate monitoring of their spending in order to ensure the highest level of fairness, non-discrimination, openness, and transparency.

The Guidelines are intended to be user-friendly so as to assist staff in understanding the procedures to be followed and the substantive rules that govern procurements. In the Guidelines electronic format (available to all staff), many sources of help and information are included as clickable links, and required forms and policy and procedure documents can also be accessed from within the document's hyperlinks.

There are no substantive changes to the 2014 Guidelines incorporated into the 2015 Guidelines, because there have been no substantive changes in applicable law. Procedural improvements and clarifications have been incorporated, including a requirement that all bid openings take place at the Procurement Department office, or such other place as directed by the Procurement Officer.

RECOMMENDATION AND REQUESTED ACTION

The Directors are requested to adopt the 2015 Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts, effective as of the date of approval.

ATTACHMENTS

Resolution
2015 Guidelines for the Use, Awarding, Monitoring
and Reporting of Procurement Contracts

June 22, 2015

BROOKLYN BRIDE PARK DEVELOPMENT CORPORATION – Adoption of Revised Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts.

BE IT RESOLVED, that on the basis of the materials presented to this meeting, a copy of which is hereby ordered to be filed with the records of the Corporation, the proposed Guidelines for the Use, Awarding, Monitoring and Reporting of Procurement Contracts (the “Guidelines”) adopted on March 19, 2015 by the New York Urban Development Corporation d/b/a Empire State Development (“ESD), the parent corporation of the Corporation, a copy of which is attached to the materials, be and hereby is approved and adopted as of the date hereof, and the President or his/her designee is authorized to promulgate the said Guidelines in electronic form and other media for the use of the staff of the Corporation, and to take such other and further action as may be deemed necessary or appropriate to effectuate the foregoing Resolution; and

BE IT FURTHER RESOLVED, that the President or his/her designee, or in the absence of the President or such designee, the acting senior officer of the Corporation, is authorized and directed to interpret the Guidelines in a manner consistent with: (i) the staff of the Corporation initiating procurements and the Board of the Corporation authorizing procurements, and (ii) ESD staff reviewing and advising the Corporation on its compliance with the Guidelines and ESD staff processing the procurements in accordance with the Guidelines and applicable law and regulations.

* * *

Revised Procurement Guidelines 2015

NEW YORK STATE URBAN DEVELOPMENT CORPORATION
D/B/A EMPIRE STATE DEVELOPMENT
Guidelines Regarding the Use, Awarding, Monitoring
and Reporting of Procurement Contracts

Effective March 19, 2015

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NEW YORK STATE URBAN DEVELOPMENT CORPORATION
D/B/A EMPIRE STATE DEVELOPMENT (“ESD”)

Guidelines Regarding the Use, Awarding, Monitoring and
Reporting of Procurement Contracts

Effective March 28, 2014

1. Overview and Requirements

The following guidelines (the “Guidelines”) are applicable to the use, awarding, monitoring and reporting of procurement contracts of the New York State Urban Development Corporation, d/b/a Empire State Development and its subsidiaries (collectively, “ESD”). ESD is required to adopt procurement guidelines by Article 9, Title 4 of the Public Authorities Law. The same law requires annual review and updating of the guidelines by the ESD Board of Directors (“Board”), including subsidiary Boards.

These Guidelines are modeled on the New York State Procurement Guidelines published by the State Procurement Council (the “SPC Guidelines”). The SPC Guidelines apply to all state agencies and thus provide useful guidance for procurement by ESD (which is not a state agency as that term is defined in the SPC Guidelines). The SPC Guidelines cover some issues and procedures rarely encountered by ESD, but should be consulted by staff if a situation arises that does not appear to be covered in these Guidelines, since useful guidance may thereby be obtained. View the [SPC Guidelines](#).

In these ESD Guidelines, a person, firm or corporation who wishes to provide goods and/or services to ESD may be called a “**vendor**” or “**offerer**” or, when responding to a public solicitation for qualified vendors or expressions of interest in becoming an ESD vendor, a “**respondent**.”

1.1. Contracts covered, and not covered, by the Guidelines

Pursuant to Public Authorities Law § 2879 (2), “**Procurement Contracts**” are any written agreements for the acquisition of goods or services of any kind in the actual or estimated amount of five thousand dollars (\$5,000) or more. For purposes of compliance with anti-lobbying laws contained in State Finance Law § 139-j and 139-k (see p. 11), Procurement Contracts also include the purchase, lease or grant of any other interest in real property which involves an estimated annualized expenditure in excess of fifteen thousand dollars (\$15,000).

Disposition of property (real or personal) by ESD is not a procurement covered by these Guidelines, but is instead subject to ESD's Property Disposition Guidelines. However, where a property disposition requires a competitive process, that process should be conducted in accordance with these Guidelines.

Note that **loans and grants** made by ESD in furtherance of its economic development mission are not Procurement Contracts, but may be subject to certain provisions of these Guidelines, including OSC review and approval for grants over \$1 million (see p. 23)

A Contract or Memorandum of Understanding ("MOU") with a sister State agency or authority are not considered a Procurement Contract covered by these Guidelines. Note, however, that appropriate approval(s) as set out in these Guidelines (including Board approval based on the amount and/or duration of the agreement) may apply to MOUs.

In connection with certain of its projects, ESD may need to obtain a license from a governmental agency, authority, or company or a public utility in order to enter the licensor's premises and perform work. As a precondition to receiving the license, ESD can be required to enter into agreements with the licensor that prescribe conditions for work to be performed on the site, including work and/or oversight of work which must be performed by the licensor's personnel or contractors, as well as payment of licensor costs by ESD. Examples include licenses for work on rail and utility facilities. Agreements of this kind, often referred to as "**forced contracts**," are not covered by the competitive solicitation requirements of these Guidelines because ESD has no discretion or authority with respect to the work to be performed by the licensor's personnel and contractors. However, appropriate approval(s) as set out in these Guidelines (including Board approval based on the amount and/or duration of the agreement) would apply.

Procurement Contracts **up to and including \$50,000** may be handled by Purchase Order approved by Department Head, Procurement Department, Controller's Office and Contracts Administration. A formal competitive solicitation is not required, but these purchases should be made after obtaining three quotes whenever practicable. For further information, see Section 2.1 below or consult the Procurements Manager.

1.2. Types of Procurement Contracts

Procurement Contracts for personal services include legal, accounting, management consulting, investment banking, planning, training, statistical analysis, research, public relations, architectural, engineering, construction, surveying, appraisal, or other services of a consulting, professional or technical nature for a fee, commission or other compensation by a person or persons who are not providing such services as officers or employees of ESD. The reasons for the use of personal services include:

- a. Requirements of special expertise or unusual qualifications;
- b. Nature, magnitude or complexity of services required;
- c. Lack of sufficient in-house resources, support staff, specialized facilities or equipment;

- d. Lower cost;
- e. Short-term or infrequent need for the services; and
- f. Distance of the location(s) where the services must be performed from ESD offices or facilities.

