

## **Response to Comments on the Draft Scope of Work**

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### **A. INTRODUCTION**

This document summarizes and responds to comments on the *Draft Scope of Work for a Supplemental Environmental Impact Statement for the Atlantic Yards Arena and Redevelopment Project* (Draft Scope of Work), issued on December 19, 2012, for the Atlantic Yards Arena and Redevelopment Project. Oral and written comments were received during the public scoping session held by Empire State Development Corporation (ESD) on February 27, 2013. Written comments were accepted from issuance of the Draft Scope of Work through the public comment period which ended March 14, 2013.

Section B lists the elected officials, organizations, and individuals who provided relevant comments on the Draft Scope of Work. Section C contains a summary of these relevant comments and a response to each. These summaries convey the substance of the comments made, but do not necessarily quote the comments verbatim. Comments are organized by subject matter and generally parallel the structure of the Draft Scope of Work. Where more than one commenter expressed similar views, those comments have been grouped and addressed together. A number of commenters submitted general comments in support or opposition to the proposed Phase II project but did not have specific comments related to the Draft Scope of Work. These comments were given due consideration but are not itemized below.

### **B. LIST OF COMMENTERS**

#### **ELECTED OFFICIALS**

1. Honorable Letitia James, New York City Council, 35th District, written comments March 14, 2013
2. Honorable Steven Levin, New York City Council, 33rd District, oral comments
3. Honorable Marty Markowitz, Brooklyn Borough President, oral comments (delivered by Luke DePalma)
4. Jo Anne Simon, State Committeewoman, 52nd Assembly District, oral comments

#### **COMMUNITY BOARDS**

5. Brooklyn Community Board 8; Michelle George, District Manager, written comments March 13, 2013

#### **LOCAL ORGANIZATIONS**

6. Atlantic Avenue Betterment Association, Sandy Balboza, oral and written comments on February 27, 2013

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7. Atlantic Avenue Local Development Corporation, Nat Rubin, oral comments
8. Boerum Hill Association, Howard Kolins, oral comments
9. Brooklyn Chamber of Commerce, Andrew Steninger, oral comments
10. Brooklyn Hospital Center, LeRoy Charles, oral comments
11. Brooklyn Navy Yard Development Corporation, Richard Drucker, Senior Vice President for External Affairs, oral and written comments February 27, 2013
12. Brooklyn Speaks, (Gib Veconi, Michael Cairl, Michelle de la Uz, Jackie Del Valle, Deb Howard, Peter Krashes, Danae Oratowski, Nat Rubin, Lauri Schindler, Jo Anne Simon as co-signers), written comments March 3, 2013
13. Brown Memorial Baptist Church, Reverend Clinton Miller, written comments March 14, 2013
14. Develop Don't Destroy Brooklyn, Jeffrey Baker, written comments March 14, 2013
15. Downtown Brooklyn Partnership, Tom Conoscenti, Executive Director for Planning, oral and written comments February 27, 2013
16. Council of Brooklyn Neighborhoods/East Pacific Block Association, Therese Urban, oral comments February 27, 2013, written comments March 13, 2013
17. Families United, Ruth Payne, oral comments
18. Fifth Avenue Committee, Sabine Aronowsky written comments March 14, 2013, Michelle De La Uz oral comments, Jackie Del Valle oral comments
19. GFI Development Company, Stan Spiegelman, oral and written comments February 27, 2013
20. Mutual Housing Association of New York, Ismene Speliotis, oral comments
21. New York Community for Change, Amelia Adams, oral comments
22. Newwalk Condominiums, N. Wayne Bailey, oral comments February 27, 2013, undated written comments
23. North Flatbush Business Improvement District, Regina Cahill, oral comments
24. Park Slope Civic Council, Michael Cairl, oral comments
25. Partnership for NYC, Jessica Walker, oral comments
26. Pratt Area Community Council, Deb Howard, oral comments

### **INTERESTED PUBLIC**

27. Sabine Aronowsky, written comments March 14, 2013
28. Gale Bartholomew, oral comments
29. Ralph Brinkley, oral comments
30. Viva Brown, written comments March 14, 2013
31. Eladia Causil-Rodriguez, written comments March 12, 2013

32. Rafael Cheveves, oral and written comments February 27, 2013
33. Tracy Collins, oral comments
34. Juliet Cullen-Chung, Steiner Studios, oral comments
35. Steve deSeve, written comments March 14, 2013
36. Tabatha Edwards, written comments March 12, 2013
37. Steve Ettlinger, oral comments February 27, 2013, written comments March 13, 2013
38. Gregory Faubles, oral comments
39. Darren Frazier, oral comments
40. Norman Frazier, oral comments
41. Adrian Gerstel, oral comments
42. Elaine Green, oral comments
43. Patti Hagan, oral comments
44. Pamela Judkins , oral comments
45. Lucy Koteen, oral comments
46. Peter Krashes, oral comments
47. Irene Lore, oral comments
48. Gregory McCurdy, oral comments
49. Monique Moody, oral comments February 27, 2013, written comments March 1, 2013
50. Danae Oratowski, oral comments
51. Michael Pintchik, Pintchik Hardware, oral comments
52. Evangeline Porter, oral comments
53. Robert Puca, oral comments
54. Lauri Schindler, oral comments
55. Meredith Staton, oral comments
56. Danny Tejada, oral comments
57. Gregory Tyner, oral comments
58. Gib Veconi oral comments
59. Jim Vogel, oral comments
60. Michael D. D. White, oral comments February 27, 2013, written comments March 12, 2013

## **C. COMMENTS AND RESPONSES**

### **PROJECT REVIEW PROCESS**

**Comment 1:** Several commenters urged ESD to complete the SEIS process as soon as possible so that construction could begin and benefits could be realized:

We urge the State to complete its review process as soon as possible so that meaningful employment opportunities for our neighbors can be developed in the [Brooklyn Navy] Yard. (Drucker)

After reviewing the scope of the SEIS the Downtown Brooklyn Partnership is confident that it fully covers all of the areas of study that are associated with a longer build out of Atlantic Yards. We urge Empire State Development to complete the necessary work quickly so that Phase II can begin, allowing the greater Downtown Brooklyn community to reap the benefits that will be delivered from the new housing, affordable housing, commercial space and open space this project will bring as soon as possible. (Conoscenti, Spiegelman)

ESD should finish whatever work needs to be done as quickly as possible so that we can really start to benefit from the economic boost this project has been and will continue to be once the second phase of the development gets underway. (Causil-Rodriguez)

ESD should complete the necessary work quickly and recognize the positive impact of this project on good jobs for the area, so that development of Phase II can begin. (Cheveves)

The scope of the work for the SEIS is very comprehensive and studies all the relevant areas. ESD should complete the necessary work quickly so that any barriers to the investment in downtown Brooklyn can be removed. These investments create affordable housing, open space, and jobs. (Spiegelman)

ESD should finish whatever work needs to be done as quickly as possible so that we can really start to benefit from the second phase of this project. (Pointer)

Much of the public benefit to this project will occur in Phase II. Therefore I urge everyone here to undertake the necessary work so that project can go forward. (Steninger, Charles)

We urge ESD by any means necessary to go forward with Phase II for the affordable housing. (Adams)

ESD should move forward quickly with the Draft SEIS so that we can see the benefits from this project: the 2,200 affordable units of housing, the jobs and the economic stimulation that Atlantic Yards will bring to us. (Cullen-Chung)

This is an opportunity for ESD, as the lead agency of this project, to continue to work on behalf of the lower and middle working class to ensure that the housing now on underway proceeds forward as soon as possible. (Bartholomew)

I'm here to encourage not a slipshod but an expeditious EIS process so that the housing can get built. (Pintchik)

**Response:** Comment noted.

**Comment 2:** State Environmental Quality Review Act (SEQRA) requires ESD to consider the impacts disclosed in the SEIS and choose from the available alternatives and determine that the project avoids, minimizes or mitigates adverse environmental impacts to the maximum extent practicable, consistent with social, economic and other essential considerations. To properly comply with the law and the court's order, ESD must undertake this review without blinders designed to protect Forest City Ratner Companies (FCRC). Under the Urban Development Corporation (UDC) Act, this project is considered a Land Use Improvement and a Civic Project. As a Land Use Improvement Project its purpose is to alleviate blight. Throughout ESD's initial approval of this project in 2006 and subsequent litigation challenging that approval, Develop Don't Destroy Brooklyn (DDDB) challenged ESD's blight determination and lost. And as a result of ESD misstating the proper project time frame in 2009 during the modification, Phase I of the project is going forward and Barclays Center has opened. However, Phase II should be considered a more open question as to what should be built and in what manner to meet the project goals of removing blight and providing affordable housing. (Baker)

**Response:** As described on page 2 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Order of the Supreme Court for New York County to examine the potential environmental impacts of a prolonged delay in the completion of Phase II of the Project. Neither the Project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 Final Environmental Impact Statement (FEIS). The findings required by the Order of the New York State Supreme Court discussed on page 2 of the Draft Scope of Work will be made after the Final SEIS is determined to be complete.

**Comment 3:** It is my hope that this protracted construction period, and the likely impacts to nearby communities, is honestly evaluated and quantified in a transparent manner. (James)

**Response:** The Draft Scope of Work outlines issues, established methodologies, and assumptions for the analysis of potential impacts of a prolonged construction schedule of the Phase II program. It has been the subject of public review and comments. A Final Scope of Work will be issued that incorporates modifications as a result of ESD's consideration of the public comments on the

Draft Scope. The Final Scope will serve as the framework for the Draft SEIS, which will be subject to additional public review and comment.

**PROJECT BACKGROUND**

**Comment 4:** ESD should consider whether the grounds for the 2009 Modified General Project Plan (MGPP) are still valid, and whether this project can in fact be built in ten years as it was originally approved, or in fact if it's not necessary to extend the project to 25 years after all. The Master Development Agreement (MDA) and MGPP should be amended to the ten year schedule. (Veconi)

**Response:** As described on page 2 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Order of the Supreme Court for New York County to examine the potential environmental impacts of a prolonged delay in the completion of Phase II of the Project. Neither the Project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 FEIS.

**Comment 5:** The original term of the contracts to gain ownership of the land included by the City and State of New York, whether through Eminent Domain or other transfer, transferred to the Developer must be adhered to by this Agency, and any change to those terms must be included in the Draft Scope of Work, for the impacts of those changes to be revealed and mitigated. (Urban)

**Response:** The SEIS is being undertaken pursuant to the Court Order to evaluate the potential environmental impacts of a prolonged delay in the completion of Phase II of the Project. To the extent relevant to this analysis, the terms of the contracts that govern the development of the Project will be discussed.

**Comment 6:** Brooklyn Community Board 8 expects the scope of the SEIS to address and disclose salient issues reviewed by the Court underlying the proposed extension of the Phase II construction beyond the 10 years originally contemplated. These issues include:

- The status of and schedule for the acquisition of the air rights necessary for Phase II construction,
- a definition of the term 'commercially reasonable efforts' as used in the Development Agreement executed after the Modified General Project Plan (MGPP) was approved
- specific dates for the construction of the Phase II buildings, and
- detailed factual basis for any statements regarding the environmental impacts protracted construction of Phase II will have on the residents of the affected area. (George)

Because the Draft Scope of Work envisions an analysis of environmental impacts projected 25 years into the future, the SEIS must provide an explanation

as to why the build year has been increased beyond what CEQR considers reasonable, together with a description of how speculative risk in the analysis will be managed. Alternatively, the Draft Scope of Work could be revised to study an interim build year not more than ten years into the future in accordance with CEQR guidance. In either case, the SEIS must also include detailed construction plans describing what portions of the project will be completed and when. Together with these plans, the SEIS should also describe in detail the contractual terms that govern schedule performance on the construction plans. In addition to the MDA, other agreements that might contain obligations that bear upon the schedule include:

- The MTA Transfer Agreement;
- The MTA Sale Agreement;
- The MTA Air Space Parcel Purchase and Sale Agreement;
- The MTA Air Rights Development Agreement; and
- The Yard Relocation and Construction Agreement. (Brooklyn Speaks)

**Response:** The 2006 FEIS studied the impacts of a 10 year construction period in accordance with CEQR guidance. As stated in the Draft Scope of Work, the SEIS for Phase II of the Project is being prepared to comply with the Order of New York State Supreme Court dated July 13, 2011, which required an analysis of a construction schedule for Phase II longer than was assumed in the 2006 FEIS. In accordance with that order, the SEIS will focus on the environmental impacts of a prolonged construction schedule of the Phase II program, and will assume that the Project will be completed in 2035. As outlined in the Draft and Final Scope of Work, three illustrative construction phasing plans will be analyzed, which are intended to be illustrative of a reasonable range of foreseeable construction sequences and schedules that may occur with an assumed 2035 build year. The SEIS will summarize the terms of the relevant Project-related contracts to the extent that they bear on the construction schedule for Phase II of the Project, or require particular commitments to mitigate or avoid adverse environmental impacts.

**Comment 7:** The Introduction of the Draft Scope of Work misstates the procedural posture of this project and the circumstances that gave rise to this SEIS. Unmentioned in the Draft Scope of Work is that in 2009, faced with major changes in the project, namely the phased acquisition of the Vanderbilt Yards by FCRC from the MTA, ESD continued to assume a 10-year build out for the project as the basis for its SEQRA determination. ESD ostensibly did so based upon assurances that FCRC would use "commercially reasonable efforts" to complete the project by 2019. As New York State Supreme Court Justice Marcy Friedman found (and as was confirmed by the Appellate Division), ESD knew at the time that the contract documents being drafted allowed for up to 25 years for project completion before FCRC would be in danger of losing its position as the project

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developer. It was that change in the project timing and ESD's failure to properly consider that change on remand in 2010 that precipitated the court's order that an SEIS be prepared. The SEIS must properly recount the history of the litigation and subsequent reviews. (Baker)

**Response:** As stated in the Draft Scope, the SEIS for Phase II of the Project is being prepared to comply with the Order of New York State Supreme Court dated July 13, 2011. In accordance with that order, the SEIS will focus on the environmental impacts of a prolonged construction schedule of the Phase II program and will assume for analysis purposes that the Project will be completed in 2035. The commenter errs in asserting that the Draft Scope contains misstatements with respect to the litigation that gave rise to the Order.

### **PROJECT DESCRIPTION**

#### *PURPOSE AND NEED*

**Comment 8:** As many in the community have stated, the approval of the 2009 MGPP seems to be at odds with the goal of removing blight from the area within the Atlantic Yards project. Now, instead of ten years of blight and construction, the communities I represent will be faced with 25 years of construction, noise and traffic. (Levin)

ESD's justification for the project itself hinges on the goal of removing blighted conditions. The SEIS must study the impacts of delaying its achievement of removing blight by 15 years or more. (Brooklyn Speaks, Simon)

This project was supposed to relieve blight. But the project is not going to build a deck over the supposedly blighted rail yard until the end —when the 25 years are up. My neighborhood was declared blighted, and that was one of the reasons that this project was approved by the ESD. (Puca)

As part of the 2009 approval, the platform over the Long Island Railroad can be postponed by 25 years. The elimination of that blighted open rail yard should have been the first milestone being demanded of FCRC if there was any serious intention to oversee the delivery of public benefits. There could already be affordable housing on that platform. The possibility of construction lasting to 2035 is a far greater blight to our neighborhood. (Urban)

The removal of blight is one of the main basis for justifying the project and must be a focal point of any EIS, because blight is essentially an environmental item. (Ettlinger)

**Response:** The SEIS will not require construction of the Project in a 25-year period. Neither the 2009 MGPP nor the SEIS would preclude construction of Phase II of the Project faster than the 2035 Build Year that is being used for analysis purposes in the SEIS to comply with the Court Oder directing ESD to prepare

an SEIS for an extended delay in Phase II of the Project. Blighted conditions on the Project site are being addressed incrementally as demolition, site clearance and construction move forward. As noted on page 2 of the Draft Scope of Work, the SEIS will examine the effects of a prolonged Phase II construction schedule on various environmental areas, including the effects of an extended construction period on land use, zoning and public policy; socioeconomic conditions; community facilities; open space; urban design and visual resources; and neighborhood character.

*PROPOSED PROGRAM*

**Comment 9:** Affordable housing of course is a relative term. We have to really take a look at the affordable housing issue in this Phase II. As part of the framework of the SEIS, it should consider ways and programs that we can help educate people on how they can qualify for some of the affordable housing that is being proposed. (D. Frazier, N. Frazier)

What is affordable to whom, how much, how many people, what sort of families? (Collins)

**Response:** It is outside the scope of the SEIS to address educational programs on how people might qualify for affordable housing, but that information is readily available from other sources, such as the New York City government web site. The SEIS will discuss the requirements and income qualifications for the affordable housing units in Phase II of the Project. As noted in the Draft Scope of Work, Chapter 1, "Project Description," of the draft SEIS will describe the Project, including the Phase II components, and will describe the affordable housing program.

**ANALYSIS FRAMEWORK**

**Comment 10:** I believe that the SEIS must sufficiently address a range of issues from construction, noise and traffic to affordable housing and economic development to available open space. (Levin)

We cannot stand for a slap dash pro forma SEIS. It has to be full, it has to be well considered, it has to look at the situation as it exists today, it has to consider the full range of all impacts, it has to be supported by data. (Cairl)

There are certain issues in the SEIS that need to be addressed. Issues of temporary traffic and pedestrian changes due to construction, potential noise and the mitigation measures, the construction time line, oversight, and timely notifications to the community, the delay in usable open space, the adherence to the affordable housing requirements, and the cumulative impacts of construction in the area. (Cahill)

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The design of reviewable impacts allowed under the Draft Scope of Work for the Supplemental EIS must be rewritten to include the same Environmental Impacts that were studied and reported upon in the Prior EIS which only went as far as 10 years. We believe every environmental impact will be worse for lasting the 25-year extended time. (Urban)

What of the neighborhoods of Boerum Hill, Fort Greene, Prospect Heights and Park Slope cited in the FEIS as being impacted by a "physical and visual barrier" of the rail yards? The SEIS must study the impact of prolonging this condition for an additional 15 years with respect to land use, socioeconomic conditions, open space, cultural resources, urban design, and neighborhood character, and again propose necessary mitigations in lieu of the expected project benefits. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, the SEIS will include all analysis areas that were found to result in Phase II significant adverse impacts in the FEIS, and determine if mitigation commitments to address those impacts would remain adequate under the Extended Build-Out Scenario. The SEIS will also analyze those technical areas that may be affected by changes to background conditions related to a prolonged Phase II construction schedule including, among others, the effects of a prolonged construction schedule on land use, zoning and public policy; socioeconomic conditions; community facilities; open space; urban design and visual resources; and neighborhood character. The Final Scope of Work will provide the rationale for screening out analysis areas that would not be affected by a prolonged construction schedule for the Phase II program.

**Comment 11:** The housing should be done right. There may be things there, schools, fire stations, other amenities the community could use that don't seem to be on the page yet. (Kolins)

**Response:** As described on pages 6-7 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Court's Order, which is to examine the environmental effects of prolonged construction of Phase II of the Project. The housing program remains substantially the same as was described in the 2006 FEIS. As noted in Task 2, "Analysis Framework" of the Draft Scope of Work, the SEIS will examine the environmental effects of a prolonged construction schedule of the Phase II program and will assume for analysis purposes that the Project will be completed in 2035. This will include an analysis of those technical areas that may be significantly affected by changes to background conditions related to a prolonged construction schedule. For example, the SEIS will utilize the most recent available enrollment and capacity data for public schools and publicly funded day care centers and enrollment projections for public schools. An updated open space inventory and conditions survey, as well as projected population demands for open space resources based on latest available 2010

Census data will also be used. The SEIS will also include an analysis of those technical areas for which Phase II mitigation commitments were made in the FEIS (in order to determine whether such Phase II mitigation would remain adequate under the Extended Build-Out Scenario). These would include an analysis of the need for new measures or adjustments to the FEIS mitigation commitments relating to schools and day care facilities. The Final Scope of Work will clarify the need to address other community facilities, such as libraries, health care facilities, and fire and police protection.

**Comment 12:** The SEIS must include an updated and comprehensive analysis of the impacts to local transportation networks and pedestrians based upon current plans and conditions, as these impacts are broadly dispersed radiating from the entire project site into surrounding neighborhoods without respect to the Phase I and Phase II boundaries. (Brooklyn Speaks)

**Response:** As discussed in Tasks 2-4 in the Draft Scope of Work, an updated and comprehensive analysis of the operational and construction effects of Phase II of the Project under the Extended Build-Out Scenario on the local transportation networks (including pedestrians) will be conducted as part of the SEIS. The Phase I development will be included in the analysis as part of background conditions.

