

A. INTRODUCTION

This chapter summarizes and responds to all substantive comments on the Draft Environmental Impact Statement (DEIS) for the East River Waterfront Esplanade and Piers project, adopted on October 12, 2006 by the Lower Manhattan Development Corporation (LMDC). Public review of the DEIS began on January 18, 2007 with publication and distribution of the document. Comments on the DEIS were received at the public hearing held by LMDC on March 5, 2007 at the Pace University, 1 Pace Plaza, Level B, and the record for written comments submitted to LMDC remained open through March 19, 2007, the close of the public comment period.

Section B identifies the elected officials, community board and organization members, and individuals who commented at the public hearing or in writing. Comments were received from 14 individuals or organizations. While LMDC invited a number of Native American groups to review the DEIS and draft Programmatic Agreement (PA), none of them submitted comments. Section C summarizes and responds to each substantive comment. The comments are organized by subject area. Where multiple comments were made on the same subject matter, a single comment combines and summarizes those individual comments. Written comments received on the DEIS are included in Appendix F. After each comment is a list of the people who made the comment, as referenced in Section B. Where no further elaboration is required to address a comment, or where comments do not relate to the analysis of the Proposed Project in the DEIS, the response provided is “comment noted.”

B. ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)

1. Sheldon Silver, Member of the New York State Assembly, 64th District, spoken comments delivered by Paul Goldstein and written testimony dated March 5, 2007 (Silver)
2. Scott M. Stringer, Manhattan Borough President, spoken comments delivered by Dmitria Collins and written testimony dated March 5, 2007 (Stringer)
3. U.S. Environmental Protection Agency, undated written comments (EPA)
4. New York State Office of Parks, Recreation, and Historic Preservation, written comments dated March 1, 2007 (SHPO)
5. Governors Island Preservation and Education Corporation, written comments dated March 15, 2007 (GIPEC)
6. Alan Jay Gerson, Member of the New York City Council, written comments dated March 19, 2007 and addendum letter dated March 19, 2007 (Gerson)
7. New York City Department of Sanitation, written comments dated March 9, 2007 (DSNY)

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8. Community Board 1, spoken comments delivered by Julie Nadel, Chair of the Waterfront Committee and written testimony dated March 5, 2007 (CB1)
9. Community Board 3, spoken comments delivered by Lois Regan and written testimony (CB3)
10. Good Old Lower East Side, spoken comments delivered by Ginny Brown and written comments dated March 15, 2007 (GOLES)
11. Seaport Speaks, spoken comments delivered by Lee Gruzen, Co-Chair and written comments dated March 16, 2007 (Gruzen)
12. Ann Johnson, Member of Community Board 3 Waterfront Task Force, spoken comments (Johnson)
13. Deborah Morris, Assistant Director of Community and Government Affairs, Alliance for Downtown New York, spoken comments and written testimony dated March 3, 2007 (Morris)

C. RESPONSE TO COMMENTS

PROJECT DESCRIPTION AND PROGRAM

Comment 1: The project's proposed open spaces and pavilions should be programmed in a way that is beneficial to community residents, and the City should work with Community Boards and other community groups in developing the program. The needs of the various neighborhoods adjacent to the project area (e.g., security, active vs. passive open space) should be considered. The project should respect the unique character of each neighborhood along the waterfront while contributing to a cohesive experience. (Morris, Stringer)

The open space should include programming for both residents and workers. There should be active open spaces including dog runs and playgrounds. (Gerson)

Community participation is essential to the planning for the piers and other open spaces in order to ensure that they are designed so as to address the local needs of nearby communities and to reflect their rich cultural diversity. Many of the adjacent areas lack enough open space and parks and the renovation of the waterfront provides an excellent opportunity for the creation of park land and recreational spaces. The greater communities should be fully consulted regarding the types of uses that go into the pavilions. (Silver)

Lower Manhattan needs additional recreational space for young people and the project should make provisions for this. More information on the programming and leasing of the pavilion spaces is needed. The pavilions could attract unwanted commercial uses that cause traffic congestion, and the glass walls raise maintenance issues. The size of the space for temporary outdoor activities is unclear. (CB1)

Community Board 3 expects to be part of the Request for Proposal (RFP) process for the pavilions. There are many community-based and cultural organizations in the area that must be offered an opportunity to compete for space in the pavilions. The City should restrict the use of the pavilions to small, local commercial enterprises so that they are manageable and affordable to local residents and to ensure that they will not cause public health, sanitation, or safety problems. (CB3)