The types of goods and services requiring Procurement Contracts include goods and services needed to proceed with an ESD project, or to support the administrative needs of ESD.

Thus, the types of goods that may be procured cover the entire spectrum, ranging from paper and pens to motor vehicles.

1.3. General Procurement Principles

ESD's procurement process is designed to:

- Ensure fair and open competition;
- Guard against favoritism, improvidence, extravagance, fraud and corruption;
- Ensure that the results meet agency needs;
- Provide checks and balances to regulate agency procurement activities; and
- Protect the interests of ESD, the state and taxpayers.

Procurement Contracts are to be awarded on a **competitive basis** to the maximum extent practicable. Such awards are generally made after notice is published in the New York State Contract Reporter where the amount of the contract is **greater than \$50,000** and (regardless of the amount of the Procurement Contract) after the evaluation of proposals obtained, whenever practicable, from at least three qualified vendors or respondents. (See Section 7: Types of Solicitations).

Competition in the procurement process serves both ESD and potential vendors by ensuring that the procurement process produces an optimal solution at a reasonable price; and allowing qualified vendors an opportunity to obtain ESD business, while the process guards against inflated pricing, favoritism, fraud and collusion; and allows all qualified vendors an opportunity to obtain ESD business.

2. Procurement: Overview and Requirements

2.1. The Procurement Process Guide

I. Procurements up to \$50,000

If ESD's procurement needs can be met by a preferred source vendor, we must use this option.



If ESD's needs cannot be met by a preferred source, you may elect to use an OGS Centralized contract. Wherever practicable, you should still solicit two other quotes if this option is selected.



If ESD's needs cannot be met by the above mentioned options, you may elect to use a discretionary purchase through the use of a NYS certified MWBE or a NYS Small Business up to \$50,000.



If ESD's needs cannot be met by the above mentioned options, you may elect use an informal solicitation. Contact the Procurement Unit for further assistance if needed.



If this is an emergency situation or only one vendor can meet the needs required for service, the initiating department head has to justify the need to Single Source or Sole Source this request on their justification memo.

II. Procurements above \$50,000

If ESD's procurement needs can be met by a preferred source vendor, we must use this option.



If ESD's needs cannot be met by a preferred source, you may elect to use an OGS Centralized contract. Wherever practicable, you should still solicit two other quotes if this option is selected.



If ESD's needs cannot be met by the above mentioned options, you may elect to use a discretionary purchase through the use of a NYS certified MWBE or a NYS Small Business up to \$200,000.



If ESD's needs cannot be met by the above mentioned, use a Request of Proposals ("RFP"), Request for Qualifications ("RFQ") or Request for Expressions of Interest (RFEI), and advertise in the Contract Reporter if this is not an emergency situation and ESD's needs can be met by more than one vendor.



If this is an emergency situation or only one vendor can meet the needs required for service, obtain a Contract Reporter Exemption from the Legal Department using Single Source or Sole Source exemption as appropriate.

2.2. NYS Preferred Sources

Goods and services needed by ESD may be available, without the need for competitive procurement from New York State Preferred Sources. If a Preferred Source has goods or services available in the form, function and utility required by ESD, at a price not more than 15% above the prevailing market rate, the goods or services should be obtained through the Preferred Source in the following prioritized order: NYS Department of Correctional Services Correctional Industries Program (CORCRAFT); approved charitable non-profit agencies for the blind; and approved charitable non-profit agencies for the severely disabled, qualified programs for the mentally ill, and qualified veterans workshops. For information on these Preferred Sources, see SFL § 162 and the Office of General Services' Preferred Sources Guide.

2.3. OGS Centralized Contracts

Goods and services needed by ESD may be available, without the need for competitive procurement, through centralized contracts held by the NYS Office of General Services ("OGS"). Information about centralized contract offerings can be obtained from the list of approved state contractors maintained by OGS.

Note that even if a OGS centralized contractor is available, it is recommended that staff obtain three price quotes from other OGS contractors or other vendors not on the OGS list, unless a compelling justification exists (e.g., experience with a particular project).

2.4. Commodities Contracts

The OGS Procurement Services Group (PSG) establishes centralized contracts for commodity contracts in the form, function and utility required by State agencies, for a wide range of items commonly acquired by agencies. If the commodity is available from a centralized contract in form, function and utility consistent with ESD's need, such item may be purchased from the centralized contract. However, ESD may competitively procure items otherwise available on a centralized contract when the resultant price is less.

2.5. Service Contracts

ESD has discretion to use the OGS centralized service contracts list. A wide and diverse range of services from routine maintenance to complex technology-based acquisitions are available through these OGS contracts. Again, ESD may competitively procure items otherwise available on the OGS centralized contract list when the resultant price is less.

2.6. Discretionary Purchases

ESD may purchase services or commodities from small business concerns or those certified pursuant to Article 15-A of the Executive Law (Minority and Women-Owned Businesses), or

commodities or technology products that are recycled or remanufactured, in an amount not exceeding two hundred thousand dollars (\$200,000) without a “formal competitive process.” In such a case, three quotes should be obtained wherever practicable, and Contract Reporter advertising is advisable when time permits. The award of a discretionary purchase contract should be notified in the Contract Reporter. For more information on discretionary purchases see www.ogs.ny.gov.

3. Contract Reporter Exemptions

3.1. Reasons for Exemptions

Advertising a procurement in the Contract Reporter is generally required unless specific grounds exist that constitute a reason for exemption. A Contract Reporter exemption may be granted by the Officer(s) specified in Attachment A to these Guidelines, only if any of the following circumstances can be demonstrated:

- (a) **Sole Source.** Only one source for the goods or services is available. Three examples of sole source procurements: (i) proprietary software compatible with ESD operating systems that no-one else offers; (ii) a printer’s warranty requiring that only a toner cartridge supplied by the manufacturer could be used without voiding the warranty; (iii) a vendor has developed a proprietary system for remediating contaminated land, unavailable from anyone else.
- (b) **Single Source.** The required goods or services are available from two or more vendors, but a particular vendor is preferable because of specific factors such as, without limitation, past experience with a particular issue; familiarity with ESD’s operations; experience with similar projects of ESD, other agencies or at other levels of government; demonstrated expertise; or capacity and willingness to respond to the situation. An example would be an environmental consultant who worked on an EIS for a project and now a Supplemental EIS is required for the same project; many consultants could do the work, but the original consultant’s familiarity with the project justifies selection as a single source.
- (c) **Emergency Circumstances.** Emergency circumstances exist when an urgent and unexpected situation arises which places public health or safety or the use or conservation of resources at risk and requires immediate action. Poor or late planning does not constitute an emergency. Contracts entered into as a result of an emergency situation should only cover the goods or services reasonably necessary to stabilize, ameliorate or remedy the situation. An example is a hazardous condition at a building owned by ESD: a contractor can be hired immediately to deal with the situation.