**Comment 13:** I vigorously object to the conclusion on pages 8 and 9 of your Draft Scope of Work that public health will not suffer adverse environmental impacts, as the additional 15 years of construction truck traffic and construction itself will quite obviously bring an additional 15 years of noise, dust, and dangerous truck traffic to the area despite FCRC's attempts at mitigating those effects. The problems will include those described often on the Atlantic Yards Watch.net site. Studies must reflect this issue. (Ettlinger)

**Response:** As discussed in the Draft Scope of Work, the SEIS will be evaluating potential air quality, noise, hazardous materials and construction impacts from the prolonged construction schedule of the Phase II program under the Extended Build-Out Scenario. If these technical analyses determine that the Extended Built-Out Scenario would result in any unmitigated significant adverse impacts, a public health analysis will be undertaken with respect to such impacts. This approach will be clarified in the Final Scope of Work.

**Comment 14:** The SEIS must update the Historic District Construction Protection Plan to include the Prospect Heights Historic District, which was not designated at the time the plan was adopted. (George)

**Response:** At the time of the publication of the FEIS, both the SN/R-listed Prospect Heights Historic District and the New York City Landmark (NYCL)-eligible Prospect Heights Historic District were included in the analysis of impacts. A

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Construction Protection Plan (CPP) was prepared in consultation with the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) to avoid adverse demolition/construction-related impacts to buildings within the Prospect Heights Historic District that were identified as being within 90 feet from the project site. Since the FEIS, the NYCL Prospect Heights Historic District has been designated by the New York City Landmarks Preservation Commission (LPC), and the boundaries have been defined slightly differently than those analyzed in the FEIS. The CPP has been amended to include new historic resources within the expanded boundaries of the Prospect Heights Historic District that are within 90 feet of future construction activity associated with the Atlantic Yards project. In a letter dated May 5, 2013, the OPRHP accepted the CPP revisions and found the CPP appropriate to protect historic resources. This will be discussed in the SEIS.

**Comment 15:** The SEIS also provides an opportunity to evaluate whether the projections in the FEIS regarding Phase I were accurate. The Draft Scope of Work indicates that for transportation issues there will be an assessment of current traffic, pedestrian and subway demands from the Arena. This should be applied to all substantive areas. (Baker)

**Response:** The Draft Scope of Work notes that the SEIS analysis will assume that Phase I of the Project will be constructed with or without the Phase II elements that are the subject of the SEIS. Thus, all Phase I elements of the Project, including associated mitigation measures as well as any recent changes to the traffic network, will be assumed as part of the baseline conditions for the Future Without Phase II (2035). In connection with its characterization of these baseline conditions, the SEIS will utilize traffic, transit and pedestrian data collected in 2013, after the Arena's opening and operation.

**Comment 16:** The Amended Memorandum of Environmental Commitments (MEC), dated December 2009, outlines a number of measures for storm water management to reduce the impact on the municipal sewage system. Open space landscaping and street tree pits also contribute to storm water runoff mitigation. The SEIS should assess how changes to the project timeline and sequencing could impact the adoption of these mitigations; and the impact of the delay on the local sewage system in terms of increased storm water runoff. (Brooklyn Speaks)

**Response:** As discussed in the Draft Scope of Work, a prolonged construction schedule of the Phase II program with an assumed 2035 completion would not affect the Project's Phase II programming in a manner that would alter the infrastructure demands of the Project. However, the SEIS will assess whether conditions resulting from the prolonged construction of the Phase II program—in combination with changes to background conditions, recently adopted New York City Department of Environmental Protection (NYCDEP) regulations and

long-term plans, and infrastructure improvements already made as part of previous Project commitments—would warrant any additional stormwater analysis.

**Comment 17:** What new information exists specific to Combined Sewer Overflow impacts from Phase I and what are the projections for Phase II? I would also like the ESD to reveal their metrics on analysis which purport that the frequency of Combined Sewer Overflows (CSO) discharges from the Gowanus Pumping Station to the Gowanus Canal would not significantly increase and the volume would decrease. Can you please inform the public on the baselines used to determine sewer system infrastructure capacities and how this relates with projected increases in population density brought about by Phase II buildings, along with the myriad of other rezoned, large scale residential and commercial buildings in the nearby vicinity? (Aronowsky)

**Response:** The metrics used to analyze projected increases in sanitary and stormwater discharges from the Project are provided in Appendix H of the FEIS. Infrastructure improvements required to meet projected increases in water demand and sewer discharges are outlined in Chapter 11 of the FEIS and in the MEC which also details the proposed stormwater detention and retention measures.

However, as noted above, the SEIS will assess whether conditions resulting from the prolonged construction of the Phase II program—in combination with changes to background conditions, recently adopted NYCDEP regulations and long-term plans, and infrastructure improvements already made as part of previous Project commitments—would warrant any additional sewer infrastructure analysis.

**Comment 18:** The baseline should start now, not at the time of the completion of all of Phase I. There is no logic to moving the baseline to a point the project agreements don't even require to exist, especially given changes to the project and its background effect on the first phase of construction. (Krushes)

**Response:** The SEIS is being undertaken pursuant to the Court Order to evaluate the potential environmental impacts of a prolonged delay in the completion of Phase II of the Project. Phase I has been approved and is under construction. Therefore, the Draft Scope of Work notes that for all areas of analysis Phase I of the Project will be assumed to be constructed and to be part of the background condition. Thus, all Phase I elements of the Project, including associated mitigation measures as well as any recent changes to the traffic network, will be assumed as part of the baseline conditions for the Future Without Phase II (2035), and therefore the effects of Phase I will be accounted for in the analysis. In the analysis of construction impacts of Phase II of the Project, the SEIS will take into account the potential for some overlap in the construction of certain

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Phase I and Phase II buildings. In describing the Project, the SEIS will summarize the status of Phase I construction, and the assumptions made with respect to the construction sequences and schedules analyzed.

**Comment 19:** The statement on page 9 of the Draft Scope of Work that the construction delay would not affect the conclusions in the 2006 FEIS does not address potential impacts from leaks and spills of materials that may have occurred or have been discovered since 2006. At the very least, the SEIS should review regulatory records to update the determination of whether the construction sites have been or may have been impacted by hazardous materials. The SEIS should also analyze vapor intrusion. Lastly, the SEIS should update the hazardous materials analysis. (Brooklyn Speaks)

**Response:** The SEIS will include updated information regarding hazardous materials identified on the project site since 2006 and/or encountered during the construction of Phase I project elements. The list of site remediation and post-construction measures identified in the FEIS will be reviewed and updated if necessary, to address potential impacts that may occur with respect to hazardous materials. This would include vapor control measures, if appropriate.

**Comment 20:** Greenhouse gas (GHG) analysis, which is now required by the CEQR Technical Manual, should be applied to the 25-year construction period and the operational period. (Brooklyn Speaks)

**Response:** A greenhouse gas analysis will be conducted as part of the SEIS. The Final Scope of Work will reflect this addition.

## **OPERATIONAL ANALYSIS**

### *SOCIOECONOMIC CONDITIONS*

**Comment 21:** We believe the SEIS should compare socioeconomic indicators within the 1/4-mile zone of the study with indicators in Brooklyn outside of that zone. Flatbush, Fulton, Vanderbilt and Atlantic Avenues all have distinct commercial activity that should be compared to areas within one mile outside the immediate study area. (Brooklyn Speaks)

**Response:** The SEIS will compare recent trends in economic conditions within approximately 3/4-mile of the project site to recent trends in surrounding neighborhoods. The analysis of business activity will consider commercial corridors such as Flatbush, Fulton, Vanderbilt, and Atlantic Avenues, with particular focus on the 1/4-mile radius of the project site. The level of detail provided in the analysis will be guided by the type and geographic specificity of publicly-available data and will compare the analysis and conclusions set forth in the 2006 FEIS with respect to the socioeconomic effects of the Project.

**Comment 22:** The SEIS will not conform to its legal obligations if the benefits studied are only those accruing to the development team. Therefore, FCRCs tenants in the Atlantic Center, Atlantic Terminal and the Barclays Center must be excluded from the analysis in order to avoid skewing the analysis inherent in the inevitable circularity of their inclusion. (Brooklyn Speaks)

**Response:** As indicated in the Draft Scope of Work, the purpose of the SEIS is to assess the environmental impacts of the Phase II program under the Extended Build-Out Scenario with an assumed completion year of 2035. Therefore, the “Future Without Phase II” will include all project development on Phase I sites, including the Arena and the other Project buildings west of 6th Avenue. Atlantic Center and Atlantic Terminal predate the Atlantic Yards project and are part of the neighborhood’s economic fabric. Similarly, the Arena is an existing use in the study area, and would continue to be a part of the socioeconomic fabric of the study area in the future with or without Phase II of the project. Therefore, for the purposes of the socioeconomic analysis of potential significant adverse impacts, there is no basis for excluding neighboring businesses, including Atlantic Center, Atlantic Terminal, and the Arena.

The Construction Socioeconomic Conditions section of the SEIS will estimate the economic and fiscal benefits generated by the construction and operations of Phase II under the Extended Build-Out Scenario, and will compare the estimated benefits to those reported for Phase II in the FEIS. The SEIS analysis of economic benefits of Phase II will not include the economic benefits associated with the Atlantic Center, Atlantic Terminal or the Barclays Center.

**Comment 23:** The SEIS should recommend the typical mitigations for this sort of socioeconomic impact: investment in commercial revitalization, efforts to attract appropriate size and mix of businesses, and inclusion of local businesses in the development. However, as this project exists in an already vibrant area, further mitigations that build upon what works, and deliver on what was promised, must be analyzed and provided. (Brooklyn Speaks)

**Response:** The types of retail envisioned for the project site have not changed since issuance of the FEIS. The SEIS will examine whether the Extended Build-Out Scenario would alter any conclusions in FEIS with respect to the need for mitigation of socioeconomic impacts. If significant adverse impacts not previously identified in the FEIS are disclosed, mitigation measures will be described as part of the SEIS.

**Comment 24:** The Atlantic Yards Project has put increased pressure on an already intensely gentrifying area-and with the delay in the delivery of affordable housing, has sold out on the "promise of a lifetime" to some of the project’s earliest supporters. This represents a significant adverse impact and is a matter that requires further study in the SEIS-the results of which are likely to suggest that

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effect of the 25 year Extended Build-out should be mitigated- not tolerated. (Brooklyn Speaks)

The SEIS must address the impact of the delayed affordable housing units. Far too many long time Boerum Hill residents come into my office on a daily basis seeking help because they are being priced out of the neighborhood. (Levin)

**Response:** The Socioeconomic Conditions analysis will consider whether the Extended Build-Out Scenario would alter the conclusions presented in the FEIS with respect to the potential socioeconomic effects of Phase II of the Project. This will include an indirect residential displacement analysis that will take into account the effects of a delay in the completion of both market rate and affordable housing. Potential effects on neighborhood sub-areas, including the Boerum Hill subarea, will be considered. Please also see the response to Comment 28.

**Comment 25:** The SEIS should measure the rates of change in the breakdown of income and racial demographics in the study area between project approval in 2006 and the present, project those rates forward through the build year scenarios in the SEIS, and study how delay in the project's affordable housing components would affect socioeconomic diversity in the study area relative to delivery of the affordable housing components on the schedule originally approved. The likely impacts on socioeconomic conditions that need to be further studied in the SEIS as a result of the 25 year Extended Build-out Scenario that FCRC proposed are extensive. Specifically, the majority of low, moderate and even middle income families earning 30 to 135% of AMI that would be eligible for the affordable housing if it were built within the first 10 years will not be eligible for those same units if they were built in 25 years. (Brooklyn Speaks; Fifth Avenue Committee)

For this truly unique project, FCRC must be required to use a historical AMI that would preserve the eligibility of CB 8 residents. FCRC should be required to accept New York City Department of Housing Preservation and Development (HPD) and Home Ownership Center (HOC)-provided applicant lists that relate back to the original 10 year completion date, rather than the then current AMI. (George)

The SEIS should study the size of affordable apartment in relationship to potential discriminatory effects as well. What is the projected family size of residents in each racial and ethnic group within the 10 year build out period vs. the 25 Extended Build-Out period? What is the family size of the newer, more likely to be White, families compared to the long-time residents of the community who are more often African American? (Fifth Avenue Committee)

ESD has allowed FCRC to submit a modified plan that will allow the developer 25 years to complete the project. If this modified plan is allowed to stand, not

only will the developer, the ESD and elected officials who are in favor of the project lose credibility, but many residents will continue to go without much needed employment and housing. (Tejada, Edwards, Brown, Miller)

**Response:** The SEIS indirect residential displacement analysis will estimate current income distribution in the study area, the extent to which new development would affect income distribution in the future without Phase II of the Project, and whether the Extended Build-Out Scenario could alter the income distribution in the study area in a manner that could result in significant adverse socioeconomic impacts that were not identified in the FEIS. The *CEQR Technical Manual* methodology for socioeconomic assessment does not include consideration of race, focusing rather on the income profile of a study area's population.

The SEIS will outline the project commitments related to on-site affordable housing, and the income tiers that will qualify families for on-site affordable housing. Eligibility will be linked to Area Median Income (AMI), which represents the midpoint in the family income range for a given geography—in this case, the New York City metropolitan area. The eligibility requirements for on-site affordable housing applicants will be subject to affordable housing program requirements at the time each project site is developed, i.e., eligibility for affordable housing units introduced in 2025 would be linked to income tiers based on 2025 AMI. While AMI may increase in future years, this increase would be driven by a general increase in family incomes within the metropolitan area, which would likely affect families both within and outside of CB8. As both AMI and family incomes increase in CB8, the eligibility of many existing families in the 30 to 160 percent of AMI bracket will be maintained.

The SEIS will not require construction of the Project in a 25-year period. Neither the 2009 MGPP nor the SEIS would preclude construction of Phase II of the Project faster than the 2035 Build Year that is being used for analysis purposes in the SEIS to comply with the Court Order directing ESD to prepare an SEIS for an extended delay in Phase II of the Project.

**Comment 26:** Because of on-going gentrification and displacement pressures, there will likely continue to be significant changes in the racial and ethnic make-up of Community Board 8 that will disadvantage African Americans, in particular, in an affordable housing lottery process that takes place in 2035 vs. 2010. It is current New York City policy that local residents within community boards in which a project is being built are given priority during affordable housing lotteries. That local priority often means the difference between getting into an affordable home or not, or even becoming homeless. In 2010, according to the US Census, nearly 17% of Community Board 8 residents were White, just over 65% were African American, nearly 3% were Asian and nearly 12% were Latino. If existing trends continue, the White population in Community Board 8 in 2035 is likely to be over 35% while the African American population in

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Community Board 8 will likely to be less than 40%. The impact of the Extended Build-out Scenario, regardless of intention, discriminates against African Americans living in Community Board 8, in particular, and must be further studied in the SEIS. (Brooklyn Speaks; Fifth Avenue Committee)

The impact of the construction delay of the affordable housing for Phase II of the project should also review possible discriminatory impact due to age. By waiting 25 years as a result of the extended build out period, do the longer term residents no longer have families and therefore the only people who might be eligible for the affordable apartments are new residents who would be younger (move in to the neighborhood recently) and therefore waiting will further discriminate against the existing residents (African Americans whose children would be adults in 25 years and are likely to have moved out their parents apartment) and benefit the new white residents (who will have younger kids in 20 years and therefore could be eligible for the affordable apartments)? (Fifth Avenue Committee)

**Response:** The Socioeconomic Conditions analysis will update all demographic data on race and ethnicity that were presented in the FEIS. However, the *CEQR Technical Manual* methodology for socioeconomic assessment does not include consideration of race and ethnicity in the determination of impacts, focusing rather on the income profile of a study area's population. The analysis will look at the effect of Extended Build-Out Scenario on low income population in the study area in the context of the indirect residential displacement analysis. The affordable housing criteria established by New York City and State programs are based principally on a prospective tenant's income as a percentage of Area Median Income (AMI); they do not exclude potential residents as a result of race or status as senior citizens. The race and age of such persons not currently living in the area will not be assessed in the Socioeconomic Conditions chapter of the SEIS. As a Project requirement, not more than 50 percent of the Phase II units shall be built without completion of at least 50 percent of the Phase II affordable units. Therefore, the Phase II affordable units would be phased in over time as the Project is developed. Under the Extended Build-Out Scenario this commitment would continue to be required; however, as with the overall development, affordable units would be phased in over a longer period of time if the project were to be completed in 2035. It should be noted that neither the project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 FEIS.

**Comment 27:** The number of total units, levels of affordability and number of bedrooms must be studied in the SEIS in conjunction with the timing of when those particular units are expected to be built in Phase II of the project. Providing a majority of 2- and 3-bedroom units later in the project's development, for instance, will impact on the socio-economic make-up of the community in meaningful ways. (Brooklyn Speaks, George, Fifth Avenue Committee)

This Phase II needs to happen expeditiously because affordable housing is scarce. This won't solve the problem that the city has, it will put a small dent in it, but the city just has an issue with actually finding affordable housing for working families or for low income families. And on that note, we really need to push the tiered income and mix up the apartments. We really need to push for two and three bedrooms so that actual families can call downtown Brooklyn their neighborhood. (Adams)

**Response:** Project commitments related to the proportion of on-site housing that will be affordable, the size of the affordable units, and the income tiers qualifying applicants for affordable housing, remain unchanged since the FEIS, and, as described in the FEIS, the inclusion of larger 2- and 3-bedroom units is subject to the terms and conditions of the City and State affordable housing programs that are being utilized for this housing. The SEIS will summarize the requirements of the project documents with respect to the phasing in of affordable housing in the Phase II program. With respect to the existing scarcity of affordable housing, please see the response to Comment 28. Neither the project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 FEIS.

**Comment 28:** The public benefits announced and promoted by the Developer in justification of the accumulation of the entire project site, as approved by ESD, should be included for study in this Draft Scope of Work, these measurable values and their impacts being useful to assess the impacts and mitigations in the previous study that used AKRF's assumed values. We believe the impacts of delayed benefits will be shown to be appreciably different over 25 years than the 10-year assumptions provided. (Urban)

**Response:** The socioeconomic benefits resulting from an action—including project-generated jobs, wages and salaries, and total economic output—are not the subject of a CEQR analysis of potential significant adverse impacts, and in general, the delay in the provision of public benefits announced and/or promoted by a project sponsor is not a determining factor in assessing significant adverse environmental impacts. The socioeconomic analysis instead focuses on the potential for significant adverse impacts that may occur from the build-out of Phase II over an extended period of time. With respect to this analysis, “delayed benefits” as described by the commenter will be addressed in the SEIS if those benefits were mitigating factors precluding a significant adverse socioeconomic impact where one otherwise would have been disclosed. The SEIS will include the number of construction jobs and expenditures and associated economic benefits for the Extended Build-Out Scenario in the Construction Socioeconomic Conditions section of the SEIS. See also the response to Comment 29.

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**Comment 29:** I wish there were more than 105 jobs created, despite promises of 10,000 ultimately. There are no plans anymore for those 10,000, and I think we should work to get those or something close to it. I think the remedy is to bring in new partners, new development partners to speed it up, to issue a request for proposals, and to create perhaps with a different vision from a different developer more commercial space with those jobs that we're going to have. The 10,000 jobs is based largely on commercial office space being built. And now with residential towers it's a very limited possibility for new jobs being created. (Ettlenger)

**Response:** The Phase II program does not contain the commercial office space that is the subject of this comment. The FEIS analyzed two development scenarios—a residential mixed-use variation and a commercial mixed-use variation. Differences between the two variations are only present in the development programs for Phase I buildings. As indicated in the Draft Scope of Work, the SEIS will assess the environmental impacts of the Phase II program under the Extended Build-Out Scenario. The SEIS will also include updated estimates of the jobs projected to result from Phase II construction and operations. See also Response to Comment 120.

**Comment 30:** The public needs to know the number of jobs and apartments (by income tranche) in the area prior to commencement of the project, at the end of the original 10-year build-out, and at the revised, 10 and 25 year points. (Ettlenger)

**Response:** The SEIS will compare the employment and housing profile of the ¾-mile study area as described in the FEIS to the existing employment and housing profile of this area based on the most current available data. As outlined in the Draft Scope of Work, with respect to potential operational impacts, the SEIS will assume 2035 as the outside analysis year for completion of the Extended Build-Out Scenario. Neither the Project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 FEIS.

**Comment 31:** The revised scope of the EIS will be insufficient unless it considers the full scope of the Forest City Ratner megamonopoly whereby government support and subsidies is suppressing economic activity and competition in Brooklyn. (White)

**Response:** The SEIS is being undertaken pursuant to the Court Order to evaluate the effects of a prolonged construction schedule of the Phase II of the Project. An evaluation of whether government subsidies that have been provided to the project sponsor are suppressing economic activity and competition in Brooklyn is outside the scope of this SEQRA analysis. However, the SEIS will discuss and disclose the many other study-area real estate development projects that have occurred since the FEIS and are expected to occur in the future, prior to the assumed 2035 building year for the Extended Build-Out Scenario.