NOTE: Notwithstanding any Contract Reporter exemption that may be granted for any of the reasons set forth above, a reasonable attempt should be made wherever practicable to solicit at least three competitive bids, with written confirmation of the bids furnished within a reasonable time and maintained in the contract file. Also, any sole or single source contract awarded over \$50,000 should be notified in the Contract Reporter (Economic Development Law, ' 143 (4)).

3.2. Authorization for Exemptions

The initiator of the proposed contract must obtain a written Contract Reporter exemption authorization. This is done by means of a memorandum to the Officer(s) specified in Attachment A to these Guidelines.

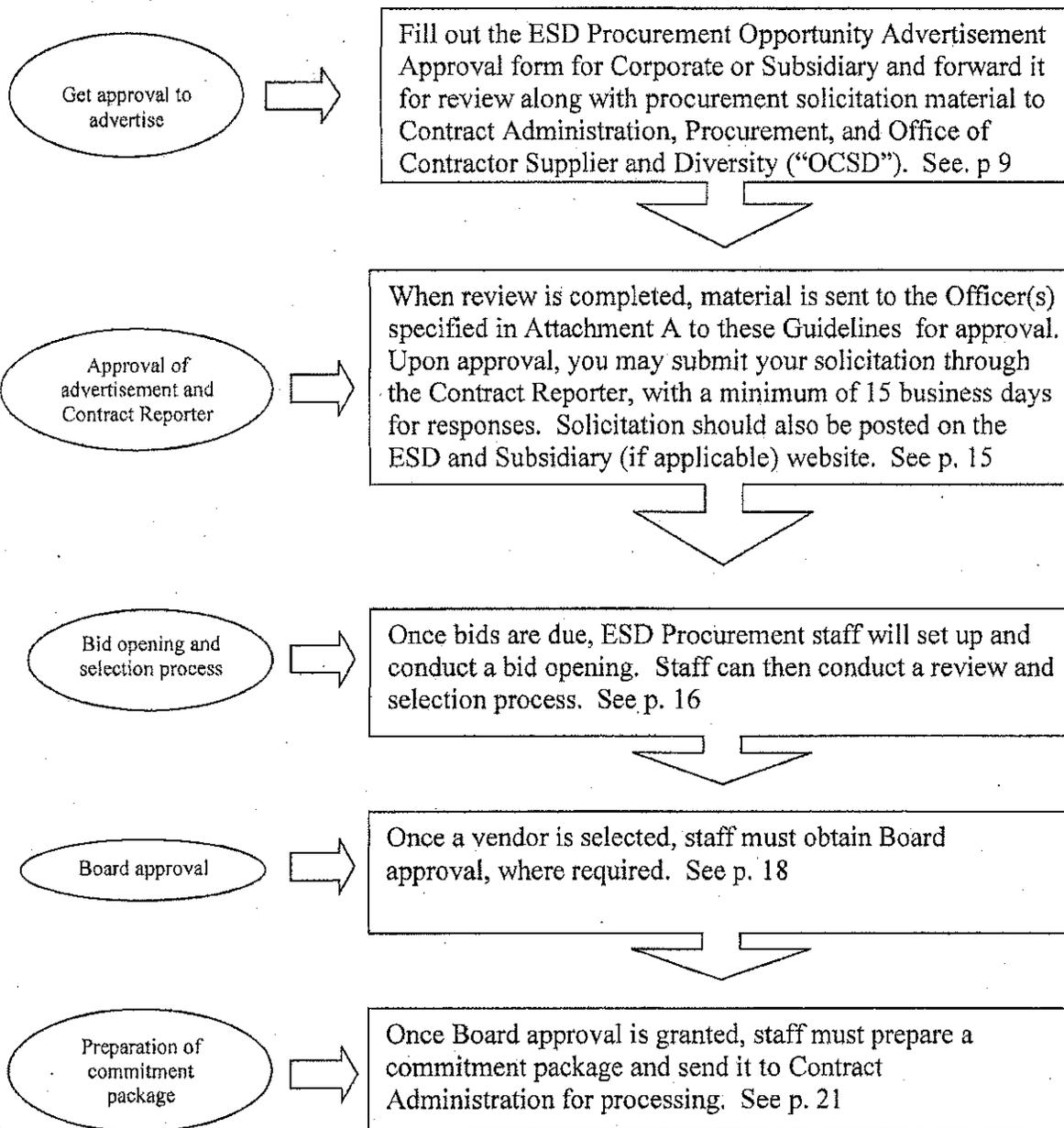
The memorandum requesting the exemption must document in reasonable detail: the circumstances establishing the exemption justification; a description of the goods or services to be acquired via the exemption; description of funding source; any alternatives considered; and the basis for determining that the cost of the proposed contract is reasonable under the circumstances.

If the proposed contract amount is greater than \$50,000, or will last more than one year, the exemption authorization should be obtained before ESD Board's approval. If Board approval is not required because the proposed amount is less than \$50,000 and the term of the contract is less than one year, the exemption authorization should be obtained from the Officer(s) specified in Attachment A to these Guidelines prior to contract execution and the commencement of any services or delivery of any goods.

Note that even if a Contract Reporter exemption is granted, compliance with SFL § 139-j and 139-k and State Tax Law § 5-a must still be satisfied (see p.11). Where appropriate, a statement from the staff initiator that the price obtained for the goods or service is compatible with market pricing must be presented with the exemption request.

At the time ESD enters into a contract with a single or sole source provider for an amount in excess of \$50,000, ESD shall submit an announcement of the contract for inclusion in the Contract Reporter, and shall specify the recipient of the contract.

4. How to Conduct a Competitive Solicitation



5. Approval to Advertise

Prior written approval of the Officer(s) specified in Attachment A to these Guidelines is required when you need to advertise a procurement opportunity, including Requests for Proposals ("RFPs"), Requests for Statements of Qualifications ("RFQs") and Requests For Expression of Interest ("RFEIs") (See Section 7: Types of Solicitation).

Note also that other approvals may be required to comply with State Division of Budget procedures (see Section 11.4). Submit the ESD Procurement Opportunity Advertisement Approval form (select Corporate or Subsidiary) to the appropriate officer at least 10 business days in advance of the relevant New York State Contract Reporter publication submission date. The Contract Reporter is now published daily.

6. Contents of ANY Procurement Solicitation

Whether the procurement is formal (such as an RFP, RFQ or RFEI) or informal (such as procurement for \$50,000 or less, or a Discretionary Purchase from an MWBE for less than \$200,000) the same basic information should be included in the solicitation:

- (i) What goods are being sought or what scope of services is desired;
- (ii) What the length ("term") of the resultant contract will be;
- (iii) What criteria will be used in evaluating bids, and how those criteria are weighted? For example, price, bidders' expertise, past history of government contracts, references/testimonials;
- (iv) Where known, the maximum price that ESD is prepared to pay for the goods or services;
- (v) A schedule of relevant dates (when bid is due, when questions may be asked or briefing meetings held, etc);
- (vi) ESD's insurance requirements;
- (vii) ESD's required diversity and minority participation (MWBE) goals;
- (viii) Disclosure to bidders that they must be able to demonstrate that they are responsible bidders, in good standing under the laws of New York and capable of fulfilling the requirements of the contract, and untainted by past non-performance or criminality;
- (ix) A copy of the contract that the successful vendor will be expected to agree to (generally, ESD's Short Form Contract and Schedule A);
- (x) VENDREP Form where needed (See Sections 8.3 and 9.4);

- (xi) Encouragement of use of New York State businesses as sub-contractors or suppliers (See Section 8.6).

7. Types of Solicitations

7.1. General

There are a number of procurement techniques available, including Request for Proposals (RFP) and Request for Statements of Qualifications (RFQ) and, rarely, Requests for Expressions of Interest (RFEI). When selecting among these various approaches, the determining factors are:

- The importance of price or cost as a component in the review of incoming bids or proposals; and
- The ability to define specifications for goods or services being acquired, or to obtain those specifications from potential vendors (where the RFEI may be useful).

Generally, contracts for goods are to be awarded on the basis of “lowest price” and contracts for services are to be awarded on the basis of “best value” among responsive and responsible vendors. “Best value” is the basis for awarding service and technology contracts to the vendor that optimizes quality, cost and efficiency, among responsive and responsible vendors. The basis for a “best value” contract award must be, wherever possible, quantifiable. However, all procurement solicitations issued by ESD are to be guided by the same basic principles:

Clarity: Procurement documents should clearly convey to vendors what it is ESD wants to buy;

Fairness: No vendor should be advantaged over another. All information concerning the solicitation shall be conveyed in writing to all vendors participating in the process, including but not limited to process rules and evaluation criteria;

Openness: All relevant vendors should have an equal opportunity to respond to the offering.

Disclosure of Selection Criteria: The criteria for awards should be developed before bids/proposals are received. Vendors should know generally the basis upon which their offers are being judged. Note that if cost is weighted below 20%, a written justification for such weighting should be prepared and included in the Procurement record;

Efficiency: The process should be efficient, fair and able to withstand public scrutiny.

7.2. Requests for Proposals (“RFP”)

RFP’s solicitations may range from relatively uncomplicated procurements to highly complex, long term efforts involving the significant commitment of both ESD and vendor resources.

RFPs follow a common format, focusing on a description of tasks including, but not limited to:

- Description of program objectives and background;
- Scope of services to be provided;
- Detailed requirements or specifications (required qualifications of vendors, “what” is needed and “how” services should be provided). Note that the terms of the RFP may not be knowingly tailored to favor a particular vendor.

7.3. Requests for Statements of Qualification (“RFQ”)

RFQ’s are appropriate for retention of qualified pools of contractors to provide defined types or scopes of services (and, rarely, goods) required by ESD on a regular or semi-regular basis as the need arises; or to select professional services to be rendered at pre-established rates. Competitive establishment of a pool or list of pre-qualified vendors is appropriate, for example, in the case of contractors or property appraisers. If ESD has established a list of pre-qualified contractors, unless services will be rendered by all qualified vendors at rates not to exceed a pre-set maximum, three quotes should be obtained from vendors on the list, and/or from vendors known to ESD outside the list.

7.4. Requests for Expressions of Interest (“RFEI”)

RFEIs are generally appropriate when ESD does not know the precise scope of services or goods required, and wishes to obtain this information from prospective vendors. An example would be a proposal for adaptive re-use of ESD or other state surplus property, where the re-use is likely to be dependent on the prospective respondents’ needs or ideas.

8. Compliance with Other Laws

8.1. Compliance with State Finance Law § 139-j and 139-k (Lobbying)

State Finance Law (“SFL”) § 139-j and 139-k apply to all Procurement Contracts over \$15,000, regardless of whether the contract was competitively bid.

Among other things, SFL § 139-j and 139-k: (i) govern permissible communications between potential vendors, and staff of ESD, its subsidiaries, or other involved governmental entities during the procurement process; (ii) require the disclosure of such communications, as well as prior determinations of vendor non-responsibility; and (iii) establish sanctions for knowing and willful violations of such provisions, including disqualification from eligibility for an award of any contract.

Specifically, SFL § 139-j and 139-k require that only permitted ESD and subsidiary contact person(s) identified in solicitation materials may communicate with potential bidders regarding the solicitation, from the issuance of the earliest written notice of a request for proposal through the final award and approval of any resulting contract. This period is defined by law as the "Restricted Period."

SFL § 139-j (6)(b) also requires potential vendors to complete the Offerer's Affirmation of Understanding and Agreement to comply with ESD's procedures relating to permissible contacts. This written affirmation is deemed to apply to any amendments to a procurement submitted by ESD after an initial affirmation is received with an initial bid.

SFL § 139-k governs the disclosure of prior non-responsibility determinations by potential vendors. SFL § 139-k(5) requires potential vendors to certify that the information they provide to ESD for consideration in its determination of vendor responsibility is true and accurate.

Therefore, all prospective vendors must complete and submit two forms mandated by SFL ' § 139-j and 139-k as part of their proposals: 1) the Offerer's Affirmation of Understanding and Agreement; and 2) the Offerer's Disclosure of Prior Non-Responsibility Determinations.

When contacted during the Restricted Period, ESD staff, must obtain the following information; the name, address, telephone number, place of principal employment and occupation of the person or organization making the contact. Further, ESD staff must inquire whether the person or organization making the contact was the offerer or retained, employed or designated by the offerer. All such recorded contacts must be included in the procurement record for the procurement contract.

In addition, ESD staff must record any contacts that reasonably appear to be an attempt to influence the procurement process as well as contacts with staff members other than the designated contact person(s) during the Restricted Period of procurement. However, SFL § 139-j and 139-k do not prohibit an offerer from communicating with a member of the state legislature or legislative staff about a government procurement, provided such member of the state legislature or legislative staff is acting in his or her official capacity. If a vendor is found to have knowingly and willfully violated the State Finance Law provisions, that prospective vendor and its subsidiaries, related or successor entities will be determined to be a non-responsible vendor, and will not be awarded any contract issued pursuant to the solicitation. Two such findings of non-responsibility within a four-year period can result in debarment from obtaining any New York State government procurement contract.