**Comment 32:** We need more jobs now. We need to create them within ten years, not 25. We need more affordable housing within ten years, not within 25. (Ettlinger)

Delaying work on the Atlantic Yards is also delaying the needs of the people who are desperately searching for work every day. (Moody, Collins)

**Response:** The SEIS will analyze the delay in the completion of affordable housing and market-rate residential units and of non-residential space that would occur under the Extended Build-Out Scenario and discuss whether this delay in development could result in significant adverse socioeconomic impacts compared with the FEIS. Please also see the response to Comment 28. Neither the Project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 FEIS.

**Comment 33:** We need to recover the value of the undervalued public land that Forest City was given under the public streets. (Ettlinger)

**Response:** Comment noted.

**Comment 34:** I realize Brooklyn has the highest tax increase this year coming up. I feel that this is happening because of the development that is coming into Brooklyn. We are paying the taxes for the developers who are getting tax deferments. (Gerstel)

**Response:** Changes in the municipal tax structure are beyond the scope of this environmental review.

*OPEN SPACE*

**Comment 35:** The SEIS should assess how a delay in the delivery of open space would impact the Dean Playground, the closest children's playground and active open space to the project. The SEIS should assess:

- Impacts to the playground upon the completion of Phase I, which will create significant adverse impacts with respect to non-residential open space;
- Impacts to the playground from the residential population at the completion of Phase I, broken down by CEQR age brackets;
- Current use of Dean Playground by athletic and school groups and agreements for future use; and
- Impacts on Dean Playground in the intervals before the completion of the project's playground, half-basketball court and other active space areas. The assessment should be broken down by CEQR age brackets and should also take into account the residential population from the building that is required to be built on block 1129 no later than 2020. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, the SEIS will assess the potential open space impacts resulting from the completion of Phase II of the Project in 2035. The SEIS analysis will include updates to the area's open space inventory and

conditions (including the Dean Playground), and project new population demands (which consider the *CEQR Technical Manual* residential population age distributions) for open space resources. Using the *CEQR Technical Manual* methodologies for indirect assessment of open space, a quantitative analysis of the potential impacts of the various construction phasing scenarios on study area open space ratios will be conducted. The SEIS will provide a description of the open spaces (in both their temporary and permanent conditions) to be provided on the project site during Phase II construction. The indirect assessment will determine how open space ratios for the non-residential (1/4-mile) and residential (1/2-mile) study areas could change over the course of the construction period. This analysis will consider changing conditions during the construction period as new populations of open space users are introduced as a result of the completion and operation of each project building, or when there would be changes in the available open spaces within the project site (i.e., the addition of new open spaces). The Final Scope of Work clarifies this approach. The assessment will determine whether changed background conditions and the Extended Build-Out Scenario would result in any impacts not previously disclosed, and whether any mitigation commitments made in the FEIS remain adequate under the Extended Build-Out Scenario. The Dean Playground will be one of the existing open space resources that will be considered in the analysis.

**Comment 36:** The Blight Study specifically references Atlantic Yards proposed “at least 7 acres of publicly accessible open space” as mitigation for blight in the project area. The SEIS must study the impact to blight removal of delaying the open space for up to 15 years or more. (Brooklyn Speaks)

**Response:** As noted in the Draft Scope of Work, an assessment of open space impacts will be undertaken. The open space proposed as part of the Project’s Phase II development will be introduced incrementally during the construction period, with completion of each new building. The extent to which a deficit of open space or other open-space related conditions on the Phase II site may impact the character of the neighborhood or open space conditions in the study area during a prolonged construction period for Phase II will be assessed.

**Comment 37:** If allowed to proceed as previously approved, the project will exacerbate the lack of open space in the area and the mitigation measures proposed to date will provide little relief if construction extends for a generation. The SEIS should consider if a redesign and division of the project will allow quicker construction that will bring the touted open space benefits to reality in a quicker manner. (Baker)

**Response:** Neither the Project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 FEIS. As described in the Draft Scope of Work, the SEIS will analyze impacts to open space in the study area

both during construction and after full build-out of Phase II. If the extended build-out of Phase II results in any significant adverse impacts not disclosed in the FEIS, the SEIS will seek to identify practicable mitigation measures to address those impacts. See also response to Comment 120.

*TRANSPORTATION*

*Traffic*

**Comment 38:** The SEIS must consider traffic impacts and operations based on the entire project site, not just the portion east of Sixth Avenue. (Brooklyn Speaks)

**Response:** As described on page 2 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Order of the Supreme Court for New York County to examine the potential environmental impacts of a prolonged delay in the completion of Phase II of the Project. The SEIS will assume 2035 as the build year for purposes of analysis of an extended delay in the completion of Phase II. Accordingly, transportation demand and network changes associated with the arena and other Phase I development on Site 5 and the Arena block will be reflected in the 2035 Future Without Phase II condition and therefore will be taken into account in the traffic analysis.

**Comment 39:** The data and modeling used in the transportation component of the FEIS must be revisited in light of non-project development in the project vicinity as well as current volumes and travel patterns by motorists, surface transit users, subway users, and pedestrians. The conditions in 2006 are not necessarily a valid basis for the SEIS. (Brooklyn Speaks)

**Response:** The Existing conditions analyses for traffic, transit and pedestrians will be based on count data collected in 2013 and will therefore reflect current conditions at the project site and its environs. The Future Without Phase II analyses will reflect background growth as per the *CEQR Technical Manual* along with transportation demands from significant non-project development sites planned in the vicinity of the study area by 2035, and will be based on the most currently available data on these planned developments.

**Comment 40:** The SEIS must show in detail how the project would or would not result in development densities above the transportation threshold that would trigger additional analysis. (Brooklyn Speaks)

**Response:** The SEIS will include detailed travel demand forecasts by mode for Phase II development. Where *CEQR Technical Manual* analysis thresholds are met or exceeded, further analysis will be provided.

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**Comment 41:** The SEIS must also document why the conditions that formed the basis of the FEIS in 2006 remain a valid basis of measurement. (Brooklyn Speaks)

**Response:** The SEIS transportation analyses will utilize data collected in 2013 to develop existing baselines, will incorporate current data on planned development in the vicinity of the project site, and will reflect methodologies and guidelines from the *CEQR Technical Manual*.

**Comment 42:** The SEIS should use a sold out arena event patronized by a young audience as the worst-case scenario. (Brooklyn Speaks)

**Response:** The SEIS will assess the reasonable worst case scenario to be used for the transportation analysis. The SEIS transportation analyses will reflect demand from a Nets game at the arena as a reasonable worst case scenario, consistent with the methodology used for the FEIS. In the SEIS, a Nets game will be considered as part of the background condition.

**Comment 43:** The baseline should start now, not at the time of the completion of Phase I. (Brooklyn Speaks)

**Response:** The SEIS transportation analyses will include an assessment of 2013 Existing conditions, and demand and transportation system changes from Phase I development will be reflected in the analysis of 2035 Future Without Phase II conditions. This is consistent with the Court's Order that the SEIS assess the potential for impacts associated with a prolonged construction schedule for Phase II of the Project.

**Comment 44:** The SEIS should detail the changes to the arena and arena block layout and assess them for the new conditions they create, particularly post-event. (Brooklyn Speaks)

**Response:** The 2035 Future Without Phase II transportation analyses in the SEIS will reflect conditions on the arena block based on current plans. The transportation analyses will focus on the peak periods for demand from the residential and retail uses that would be developed under Phase II. The post-event periods are not considered peak periods for these Phase II residential and retail uses and will therefore not be included in the analyses.

**Comment 45:** Traffic studies as proposed deal with commuter peak periods which are emphatically NOT periods during which most arena crowding occurs. However, there are severe impacts on commuting when residents, such as myself, return home around 7-8PM on an event night and are not only unable to park, but unable to drive efficiently due to traffic jams on streets such as St. Mark's Avenue or Bergen Street between 4th and 6th Avenues. Studies need to be done

during arena event times, essentially one hour before and after concert and game events. (Ettliger)

**Response:** The weekday 7-8 PM pre-game peak hour is included to assess the potential effects of Phase II residential commuter demand during a period of peak arena activity. Post-event conditions will not be included in the traffic analyses as these would not typically be peak times for travel demand from Phase II development.

*Pedestrians*

**Comment 46:** Because of changes to the project plan, omissions in the original FEIS, and changes to the construction plan, the SEIS should revisit the pedestrian analysis using the same geographic scope as the FEIS, but expand the analysis to include the north side of Bergen Street between 6th Avenue to Carlton due to the expansion of City employee parking onto those sidewalks as a product of the project, the east side of Flatbush Avenue from Atlantic Avenue to Hanson Place because of the LIRR and transit entrances there, the south side of the Times Plaza triangle, and the south side of Pacific Street from Flatbush to 4th Avenues. (Brooklyn Speaks)

**Response:** The pedestrian analyses in the SEIS will analyze existing and future conditions along the sidewalks, corner areas and crosswalks where pedestrian demand generated by Phase II development is expected to be most concentrated. The locations referenced in the comment are not expected to be utilized by substantial numbers of new pedestrian trips generated by Phase II development, given that most pedestrians en route between Phase II buildings and subway and local bus routes would be unlikely to use these sidewalks, and that there are not expected to be substantial numbers of new LIRR trips generated by the residential and retail uses developed under Phase II.

**Comment 47:** The SEIS pedestrian analysis should follow the most up-to-date CEQR, Highway Capacity Manual, DOT Street Design Manual and Americans with Disabilities Act (ADA) guidelines. (Brooklyn Speaks)

**Response:** The identification of potential significant adverse pedestrian impacts in the SEIS will be based on the methodologies and guidelines from the *Highway Capacity Manual* (2010) and the *CEQR Technical Manual*, as approved by New York City Department of Transportation (NYCDOT). The development of any needed pedestrian mitigation measures will reflect the *DOT Street Design Manual* and ADA guidelines as appropriate.

**Comment 48:** An updated pedestrian analysis in the SEIS should study post-event conditions in the project site. (Brooklyn Speaks)

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We've got a lot of new information about Phase I. We know that the sidewalks have been overstressed. We know that the post event analysis, the post event games after an arena event is by far the worst time for pedestrians. There are surges. (Krashes)

**Response:** The pedestrian analyses in the SEIS will focus on the weekday AM and PM commuter peak periods and the Saturday midday, as these are expected to be the peak periods for Phase II residential and retail travel demand. The weekday 7-8 PM pre-game is included to assess the potential effects of Phase II residential commuter demand during a period of peak arena activity. Post-event conditions are not included in the pedestrian analyses as these would not typically be peak times for travel demand from Phase II development.

**Comment 49:** The SEIS should assess the pedestrian LOS of the narrowed sidewalk on the north side of Dean Street from Flatbush to 6<sup>th</sup> Avenues. (Brooklyn Speaks)

**Response:** The north sidewalk on Dean Street between Flatbush and 6<sup>th</sup> Avenues will be included in the analysis of potential pedestrian impacts from Phase II development.

**Comment 50:** The SEIS should analyze the condition that would be created with the permanently narrower sidewalks on Sixth and the long-term narrowing of Pacific Street's sidewalks. (Brooklyn Speaks)

**Response:** The analyses of future pedestrian conditions in the SEIS will reflect the pedestrian network (e.g., sidewalk and crosswalk dimensions, etc.) expected to be in place in the 2035 analysis year.

**Comment 51:** The draft SEIS scope arbitrarily assumes pedestrians associated with Phase II (or for that matter Phase I) will not use Sixth Avenue sidewalks, an assumption based on the idea that project residents and arena patrons will only walk east/west and will make different choices than existing residents. The scope should reassess Sixth Avenue pedestrian capacity taking into account these conditions that have failed to be addressed. (Brooklyn Speaks)

**Response:** The pedestrian analyses in the SEIS will focus on those locations where pedestrian demand from Phase II development is expected to be most concentrated during analyzed peak hours. These are expected to include sidewalks adjacent to Phase II development sites (including portions of the eastern side of 6th Avenue) and sidewalks connecting these sites to the new subway station entrance on the arena block.

**Comment 52:** The SEIS should redo pedestrian and travel lane analysis to take the changes in location and capacity of lay-by lanes in the arena block into account. (Brooklyn Speaks)

**Response:** The analyses of future traffic and pedestrian conditions in the SEIS will reflect the lay-by lane configurations expected to be in place in the 2035 analysis year.

**Comment 53:** Bollards should be included in new LOS assessments in the SEIS. (Brooklyn Speaks)

**Response:** The analyses of sidewalk conditions in the SEIS will reflect the effects of sidewalk elements expected to be in place in 2035, including bollards.

**Comment 54:** The SEIS should analyze mitigations such as widening sidewalks and securing a commitment from the project sponsor to fund pedestrian safety managers during arena events. (Brooklyn Speaks)

**Response:** Pedestrians from arena events will be considered as part of the background condition when analyzing the effects of Phase II of the Project under the Extended Build-Out Scenario. To the extent that significant adverse pedestrian impacts are disclosed from Phase II, the SEIS will examine the adequacy of the mitigation measures set forth in the 2006 FEIS and identify additional mitigation if necessary.

*Transit*

**Comment 55:** It is essential that the SEIS show in detail how the determination to delete three of six subway stations in the project area from further consideration was arrived at. (Brooklyn Speaks)

**Response:** The transit analyses in the SEIS will focus on those subway stations where demand from development associated with Phase II is expected to exceed the *CEQR Technical Manual* 200-trip analysis threshold in one or more peak hours. These include the Atlantic Avenue-Barclays Center subway station complex and possibly the Bergen Street subway station. Detailed demand forecasts for all subway stations serving the project site will be provided in the SEIS. Those subway stations where Phase II demand would be less than 200 peak hour trips will not be analyzed.

*Parking*

**Comment 56:** The Draft Scope of Work includes study of a reduction of parking capacity for the Phase II residential use. The study should be extended to include parking capacity for Phase I as well, which would be more consistent with current land use policy to reduce parking requirements near transit. The SEIS should study the reduction of residential accessory parking for Phase I and Phase II with respect to traffic impacts, on-street parking conditions, off-street parking capacity, pedestrian conditions and neighborhood character. (Brooklyn Speaks)

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**Response:** As described on page 2 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Order of the Supreme Court for New York County to examine the potential environmental impacts of the completion of Phase II of the Project in 2035. The SEIS will also assess a Reduced Parking Alternative that would consider modified parking requirements that would reduce the amount of accessory parking provided for Project residential uses. Parking conditions during the weekday evening (pre-game) peak hour would also be assessed if the number of on-site parking spaces provided for arena patrons would be fewer than was assumed in the FEIS. The potential for significant adverse impacts with respect to traffic, parking and pedestrian conditions and neighborhood character under the Reduced Parking Alternative will be assessed in the SEIS as appropriate under *CEQR Technical Manual* guidelines.

**Comment 57:** The SEIS should spell out the accessory parking locations for each residential building if there is no reduction in parking minimums. (Brooklyn Speaks)

**Response:** The SEIS will identify the locations of accessory parking facilities associated with residential development on the project site.

**Comment 58:** Using data that is now available for arena parking usage on block 1129, the SEIS should study a reduction in the capacity of the temporary surface parking lot and the permanent underground arena patron parking that would accommodate current average arena patron demand in the arena parking lot. (Brooklyn Speaks)

**Response:** As per the Court's Order, the SEIS will focus on the potential for impacts associated with Phase II of the Project under the Extended Build-Out Scenario. Updated parking forecasts will therefore be prepared to assess whether accessory on-site parking capacity would remain sufficient to accommodate Phase II residential and retail demand. To the extent that a reduction in on-site arena parking spaces is proposed as a result of new information about the demand for on-site arena parking spaces, the SEIS will assess the potential for such a reduction to result in adverse parking impacts. The potential effects of reducing the amount of on-site parking provided for residential demand will be evaluated under the Reduced Parking Alternative. Any reduction in the number of on-site parking spaces provided for arena patrons would be reflected in this analysis.

### *AIR QUALITY*

**Comment 59:** The statement on page 8 of the Draft Scope of Work that the stationary air quality does not require a detailed assessment does not address changes in the National Ambient Air Quality Standards (NAAQS) since the 2006 FEIS was completed. The standard for PM<sub>2.5</sub> has been lowered. In addition, new one-hour

standards for NO<sub>2</sub> and SO<sub>2</sub> have been implemented. Therefore, modeled pollutant concentrations, when added to background concentrations, should be compared to the most recent standards. Even if background concentrations are lower in the future, that may not be sufficient to avoid potential impacts. Stationary source air quality for Phase II should be carried out for the SEIS.

Air quality from parking facilities is not mentioned in the SEIS despite the fact that the size, location, and configuration of the facilities may have changed. Stationary source air quality from parking facilities should be included in the SEIS.

The mobile source analysis described on page 18 should specify that PM includes PM<sub>10</sub> and PM<sub>2.5</sub>. It should also include dispersion modeling of NO<sub>2</sub> due to the truck traffic that would be generated.

The on-site dispersion analysis should state that PM includes PM<sub>10</sub> and PM<sub>2.5</sub>. Analysis of SO<sub>2</sub> should also be included as a pollutant of concern. Given the size of the project, the 1-hour NO<sub>2</sub> concentration should be analyzed quantitatively and modeled as well. (Brooklyn Speaks)

**Response:**

Although the national ambient air quality standard NAAQS for annual average PM<sub>2.5</sub> has been lowered since the 2006 FEIS, the FEIS based its evaluation of annual average PM<sub>2.5</sub> concentrations on the criteria referenced in the *CEQR Technical Manual*, which have not changed. The 2012 *CEQR Technical Manual* thresholds are based on the incremental increase in annual PM<sub>2.5</sub> concentrations, which are a small percentage of (but are not keyed to) the NAAQS. The need for an analysis of incremental changes in PM<sub>2.5</sub> concentrations will be evaluated based on whether the changes to the Phase II program that are being evaluated in this SEIS warrant such an analysis.

The SEIS will include an analysis of Phase II stationary sources with respect to 1-hour average NO<sub>2</sub> concentrations. To assess potential impacts of the Phase II of the Project with respect to the 1-hour average NO<sub>2</sub> NAAQS, an analysis of Phase II buildings' fossil fuel-fired heating, ventilation and air conditioning (HVAC) systems will be performed. The proposed project would not utilize fuel oil for heating, ventilation and air conditioning systems, and any emissions due to natural gas fired HVAC systems would have negligible levels of SO<sub>2</sub>. Therefore, an analysis of the proposed project's impact with respect to the 1-hour SO<sub>2</sub> standard is not warranted.

As described in the Draft and Final Scope, the mobile source analysis will be limited to potential impacts that may be worse than presented in the FEIS due to assumed changes in the Project's completion schedule. If required, an analysis of the primary pollutants of concern from motor vehicles (fine particulate matter (PM<sub>2.5</sub>) and/or carbon monoxide), will be performed, and cumulative effects of on-street traffic and the Project's parking facilities will be evaluated. Emissions of NO<sub>2</sub> from mobile sources are typically analyzed for projects that can affect

region-wide transportation patterns, rather than individual development sites. Increases in concentrations of NO<sub>2</sub> due to truck traffic associated with Phase II of the Project would be due to the relatively small increase in truck traffic (as compared to current and future background levels) and would not be anticipated to appreciably increase NO<sub>2</sub> levels above future background conditions. Current *CEQR Technical Manual* guidance does not require an analysis of 1-hour average NO<sub>2</sub> at intersections from project level mobile sources. This is due to several factors. First, there is uncertainty regarding background concentrations at or near ground-level locations in close proximity to roadways. Furthermore, the existing EPA mobile source models are not capable of assessing the chemical transformation of emitted NO to NO<sub>2</sub> over relatively short distances (e.g., sidewalks, low-floor windows). In addition, computation of the maximum 1-hour daily 98th percentile concentrations (including No Build traffic) cannot be accurately performed given the limitations of the existing EPA mobile source models, which are designed to provide only peak concentrations. The FEIS examined pollutants for which there is guidance available to perform project-level analysis of mobile sources of pollution (CO, PM<sub>10</sub> and PM<sub>2.5</sub>), and determined that there would be no significant adverse impacts. The SEIS will also discuss the federal and state mechanisms for identifying exceedances of the 1-hour NO<sub>2</sub> NAAQS in the region and for addressing such exceedances through the State Implementation Plan process, should the area be determined to be nonattainment. Note that even under the current status of the standard, state and federal efforts are reducing NO<sub>x</sub> emissions to reduce ozone concentrations. The federal emissions regulations for new heavy duty truck emissions in effect since 2007 require that all newly manufactured heavy duty trucks have NO<sub>x</sub> emissions that are on the order of 4 to 5 percent of similar vehicles manufactured before 2007. The turnover for heavy duty trucks is such that roughly 90 percent of all trucks are 20 years old or less, so by 2027 the vast majority of trucks will have NO<sub>x</sub> emissions that are substantially lower, whereas less than half do today. Under the Extended Build-Out Scenario, NO<sub>2</sub> emissions from heavy-duty trucks would be anticipated to be much lower than current levels of emissions; furthermore, since trucks are a small component of Phase II-generated traffic, NO<sub>x</sub> emissions from trucks are not anticipated to be a concern with Phase II of the Project. Therefore, a prolonged delay in the completion of Phase II of the Project does not warrant a mobile source microscale analysis for 1-hour NO<sub>2</sub>.

As reflected in the Final Scope, the Scope of Work has been revised to include the analyses described above.

*NOISE*

**Comment 60:** The 12 noise receptors listed on page 14 do not seem sufficient to represent the Phase II area. The SEIS also should include receptors on 1) Atlantic Avenue

between 6th and Carlton Avenues, and 2) Dean Street between 6th and Carlton Avenues. (Brooklyn Speaks)

**Response:** As reflected in the Final Scope, in response to this comment, the Scope of Work has been revised to include these two additional locations as noise receptor locations for the SEIS.

**Comment 61:** Noise monitoring should include 1/3 octave band measurements as recommended in the CEQR Technical Manual (2012). (Brooklyn Speaks)

**Response:** As per the *CEQR Technical Manual*, noise measurements to be used in the SEIS will include 1/3 octave band measurements.

**Comment 62:** The statement that “recommendations of measures to attain acceptable interior noise levels and to reduce noise impacts to within acceptable levels will be made, if practicable” needs to be clarified. If this statement pertains to operational noise (i.e., following project completion), the SEIS should identify the potential conditions for which mitigation of impacts would not be practicable. (Brooklyn Speaks)

**Response:** The Final Scope of Work will clarify that this statement pertains to operational noise, and that the SEIS will identify the potential conditions for which mitigation would not be practicable, if any.

**Comment 63:** The 2006 FEIS did not study the arena itself as a source of noise. In 2009, Frank Gehry's arena design was replaced with an arena designed jointly by Ellerbe Becket and SHoP Architects. Since the time of the arena opening, numerous residents circling the arena have complained about bass noise entering their homes during bass-heavy concerts. The NYC Department of Environmental Protection has issued a violation to the arena operators for concert noise escaping the arena. The SEIS should assess noise and land use impacts on existing and future residents as a product of concert noise emanating from the arena building. (Brooklyn Speaks)

**Response:** As described on page 2 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Order of the Supreme Court for New York County to examine the potential environmental impacts of a prolonged delay in the completion of Phase II of the Project. Accordingly, all Phase I elements of the project, including the arena, will be included as part of the background condition. Therefore, the SEIS will not analyze any incremental noise effects of the Barclays Center on the surrounding area.

*NEIGHBORHOOD CHARACTER*

**Comment 64:** Existing neighborhoods will be negatively impacted with respect to street safety, the lack of amenities and services, and uncertainty in the real estate market. Therefore quality of life, property values, crime and the effect on small mom and pop businesses should be studied. (Balboza)

**Response:** As described in the Draft Scope of Work, the SEIS will study the Project's effects on socioeconomic conditions and neighborhood character both during construction and after the Project has been completed.

**CONSTRUCTION IMPACTS**

**Comment 65:** The SEIS should assess how the extended implementation of construction MPT affects economic development, land use, neighborhood character, the defining characteristics of the neighborhood, visual resources, pedestrian safety and pedestrian LOS. (Brooklyn Speaks)

**Response:** The SEIS will describe any temporary roadway or sidewalk closures that are anticipated for the construction of the Phase II buildings and discuss the potential occurrences of such closures. The SEIS will describe how plans for the Maintenance and Protection of Traffic (MPTs) will be developed as each building is constructed, in coordination with NYCDOT's Office of Construction Mitigation and Coordination (OCMC) to protect pedestrian safety and minimize effects on traffic. As described in the Draft and Final Scope of Work, the SEIS will study the potential for significant adverse impacts from construction as they relate to the Extended Build-Out Scenario in the areas of socioeconomic conditions, land use, neighborhood character, visual resources and pedestrian operations. Consistent with the FEIS, the SEIS assessment of pedestrian conditions resulting from construction will be qualitative and will not include a quantitative LOS analysis.

*CONSTRUCTION SCHEDULE/SEQUENCING*

**Comment 66:** The SEIS must include detailed construction plans that represent rational, good faith representations of how the public can expect construction of Atlantic Yards to proceed in order that it may judge the sufficiency of the analyses contained in the SEIS.

There is virtually no relevant construction plan for any of the project at this point that's been disclosed. Please detail to us what you base the assumptions you make on. (Krashes)

**Response:** As described in the Draft Scope of Work, the SEIS will include illustrative construction schedules, and phasing plans, and will be based on conceptual

staging plans and anticipated construction procedures for the construction scenarios described in the SEIS.

**Comment 67:** The construction of Phase II has been changed from what was studied in the FEIS, and the SEIS proposes analysis of further changes that risk causing additional impacts. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, the SEIS will assess the potential for impacts during a Phase II construction period lasting through 2035 for various construction scenarios.

**Comment 68:** The SEIS must identify a new reasonable worst-case scenario that takes into account the project's extended timeline and the terms outlined in the MDA. The agreement gives Forest City Ratner until 2035 to "substantially complete" Phase II construction. Within that timeframe, the only other construction dates set forth are the construction of the platform over the rail yard in 2025 and the "initiation" of construction of one building on block 1129 in 2020. The RWCS must account for the possibility that construction of the remaining Phase II buildings-and the open space that surrounds them-will not be developed until the latest possible date. The RWCS for the construction timeline should also take into account the project's adoption of modular construction methods, which would permit full build-out to take place in a more condensed time frame closer to the 2035 deadline. (Brooklyn Speaks)

**Response:** As per the Court's Order the SEIS will assess the potential for impacts associated with a prolonged construction schedule for Phase II of the Project. As outlined on page 15 of the Draft Scope of Work, the SEIS will assess the potential for impacts during the Phase II construction period through 2035 under the three illustrative construction scenarios outlined in the Draft Scope of Work. Construction schedules, phasing plans, staging plans, and anticipated construction procedures (i.e., standard vs. modular construction) will be developed for Phase II. For the purposes of analyzing the reasonable worst-case development scenarios for construction, construction impacts will be evaluated for the periods when maximum potential impacts could be expected to occur during construction activity. The construction analysis will, where relevant, discuss differences in potential impacts related to on-site standard and modular construction techniques.

**Comment 69:** If it is built, B1 may be constructed at any point in the project's construction phase. It is perched above the key transit entrance to the main entrance to the arena. What is the MPT for the construction, what are its impacts? Please detail the construction of B1 and Site 5 over the course of the project's development. (Krashes, Brooklyn Speaks)

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**Response:** B1 and Site 5 are elements of Phase I of the Project. Accordingly, as with the other Phase I elements of the Project, the SEIS analysis will take into account the effects of the construction and operation of these buildings as background conditions in assessing the environmental impacts of Phase II of the Project, and will account for the possibility that there may be an overlap between the construction of certain Phase I elements and the Phase II construction. To the extent that information regarding construction of these buildings is available and relevant to the analysis, such information will be taken into account and disclosed in the SEIS.

**Comment 70:** The baseline should start now, not at the time of the completion of Phase I. Even if the Phase I project is completed in full, the project agreements enable the construction of Phase I to overlap with Phase II in multiple scenarios. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, Phase I of the Project will be assumed to be constructed and to be part of the background condition. This is consistent with the Court's Order that the SEIS assess the potential for impacts associated with a prolonged schedule for the construction of Phase II of the Project. Any potential overlap between Phase I and Phase II will be reflected in the construction schedules that will be developed for Phase II of the Project under the Extended Build-Out Scenario.

### *CONSTRUCTION METHODS/PRACTICES*

**Comment 71:** The use of modular construction was not detailed or assessed in the 2006 FEIS or the 2009 and 2010 Technical Memorandums. FCRC has already disclosed numerous changes to the construction plan including situating a factory off-site, and delivering large modular units through the course of the early morning and work day for installation on site. Both the height and number of buildings proposed to be constructed at Atlantic Yards using modular techniques is unprecedented in the United States. Although the court order for the SEIS specifies an analysis of Phase II construction, in July of 2011, the court would have had no way of knowing a decision to use modular construction techniques for the Atlantic Yards project would later be made. Therefore, a thorough study of the impact of the developer's decision to use modular techniques must be included in the SEIS. (Brooklyn Speaks)

The construction method now differs from what has been analyzed. There's no meaningful construction plan detail for modular construction, even though it may have very different implications for side walk and street corner and travel lane access. (Krashes)

**Response:** The use of modular techniques to construct the Phase II project buildings would not alter the requirement that the buildings comply with the Design Guidelines

and the New York City Building Code. As described in the Draft and Final Scope of Work, the construction analysis for Phase II of the Project will, where relevant, discuss differences in potential impacts related to on-site standard and modular construction techniques.

**Comment 72:** The extended hours of construction: The construction occurred virtually 24/7. So a lot of the premises upon which the FEIS did the study in fact were not effectuated. And we need to look at better studying those, making sure that construction does not happen 24/7, reducing the number of hours and the type of construction that happens at various times of day. (Simon)

Given the significant impact that extended construction can have on the quality of life of neighborhood residents, the SEIS should identify and assess measures to reduce, monitor and mitigate extended hours of construction. It is critical that the SEIS revise the MEC to provide stricter requirements, including: reducing the incidence of extended hours, particularly the scheduling of construction for 24 hours per day; limiting the number of consecutive days when extended construction hours, particularly 24-hour construction work, is permissible; and requiring that construction periods with extended hours, particularly activities carried out 24/7, be followed by at least 7 days of normal construction hours. (George)

Of greatest importance, the SEIS should seek and obtain more stringent commitments regarding extended hours work, including:

- Reducing the incidence of extended hours, particularly the scheduling of construction for 24 hours per day
- Limiting the number of consecutive days when extended construction hours, particularly 24-hour construction work, is permissible.
- Requiring that construction periods with extended hours, particularly activities carried out 24/7, be followed by at least 7 days of normal construction hours. (Brooklyn Speaks)

**Response:** The SEIS will discuss the anticipated hours of work during construction. To the extent that certain construction activities may result in extended work hours beyond 6:00 PM, the SEIS will describe the purpose and anticipated duration of such activities. If construction of Phase II under the Extended Build-Out Scenario results in any significant adverse impacts not disclosed in the FEIS, the SEIS will seek to identify practicable mitigation measures to address those impacts.

**Comment 73:** The use of the modular construction method, as well as the phasing of property control have increased the likelihood that construction staging will be located on sidewalks instead of inside property lines as originally planned. The SEIS must study pedestrian facilities taking into account changes to the construction

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schedule and construction method in terms of pedestrian LOS, neighborhood character, economic development and visual resources. (George)

**Response:** The SEIS construction analysis for Phase II will, where relevant, discuss differences in potential impacts related to on-site standard and modular construction techniques. The construction analysis will also assess the environmental impacts of any anticipated staging on sidewalks associated either with the use of modular construction or with any anticipated changes to the construction sequence since preparation of the FEIS. Consistent with the FEIS, the SEIS assessment of pedestrian conditions resulting from construction will be qualitative and will not include a quantitative LOS analysis.

### *SOCIOECONOMIC CONDITIONS*

**Comment 74:** If the SEIS considers an approximately ¼-mile study area surrounding the project site during the relevant time period from the announcement of the project to the present (2003-2013), the public could gain an understanding of what the impact might be of another 22 years of construction and delay. (Brooklyn Speaks)

**Response:** In the Construction Socioeconomic section of the SEIS, changes in residential and commercial activities in an approximately ¼-mile study area will be compared to changes in the surrounding neighborhoods to determine whether the construction activities to date may have had an effect on socioeconomic conditions in close proximity to the project site. The Final Scope of Work will clarify this approach.

**Comment 75:** The SEIS should study comparable projects involving extended development located within vibrant urban environments to identify impacts likely to be suffered by communities surrounding the Atlantic Yards site. (Brooklyn Speaks)

**Response:** As indicated in the Draft Scope of Work, and as clarified in the Final Scope of Work, the SEIS will present case studies of locations within New York City that have experienced extended construction activities and/or construction schedules in order to determine whether such activities have led to changes in neighborhood conditions that indicate substantial disinvestment in the immediately surrounding neighborhoods so as to result in a significant adverse socioeconomic and neighborhood character impact. The case study sites will be selected based on a number of factors including the duration of the construction period or construction delay, the vibrancy of the surrounding urban environment as indicated by a critical mass of residential and commercial uses within close proximity to the project site, and the availability of data on residential and commercial indicators.

**Comment 76:** The SEIS is going to look at disinvestment in the area, and how it is predicted by looking at comparable projects in New York City. Part of the problem is that there aren't really many comparable projects in New York City where by this much development in the middle of a vibrant community, vibrant economic community is being proposed or has actually happened. What needs to happen is the SEIS needs to look at really what's happened already. Look at the quarter mile area around the proposed development, and what's happened versus the rest of Brooklyn. (Rubin)

**Response:** The SEIS construction analysis will examine changes in residential and commercial activity within an approximately ¼-mile area of the project site from 2003 to present. These trends will be compared to changes in the surrounding neighborhoods to determine whether the project to date may have resulted in a significant adverse socioeconomic or neighborhood character impact in the area in close proximity to the project site. The Final Scope of Work will clarify this approach.

With respect to utilizing comparable projects in New York City, while every development project and neighborhood has its unique attributes, there have been other major development projects in New York City with prolonged construction that can be studied to inform whether extended construction periods for a major real estate development project may lead to neighborhood disinvestment so as to result in significant adverse socioeconomic or neighborhood character impacts.

**Comment 77:** This is a vibrant area of Brooklyn, New York City, and New York State. The standard should not be just economic disinvestment. There was already a positive private investment trend in this area. Therefore, the question to be addressed must go beyond the issue of whether there will be disinvestment. The first question to be analyzed is whether businesses and real estate investment in the vicinity will be able to keep up with the rest of brownstone Brooklyn. With the potential for future customers on the long-term horizon, there may very well be investors who will hold for the long term. However, it has been our experience that long-term investors might be more interested in letting their sites remain fallow in hopes of greater return on their investment than in short term investments in successful enterprises. Therefore, the SEIS should analyze decreases in employment by local businesses- both full- and part-time workers, including salary and benefits, as well as increases or decreases in sales tax revenues to determine whether actual business in the study zone is affected. Rents and vacancies are not the only indicators of socioeconomic impact. (Brooklyn Speaks)

**Response:** The SEIS will use available data to analyze whether a prolonged construction period for Phase II of the Project could lead to disinvestment in the surrounding area that would result in significant adverse socioeconomic or neighborhood

character conditions. The Socioeconomic Conditions chapter will examine whether the completion of Phase II by 2035 under the Extended Build-Out Scenario would result in new or different socioeconomic impacts as compared to the completion of Phase II by 2016 as analyzed in the 2006 FEIS. The analysis will utilize employment and business data at the borough and zip code level obtained from the New York State Department of Labor Quarterly Census of Employment and Wages (QCEW). In order to provide a more complete picture of total employment in the  $\frac{3}{4}$ -mile study area, the zip code data will be supplemented with employment data from ESRI Business Analyst Online, a commercial data provider that calculates employment estimates for any defined geographic area. The socioeconomic effects of prolonged construction will be considered in the Construction section of the SEIS. This analysis will utilize a variety of data sources to examine socioeconomic trends in a  $\frac{1}{4}$ -mile and  $\frac{3}{4}$ -mile radius of the Project site, including rolling property sales data from the New York City Department of Finance, demographic data from the Census, and employment data from the U.S. Department of Transportation Census Transportation Planning Package.

Both the operational and construction analyses of socioeconomic conditions will address changes in retail activity surrounding the project site, which will be assessed using a number of data sources. With respect to sales tax revenue data that the commenter mentions, these data are not published for geographies smaller than municipalities. In addition, the U.S. Census Bureau and the New York State Department of Taxation and Finance do not publish business sales data for geographies smaller than counties. Although sales data for small areas can be obtained through private data providers, such providers generally offer current data only (not historic). With respect to the salary and benefits data that the commenter mentions, following *CEQR Technical Manual* guidelines these data would be utilized to describe the characteristics and performance of potentially affected businesses, if the analyses of direct or indirect business displacement were to indicate that Phase II under the Extended Build-Out Scenario could result in additional displacement effects. Therefore, the analysis of changes in retail activity will be based largely on field observations and information obtained from local real estate agencies and newspapers. A retail survey will be conducted as part of the SEIS for all retail corridors located within an approximately  $\frac{1}{4}$ -mile area of the project site – the geographic area that is the primary focus of the FEIS discussion on potential for indirect business displacement due to increasing commercial rents. The SEIS retail survey will be compared with the retail survey completed for the FEIS to determine whether there have been changes in the mix of stores and in overall vacancy rates. Retail survey findings will be supplemented with information from local real estate agents, Business Improvement Districts, and newspaper articles on topics such as store openings and closings, overall retail corridor vibrancy, and commercial rental rates.

**Comment 78:** Job creation was a major public incentive leading to the approval of the Atlantic Yards project. It has been reported that a large percentage of construction tasks will be transferred to the module factories, and that workers in the module factories will earn less than counterparts working on site. The SEIS must study how the decision to use modular construction techniques will affect the number of jobs created by the project and the pay scale of those jobs, and the impact of any change on the local economy. (Brooklyn Speaks)

The ESD should study and publish the economic consequences of the commitment to union construction jobs in standard building techniques versus modular. (Vogel)

**Response:** As indicated in Draft Scope of Work, the SEIS will discuss the Phase II construction period's economic benefits, as well as any potential changes in construction benefits due to the potential incorporation of modular construction techniques.

**Comment 79:** The Phase II residential components, with their thousands of residential units, could reasonably be expected to create demand for a more diverse and balanced set of businesses on [Vanderbilt Avenue, Washington Avenue, and Franklin Avenue]. The SEIS should study the effect of the delay of construction and occupation of the Phase II buildings on the economic development of surrounding neighborhoods in this regard. (Brooklyn Speaks)

The SEIS must study the impact of delaying the advent of the more than 4,000 planned residences, perhaps for decades, on the economic development of surrounding neighborhoods. (George)

Extended build-out will slow and/or discourage the establishment of new businesses in the area, inasmuch as they normally depend on increased pedestrian counts for their clientele. The type of business that is affected would expect to be drawing patrons from residents of the towers, not the arena attendees, although there is of course occasional overlap in the case of bars and restaurants only. These businesses that either might not establish or, if new, might not succeed, would be fighting for a much smaller number of customers during the years prior to completion than under the original Plan. (Ettlinger)

**Response:** The SEIS will examine the effects of the Extended Build-Out Scenario on socioeconomic conditions, including the composition of business activity on commercial corridors in immediate proximity to the project site.

**Comment 80:** The area is less attractive because of extended build-out, to possible new tenants. New home sales can be affected. Incidental to this problem is the depressing effect on real estate values created by empty storefronts. I would like to see Forest City Ratner demonstrate the impact they've had on economic impact in the area such as new stores opening. Finally, for those developers

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waiting to build apartments in the area, the extended build-out is extremely problematic as potential condo-buyers would of course prefer a shorter build-out and its attendant disruptive nature. (Ettlinger)

**Response:** The SEIS will examine changes in residential and commercial activity within an approximately ¼-mile area of the project site from 2003 to present. These trends will be compared to changes in the surrounding neighborhoods to determine whether the Project to date may have had an effect on socioeconomic conditions in close proximity to the project site. In addition, as indicated in the Draft Scope of Work, the SEIS will present case studies of other locations within New York City that have experienced extended construction activities and/or construction schedules in order to determine whether such activities have led to changes in neighborhood conditions that in turn resulted in disinvestment in the immediately surrounding neighborhoods.

### *COMMUNITY FACILITIES AND SERVICES*

**Comment 81:** The SEIS should explain where the public school playground will be located at the time the school is constructed within the project site. According to project documents, the school is likely to be located in the first building constructed in Phase II. The study should describe the minimum suitable square footage for the school population, its proximity to the school and other features such as planting, materials and equipment. The study should assess ongoing project construction impacts such as noise, air quality and vibrations that would affect conditions at the playground. The SEIS should also study the impacts of the parking lot and staging area in the event that the school is located on block 1129.