For further guidance, ESD staff engaged in the procurement process should review ESD's policy regarding permissible lobbying contacts, and the required language for solicitations by ESD and its subsidiaries to ensure compliance with SFL § 139-j and 139-k.

Note that, once a recommended vendor has been selected after compliance with the competitive bidding process, it may be necessary for staff members to negotiate contract terms, etc., with the designated vendor. Those negotiations are not prohibited, and need not be conducted only by the designated contact person, although it is good practice to have the contact person present. However, any communication from a person other than the vendor that may reasonably be

considered to be an effort to influence the negotiation of a contract (either positively or negatively) is an impermissible contact and must be reported as such. For example: an ESD employee who is in the process of negotiating the terms of a land development deal which the Board has not approved, receives a call from an outside person saying that the vendor should get more development land because the vendor has a wonderful track record. Such a call constitutes lobbying and must be reported as such. The caller should be informed that the call will be reported, and asked to communicate directly with the designated contact person in the future.

8.2. Compliance with State Tax Law § 5-a (Sales Tax Registration)

State Tax Law § 5-a prohibits ESD and its subsidiaries from approving any contract valued at more than \$100,000 with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 during the four quarters preceding the proposed contract date, and is not registered with the Department of Taxation and Finance ("DTF") for sales and compensating use tax purposes.

Accordingly, all respondents to a solicitation where the amount of the contract is expected to exceed \$100,000 must include in their responses a properly completed Form ST-220-CA. However, if a vendor is not registered with DTF because of a lack of sales of over \$300,000 within the relevant period, the vendor must submit an affidavit so certifying. Note also that § 5-a does not apply to contracts for architectural, engineering or surveying services. If in doubt, contact the ESD legal department after having reviewed DTF Publication 223.

Failure to include a properly completed form ST-220-CA or affidavit may be a basis for considering any such response incomplete. However, the vendor or respondent should be given an opportunity to cure such failure, because some agencies do not require the form until contract signing, and vendors may not realize that ESD practice is different. Only the primary respondent vendor completes Form ST-220-CA, but Schedule A to Form ST 220-CA requires detailed information from the vendor's sub-contractors, such as tax ID number, etc. If applicable, certificates of authority evidencing registration with DTF for sales tax purposes must be attached by the prime vendor and all the sub-contractors.

Further in accordance with the requirements of § 5-a, any contract resulting from a solicitation will require periodic updating of the certifications contained in Form ST-220-CA.

8.3. Use of the Vendrep Form and Vendor Responsibility

As required by Executive Order, all vendors must be found to be "responsible", and remain so through the term of the contract. The Office of the State Controller has developed a useful resource, the VENDREP form, which should be requested from all bidders for contracts where a Vendor Responsibility determination will be needed (most contracts, and all which will require Board approval). See Section 9.4 below for further guidance on vendor responsibility. The Vendrep forms can be accessed here: www.osc.state.ny.us/vendrep/webresources.htm.

8.4. Compliance with Executive Law Article 15-A: Contractor and Supplier Diversity

All Procurement Contracts must comply with the requirements of Executive Law Article 15-A, which promotes employment and business opportunities for minorities and women on State contracts "to encourage and assist State agencies in their efforts to increase participation by minority and women-owned business enterprises ("MWBEs") on State contracts so as to facilitate the award of a fair share of such contracts to MWBEs."

Where practical, feasible and appropriate, ESD shall promote and assist participation by minority and women-owned businesses in the selection and award of all contracts. Such minority and women-owned business participation shall be documented in a regular supplement, prepared by ESD's Office of Contractor and Supplier Diversity ("OCSD"), for inclusion in the quarterly and annual reports made by Contracts Administration to the Board. To assist in the gathering of this information, the originator must provide OCSD with a completed Schedule of Minority/Women Business Participation, from the potential contract awardee, for OCSD's review and approval, prior to contract award. The required forms are accessible here.

8.5. Compliance with Iran Divestment Act of 2012

Every bid or proposal made to ESD pursuant to a competitive solicitation as provided in these Guidelines must contain the following statement, signed by the bidder or respondent and affirmed as true under penalty of perjury:

"By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law."

The list in question is maintained by OGS. No bid that fails to certify compliance with this requirement may be accepted as responsive, unless the bidder includes a statement in compliance with the Iran Divestiture Act (contact the Legal Department for guidance in such a case).

8.6. Encouragement of use of New York Businesses as sub-contractors and suppliers.

The Secretary to the Governor has issued a directive that provides that all vendors who anticipate using sub-contractors or suppliers to fulfill procurement contracts must be encouraged (but not required) to use New York State businesses. All procurement solicitations of any kind must include specific language aimed at such encouragement. The model language can be accessed here.

http://intranet.empire.internal/Resources/Data/Procurement/03042014_NYS_SubcontractorsandSuppliers.pdf

8.7. Project Sunlight

Project Sunlight is an important component of the Public Integrity Reform Act of 2011 that was passed by the Legislature and signed by the Governor. Under this law, the state governmental entities specified in the law are required to cooperate with the Office of General Services (OGS) and identify in a database developed by OGS all individuals, firms or other entities (other than State or local governmental agencies) that appear before such entity on behalf of themselves or in a representative capacity on behalf of a client or customer for any of various specified purposes. This includes appearances related to (a) procurement, (b) ratemaking, (c) regulatory matters, (d) judicial or quasi-judicial proceedings, (e) adoption or repeal of a rule or regulation.

Project Sunlight's reporting requirement for procurement appearances applies to those appearances that are for the purpose of procuring a State contract, irrespective of whether there is a governmental procurement planned. Thus, reporting is required for appearances relating to State contracts for which a Restricted Period under the Procurement Lobbying Law has not been established and without regard to whether a governmental procurement is anticipated. Appearances during the Restricted Period—whether they are bid clarification meetings or bid interviews or any other permissible contact under the State Finance Law do not need to be reported. As well as, appearances following the award of a State contract do not need to be reported.

8.8. Publication on ESD Website

Competitive solicitations must be made available on the ESD (and subsidiary, if applicable) website after advertisement in the NYS Contract Reporter. This website is also the appropriate place to post Questions and Answers regarding the procurement. (See Section 9: Contract Reporter Advertising Process).

8.9. Standard-Form Attachments

Procurement Contracts, which includes amendments to existing contracts, should include ESD's standard forms, including as appropriate ESD's Standard Short Form Contract as well as further required contract terms (Schedule A for consultants or law firms,; ESD's Non-Discrimination and Affirmative Action Provisions and Schedule of Minority/Women Business Participation; SFL § 139-j and 139-k and State Tax Law § 5-a (or affidavit of non-applicability). Insurance requirements must be obtained from Contract Administration for all solicitations and, if needed, must be included with the forms.