While the Draft Scope of Work will update public school enrollment and capacity data, it should be noted that construction of the school facility is not predicated on a threshold being met for enrollment or capacity within the study area. Further, there is no date for the commencement of the first Phase II building to assess against the need for additional public school capacity within the study area. Therefore, the SEIS should make the conservative assumption that the school will be needed at the time the first Phase II building is constructed. (Brooklyn Speaks)

**Response:** The location and programming for the public school playground will be determined as appropriate by DOE in consultation with the project sponsors. The Project Description of the SEIS will describe the Phase II program, including the potential locations for the proposed public school. Based on the community facilities analysis, and depending upon the phasing of construction, the SEIS will describe the timing of when the school might be needed. The construction noise, vibrations and air analyses will consider all sensitive receptors including the proposed public school and related playground space.

*OPEN SPACE*

**Comment 82:** The Draft Scope of Work for the SEIS states that the quantitative analysis of open space will be performed for "discrete snapshots taken upon completion of construction on each of the four blocks that comprise the Phase II site and will estimate changes in open space ratios for these snapshots." This approach has no basis in the project plan or project agreements. The risk is that it could obscure open space shortfalls during the period of a block's construction. There are several reasons for this. The residential density of buildings varies and the open space is not equally distributed throughout the project site. Some open space features may not be possible to implement on an incremental basis, such the water features-which have complex infrastructure requirements--or the planned bike path, which may not be functional until construction is completed on multiple blocks. Construction of adjacent buildings or infrastructure may result in noise, air pollution, and other impacts that would affect the usefulness of incremental or interim open space. Finally, the snapshot analysis gives no indication of the duration of construction on each block. Interim residential open space shortfalls that are created during construction on a block could last for a decade or more.

Instead, the SEIS should study open space conditions at the time of each building's completion. This analysis should include open space ratios for residential and non-residential use and a description of the open space to be provided at that moment in time. The SEIS should then propose mitigations for open space shortfalls in the absence of any contractual commitments to ensure CEQR's goal that open space is delivered at the time the impacts are created and not years later at the project completion. (Brooklyn Speaks) Project documents describe a program where incremental open space is provided adjacent to each Phase II building once it has been completed. The SEIS should study whether open space provided in this scenario would address residential and non-residential needs for Phases I and II at the point at which each building has been completed. The SEIS should also study whether the impacts of adjacent construction would affect the usefulness of the open space. Specifically, the SEIS should provide:

- Data on the acreage and the percent of the area dedicated to active and passive use;
- Open space ratios for active and passive use for residential and non-residential populations;
- Detailed descriptions of the features including the type of equipment and facilities, points of public access, and hours of operation; and
- An assessment of construction activity or rail yard operations in proximity of the open space which may result in emissions, noise, vibrations or limits on public access that would affect the open space usefulness, even on a temporary basis. (Brooklyn Speaks)

**Response:** The SEIS will provide a description of the open spaces (in both their temporary and permanent conditions) to be provided on the project site during Phase II construction and will determine how open space ratios for the non-residential (1/4-mile) and residential (1/2-mile) study areas could change over the course of the construction period. Using the *CEQR Technical Manual* methodologies for indirect assessment of open space, a quantitative analysis of the potential impacts of the various construction phasing scenarios on study area open space ratios will be conducted. This analysis will consider conditions during the construction period when a new population of open space users would be introduced as a result of the completion and operation of each project building, or when there would be changes in the available open spaces within the project site (i.e., the addition of new open spaces). The assessment of direct effects will include consideration of construction-related noise and pollutant emissions on the quality of the open spaces resources. The assessment will determine whether changed background conditions and the Extended Build-Out Scenario would result in any impacts not previously disclosed, and whether any mitigation commitments made in the FEIS remain adequate under the Extended Build-Out Scenario. The Final Scope clarifies this point.

**Comment 83:** The SEIS should study mitigations for the Phase I open space impacts that are not dependent on Phase II construction. It should also study the promise in the Memorandum of Environmental Commitments, which is curiously absent from the Draft Scope of Work, to create interim open space on portions of the project site not used for construction staging or parking. The SEIS should be exploring every option of how to make this happen on block 1129. This should be easier now that we know that arena parking is underutilized and modular construction will reduce staging. Lastly, the plan currently proposed to address open space deficits by creating it around the buildings as they are constructed does not work for the public, for several reasons: Because the project agreements do not impose significant financial penalties for delays in Phase II construction; Because the agreements stipulate specific commencement dates for only one building in Phase II; and because the design guidelines offer so much flexibility as to the features, usability, and phasing of open space in the period before the project is fully built out. (Oratowski)

According to the MEC: "In the event FCRC does not expect to commence construction of a particular portion of the Project site or to use such portion of the Project site for interim parking facilities or construction-related activities, including staging, in each case for a period of time to be set forth in the Project Documentation, then such portion of the project site shall be used as publicly accessible temporary open space, subject to safety and security requirements."

The SEIS should consider implementing interim open space in place of surface parking. The SEIS should detail scenarios in which the project will deliver

interim open space in areas in Phase I and Phase II that will not be used for interim parking or construction-related activities. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, Phase I is assumed to be fully completed and incorporated in the future background baseline. In the analysis of Phase II conditions, the SEIS will address the commitments stipulated in the MEC with respect to the provision of temporary open space. The SEIS will also provide an analysis of open space impacts during the construction period for the Extended Build-Out Scenario. In determining impacts on open space ratios, the analysis will consider all available open space resources within the study area, including those associated with Phase II project buildings that have been developed up to that point. The assessment will determine whether changed background conditions and the Extended Build-Out Scenario would result in any impacts not previously disclosed, and whether any mitigation commitments made in the FEIS remain adequate under the Extended Build-Out Scenario.

**Comment 84:** The 2006 FEIS identified a "temporary" adverse impact on open space that would be addressed as open space is delivered by the project. With the modifications of the Development Agreement in 2009, the project now may not start delivering open space until well more than ten years following the Project Effective date, (2010), and could take 25 years from the Project Effective date to complete it. Because the project plan allows the permanent condition of the open space to be delivered at the point of project completion, the open space that is created during the construction phase of the project may remain in a temporary condition for the entire construction phase. This plan conflicts with CEQR's intent to "ensure that impacts are identified at the earliest points in which they would occur in the course of development and that mitigations are implemented at that time, rather than at the complete build-out of the project, which may occur years later." (Chapter 2-4, January 2012 Edition). (George, Brooklyn Speaks)

The SEIS should identify the point the open space impact occurs with the project and propose mitigations not dependent on tasks that are delayed. (George)

The SEIS should study the open space impact following completion of Phase I of the Atlantic Yards project, and propose mitigations not dependent upon Phase II tasks. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, the SEIS will analyze the impacts of construction phasing on the provision of on-site open space, including the timing of addressing the temporary non-residential indirect significant adverse impact identified in the 2006 FEIS. A quantitative analysis of the potential impacts of the various construction phasing scenarios on study area open space ratios will be conducted. This analysis will consider conditions during the construction period when a new population of open space users would be

introduced as a result of the completion and operation of each project building, or when there would be changes in the available open spaces within the project site (i.e., the addition of new open spaces). As discussed previously in Comment 82, the assessment will determine whether changed background conditions and the Extended Build-Out Scenario would result in any impacts not previously disclosed, and whether any Phase II mitigation commitments made in the FEIS remain adequate under the Extended Build-Out Scenario.

**Comment 85:** The SEIS should examine how the project's bike path—a public amenity and a blight reduction strategy would be implemented in light of the project's extended construction schedule. Construction of the bike path on an incremental basis would create a path with a dead end, offering no utility to users. (Brooklyn Speaks)

**Response:** Based on the construction sequence being analyzed, the SEIS will provide a description of how the Project's proposed open spaces—including the proposed bike path—will be implemented during Phase II construction. As a point of clarification, the proposed bike path was not included as a blight reduction strategy, but as a Project amenity.

**Comment 86:** The SEIS should study whether the project's extended timeline could extend or increase construction and rail yard operations that would degrade the quality of open space. The new project timeline could leave open spaces exposed to impacts from construction or operation of the rail yard, which was identified as a blight impact, for a longer period of time. Delayed construction of buildings on adjacent sites could leave open space un-buffered from noise from Atlantic Avenue and arena operations such as arena surface parking. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work the construction analysis will evaluate the potential for noise impacts on the Project's publicly accessible open space during the construction period and will consider whether rail yard operations would have an appreciable effect on noise levels at these open spaces. The construction analysis will also assess the land use, urban design, visual resource and neighborhood character impacts of prolonged construction of Phase II of the Project.

**Comment 87:** The 2009 MGPP added the requirement that the developer must "initiate" construction of one residential building on block 1129 by 2020, fifteen years before the project's completion date. It is conceivable that this residential building could remain next to the arena surface parking lot and a construction staging area for an extended period of time.

The SEIS must assess the impact of locating open space adjacent to the arena surface parking lot and should consider, among other factors, noise, emissions, visual resources, neighborhood character and pedestrian safety en route to the

open space at high traffic intersections leading to the parking lot. The SEIS should also include in its assessment the impact of 100 parking spaces that were relocated from the arena block. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work the construction analysis will evaluate a scenario in which construction occurs with a start and stop sequential phasing of Phase II construction. With respect to the development requirements associated with Block 1129, where relevant, the construction analysis will describe the effects of the interim surface parking lot on the Project's completed open spaces.

**Comment 88:** As part of the project agreements, the street bed of Pacific Street between Carlton and Vanderbilt was transferred by the City of New York to the project developer and was removed as a public right of way. Currently used for construction vehicle queuing and the arena patron parking lot, it will be the site of a significant amount of open space. For each scenario of construction sequencing, the SEIS should assess:

- The point at which this open space will developed in each build-out scenario;
- Opportunities for developing this open space out of sequence and as early as possible;
- The amount and the features of the open space;
- Any impediments to developing significant features—such as water features—before full build-out;
- The impact of the loss of the public thoroughfare on neighborhood character and pedestrian and bike movement; and
- How the delay in delivering the open space passage affects economic development on Vanderbilt Avenue by delaying a public amenity that would attract pedestrians to the avenue. (Brooklyn Speaks)

**Response:** The Project is not proposing changes to the open space program identified in the FEIS, including open space amenities and other features. The construction analysis of the SEIS will evaluate the incremental development of the Phase II Project buildings and associated open spaces, including those in the street bed of Pacific Street between Carlton and Vanderbilt Avenues. The effect of Project construction on bicycle lanes during the construction period will also be addressed as part of a discussion of curb lane closures. The SEIS will examine the socioeconomic impacts of prolonged construction of Phase II under the Extended Build-out Scenario. However, it will not separately address any socioeconomic impacts of a delay in the increase in pedestrian traffic that would accompany the provision of Project open space. That increase in pedestrian traffic is a benefit of the Project, and a delay in the delivery of that benefit is not a Project-related impact. The SEIS analysis will compare the construction of Phase II of the Project in an Extended Build-Out Scenario to a future without

Phase II of the Project. The delayed economic benefits of the Project in an Extended Build-Out Scenario will be disclosed, but do not themselves constitute a significant environmental impact. The effect of closing Pacific Street will not be assessed as this occurred in 2010 in connection with Phase I, but the effect of a delay in the Phase II open space under the Extended Build-Out Scenario will be studied, as discussed above

**Comment 89:** The SEIS must study how the use of modular construction techniques will impact the project's ability to deliver open space incrementally as buildings are completed, and also assess the quality of any open space delivered next to active modular construction in terms of noise and other impacts. (Brooklyn Speaks)

**Response:** The construction analysis in the SEIS will, where relevant, discuss differences in potential impacts related to modular construction techniques on some or potentially all of the Phase II buildings. The design of the modular construction is anticipated to be consistent with the Design Guidelines for Phase II and therefore would not change the design elements of the Phase II program described in the FEIS, including the open space associated with each of the buildings. The potential noise impacts of modular construction techniques on Project open space resources during the Phase II construction period will also be discussed.

**Comment 90:** The SEIS must study whether any new construction impacts have been created by locating a module factory in the Brooklyn Navy Yard. (Brooklyn Speaks)

**Response:** The construction analysis in the SEIS will, where relevant, discuss differences in potential impacts related to modular construction techniques on some or potentially all of the Phase II buildings. This analysis will account for the potential use of the existing module factory in the Brooklyn Navy Yard as the origin of modules delivered to the Phase II site, but the environmental impacts of the existing factory at the Brooklyn Navy Yard are outside the scope of the SEIS.

*URBAN DESIGN AND VISUAL RESOURCES*

**Comment 91:** The SEIS should provide illustrative representations of each building site in the project from each relevant pedestrian vantage point until the building is constructed. The illustrations should be provided for each of the construction scenarios analyzed. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, if warranted based on the preliminary assessment, a detailed analysis of urban design and visual resources during construction will be prepared for the SEIS. The detailed analysis will include photographs of existing conditions within the study area, and to the extent practicable, it may include illustrative representations of the construction period

scenarios. The inclusion of multiple illustrations from different vantage points of each Phase II building during the construction period in each of the three construction scenarios to be examined in the SEIS is not practicable or needed for the SEIS environmental impacts analysis.

**Comment 92:** One of the biggest things that has happened out of this is the rail yard lights. Vanderbilt LIRR rail yards work has 24 hour a day high pressure sodium lights (as much light as a baseball stadium a mere 30' to 50' from residents windows most with small children) for months on end. Years before the Atlantic Yards Barclays construction, that was still an active rail yard. It didn't need those lights then to operate. And to say that they need them now and they need them on, it's disingenuous to say it's not because of the development. It is because of the development. (Bailey)

There's been incessant lighting right now all the time, which is bothering the people on Pacific. (Puca)

Flood lights deployed over the rail yard prevent adjacent residents from having normal sleep cycles and circadian rhythm with the associated stress and illnesses. (George)

**Response:** The SEIS will discuss expected lighting conditions in the rail yard during the Phase II construction period, and those related to Phase II construction activities, which will consider the type and duration of work during Phase II construction that would require night-time lighting. .

**Comment 93:** Demolition and site preparation at Atlantic Yards began shortly after the project's approval in December 2006. In some cases, City agencies issued permits to the project sponsors for related work. For example, in 2008, the New York City Department of Parks issued a permit for the removal of 86 street trees around the project perimeter. The permit was conditioned on monetary restitution, as well as a commitment by Forest City Ratner to replace the trees, presumably with an outer limit of project completion. With the delay in construction, this permit would allow some or all the site perimeter to be empty of trees for an additional 15 years.

The change in the project timeline will delay the planting of trees in the project's open space and along its perimeter. In addition, in 2008, Forest City Ratner was given permission by the New York City Department of Parks to remove 86 street trees around the project's perimeter. The permit required the replacement of trees, in addition to monetary restitution. With the delay in construction, the replacement of trees that existed in the No-Build condition will be further delayed, presumably until the project's completion since there is no deadline stipulated for their replacement. In addition to identifying all street trees

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removed or expected to be removed from the project site, the SEIS should assess:

- Whether the delay in planting trees would increase blight in the project area;
- Areas where planting of new or replacement street trees has been delayed;
- The cost value to the public of the delay in replacement of trees (based on New York City Department of Parks and Recreation (DPR) guidelines with the conversation assumption that tree replacement will occur upon project completion);
- Impact of the delay of tree planting on open space, urban design and neighborhood character;
- Impact of the delay in terms of air quality with respect to pollution removal, carbon storage and sequestration as measured in both tons and dollar savings; and
- Impact of the delay of replacement trees where trees were removed to allow for curb cuts to the interim satellite uplink lot and block 1129. (Brooklyn Speaks)

The developer is removing 20 street trees on the north side of Pacific Street between Sixth and Carlton to facilitate construction in the area, with no date set of returning these trees to the environment. This creates a total of 86 trees removed by the developer. Trees, they provide shade from the sun, protection from the rain and wind, a buffer to the very dust and noise raised by the construction. FCR does not even own the property where they are cutting the next round of trees. It is still MTA property. There's no time line for the return of these trees, making the environment far worse for the people who live in the area and for all of us. (Koteen)

Forest City Ratner is cutting down trees on Pacific Street right behind my building. There's no timeline for replacement. It's a negative impact. (Puca)

The Design Guidelines for the project detail "Street trees shall be located on the surrounding streets at a rate of one tree every 25 linear feet of sidewalk where feasible pursuant to NYCDOT and DPR standards."

In 2008 FCRC received a Parks Department Permit to cut 86 street trees and plant 116 street trees as a partial repayment. Originally, the permit anticipated 42 trees on the arena block, 33 of them street trees. All but 2 were to be located along Flatbush Avenue and Atlantic Avenue. Construction of those areas is largely complete and only 11 street trees and an empty tree bed are in place. 5 newly planted trees were recently removed due to pedestrian safety concerns.

The Parks Department permit allows FCRC to plant the trees promised future Atlantic Yards residents elsewhere in the neighborhoods nearby. Narrower sidewalks, a failure so far to assess pedestrian conditions post-event, and an instinct developers of to absorb sidewalks as much as possible for construction staging and to build to the property line increase the risk planned street trees

will be removed for the sake of pedestrian safety. This is in contrast to Brooklyn generally, and Prospect Heights specifically, which are known for their tree-lined streets. Atlantic Yards should be planned so that pedestrian safety and street trees and other amenities are not in conflict.

At full build-out some areas of the project where street trees are planned may not be feasible like Atlantic Avenue from Carlton Avenue to Vanderbilt or in front of B2. The SEIS should review the project plans to anticipate areas where there is a risk planned trees may not be feasible. It should also assess the project generally to see if plans can be modified to decrease the risk street trees will be sacrificed during development. (Brooklyn Speaks)

**Response:** The SEIS will provide information, to the extent available, as to plans to replace street trees on the Phase II project site.

#### *TRANSPORTATION*

**Comment 94:** The SEIS should reevaluate volume and hourly distribution of trucks to determine their environmental impacts over a 25-year period. The SEIS should further identify the root causes of the violations of truck protocols documented during arena construction and propose additional measures to improve enforcement. (Brooklyn Speaks)

**Response:** As outlined in Task 4 in the Draft Scope of Work, the SEIS will provide a volume and hourly distribution of trucks and construction worker trips through 2035 under the three illustrative construction scenarios. Also see response to Comment 129.

**Comment 95:** There will be 15 years more of compromised bicycle lanes, such as on Dean Street, in which the opportunity for fatal collisions between bicyclists and automobiles is dramatically increased. (Ettlinger)

**Response:** The SEIS will identify anticipated disruptions to area roadways, including traffic and parking lanes, pedestrian sidewalks and crosswalks, and bicycle lanes. The SEIS will note that maintenance and protection of traffic (MPT) plans will be prepared that address the potential for temporary displacement or relocation of bike lanes; these MPT plans will be subject to the review and approval by NYCDOT.

#### *Traffic*

**Comment 96:** The section of Pacific Street that is now closed and used for construction purposes should be reopened to traffic and pedestrians unless a survey can prove that current use reduces blight and that such use is advantageous for residents of the area. (Ettlinger)

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**Response:** This section of Pacific Street has been incorporated into the project site and will ultimately be part of the open space plan of the Project. Therefore it will not be re-opened as a City street.

### *Pedestrians*

**Comment 97:** The TDM did not take into account the dangerous situations caused by 15 years more of pedestrian walkways being moved onto streets, along with the narrowing of sidewalks. This is of particular concern nearest the arena where, especially in an emergency or at the end of a popular concert with younger clients, sidewalk capacity needs to be maximized, not minimized. All pedestrian safety issues during the extended Phase II construction are further compromised by the current issue of arena event attendees and their hired cars (buses, limos, black cars, etc.) parking illegally in areas immediately around the arena, a problem that the arena operators, in the aggregate, have been unable to eliminate as of March, 2013. (Ettlinger)

**Response:** The SEIS will address the capacity and safety needs of pedestrians during the Phase II construction period. The SEIS will discuss the use of sidewalk bridges and temporary walkways to provide pedestrian flow around the construction site. See also the response to Comment 129.

**Comment 98:** The SEIS must ensure there is sufficient capacity for pedestrians not just a safety concern, but as a central tenet to maintaining a livable and economically vital community during the construction phase and at the time of the full project build-out. (George)

**Response:** The SEIS will describe the anticipated construction staging and maintenance and protection of traffic requirements, which are subject to NYCDOT approvals, to provide capacity for pedestrian operations and pedestrian flow around the Phase II construction site during normal and special event conditions. The SEIS will include an analysis of whether the extended Phase II construction activities will affect socioeconomic conditions in the area surrounding the project site. In addition, the SEIS will provide an updated socioeconomic analysis to determine whether the Extended Build-Out Scenario of Phase II will result in any significant adverse impacts not previously disclosed.

**Comment 99:** In 2009, the construction of the arena and non-arena buildings were delinked. As a result, the amount of available sidewalk and street corner space on the arena block will be significantly reduced for twelve years longer, depending upon the construction period of B1. (Krashes)

**Response:** The SEIS will study the potential effects of extended Phase II construction activities. The SEIS will assume that Buildings 2, 3, and 4 will be complete

prior to the start of construction of Phase II. In the analysis of construction impacts of Phase II of the Project, the SEIS will also take into account the potential for some overlap in the construction of certain Phase I and Phase II buildings. The SEIS will assume that Building 1 and Site 5 will be constructed at some point during the construction of Phase II, and will be considered part of the No Build Condition.

**Comment 100:** Arena construction showed that even with the best-laid plans, coordinating construction deliveries so that they occur as planned and without unanticipated impacts is difficult. The oversized loads transporting modules from the factory in the Brooklyn Navy Yard to the Atlantic Yards site clearly have the potential to be disruptive to traffic along the entire route. The SEIS' transportation analysis must detail the route and timing of these deliveries, plans for staging and dispatching them, and control procedures for overseeing that the plans are followed, together with the expected impacts of module deliveries on the local transportation network.

The SEIS must also study the potential for the use of modular construction to increase the demand for sidewalk and travel lane closures, and/or the implementation of temporary sidewalks. (Brooklyn Speaks)

**Response:** The SEIS will include a qualitative discussion of the potential use of modular construction including the potential impacts due to temporary sidewalk and travel lane closures. The SEIS will discuss the anticipated delivery truck routing and timing of modular deliveries as well as the plans for staging and dispatching these deliveries.

**Comment 101:** Changes to lay-by lane capacity and their impact on pedestrian behavior (during construction) should be assessed in the SEIS. (Brooklyn Speaks)

**Response:** The extent to which Phase II construction under the Extended Build-Out Scenario may have adverse impacts on pedestrians will be assessed qualitatively in the SEIS. To the extent relevant, this assessment will account for lay-by-lane capacity during the Phase II construction period.

**Comment 102:** The SEIS should detail and assess how arena patrons are going to be managed through the construction of each building in Phases I and II. (Brooklyn Speaks)

**Response:** As described on page 2 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Order of the Supreme Court for New York County to examine the potential environmental impacts of the completion of Phase II of the Project in 2035. The SEIS's construction analysis will identify the anticipated roadway and sidewalk disruptions at the project site and describe the anticipated route protection for motorists, bicyclists, and pedestrians during different phases of the Phase II construction under the Extended Build-Out

Scenario. It will also assess how on-going construction activities during Phase II construction may affect pedestrians (including event patrons) walking in the areas adjoining the Phase II construction.

**Comment 103:** The SEIS should detail the location and timing of sidewalk closures and construction staging across all the potential construction scenarios, and detail the MPT for each project building that remains to be built. If project planners cannot commit to temporary sidewalks in those locations that involve potential sidewalk closures, the SEIS should consider the elimination of pedestrian flow on that sidewalk as the worst-case scenario. (Brooklyn Speaks)

**Response:** The SEIS will include a discussion of construction staging for the illustrative construction scenarios for the Extended Build-Out including locations of where sidewalk closures and temporary sidewalks are anticipated. Specifics regarding the detailed design plans for equipment staging, locations and MPT plans are developed by the contractor and subject to review and approval by NYCDOT and other reviewing agencies.

**Comment 104:** Project documents identify the east-west and north-south corridors as significant features in the project's open space plan. In addition to providing pedestrian infrastructure, these corridors serve as connections between neighborhoods and, for that reason, were specifically identified by the FEIS as blight mitigations. The SEIS should examine the delay in the completion of these corridors, including:

- Whether delay in providing neighborhood connections continues existing blight;
- Whether delay would reroute pedestrians on to other streets;
- The utility of partial construction of the corridor, which might be a dead-end walkway; and
- The impact of the loss of pedestrian traffic to neighborhood businesses. (Brooklyn Speaks)

**Response:** The SEIS will evaluate whether any of the potential construction scenarios will create a change to the pedestrian experience that is sufficiently significant to require greater explanation and further study. If warranted, an analysis of urban design and visual resources will be prepared. The SEIS will also include a qualitative assessment of pedestrian trips generated by the projected construction workers and discuss how on-going construction activities during Phase II construction may affect pedestrians (including event patrons) walking in the areas adjoining the Phase II construction. In addition, the SEIS will include a neighborhood character assessment that will consider whether a prolonged construction schedule for Phase II would create conditions that would lead to substantial residential or business disinvestment in the areas surrounding the project site. It should be noted, however, that the pedestrian connections are

Project benefits, and extending the time for providing those benefits would not be a significant impact of the Project. No changes have been proposed to the pedestrian connections in the Project open space as set forth in the Design Guidelines.

*Parking*

**Comment 105:** The SEIS should identify the method of calculating construction worker parking demand mentioned on page 18. For the 2006 FEIS, it was apparently based on a survey of 129 workers who were working on the 24-story expansion tower at the New York Marriott at the Brooklyn Bridge in 2006. This approach may have underestimated the demand for parking. Work at the Marriott in 2006 covered a single site within a block and likely involved less nighttime work. Construction jobs at Atlantic Yards, in contrast, have been scattered over a 22-acre site and involve varied daytime and nighttime shifts. This would make carpooling less feasible than for the Marriott and increase the percentage of workers desiring to drive their own cars. (Brooklyn Speaks)

**Response:** The analysis presented in the 2006 FEIS did not solely rely on surveys conducted at the New York Marriott. It was based on a combination of census data and characteristics surveyed at large construction sites, including the New York Marriott. The SEIS will follow a similar approach with updated data that are currently available. Estimates of construction worker travel and parking demand will be based on the illustrative construction phasing plans developed for Phase II under the Extended Build-Out Scenario.

**Comment 106:** The SEIS should spell out the implications of a change in the second phase construction sequence without reducing residential accessory parking requirements. (Brooklyn Speaks)

**Response:** As presented in Task 5: Alternatives, of the Draft Scope of Work (page 20), the SEIS will evaluate a project alternative (a Reduced Parking Alternative) that would modify parking requirements to reduce the amount of accessory parking provided for Project residential uses.

**Comment 107:** The SEIS should identify points during the construction schedule in which the project produces shortfalls or excess in parking capacity. (Brooklyn Speaks)

**Response:** The SEIS will include a presentation of the Phase II construction staging for three illustrative construction scenarios (see page 15 of the Draft Scope of Work). The presentation will include a discussion of the overall construction effort for each scenario, the identification of the peak periods of activity and a detailed analysis of those periods. The assessment will include consideration of phasing plans for parking during the Phase II construction period under the

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Extended Build-Out Scenario, and an assessment of any interim parking shortfalls during the Phase II construction period.

**Comment 108:** The SEIS should also study and propose genuine incentives to reduce auto trips by construction workers, including hiring local workers, establishing a changing room with lockers, providing free transit passes and having construction workers park in one lot off-site so FCRC can transport them to and from work sites via vans. (Brooklyn Speaks)

**Response:** The SEIS will study reasonable worst-case construction scenarios to identify the extent of potential impacts from construction worker traffic and parking. In the event significant adverse environmental impacts are identified, practicable mitigation measures would be considered to address them.

### *AIR QUALITY*

#### *On-Site Analysis*

**Comment 109:** Effective air quality monitoring is obviously a key component of ensuring compliance. However, Sandstone found numerous issues with air monitoring during arena construction:

- The monitors are generally discontinued during conditions of precipitation or frozen ground. They also are not as effective during periods of high humidity or temperatures below 32F. Although windborne fugitive dust from storage piles would not be as great under these conditions, PM<sub>10</sub> could still be emitted from diesel combustion and from excavation work such as drilling.
- Placement of the monitors may not be effective if wind direction changes frequently or if the observer cannot ascertain which monitor was the "downwind" monitor. Some monitored data actually shows lower PM<sub>10</sub> readings for the "downwind" monitor than for the "upwind" monitor.
- Use of two or three monitors may not be sufficient to capture high readings at a work site if the work area is large or if dust problems develop at multiple site locations. During the first quarter of 2011, HDR noted an incident on February 3rd where an additional PM monitor should have been deployed downwind in the vicinity of the Carlton Avenue Bridge.
- 15-minute averaging periods for the data are not reliable or useful unless observers know for certain that a particular monitor was upwind or downwind. Under some weather conditions, the wind can be highly variable. The 15-minute PM<sub>10</sub> averages may reflect a wind direction that occurred only 50% of the time.
- Meteorological data that is averaged three times per day, as recommended in the CAMP, is not sufficient to correlate with air quality data averaged at 15-minute intervals.

- Only PM<sub>10</sub> is monitored. PM<sub>2.5</sub>, which has a lower permissible concentration under the NAAQS, is not included. PM<sub>2.5</sub> from diesel exhaust has been associated with increased incidence of asthma in children." Further, AYW has documented that air monitors were deployed during arena construction between 7AM and 4PM, not during extended hours or weekend construction work.

The SEIS must evaluate the efficacy of the air monitoring effort conducted during arena construction and propose improved measures consistent with industry best practices for future phases of construction, including deploying monitors during extended hours and weekend work; increasing the number of monitors deployed based upon the size of the area where construction activities are occurring; using a state-of-the art monitoring system with built-in data loggers that send information wirelessly to a computer program that can evaluate the locations and wind data and identify which monitors are "upwind" or "downwind"; install at least one permanent PM<sub>2.5</sub> monitor to ascertain 24-hour and annual concentrations of PM<sub>2.5</sub> in the vicinity of the work sites; and setting the monitors' audible alarms to also ring the cell phone of an employee who will respond. (Brooklyn Speaks)

The SEIS must evaluate the efficacy of the air monitoring effort conducted during arena construction and propose improved measures for future phases of construction including: deploying monitors at different times during extended hours and weekend work; increasing the number of monitors; using a state-of-the art monitoring that can evaluate the impact of wind on dust dispersal; and developing a response system to quickly address impacts. The SEIS should include monitoring of and mitigations for fine particulate matter under the U.S. Environmental Protection Agency's (EPA's) PM<sub>2.5</sub> standard. The current MEC does not require monitoring of PM<sub>2.5</sub> from diesel exhaust, which has been associated with increased incidence of asthma in children. The SEIS should also study and project air quality impacts from diesel emissions for the 25-year construction period, and compare a scenario in which electric equipment, DPFs and ULSD fuel are used, to a scenario in which those mitigations are not employed. The SEIS should study whether to require contractors to use newer equipment that complies with EPA Tier IV emissions. (George)

**Response:**

A Community Air Monitoring Plan (the "CAMP") was prepared by an environmental consulting firm (Roux Associates, Inc.) on behalf of the project sponsors in accordance with the discussion of the CAMP in the FEIS. The CAMP is consistent with the New York State Department of Health (NYSDOH) Generic Community Air Monitoring Plan for site excavation work at brownfield sites. The objective of the CAMP is to monitor dust during site excavation activities so as to provide real-time data to allow the suspension of construction activities generating excessive dust, and the modification of construction activities (*e.g.*, by deploying additional dust suppression measures) prior to the resumption of the construction work. In accordance with the requirements

established in the May 2010 NYSDEC Division of Environmental Remediation (DER)-10 Appendices 1A and 1B during soil disturbance, PM<sub>10</sub> is the most representative pollutant for fugitive dust monitoring. Accordingly, the monitoring program for particulate matter has been, and will continue to be, focused on PM<sub>10</sub>. In addition to the construction management team that will monitor day-to-day construction activities, an On-site Environmental Monitor (OEM), will continue to monitor compliance with the Project environmental commitments, and ESD's environmental oversight contractor will continue regular inspection of the construction site. In addition, a Community Liaison Officer (CLO) was established per the MEC to provide a direct point of contact between the local community and the project sponsors during the construction of the project. The CLO will continue to be available to address specific concerns raised by the community. The SEIS will discuss monitoring during Phase II site excavation activities. The FEIS did not contemplate monitoring of diesel emissions. Instead, the FEIS described a program to reduce diesel emissions by requiring the use of Ultra Low Sulfur Fuel, diesel particulate filters and early electrification. That program was implemented through the MEC. The SEIS will not assess the impacts of construction without use of these diesel emission reduction measures because they will continue to be required and deployed. The SEIS will assess the feasibility of increasing the stringency of the diesel emission reduction measures (e.g., by requiring the use of Tier 3 or Tier 4 equipment) for construction of the Phase II buildings.

**Comment 110:** Under the MEC, FCRC agreed to implement a comprehensive diesel emissions reduction program. The program included maximizing the use of electric engines and minimizing the use of diesel; installing an electric grid throughout the site powered by Con Ed for use with electric construction equipment; requiring the use of ultra-low sulfur diesel fuel; and ensuring that diesel engines were fitted with Diesel Particle Filters (DPFs) or Diesel Oxidation Catalysts (DOCs).

During arena construction, Hunt Construction did not contact Con Ed regarding the power grid until the second quarter of 2010; its installation was delayed until after the summer high electric season, and the grid did not become fully available until after construction activities had peaked in the spring of 2011. During the intervening time, contractors used generators to power equipment. Sandstone reported that contractors Banker Steel and McKissack each complained that it was not practical for their workers to use the power grid at the site, and each employed diesel generators instead.

HDR's first quarter 2010 report states that it periodically requests ultra-low sulfur diesel receipts to verify compliance. It is not known how frequently it received them, or if there are any instances of noncompliance. The air quality monitoring plan does not include the one-hour SO<sub>2</sub> standard that was adopted in June 2010.

HDR also found that some construction equipment did not have the required DPFs installed. In some cases, the FCRC on-site environmental monitor allowed non-compliant equipment to remain on site for up to three months while awaiting replacement by compliant equipment.

Diesel particulates are a particular concern in NYC where studies have found a direct association between diesel exhaust and asthma in children. The SEIS should study and project air quality impacts from diesel emissions for the 25-year construction period, and compare a scenario in which electric equipment, DPFs and ULSD fuel are used, to a scenario in which those mitigations are not employed. The analysis should include the one-hour SO<sub>2</sub> standard. To avoid problems in policing equipment with DPFs, the SEIS should study whether to require contractors to use newer equipment that complies with EPA Tier IV emissions, and also study the difference in 25-year impacts between older diesel equipment that has been retrofitted with DPFs or DOCs and new diesel equipment with Tier IV emissions. (Brooklyn Speaks)

**Response:** The FEIS and MEC require the project sponsors to implement a comprehensive program to reduce diesel emissions from construction activities. This program includes the use of ultra-low-sulfur diesel (ULSD) fuel, the use of diesel particulate filters on equipment exceeding 50 hp, early electrification and other measures. These measures were determined to be a practicable and feasible means of reducing diesel emissions. These measures will continue to be employed during the Phase II construction. The SEIS will review the project sponsors' compliance with the MEC requirements and evaluate the feasibility of effecting improvements to the emission reduction program, if warranted.

Since ULSD will be used for all diesel engines used in the construction of the Project, sulfur oxides (SO<sub>x</sub>) emitted from those construction activities will be negligible. Therefore, a one-hour SO<sub>2</sub> analysis is not warranted.

See also response to Comment 109.

#### *NOISE*

**Comment 111:** The 25 noise receptors listed on page 19 (construction noise) do not seem sufficient to represent the Phase II area. The SEIS also should include receptors on 1) Atlantic Avenue between 6th and Carlton Avenues, 2) 6th Avenue between Bergen and Dean Streets, 3) Carlton Avenue between Bergen and Dean Streets, and 4) Bergen Street between 6th and Carlton Avenues. (Brooklyn Speaks)

**Response:** In response to this comment, the Final Scope of Work includes these additional locations as noise receptor locations for the construction analysis in the SEIS.

**Comment 112:** The 10-year construction schedule discussed in Chapter 17 of the FEIS implies that construction may last into the early evening up to three days per week approximately every other week. The frequency of evening and night work was not specified, leading the reader to believe that it would not occur frequently or for extended periods of time. Chapter 17 did not identify periods when consecutive days of late night work would occur for weeks or months at a time.

However, extended hours construction was the rule rather than the norm during arena construction, expanding to 24/7 in the months leading up to the arena opening, a clear violation of the original commitment. As mentioned previously, ESD's environmental monitors did not generally visit the site outside of normal construction hours. Had they done so regularly, they would have seen on several instances violations of noise policies as documented in AYW and the Sandstone report. In reevaluating noise impacts for a 25-year construction schedule, the SEIS should study the following strategies for reducing impacts:

- Schedule noisy truck deliveries and construction-related garbage pick-up for daytime hours.
- Provide required noise shielding to reduce noise levels for nearby residents.
- Monitor nighttime noise levels in the vicinity of residences to document noise levels during extended hours.
- Reevaluate the construction schedule so that nighttime work can be avoided.
- Provide better oversight and foresight regarding the types of equipment and work permitted late at night.
- Maintain a log of work during extended hours, including the time, type of work, etc., in the quarterly reports.
- ESD's on-site environmental monitor (HDR) and FCRC's OEM should visit the site during extended and late-night hours one or more times per week using an unpredictable schedule.
- Replace loud back-up beepers with lights or more environmentally friendly devices that emit noise several decibels above background levels.
- Incorporate modifications to the dumpsters that will mitigate noise levels during trash collection such as rubber wheels. (Brooklyn Speaks)

**Response:** The SEIS will consider the timing of truck deliveries in the construction noise analysis. The SEIS will assess the need for noise barriers and shielding to respond to any significant adverse impacts resulting from the construction of Phase II under the Extended Build-Out. The SEIS will also evaluate potential noise impacts at sensitive receptor sites, including residences, and where necessary recommend mitigation measures to eliminate or reduce potential significant adverse impacts. The feasibility of measures to reduce noise from loud back-up beepers, dumpster, and other noisy equipment will also be considered in the SEIS. The SEIS will consider and disclose the circumstances in which night-time construction work is anticipated, assess the noise impacts of such work and identify any practicable mitigation measures to reduce any

resulting significant adverse noise impacts. To the extent the noise analysis identifies significant adverse noise impacts during the Phase II construction period, the SEIS will analyze the practicability of potential additional noise mitigation measures.

**Comment 113:** As a function of the MEC, FCRC committed to the following:

- Follow Subchapter 5 of the NYC Noise Control Code and use a wide range of equipment, including construction trucks, that produces lower noise levels than typical construction equipment.
- Use construction equipment that meets the noise emission levels specified in Table 17c of the FEIS, "Construction Equipment Noise Emission levels," where such levels are more stringent than those imposed by the Noise Code.
- Require all contractors and subcontractors to properly maintain their equipment and have quality mufflers installed.
- As early as practicable in the construction period and wherever feasible, use electrical powered equipment such as electric scissor lifts and electric articulating boom lifts, rather than diesel-powered equipment for construction activities.

In July 2011, Sandstone reported, "The use of the Noise Control Code and the use of quieter equipment, where available, has not been followed consistently. This is partly due to inadequate oversight."

Given the significant number of noise complaints registered during arena construction, the SEIS should consider whether measures taken by other major construction projects such as the Boston Central Artery and Tunnel Project Construction Noise Control Specification 721.56 should be applied to future construction at Atlantic Yards. These measures include, among other things, the following:

- Banning the use of impact devices (e.g., Jackhammers, hoe rams, pavement breakers) at night;
- Allowing the site engineer to stop a contractor's work, without compensation for lost time, if noise conditions are unacceptable;
- Requiring an updated noise control plan to be submitted every 6 months; and
- Requiring noise measurements to be submitted on a weekly basis. (Brooklyn Speaks)

**Response:** The SEIS analysis will assess the noise impacts from the construction of Phase II under the Extended Build-Out Scenario. If significant adverse impacts are identified, the SEIS will examine whether there are practicable measures beyond those already required in the MEC to mitigate such impacts.

**Comment 114:** The MEC specifies construction areas shall be shielded with a minimum 8-foot high barrier (constructed of ¾" thick plywood), with a 16-foot high barrier (of

¾” thick plywood) adjacent to sensitive locations, including locations along Pacific Street, Dean Street, and Flatbush A venue opposite residences and the Brooklyn Bear's Pacific Street Community Garden, and, where practicable, truck deliveries shall take place behind these barriers. Noisy delivery trucks, such as concrete trucks, are to be operated behind the barriers. Further, noise curtains and equipment enclosures are to be used to shield sensitive receptor locations.

The Sandstone report states, "The noise barriers, where deployed, are not sufficient to protect bedrooms on the second floor and higher. In addition, the attenuation provided by barriers composed of plywood over a chain-link fence may not be sufficient to ensure an interior L<sub>10</sub> noise level of 45 dBA or less at affected residences. New York City's Vendor Guidance Document for Smaller Construction Jobs states that 1” plywood has an STC rating of 30. The STC rating of ¾” plywood, based on various internet sources, ranges from 22 to 28. In areas subject to construction noise levels with an L<sub>10</sub> of 75 or more, the plywood walls, by themselves, would be inadequate and would need to be coupled with additional noise reduction measures."