9. Contract Reporter Advertising Process

As stated above, ESD must advertise in the New York State Contract Reporter all contracts for the acquisition of goods and services of \$50,000 or more, unless an exemption is granted. In order to access the online system and place the advertisement, the initiator should contact Contracts Administration.

The minimum time for vendors to respond to a Contract Reporter solicitation is 15 business days (i.e., Saturdays, Sundays and legal holidays are excluded). View the Contract Reporter's daily publication schedule.

Where practicable, staff members responsible for a proposed Procurement Contract should make reasonable efforts to identify potential vendors in addition to those identified through the Contract Reporter. This may be done by obtaining referrals from other governmental entities that may have similar requirements, reviewing reference directories, mailing solicitation materials to industry associations and/or known vendors and mailing to lists of appropriate minority and women-owned business maintained by ESD's Non-Discrimination and Contractor & Supplier Diversity Department.

9.1. Selection Criteria

Written selection criteria shall generally be established for each proposed Procurement Contract and shall be included in any written solicitation materials. The relative weighting of the selection criteria should be set out in the RFP wherever practicable and, in the absence of written weighting, each criterion shall be deemed to have the same weight.

The selection criteria shall generally include price as an important factor to be considered in the selection process; however many ESD procurements are based on "Best Value," which allows for factors other than price to be taken into account. Such factors commonly include the quality of goods and services, the experience of the vendor and specific expertise with respect to the goods or services to be supplied. See also Section 7.1 above if price is weighted at less than 20%.

9.2. Bid Opening Procedures

All proposals should be received by the Procurement Department (unless the Procurements Manager directs otherwise), and immediately should be stamped with the date and time of receipt. **DO NOT OPEN ANY BID PACKAGES FOR ANY REASON BEFORE THE FORMAL BID OPENING.** ESD staff members representing Contracts Administration/Subsidiary Finance, Legal, Procurements, OCSD and the initiating Department/Subsidiary should be present at bid openings in person or by teleconference. Bids shall be opened by the Procurement Manager or his/her designee, and the time and date of receipt shall be entered into the Bid Log, which must be signed by all staff members present. Teleconference participants must confirm their presence by email to the Procurements Manager. The Bid Log shall also record the presence of SFL 139j-k and ST-220 forms in the bid.

A Public Bid Opening is required for Public Works contract solicitations, pursuant to State Finance Law § 144. This section generally covers bids for construction work on public projects, and may include preparatory work such as demolition, asbestos abatement and the like. ESD or a subsidiary must be a party to the contract, which must involve the use of laborers, mechanics or workers (not, for example, architects and engineers). The definition of a "Public Work" is more a matter of art than law: if in doubt as to whether the contract is for Public Work, contact the Legal Department for guidance.

9.3. Bid Evaluation and Vendor Selection

The initiating Department Head should establish, prior to bid opening, a team of at least three ESD staff members with relevant knowledge and experience of the goods and/or services being procured. One member should come from Contracts Administration or Finance. In some cases, one or more non-ESD team members may join the review team, where those persons have specific knowledge of the procurement subject, or a specific role to play in the administration of the contract with the successful bidder. If non-ESD staff is included in the review team, the team must be expanded in number such that a majority will always be ESD staff members.

Analysis of the proposals and/or bids submitted and the award of the contract shall be documented in reasonable detail. Award to anyone other than the low bidder must include in the documentation the reason the low bidder was not selected.

In reviewing bids, all members of the team must complete and sign scoring sheets that rate each bidder according to the selection criteria and weighting set out in the RFP. Scoring sheets must not include anything other than numerical ratings (i.e., no comments/opinions/notes, etc). Original scoring sheets must be signed and retained by the Procurements Manager as part of the Procurement Record.

9.4. Determination of Responsibility – “FLIP Review”

Pursuant to State Finance Law ' 163, ESD or the Subsidiary Board must determine that a vendor or respondent is a responsible contractor, prior to approving the award of a contract. In any event, whether or not a formal Determination of Responsibility is sought from the relevant Board, the initiator should ensure that all vendors are “responsible.”

Vendor responsibility is generally accomplished by “FLIP” review. FLIP review involves assessment of four factors: (i) Financial and organizational capacity; (ii) Legal authority to do business in the state; (iii) Integrity of the owners/officers/principals; and (iv) Past performance on prior government contracts.

The Office of the State Controller has developed a useful resource, the VENDREP form, that should be used wherever possible. This form seeks information about the vendor, its affiliates and subsidiaries, officers and owners, past responsibility determinations by agencies and investigations/prosecutions. It must be notarized, and false statements may be actionable and in some cases may be criminal. The Vendrep forms can be accessed here: www.osc.state.ny.us/vendrep/webresources.htm.

For more information, including links to forms used in a determination of responsibility, see Best Practices on the OGS website. Note that FLIP review is not needed for procurements from the OGS Centralized Contracts list.

If a vendor is considered to be non-responsible, steps must be taken to afford the vendor due process rights, including an opportunity to explain its position in writing and, in some cases, at a meeting. Consult the ESD Legal Department in such cases, after having reviewed the information at the following website:

www.ogs.state.ny.us/procurecounc/pdfdoc/BestPractice.pdf

9.5. Procurement Record

The ESD department head or his or her designee shall be responsible for creating and maintaining a record of the procurement process. Such record shall contain documentation related to the procurement process, any competitive solicitation exemption, proposals and/or bids received, scoring sheets, vendor responsibility documentation and other documents prepared or used by the bid reviewers in their vendor selection process. Note that final scoring sheets must be sent to the Procurements Manager before a contract is executed.

10. Contract Approval

Procurement Contracts in amounts **\$50,000** or less that will be completed within one year must be approved by the Officer(s) specified in Attachment A to these Guidelines .

Procurement Contracts over \$50,000, as well as contracts for any amount involving personal services to be rendered over a period in excess of one year, must be approved by the ESD (or Subsidiary) Directors. However, **warranty and product maintenance/support/lease contracts (including but not limited to auto leases)** are not considered personal services and do not require approval by the Board unless the amount of such contract is over \$100,000 in aggregate through the life of the contract.

10.1. Board Materials

The initiator writes a memorandum from the respective Department Head to the Officer(s) specified in Attachment A to these Guidelines, explaining the need for the contract. View Model Directors' Materials for Procurement Contracts.

The Board materials must set out:

- a. the need for goods and services;
- b. a brief description of the goods or services needed;
- c. the expected maximum cost of the proposed goods or services;
- d. the selection process used to determine an award based on best value, or where not quantifiable, the justification which demonstrates the best value will be achieved; and
- e. The funding source.

10.2. ESD Contract and Amendment Approval

- a. Contracts in amounts under \$50,000 must be approved by the Officer(s) specified in Attachment A to these Guidelines.
- b. Contracts (i) in amounts over \$50,000 or (ii) contracts for any amount involving services to be rendered over a period in excess of one year must be approved by the ESD (or Subsidiary) Directors.
- c. If staff anticipates that a contract may need to be extended beyond one year, ensure that Board approval is requested and that the materials and resolution specifically permit an extension of the contract. Once Board approval is obtained, the contract with the vendor must contain a clause that specifically permits extension. If the contract does not contain such a clause, and the contract needs to be extended, Contract Reporter advertising is required unless an exemption is granted.
- d. Contracts for goods to be provided or services to be rendered over a period in excess of one year, regardless of the amount of the contract, which therefore must have been approved by the Board, must in addition be reviewed annually by the ESD (or Subsidiary) Directors, pursuant to Public Authorities Law § 2879.3(b)(ii). The initiating Department Head must provide an annual report setting forth the status of all continuing goods and/or services contracts, together with justification for the continuance of such contracts for the next year. This annual status report can be made to Contracts Administration and Subsidiary Finance by filling out a contract summary/contract status report. The status reports will also be part of the annual budget and spending review process for all existing ESD and Subsidiary budgets, which must be annually approved by the respective Directors. The annual status reports will thus serve to clarify the need to continue existing multi-year goods and/or service provider contracts.
- e. Contract documents should be fully executed and delivered by both parties prior to the commencement of any work. However, if in the discretion of the initiating Department Head it is essential that work on the contract be commenced before the formal contract documents have been approved, the ESD Chief Executive Officer, Executive Vice President, General Counsel or Chief Financial Officer may issue a letter authorizing a contractor to commence work pending completion and execution of formal contract documents ("**Notice to Proceed**"), provided that:
 - i. The contract is not subject to Office of the State Comptroller ("OSC") approval (See Section 11.5); and
 - ii. the authorization contained in the Notice to Proceed does not exceed \$50,000; and

- iii. the initiating Department Head seeking the Notice to Proceed obtains in advance, via memorandum (with copies sent to Contract Administration and Procurement) an explanation in reasonable detail the need for the immediate commencement of contract performance, and the written authorization of two of the following: ESD Chief Executive Officer, Executive Vice President, General Counsel or Chief Financial Officer.

f. **Amendments to existing contracts** follow the same process as new contracts, i.e., the amendment needs to be advertised in the New York State Contract Reporter or exempted. The same documents, such as justification memo/contract status report, commitment request form and/or standard amendment form must be generated. If the proposed amendment will involve a new Contract Reporter advertisement or other solicitation, the requirements of SFL §139-j and 139-k and State Tax Law § 5-a will apply, and in any case, new certifications may be required. Note that an amendment to an existing contract that causes the aggregate amount of the contract to exceed \$1 million may be subject to OSC approval, regardless of the amount of the amendment and source of funds.

g. Contract amendments that increase the contract amount to \$50,000 or more must be approved by the ESD or Subsidiary Directors. Amendments for less than 10% of the original contract amount (or the contract amount as subsequently approved by the Board) may be executed by the ESD or subsidiary Chief Executive Officer or Chief Financial Officer without further Board approval, unless the amendment increases the contract to an amount above \$50,000 and Directors' approval has not been previously obtained. An Amendment Package must be sent to Contracts Administration for approval and processing (see Commitment Request Package on the next page for guidance). If a proposed amendment will increase the term of the contract to more than one year, Contract Reporter advertising is necessary unless, as discussed in paragraph (c) above, the original contract contained a clause specifically permitting extension.

In the case of contracts for more than \$1 million, where the initiator anticipates that unforeseen contingencies and changes of scope may arise and require changes in the contract amount, Board approval should be sought from the outset for amendment of the contract up to 10% of the amount approved, to be executed without further Board approval by the Chief Executive Officer and the Chief Financial Officer of the corporation. Note that such an amendment may require OSC review and approval (see section 11.5 below). If in doubt, consult the Legal Department.

11. Steps After Contract Approval Is Obtained

11.1. Commitment Request Package

- a. The contract initiator completes the required information on the Commitment Request Form.
- b. The contract initiator completes the Standard Form Contract -Short Form for Goods/Services, if applicable, with the relevant attachment ("Schedule A") which may be Standard Form for Materials/Services, Architect Agreement, Attorney Agreement, or Standard Form Amendment or Modification of Contract.

Remember that the provisions and the requirements of the proposed contract must be specific and stated in clear and unambiguous terms so they are fully understood by the contracting parties. It is important that the contract clearly specify what is expected of both the contractor and ESD, and the method of payment to the contractor. The more clear and specific the contract, the easier it will be to monitor.

The terms of the contract should include, but not be limited to:

- the scope and purpose of the contract;
 - the description of the services to be performed;
 - the location where the work is to be performed;
 - the standards to be used to measure performance (e.g. units of services, number and nature of clients served, target dates, etc.);
 - the level of expertise that is required to perform the tasks, the cost and the method payment of the contract;
 - the starting date and the contract period;
 - the finished product or the services to be delivered;
 - record-keeping and reporting requirements, including a statement that ESD and any relevant State agency has the right to audit the contractor's records;
- c. Written explanation of the responsibility determination/FLIP Review and/or formal Determination of Responsibility, where required.
 - d. ESD/Subsidiary Board of Directors Approval, if applicable. View sample Board materials.
 - e. New York State Contract Reporter Form, approved exemption letter, or NYS OGS Centralized Contract.
 - f. All appropriate insurance certificates, as approved by the ESD Insurance Administrator, a copy of the appropriate officer's approval and a copy of

the RFP, if applicable. Note that all contractors must have evidence of Workers' Compensation and Disability Insurance coverage.

- g. Three (3) original sets of the contract package or amendment with: (i) Schedule A (conditions applicable to consultant or legal agreements); (ii) Schedule B (scope of work and compensation terms); (iii) Schedule C (Non-Discrimination and Affirmative Action Provisions and Schedule of Minority/Women Business Participation and Compliance with Executive Law Article 15-A); (iv) Schedule D (ST-220 Contractor Certification Form pursuant to Tax Law § 5-a); (v) Schedules E-1 (Compliance with SFL § 139-j and 139-k, the Offerer's Affirmation of Understanding and Agreement pursuant to SFL § 139-j (3) and 60 (b), the Offerer Disclosure of Prior Non-Responsibility Determinations under SFL § 139-k(2); and (vi) the Encouragement of NY sub-contractors and suppliers form.
- h. The initiator signs and obtains the Department head approval on the Commitment Request form and forwards the commitment package (all documents listed above) to Procurement for compliance review and approval. When approved, Procurement will route the commitment package to Contract Administration. The commitment package must be accompanied by a completed Commitment Package Checklist.
- i. Contract Administration routes and tracks the commitment package and obtains necessary approvals from various ESD Departments.
- j. Upon obtaining in-house approvals, Contract Administration sends all three (3) sets of the contract or amendment package to the vendor for signature(s).
- k. After receiving three (3) signed sets from the vendor, Contract Administration sends all three sets to the Officer(s) specified in Attachment A to these Guidelines for signature.
- l. One original copy of the fully-executed contract is sent by Contract Administration to the vendor.