The SEIS must review the sufficiency of the noise mitigations in the MEC based upon community experience during arena construction, and determine whether additional mitigations and more effective monitoring should be introduced. Specifically, the SEIS should study the use of Federal Highway Administration's (FHWA's) RCNM model, CADNA, on-site noise monitoring, or other means of determining noise levels at affected residences in order to implement an appropriate set of mitigation measures that may include noise curtains and equipment enclosures. (Brooklyn Speaks)

**Response:** As part of the SEIS, new noise measurements of existing noise levels will be performed, new impact analyses will be prepared based upon the illustrative construction phasing plans using the Cadna model, and if necessary, new and/or additional recommendations will be made concerning practicable measures to mitigate potential significant adverse noise impacts of Phase II construction under the Extended Build-Out Scenario.

**Comment 115:** The FEIS projected an area around the Atlantic Yards footprint where residents were expected to experience high noise levels during construction. FCRC offered double-glazed replacement windows and air conditioners to residents in this area; windows were installed in 2009 and 2010, but no information on the noise attenuation ratings of the model of windows installed was provided. Further, during arena construction, residents outside the noise impact zone defined in the FEIS reported severe noise impacts. Other residents within the zone claimed to have not been informed about the noise mitigations offered by FCRC. Finally, the sensitive receptor locations in the 2006 analysis (locations like residences or open space where human activity may be affected by project

generated noise) do not account for more recent conversions from commercial to residential in the vicinity of the project site. (Brooklyn Speaks)

Given an additional 15 years of construction, the SEIS must review the sufficiency of the residential window replacements offered as mitigation under the MEC, including a means to determine the necessary OITC rating to attenuate projected construction noise levels or monitored noise levels during noisy construction periods. The zone for expected noise impacts must be reviewed and enlarged as may be necessary based on the experience during arena construction (we note that building a platform over the rail yards is expected to produce significant noise), and a mechanism for continued outreach to residents should be proposed. (Brooklyn Speaks)

With respect to noise impacts, the SEIS must assess the adequacy of current noise mitigations, improved measures to monitor noise impacts and what additional measure should be applied to future construction. (George)

**Response:** As noted above, in response to Comments 60 and 111, some additional receptors will be examined in the noise analysis presented in the SEIS. Based upon the revised illustrative construction schedules, new impact analyses will be prepared and if significant potential adverse noise impacts are predicted to occur that are different than those disclosed in the FEIS, practicable noise mitigation measures will be recommended. At some locations these may include providing window treatment and/or alternative ventilation if this has not already occurred. This information will be provided in the SEIS.

**Comment 116:** The SEIS must study the potential of modular construction to create additional noise impacts from, among other sources, heavy machinery manipulating large modules. The SEIS must also study the potential for buildings constructed using modular techniques to be less effective in containing sound now being heard by neighboring residents coming from arena events. (Brooklyn Speaks)

**Response:** As described in the Draft Scope of Work, the construction analysis will discuss differences in potential impacts related to on-site standard and modular constructions techniques with respect to potential noise impacts. The minimum building attenuation requirements for project buildings would be the same whether they are constructed using conventional or modular techniques.

**Comment 117:** The MEC requires FCRC to implement a monitoring program to ensure that vibration levels at the Swedish Baptist Church and the town houses along Dean Street immediately adjacent to the project's Building 15 site are kept below 0.50 inches/second.

However, vibration complaints have been registered from properties outside of this area. These properties have included the Newswalk building on the block between Dean Street, Pacific Street, 6th Avenue and Carlton Avenue; buildings

on Vanderbilt Avenue between Dean and Pacific Streets; and Carlton Avenue between Dean and Pacific Streets. Both of the latter two areas are within the Prospect Heights Historic District, but FCRC's Historic District CPP does not address them because the district was designated in 2009, three years following the drafting of the plan. FCRC installed vibration monitors in several town houses on Carlton Avenue between Dean and Pacific Streets; however, results from the logs of those monitors were not included in the quarterly HDR reports. In one incident, a resident of Carlton Avenue reported the collapse of a ceiling in his home following construction activity causing excessive vibrations.

The SEIS must review the area originally projected to require vibration monitoring, and also assess the sufficiency of the monitoring program given local experience during arena construction. In particular, the SEIS should determine whether results from vibration monitors should be included in quarterly reports of ESD's environmental monitor (HDR), and whether these results should also be provided to property owners hosting the monitors. The SEIS should propose how to provide prompt responses to residents' complaints of damage and document the damage, correlating the time of the damage with the construction activities at that time, and making all documentation available to HDR. To reduce the potential for disruption to local residents and damage to properties, the SEIS should identify construction activities that may cause severe vibrations in nearby residences and implement mitigation measures proactively to prevent damage; ban nighttime activities that may cause vibration as vibration is more disruptive when residents and their families are trying to sleep; and propose more effective mitigation methods to substantially reduce vibration from hoe rams, jackhammering, and other activities that may cause vibration to off-site structures. (Brooklyn Speaks)

The SEIS should update the vibration monitoring plan to encompass the areas around the project site that were not originally included but have reported experiencing impacts during construction. (George)

Another negative impact that's going on now is there are massive vibrations going on in the Newwalk Building. So the whole building shakes. Thank God it was built in 1910, the Newwalk building, the foundation is solid, although I'm sure we have many cracks in there. So as far as the Forest City Ratner arena, please, I know you have the EPA come to the building, but that's definitely a major impact. They need to monitor that for all the concerts. Maybe something could be done to the arena, maybe just encase the arena in another skin might be good. (Puca)

**Response:** At the time of the publication of the FEIS, both the SN/R-listed Prospect Heights Historic District and the NYCL-eligible Prospect Heights Historic District were included in the analysis of impacts. A CPP was prepared in consultation with the OPRHP to avoid adverse demolition/construction-related impacts to buildings within the Prospect Heights Historic District that were

identified as being within 90 feet from the project site. Vibration monitoring at these sensitive resources commenced in 2008. Since the FEIS, the NYCL Prospect Heights Historic District has been designated by the LPC, and the boundaries have been defined slightly differently than those analyzed in the FEIS. The CPP has been amended to include additional historic resources within the expanded boundaries of the Prospect Heights Historic District that are within 90 feet of future construction activity associated with the Atlantic Yards project. In a letter dated May 5, 2013, the OPRHP accepted the CPP revisions and found the CPP appropriate to protect historic resources. As per the updated CPP, future vibration monitoring will include these additional resources.

In addition, while not required, FCRC has installed vibration monitors in various non-historic structures in an effort to be responsive to specific complaints and community concerns. All vibration readings taken through June 2013 that have been related to the Atlantic Yards project, in both historic and non-historic structures, have been below the peak particle velocity of 0.5 inches/second as required by the New York City Technical Policy and Procedure Notice (TPPN) 10/88.

As part of the construction analysis, the SEIS will provide an assessment of vibration concerns for the construction scenarios being analyzed and whether prolonged construction of Phase II of the Project could alter the conclusions of the FEIS. If necessary, the SEIS will recommend measures to mitigate or reduce potential significant adverse impacts.

#### *NEIGHBORHOOD CHARACTER*

**Comment 118:** The SEIS must study the effect of prolonging for an additional 15 years the blight associated with the Vanderbilt rail yards found by the ESD in 2006. What would be the specific impact to the "immediate area" surrounding the rail yards should they remain "a blighting influence" for an additional 15 years? The SEIS should identify impacts with respect to land use, socioeconomic conditions, open space, cultural resources, urban design, and neighborhood character, and propose necessary mitigations in lieu of the expected project benefits. The SEIS must also study the effect of prolonging the blight conditions around the rail yards on crime rates in the area. (Brooklyn Speaks, Simon, George)

One reason for using eminent domain was blight from the exposed LIRR Vanderbilt yards. Since the start of the Atlantic Yards Barclays construction, today when residents look out on Pacific Street they continually still see a rail yard under construction. Residents have no reasonable expectation when the platform will be built to cover the rail yard, or when the buildings will be constructed. But what we do anticipate is that it will be more than likely a 25 year build-out with the associated construction impacts. (Bailey)

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**Response:** As described in the Draft Scope of Work, the SEIS construction analysis will evaluate a scenario in which the development over the rail yard does not occur in the earlier stages of the Phase II development. The analysis of that scenario will examine the effects of the rail yard on land use, open space, socioeconomic conditions, urban design and other elements of neighborhood conditions for an extended period. However, the elimination of the blighting influence of the rail yard is a benefit of the Project, and a delay in the realization of that benefit is not a Project impact.

**Comment 119:** There is no doubt that the extended construction period will result in adverse impacts on surrounding neighborhoods. Construction, traffic, noise and pollution have a ripple effect throughout our communities. In a neighborhood already battling traffic congestion and unsafe streets due to an increase in taxis and limousines on event nights, 25 years of construction, truck traffic and noise from jack hammers and pile driving will exacerbate the problem. Proper mitigation must be outlined in the SEIS, and ESD must hold the developer to a high standard as the build-out progresses. (Levin)

**Response:** As described in the Draft Scope of Work, the SEIS will provide an analysis of neighborhood conditions resulting from prolonged Phase II construction under the Extended Build-Out Scenario. This will include an analysis of traffic, noise and air quality. If the analyses identify significant adverse impacts, practicable mitigation measures will be assessed.

## **ALTERNATIVES**

**Comment 120:** The East Pacific Block Association, and the Council of Brooklyn Neighborhoods, join the many voices raised here in demanding that the ESD add to its Scope of Work for the Draft SEIS an extensive, thorough analysis of Alternative development plans for Phase II. We believe that any serious analyses of those will reveal viable opportunities to mitigate the many impacts and reverse the delayed benefits that your 2009 modification allows the possibility of in a 25 year build-out. We researched, prepared and provided to the public and the ESD, years ago, an entirely workable Alternate blueprint, called the "Unity Plan". This plan, and others like it if proffered, should be part of the analysis of Alternatives. In the "Unity Plan", Phase II is split into separate parcels, encouraging a variety of developers to bid on developing them simultaneously. Simultaneous development brings all the promised benefits to fruition in the soonest possible time, while minimizing the community upheaval caused by a massive construction project. The environmental impacts and multiplier community benefits of such a plan should be compared to the impacts and delay of public benefits that 25 years and the sole developer's stranglehold and super block vision promises. The Draft Scope of Work must contain an investigation of the impacts and mitigations available when using Alternatives

to the current Developer, especially the community's "Unity Plan" which addresses the development of the site by multiple developers to get the project built within the allotted timeframe. (Urban)

Given the current high level of development activity in Brooklyn, the SEIS should study an alternative to the 2009 MGPP in which the original 10-year build-out is achieved by dividing the Phase II site among multiple development teams through a competitive bidding process, and in so doing adding resources, expanding access to financing and reducing supplier risk. The SEIS must consider this scenario as an alternative to the 25-year build-out of 16 residential towers with few prescribed public amenities. (Brooklyn Speaks)

The Atlantic Yards project should be divided up for bid amongst multiple developers like Battery Park City. (White)

Alternatives to a single developer should be studied. (Balboza)

Reduce the risk or exposure for a single developer by bringing in partners to avoid an Extended Build-Out period. (George)

ESD also must consider the question of what project and/or combination of development partners is best positioned to actually build the project in the shortest reasonable time. Using the SEIS as a tool, ESD should consider alternate designs and densities and evaluate the benefits of working with other developers to complete a feasible project in a reasonable period of time. (Baker)

25 years is just too long. So you need to come together, maybe with partners, to help build the rest of the Atlantic Yards. (Staton)

Take the project site, divide it up into parcels and allow multiple developers to bid on land so that the MTA gets the money it deserves for this valuable land, and allow each developer to develop his own parcel in a timely fashion. The community demands the UNITY plan as it always has. (Koteen)

The ESD should reexamine the 25 year build-out and develop alternatives to delivering the project within the ten year build-out, perhaps with other developers. (Vogel)

If FCRC doesn't want to amend The Master Development Agreement (MDA) and MGPP to a 10 year schedule, ESD should consider issuing an RFP for developers who can develop this project in ten years. (Veconi)

Given the current high level of development activity in Brooklyn, the SEIS should study an alternative to the 2009 MGPP, in which the original ten year build -out is achieved by dividing the Phase II site among multiple development teams through a competitive bidding process, and in so doing adding resources, expanding access to financing and reducing development risk. Can't the State in the guise of the ESD and the MTA bring more public benefit to the Atlantic Yards site by utilizing the competitive process and multiple developers? Can't a

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variety of housing alternatives be produced? Can the alternative to a sole source developer provide both deeper affordability, units more responsive to the needs of families seeking affordable homes, community facilities, cultural amenities such as daycare and healthcare. The SEIS must look at this scenario as an alternative to the 25 year build-out for the 16 residential towers with few prescribed public amenities. (Howard)

When we financed Atlantic Commons we put back streets and sidewalks that urban renewal had removed, something that should now be done in dealing with the Atlantic Yards site. It will be that much easier to divide it up and give it to multiple developers the way it should have been. (White)

**Response:** As described on page 2 of the Draft Scope of Work, the Draft SEIS is being prepared pursuant to the Order of the Supreme Court for New York County to examine the potential environmental impacts of a prolonged delay in the completion of Phase II of the Project. Neither the Project documents nor the SEIS preclude a more rapid project completion, which was analyzed in the 2006 FEIS. As per the *CEQR Technical Manual*, alternatives to the project should be considered that have the potential to reduce or eliminate a proposed project's impacts and that are feasible, considering the objectives of the proposed project and those of the project sponsors. As described in the Draft Scope of Work, the SEIS will analyze the potential impacts of various construction phasing scenarios for Phase II of the Project under the Extended Build-Out Scenario, none of which would preclude a joint venture between the project sponsors and another developer or developers with respect to one or more Phase II buildings. The SEIS will also assess the feasibility of other forms of a "multiple developer alternative" in light of the project sponsors' contractual and property interests in the Phase II project site and whether pursuit of such an alternative would be effective in reducing or eliminating any identified significant adverse impacts.

**Comment 121:** We have to be very careful. We believe that carving it up doesn't necessarily make it better, nor faster, nor will it make it more affordable. (Speliotis)

**Response:** Comment Noted.

**Comment 122:** The SEIS ought to study the ten year build - out as an alternative scenario. (Levin)

If the air rights to complete the project on the scale envisioned have not yet been acquired and there is no realistic timetable for completing that task, then those options should be examined for amendment to enable completion of the project within the 10 year timeframe. (George)

We need to make sure ESD studies an alternative to get the project done in the ten year time frame originally approved. (Schindler, Cairl)

The Draft Scope of Work must be amended to study the Alternatives available and possible 1) if the current Developer stays with its intention to delay the Platform over the MTA's Vanderbilt Rail Yard until some time past the State-approved 10 year timeframe, and 2) if the current Developer decides to use its option to buy out of its contract to do so at a later date, 10 to 25 years in the future. (Urban)

**Response:** The FEIS already assessed and disclosed the environmental impacts of a 10-year construction schedule as the reasonable worst case scenario for construction period impacts. The FEIS did not mandate the completion of construction in that time frame. The SEIS is being prepared to study the impacts of Phase II construction over a more prolonged construction schedule, in compliance with the Court Order described in the Draft Scope of Work for the SEIS. To the extent that the SEIS identifies additional significant adverse impacts from construction over a prolonged period, it will assess the feasibility of mitigation measures with respect to such impacts and whether there are practicable alternatives that, if selected, would avoid or reduce such impacts.

**Comment 123:** The SEIS should also consider for comparison a reasonable best case scenario of development that likely would have occurred had the ESD and the Atlantic Yards project not transferred control of the site to Forest City Ratner and instead allowed organic development already established at the site to continue.

The alternatives studied in the SEIS should also include options for constructing a platform over the MTA Vanderbilt Yard that are not dependent upon the development rights over the rail yard. (Brooklyn Speaks)

**Response:** As discussed in the 2006 FEIS, "the overarching goal of the proposed project is to transform a blighted area into a vibrant mixed-use community." Notwithstanding City policies to encourage redevelopment in this area for the past twenty-five years, the project site remains underutilized. The historic lack of development on the project site is due in part to infrastructure costs associated with platforming over the rail yard and an open rail yard on Blocks 1120 and 1121 would constitute the future condition in absence of Phase II of the Project. The presence of a single developer willing to locate a mixed-use development on the project site presents an opportunity to develop this long underutilized site. Organic development failed for decades to eliminate the blighted conditions on the Project site and therefore would not meet the objectives of the Project. In addition, this alternative is no longer feasible (and therefore will not be studied in the SEIS) because ESD acquired title to most of the Project site in 2010 and the project sponsors have significant property interests in the Phase II site. The "No Action" alternative suggested by the commenters is not appropriate for the SEIS.

**MISCELLANEOUS**

*GENERAL SUPPORT*

**Comment 124:** Barclays Center has been a success. Brooklyn now has a world class arena and a major league team, soon to be two, and construction has begun on the first residential tower, with more on the way. Congrats to FCR and ESD for their continued good work. (Luke DePalma on behalf of the Brooklyn Borough President)

If it does take 25 years, you should be happy that it's taking that long. This way your kids and your kids' kids might be working. If it's going to bring more and more jobs, everybody benefits. (Faubles)

Construction takes time. To say that it shouldn't be built in 25 years or it should be manufactured quicker, if the building that you're putting up doesn't surpass that construction, people and residents can suffer. So just a thought that we can all come together and just surpass our feelings and understand that it's going to get built, one way or another. (McCurdy)

The opening of Barclays Center has already led to new audiences patronizing businesses and learning about neighborhood cultural organizations. Before and after games and performances, we see Barclays patrons exploring our theater lobbies. And the influx of new permanent residents that will come with the development of residential buildings, which will include 50 percent affordable housing, will provide even further benefits to the local small business community and BAM. (Pointer)

After years of delay, the Barclays Center opened this year to much fanfare, bringing not only thousands of new visitors to downtown Brooklyn on event nights, but also bringing in 2,000 much needed jobs, of which 80 percent went to Brooklyn residents, 30 percent went to residents in the surrounding communities, and 30 percent went to local. In addition, ground was broken last year on the first residential building, which will be 50 percent affordable and built with new, innovative construction technology being built right here in the Brooklyn Navy Yard, creating new economic opportunities for Brooklyn Heights. (Conoscenti, Cheveves)

I'm here today to testify to the ESD board of directors and to lend my support for the continuation of the Atlantic Yards project, specifically the scope as it pertains to the SEIS for Phase II of the project. The Barclays Center opened this past September, bringing with it 2,000 new and badly needed jobs. Smaller businesses in the neighborhood, including restaurants and bars, have seen a growth in their business. Companies that provide services to the arena have benefited over the past few months. The Brooklyn arts and cultural scene is benefiting, along with hotels in the area, thanks to the overall rise in visitors. The area is safer than it has been before. Traffic along Flatbush is not the

nightmare so many had predicted years ago when the project was just a concept. I know, because I live on Dean Street between Carlton and Vanderbilt. Ultimately this project has made Brooklyn a better place. (Steninger)

My partner and I are both in favor of moving this project forward. (Lore)

I vote yes for the 50 percent affordable housing. (Brinkley)

As far as BUILD is concerned, as far as Barclays is concerned, I think it is one of the best things that could have happened to downtown Brooklyn. (Porter)

If it wasn't for the Barclays Center, the community of Brooklyn would be so badly deteriorated that you wouldn't want to be living in it. Stop the delay and let's go forward and try to place affordable homes for people who are in need of housing. (Green)

Hope is what Atlantic Yards, the Barclays Center gave us. (Tyner)

If the ESD keeps their word and enforces the rules and promises that were made for the buildings to come up, and that it's done within an expedient time, then I am for the building of these affordable housing. (Payne)

**Response:** Comment Noted.

**Comment 125:** On June 27, 2005, FCRC signed a Community Benefits Agreement (CBA) with eight community groups. The CBA requires the board to establish an executive committee, and the executive committee is supposed to hire an independent compliance monitor (ICM) whose job is to ensure the contractual obligations in the CBA are met. The monitor's job covers a range of issues from the delivery of benefits and jobs to meeting environmental commitments. The ICM is responsible for oversight of the project developer's, arena developer's and coalition members' obligations under the agreement, investigation of complaints brought against the developers, and review of the developer's reports. FCRC is obligated to pay the ICM's salary. At the commencement of the agreement, FCRC was supposed to place the equivalent of a year's salary into an escrow account and to replenish the account as necessary.

The monitor was supposed to be hired "as soon as reasonably practicable" following the signing of the agreement in 2005. Later, FCRC stated the monitor would be hired six months after the groundbreaking of the arena, which occurred in the spring of 2010. In November 2011, the developer stated the monitor will be hired for the residential phase of the project. However, at an Atlantic Yards Quality of Life Committee meeting in February 2013, a representative for the developer stated that the ICM had not been hired and there was no date planned to do so. The SEIS must assess the impact of failing to hire the ICM on the incidents of violations of the MEC during arena construction. The SEIS must also propose how an environmental compliance function

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accountable to the local community will be provided for future phases of construction that will not suffer the same fate as the ICM. (Brooklyn Speaks)

**Response:** ESD is not a party to the CBA. The SEIS will not examine commitments that the project sponsors have made in the CBA.

### *ENVIRONMENTAL COMPLIANCE/OVERSIGHT*

**Comment 126:** If there was the promised independent oversight, then the community wouldn't have created AtlanticYardsWatch.com to document the continuous serious impacts to the lifestyle of our community. Noise, traffic, congestion, loss of parking, in addition of the never ending LIRR construction 24 hours a day, sometimes weeks on end. (Bailey)

There have been numerous violations. And the SEIS must look at those violations, why they occurred, and address them by reducing those impacts or controlling for those impacts in the future. There's supposed to be, for example, an independent compliance monitor. That has still not been hired. He was supposed to have been hired before the arena was built, then after the arena was built. And there's still no one who is independently monitoring environmental compliance. (Simon)

We haven't had a compliance monitor since the project started. (Collins)

**Response:** The SEIS will describe the procedures that have been put into place to monitor compliance with project-related environmental commitments and, to the extent relevant to the analysis or mitigation of significant environmental impacts from Phase II construction activities, identify any practicable measures to improve such procedures.

**Comment 127:** According to the CAQM, FCRC will provide an on-site environmental monitor (OEM), who will be a fulltime employee who is a qualified field engineer who will be on site or in the site construction office at all times during the work day. FCRC was to hire an OEM at the commencement of intensive construction activities, which was apparently considered to be 2010. During the second quarter of 2010, HDR expressed concerns with lack of oversight by FCRC on the job site. Chuck Baldwin of Turner Construction was hired to handle the position until mid-July and HDR noted an improvement in on-site compliance. Mr. Baldwin was replaced by Adam Schwartz, a Vice President at FCRC.

However, numerous violations of the MEC and CAQM documented during arena construction suggest that the OEM may have too many responsibilities to handle. The SEIS must assess whether the size of the team available to Mr. Schwartz was sufficient to cover the entire construction area on a daily basis or during extended hours work, and if it was not, propose how the OEM function will be staffed for future construction. (Brooklyn Speaks)

There has been no Environmental Monitor provided to this community in all these years. That was a job to be provided and paid for by the Developer and this Agency has not met its responsibility to require the Developer to adhere to the terms of its contract. That is not acceptable. (Urban)

**Response:** The SEIS will describe the procedures that have been put into place to monitor compliance with project-related environmental commitments and, to the extent relevant to the analysis or mitigation of significant environmental impacts from Phase II construction activities, identify any practicable measures to improve such procedures.

**Comment 128:** Per the MEC, FCRC is required to have an on-site construction coordinator to function as a liaison between FCRC and the community with respect to construction related issues. The coordinator shall be available to consider specific concerns raised by the community with respect to the construction issues and seek to resolve such issues. However, FCRC has been inconsistent in providing a construction coordinator. When construction significantly lessened from the fall of 2008 through 2009 no community liaison was present although a modest amount of construction continued along with construction related impacts. For much of 2010 and 2011, the community liaison was on site one or two days a week.

FCRC has erred in not supporting and developing the role of construction coordinator/community liaison more vigorously because it is an important component of the oversight process. Residents who observe violations of the MEC can bring them to the attention of the liaison, who can then contact the OEM.

The SEIS must assess the extent to which FCRC's failure to resource the role of construction coordinator as provided in the MEC contributed to the number of violations of provisions of the MEC observed during arena construction, and propose how any deficiency on the part of FCRC in this respect will be addressed in future phases of construction. (Brooklyn Speaks)

**Response:** The CLO was established per the MEC to provide a direct point of contact between the local community and the project sponsors during the construction of the project. The CLO opened in February 2007 and was located at 24 6th Avenue in Brooklyn; the current location is 752 Pacific Street on Block 1129. Informational signs about the CLO have been posted around the project construction site to inform the community of the purpose, location and contact information of the CLO. During construction, the CLO was relocated on site several times as the project components progressed. With each move, new signs were posted to keep the public informed. Information about the CLO and how to make inquiries is also listed on the Atlantic Yards website, and has been from website inception. Additionally, the CLO uses the AY website to send out

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listserve email notifications to the community and to post updated construction information.

The CLO is managed and staffed by the project sponsors' External Affairs department, and has a rotating staff with at least one person on-site each day, Monday–Friday, 9:00am–4:00pm. The public has been able to leave a message or contact the CLO since it was established. There are three direct ways to contact the CLO; visit the CLO office during normal business hours, call the toll-free number (866-923-5315) or email [communityliaison@atlanticyards.com](mailto:communityliaison@atlanticyards.com). Infrequently, the CLO was not physically staffed due to office movements and activities on site. However, the public could access the CLO via email or phone during those times.

Generally, the CLO has responded to inquiries within 24 hours of receipt. The message center is checked multiple times daily. The staff of the CLO has direct access to the construction project managers, including the OEM, which assists in the CLO being able to provide the most up to date responses to construction related inquiries. In addition to coordinating the preparation of responses to community inquiries, the CLO and OEM also collaborate on the development of community notices, the regular construction Two Week Look Ahead, and other community interactions, such as construction related site visits. The CLO also distributes flyers and listserve emails regarding any special upcoming construction-related activity that may impact the community, such as street closures and travel lane reversals.

The CLO will continue to operate as described during Phase II construction.

**Comment 129:** The SEIS must also assess and analyze the environmental impacts that would be expected if no improvement is made to the ESD's ability to enforce compliance with the project's environmental commitments. Resulting impacts from the status quo scenario should be assessed in terms of land use, socioeconomic conditions, open space, cultural resources, urban design, and neighborhood character. (Brooklyn Speaks)

The SEIS must include an impartial, transparent analysis of the root cause of so many documented violations of agreed-upon environmental commitments, and present a credible plan to ensure full compliance during future phases of construction. This analysis should include study of the oversight mechanisms defined in various project agreements to determine why they were not followed or not sufficient. (Brooklyn Speaks)

The SEIS should assess the sufficiency of ESD's environmental monitoring function during arena construction with respect to a 25-year build-out, and propose how the function will be improved to better ensure compliance with environmental commitments. (Brooklyn Speaks)

As part of the approvals for the project there were various representations and warranties regarding FCRC's and ESD's compliance with the conditions and monitoring of FCRC's compliance. The SEIS should include an assessment of that compliance and determine if additional measures should be incorporated for Phase II. (Baker)

The SEIS must analyze the numerous violations of the Memorandum of Environmental Commitments (MEC) documented at meetings of the Atlantic Yards District Service Cabinet. The SEIS should study the recommendations that are proposed by the Sandstone report to address gaps in monitoring and oversight and should consider whether revisions to the MEC are necessary to address these gaps. The SEIS should update the MEC in light of improved environmental standards and industry practice. (George)

During construction of the Barclays Center arena, numerous violations of provisions of the Memorandum of Environmental Commitments (MEC) were documented not only by local residents, but also by ESD's own environmental monitor, Henningsen, Durham & Richardson Architecture and Engineering, P.C. (HDR). Further, many of the mitigations proposed for noise and air impacts proved to be insufficient during arena construction. Finally, several key elements of the plan to mitigate construction impacts were never implemented at all. The SEIS must now review the actual experience during arena construction and assess the extended impacts of an additional 15 years of construction on that basis. (Brooklyn Speaks)

The community has documented the not sharing the dust reports, all the data that is collected. It's a disadvantage to the community because we really don't know how affected we really are. An environmental report prepared by Sandstone Environmental Associates documented the various dust, noise and other impacts just from the Vanderbilt rail yards construction. And they gave how to fix it, how to monitor it, and how to report back to the community. If in fact there was no impact to the community, none of these things would be reported and there would be no environmental report. Our community has to endure countless governance issues attempting to minimize these impacts with the ESD, the Mayor's office, the Brooklyn borough's office, three separate community boards, 2, 6 and 8, and one time we had three precincts to try to deal with the parking issues and the rest of it. Examples of the impacts were the weeks of 60 plus daily arrival of dump trucks using non approved truck routes or not truck routes agreed to in the EIS, that would arrive at four to six a.m., that illegally idled for hours, beeped, blasted music ALL next to the Newswalk, a 171 unit residential family residential building on Pacific St. between 6th Ave and Carlton. The maddening noise from the mandated vehicle safety warning 'beeping' from every piece of construction equipment; this noise enters our homes thru-the-wall air conditioners (even though a previous remedy was to install double pane windows). The dust is from not watering during excavation,

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pile drilling and no wheel washing before entering public streets. The Carlton Ave Bridge closure from Jan 08 didn't open until 2-3 weeks before the arena open. An untended consequence is construction workers that smoke in the Dean St. playground when NO ADULT without a child is allowed; understandability child-minders and mothers are extremely reluctant to enter the playground and why should they have to find another far away playground to use? (Bailey)

The MEC and the Construction Air Quality Measures Compliance Plan (CAQM, April 2010) spell out requirements for controlling dust emissions at the Atlantic Yards project. Among the measures described are:

- Limiting on site speed to five miles per hour;
- Using sleeves and wetting during demolition activities;
- Watering unpaved surfaces, including haul roads and excavation surfaces;
- Covering or water misting of stockpiled materials;
- Water spraying of any dry material which may release dust during loading and unloading;
- Covering of all trucks carrying loose material, and checking to see the covers are properly sealed; and
- Wheel washing of all trucks leaving the site.

The CAQM also includes a provision for FCRC and Turner Construction Company to conduct training sessions for construction personnel and contractors summarizing the requirements. Personnel attending the training sessions must be in a managerial position, and they shall be responsible for compliance by the contractor/subcontractor. Furthermore, FCRC will hold annual refreshers and will hold new training sessions if the compliance measures change.

During arena construction, AYW reported many violations of the dust control commitments. Many examples are documented in the Sandstone report. Sandstone also writes about reports by HDR to ESD of violations over the course of nearly a year: "During the fourth quarter of 2010, HDR observed inadequate dust suppression measures and notified FCRC, who instructed Hunt to increase the wetting frequency. HDR's first quarter report for 2011 notes that four buildings on Block 1129 were demolished, and HDR did not observe the use of drop transfer operations with closed sleeves and bins. HDR also reported a lack of adequate tire washing on-site. HDR's second quarter report for 2011 reported problems with fugitive dust on Block 1129 and the adjacent Pacific Street queuing area due to inadequate watering, gravel cover, and wheel washing. Several off-site events were observed by HDR and reported to the OEM in April and March of 2011."

The failure of FCRC to abide by, and ESD to enforce, dust suppression commitments was one of the most glaring lapses in environmental impact mitigation during arena construction. The SEIS must determine the cause of this

failure, and define the measures to be taken that will ensure such failures are not continued into later phases of construction. (Brooklyn Speaks)

The SEIS should study the documented incidents of idling, queuing and the use of non-designated streets by construction trucks. In addition to proposing additional measures to reduce these impacts, the SEIS must candidly assess the capacity of City agencies responsible for monitoring the project site and providing enforcement. (George)

The SEIS should propose a more reliable means of informing individual truck drivers and dispatchers of the appropriate rules and regulations, and authorized truck routes. (Brooklyn Speaks)

During arena construction, FCRC's general contractor Turner Construction was required to conduct training sessions for managers working for subcontractors on environmental protocols and mitigations. Nevertheless, the sessions did not appear to be sufficient to influence behavior among workers. The SEIS must study the reasons training in MEC requirements was not effective, and propose techniques to improve it. (Brooklyn Speaks)

**Response:** The SEIS will include a discussion of the project sponsors' record of compliance with respect to the type of construction activities that will also occur during the Phase II construction period to the extent relevant to the assessment of the environmental impacts of a prolonged Phase II construction period and mitigation of any such impacts. To the extent relevant to the analysis or mitigation of significant environmental impacts from Phase II construction activities, the SEIS will identify any practicable measures to improve such procedures.

**Comment 130:** The MEC states, "FCRC shall provide on-site parking for construction workers at levels appropriate in light of the number of workers employed at the site during different stages of construction, to a maximum of 800 spaces. FCRC shall monitor the work force levels throughout the construction period and shall report to ESD on a quarterly basis as to the number of on-site spaces and the utilization of such spaces."

However, during arena construction, FCRC provided no paid worker parking, and provided 90 free spots to senior employees. The result was that not only was much of the available on-street parking near the site taken by arena construction workers, but a significant amount of illegal worker parking was documented. The SEIS must revisit the policies proposed in the MEC to recommend appropriate changes in light of the impacts experienced during arena construction. The SEIS must address the need for ongoing monitoring of the number of construction workers arriving at the site in private vehicles to ensure an adequate number of off-street parking spaces are being provided.

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Construction worker parking was an issue that was supposed to be promised. That didn't happen, it took up street parking. And so that has affected the community. We need to look at doing this better and fulfilling those promises and revisiting those policies. (Simon)

**Response:** The SEIS will examine the potential for construction worker parking to result in a significant adverse impact based on the prolonged construction period assumed in the Extended Build-Out Scenario.

**Comment 131:** The SEIS must assess the ability of City agencies responsible for enforcement to monitor the site perimeter, issue summonses as required, and propose any additional resource plan required to ensure compliance with City and State laws. (Brooklyn Speaks)

Community parking has been an issue. Quite often I've found many illegally parked cars, also many that are idling, that are an impact on pedestrian and commuter life. People are suffering of course from the mobile sources of illegally parked cars that are idling. Pedestrians are put into some danger by those, the illegally blocked cars that are blocking no parking zones, cross walks and so forth. (Ettlinger)

Forest City Ratner has made commitments, environmental commitments which it has failed to fix, to pay any attention to. It has, for instance, allowed its construction workers to park wherever they please on the streets near the construction site. And on several occasions they have pulled up no parking signs and thrown them away so that they could park there. They are not ticketed and nobody has been held accountable for that. Construction bombing has gone on after hours late at night, such that on several occasions last summer my cats that were cat napping two blocks away were awakened and alarmed by the noise. The dust. There is also a problem with the big black limousines. (Hagen)

**Response:** Information relating to construction worker parking will be discussed in the SEIS. Parking relating to Arena operations will be considered as a background condition to the extent it is relevant to an assessment of the environmental impacts of Phase II of the Project.

**Comment 132:** Because the MTA is a New York State public benefit authority, it can and does supersede local regulations and agencies. The LIRR, a subsidiary of the MTA MTA, owns several blocks inside the Atlantic Yards footprint on which construction is to take place. New York City regulations do not apply on LIRR property and City agencies are not authorized to oversee construction work. This apparently includes the Department of Buildings, Department of Environmental Protection, and the Mayor's Office (311 complaints). As a result, 311 calls made about construction located there often remain unresolved. MTA oversees the construction work on the LIRR property without any apparent

procedure for community members to reach it. Unlike the Second Avenue Subway, for example, Atlantic Yards is an ESD project, not an MTA project. Therefore, the MTA has not (to our knowledge) prepared a Construction Environmental Protection Program or a website for it. Thus, an important component of project oversight is missing.

Much of Atlantic Yards' second phase construction will take place over MTA property. But even before the platforming of the rail yards, FCRC will construct the "permanent" rail yard it is required to provide under its agreements with the MTA. (In fact, site preparation has recently started.) The SEIS must therefore assess the extent to which a gap in environmental monitoring and enforcement with respect to construction on MTA property exists, project the impacts of such a gap over 25 years of construction, and propose strategies to close it. (Brooklyn Speaks)

**Response:** The environmental commitments described in the FEIS and MEC apply to the project sponsors' construction on MTA property, as well. This construction work is also subject to the Project's environmental monitoring protocols, which will be discussed in the SEIS.

*UNCATEGORIZED*

**Comment 133:** Any delays to the Atlantic Yards project would be unfortunate and can jeopardize further progress. The need to move quickly with Phase II is imperative so we at Brooklyn can get what we deserve and sorely need. No matter what type of job it might be, it would increase the need for services of any new buildings built in this project. To sum up, the Atlantic Yards would greatly help with the creation of new jobs. (Judkins)

**Response:** Comment noted.

**Comment 134:** The SEIS should identify this and all other permits granted to the project sponsors prior to the 2009 MGPP and determine whether the 15-year delay in construction would have the effect of increasing blight in the project area and document the impact of that extended blight. The SEIS should assess the impacts in terms of land use, socioeconomic conditions, open space, cultural resources, urban design, and neighborhood character, and propose necessary mitigations in lieu of the expected project benefits. (Brooklyn Speaks, Simon)

**Response:** The impacts of a prolonged construction period for Phase II of the Project will be assessed with respect to land use, socioeconomic conditions, open space, urban design, and neighborhood character. If significant adverse impacts are identified, the SEIS will discuss practicable measures to mitigate such impacts.

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**Comment 135:** The Long Island platform should have been built. You should have had that as your first milestone if you were truly interested in providing us with public benefits. (Urban)

**Response:** Comment noted.

**Comment 136:** The ESD should examine and share the results of a fire safety study on the admittedly experimental modular scheme for building. Modular units are notoriously more prone to fires, and they have relatively no concrete to act as buffers. It is irresponsible for the ESD to allow experiments with the citizens of New York State. (Vogel)

**Response:** All Project buildings, whether constructed using standard techniques or modular construction, will be required to comply with the New York State and New York City fire codes.

**Comment 137:** There's no such thing in this development that encourages the developer to build small footprint realty to encourage that local coffee shop or that dry cleaner or that forty seat restaurant. Many of those businesses are the lifeblood of Fifth Avenue, Sixth Avenue. Go into Park Slope, go into Prospect Heights. That's where growth has been for many, many years. (Kolins)

**Response:** Comment noted. The Project plan does include smaller spaces appropriate for neighborhood retail in the base of the Phase II buildings, and there are retail requirements for these buildings in the Design Guidelines.

**Comment 138:** Another change that requires study is the extension of the timetable for Phase II from a 10-year to a 25-year build-out. As the decision by the Appellate Division noted, the project agreement does not provide for significant financial penalties for delays in Phase II construction project agreements and does not provide specific commencement dates for Phase II construction beyond the construction of one building on block 1129 and building a platform over the rail yard. This allows the developer wide latitude in the sequencing and timetable of project elements and may result in adverse impacts that could last for 15 years or more. The Draft Scope of Work's proposed method to study Phase II in discrete snapshots is arbitrary because there are no agreements to deliver project elements in the block increments the Draft Scope of Work indicates for the SEIS. (Brooklyn Speaks)

**Response:** The three illustrative construction scenarios outlined in the Draft Scope are intended to be illustrative of a reasonable range of foreseeable construction sequences and schedules that may occur with an assumed 2035 build year. The commenter is correct that many other sequences and schedules are also possible and may occur. It is intended, however, that an environmental analysis of the three construction scenarios described in the Draft Scope will result in the

disclosure of the environmental impacts of prolonged construction of Phase II of the Project and would enable practicable mitigation measures to be identified. These measures would be imposed to mitigate the adverse environmental impacts of Phase II construction activities under other construction sequences and schedules.

**Comment 139:** The SEIS should assess whether there are any new land use, zoning, public policy, neighborhood character impacts not previously disclosed in the FEIS, and whether any additional or different mitigation measures would be required. This assessment should include the land use and neighborhood character impacts created by arena operations to the south of the arena on Dean Street like the pad, whose operations may be permanent but were not disclosed in the FEIS. The SEIS should examine how use of this site for at-grade arena operations like security screening as well as truck and bus storage is consistent with the FEIS' land use analysis which states B2 and B3 would serve as a "buffer" between the residences to the south of the arena and the arena itself, and that "security screening and loading functions would be entirely within the building." (FEIS p. 3-2). Other functions not studied in relation to their locations in the FEIS include the satellite uplink parking lot, LIRR operations, a trailer area in the B4 footprint and construction offices in 752 Pacific Street. The SEIS should detail and assess the interim locations of unanticipated project elements until the time they are placed below grade.

The SEIS should assess whether these unanticipated functions reduce opportunities for the project to implement the commitment in the MEC to provide publicly accessible interim open space in the event FCRC does not expect to commence construction of a particular portion of the Project site or to use such portion of the Project site for interim parking facilities or construction-related activities, including staging. (Brooklyn Speaks)

**Response:** The SEIS will assess opportunities for interim open space during the construction period for Phase II of the Project under the Extended Build-Out Scenario.

**Comment 140:** Traffic and socio-economic studies must also take into account the impact of removing public parking and traffic lanes from Atlantic Avenue by the police to provide parking during events for limousines and other hired cars. Alternative spots for limousines and other hired cars to park during events, with many idling during cold and hot weather, must be designated and the associated impacts considered. The Brooklyn Navy Yard, currently used for staging arena-bound trucks, must be evaluated as a staging ground for arena-bound hired cars during this extended build-out period until such cars can pay to park in the indoor garages planned for the Phase II towers (Ettlinger)

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**Response:** The SEIS will consider the effects of Arena operations and associated Arena traffic and parking as a No Build background condition for purposes of assessing the transportation impacts of Phase II of the Project. \*