11.2. Contract Reporter Award Notification

If a contract is awarded after a Contract Reporter Solicitation, the award, along with the Schedule of Minority/Women Business Participation, must be posted on the Contract Reporter system. A contract is considered awarded when it is executed (signed) by all parties. This posting will be done by Contracts Administration.

11.3. Extension/Amendment of Contracts

If a Procurement Contract is entered into after a Contract Reporter solicitation, the contract and solicitation can provide that there may be an extension of the contract or amendment to the scope of work. If so, then extensions and/or amendments do not need to be advertised in the Contract Reporter again. However, if the contract requires approval by the ESD Board, the possibility of extension or amendment must be included in the original Board materials and Resolution. When in doubt, provide for extension or amendment to minimize future problems.

11.4. Department of Budget (“DoB”) Approval

Under DOB Bulletin B-1184, approval for certain procurements over \$500 is required. In general, if a state or legislative appropriation is the source of funds, approval is needed. A web-based application known as the “Agency Spending Controls Application” process is used to obtain prior approval. DOB approval is not required when the funding source for the procurement comes from a non-State source (e.g., a developer of an ESD project), where at least 75% of the procurement cost will be reimbursed by federal funds, or when the procurement is needed to address an immediate threat to public health and/or safety. DOB mandated forms are used in cases where approval is required. ESD has implemented the cost control measures described in Bulletin B-1184. All spending not involving Federal reimbursement of at least 75 percent, presenting an immediate threat to public health and/or safety or whose funding source is from a Third Party is subject to the preapproval process specified in the Budget Bulletin utilizing forms established by DOB known as Attachment A. An Attachment B form was also created for spending involving Federal reimbursement of at least 75% or presenting a public health and/or safety issue.

For instructions and forms, see the ESD Employee Intranet: Financial Resources. If in doubt, contact the ESD Controller’s Department for guidance.

11.5. OSC Post-Contract Approval of \$1,000,000+ Contracts

Under Public Authorities Law § 2879-a (effective March 1, 2010), proposed contracts in excess of one million dollars that either: (i) are to be paid for in whole or in part by state appropriations; or (ii) are not to be awarded after a competitive process (regardless of the funding source), must be approved by the Office of the State Comptroller (“OSC”) after the contract is signed. If § 2879-a applies and approval by OSC has not been obtained, the signed contract “shall not be a valid enforceable contract.” OSC has issued final regulations implementing this law, and OSC approval shall be deemed part of these Guidelines. A memorandum explaining the application and procedures involved in OSC approval has been circulated to all relevant staff and may be viewed here.



Comptroller review
of Contracts Memo_F

Note that loan and grant contracts may be covered by the OSC review process.

OSC has confirmed that contracts for the sale of real property for an amount over \$1 million are covered by the Property Disposition Guidelines and are not subject to OSC review and approval under PAL § 2879-a.

12. Monitoring of Procurement Contracts

Performance of Procurement Contracts must be monitored by the initiating Department to ensure that the scope of work or services to be provided are being/have been performed, that use of ESD personnel, supplies and facilities is documented, and that the established starting and completion dates for major components of the contract are being/have been met.

ESD employees assigned the responsibility of monitoring the work should be familiar with the type of work being performed and with the specific terms of the contract.

The frequency and manner in which the vendor's performance will be monitored should be clearly stated to the vendor and directly related to the terms of the contract.

Written documentation pertaining to vendor performance, such as progress reports, site visit reports, payment and expenditure data, memoranda of verbal discussions, and written correspondence, should be maintained and reviewed by the initiating Department.

Periodic visits to the work sites should be made where appropriate to review work in progress and work completed. Site visit reports should be completed and include the observations of pertinent matters, such as the number and type of persons employed by the vendor, adequacy of the facilities and equipment, and quality of performance, including any deficiencies in the performance of the work, which may have an impact on satisfactory completion of the project.

The evaluation of the vendor's performance should take into consideration the quantity and quality of the work performed, the timeliness of submission of contract deliverables, the adequacy of cost and performance records and other supporting documentation, and whether the extent of performance, to date, is commensurate with the amount the contractor has been paid.

Performance that is below expectations or established standards should be reported to ESD management immediately. All deficiency reports should be specific and in writing. Management should review deficiency reports and take appropriate action, which may include termination of a contract.

All invoices presented for payment should be reviewed by the person who is monitoring the contract and approved by the respective Department Head. No payment should be made unless the work is satisfactory and in accordance with the terms of the contract. Approval on the Payment Authorization form attests to this.

13. Procurement Contracts Involving Former Officers of ESD

ESD shall not enter into Procurement Contracts with its former officers or employees, or with firms employing such officers or employees, except as permitted by applicable provisions of law and by ESD's "Guidelines Regarding Conflicts of Interest and Ethical Standards."

14. Implementation of These Guidelines

ESD's Legal Department, in conjunction with the VP/Administrative Services, shall be responsible for:

- a. Preparing for approval by the CEO such supplemental procedures as may be required to effectively implement these Guidelines.
- b. Preparing proposed amendments to the Guidelines for approval by the CEO and the ESD Directors when and as required.

15. Reporting

15.1. Quarterly Reports

ESD's VP/Contract Administration shall prepare for presentation by the Office of Contractor and Supplier Diversity to the ESD Directors, quarterly reports of new Procurement Contracts and required Schedules of MWBE Participation. For each Procurement Contract, the report shall include the contract amount, reason for award, initial scope of services and the selection process used. Such reports shall include information related to amendments approved on contracts during the reporting period.

15.2. Annual Reports

Annually, ESD's VP/Contract Administration shall prepare for the Directors' review a report on Procurement Contracts as of the end of each fiscal year, summarizing procurement activity by ESD for the period of the report, including a listing of all contracts entered into, the selection process used to select vendors, the status of existing Procurement Contracts and required Schedules of MWBE Participation. ESD's VP/Contract Administration shall also prepare, on an annual basis, a report for submission to:

- a. The Division of Budget;
- b. The Department of Audit and Control;
- c. The Senate Finance Committee;
- d. The Assembly Ways and Means Committee;
- e. Members of the public (upon receipt of reasonable requests therefor); and
- f. The Commissioner of Economic Development.

The reports shall include these Guidelines, any amendments thereto, and an explanation of the amendments.

16. Effect on Awarded Contracts

Nothing contained in these Guidelines shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, these Guidelines. These Guidelines reflect best and customary practice, but are not intended to be rules of law. Note, however, that certain contracts may not be "valid or enforceable" without OSC approval. (See Section 11.5)