GOLES believes that the greatest benefits of the East River Esplanade and Piers Project will be achieved through broad engagement of community stakeholders in all future planning stages of the project. In particular, the community should play an important role in helping to craft RFPs for project administration, contracting, cultural and educational programming, and the renting of retail spaces. Neighborhood groups and residents should be engaged in the RFP process. The commercial spaces should house locally owned small businesses that provide affordable goods and services. (GOLES)

Response: The City is committed to community participation in the East River Esplanade planning process, as evidenced by the over 70 public meetings held to date that have shaped the evolution of the project. Moving forward, the City will continue to consult with the community at design milestones and will solicit feedback on programmatic elements. LMDC and the City will make project designs available to the public as specified in the Section 106 proposed final Programmatic Agreement. Criteria for public solicitation of pavilion uses will also receive community feedback before issuance of any RFPs. Proposed active open space amenities include beach volleyball courts, bocce courts, and facilities for non-motorized boats. A dog run is planned along the esplanade north of Wall Street.

Comment 2: Long-term maintenance and sustainability should be considered during the design and development process. Landscapes should include as much vegetation as possible but should also be designed so as to minimize the need for water and maintenance. Sustainable building practices should be used to minimize energy consumption. (Morris, Stringer)

EPA suggests that native trees and plants be used for landscaping the new esplanade. The Federal Highways Administration has an excellent list of plants for roadside use on its Web site at <http://www.fhwa.dot.gov/environment/rdsduse/ny.htm>. (EPA)

Response: The City has considered sustainability goals since the outset of the project and will monitor their implementation through construction. The sustainability goals cover every aspect of the design, including: materials selection, energy efficiency, water usage and stormwater runoff, landscaping with regionally appropriate low-maintenance plants, mitigating the effect of noise, contributing to healthy air quality, controlling noise and debris during the construction process, and constructing facilities and programs that will last for the long term.

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Comment 3: It is essential that the City put into place a reliable governance structure to ensure the success of this revitalization project. Such a structure must make certain that the project has a sufficient and steady source of income and a dependable maintenance plan in place. The governance structure should also enable the community to have ongoing input into the development and maintenance of the piers and esplanade. (Silver)

A transparent governance and operation structure must be created to ensure the proper management and operation of the piers and pavilions. The State and City should provide details of the contemplated governance and operation structure as soon as possible to invite public comment. (Stringer)

A governance entity responsible for maintenance, programming, and financing of the project and future capital improvements will be needed. We urge the New York City Economic Development Corporation (EDC) to accelerate its effort to develop a governing body. A Seaport Speaks charette recommended that an EDC spinoff with a board of directors take on this role. (Gruzen)

Detailed plans for ongoing maintenance and funding of the esplanade and piers are needed. (Morris)

The affected Community Boards should have equal input and participation on decisions concerning the management, planning, maintenance, and programming of the waterfront as part of this project. Community Board 3 would like to be included in design plans for the esplanade from Brooklyn Bridge to Catherine Slip. (CB3)

Response: The City is exploring a number of management structures for the East River Esplanade. Opportunities include management by an existing public agency, management by an existing not-for-profit organization whose mission is closely tied to stewardship of public space, and management by a newly-created entity formed to maintain and operate the Esplanade. The City anticipates that a management structure will be in place by the time construction is complete. Until that time, the project area will continue to be managed by EDC.

Comment 4: GOLES hopes the FEIS will include rough estimates of the amount of space each type of facility—commercial, community, and cultural—will occupy. (GOLES)

Response: The types of uses to occupy the programmed spaces have not yet been determined. As described above under the response to comment 3, the City will continue to consult with the community regarding programming.

Comment 5: The waterfront should not be gentrified. Amenities provided as part of the project should be things that residents of the nearby public housing and middle-income housing developments can afford. (Johnson)

Response: As stated above, the City will issue RFPs for certain pavilion sites, using selection criteria developed in consultation with the community.

Comment 6: Pier 15 should be rebuilt with open space and flexible options for vessel docking. A “no commercial disposition” option should be examined for Pier 15. If commercial uses are economically necessary, they should be placed inboard, leaving the rebuilt pier for public access and maritime activity. (CB1)

Response: As described in Chapter 1, “Project Description,” Pier 15 would be designed to accommodate vessel docking on both its northern and southern sides. All possible community, cultural and commercial uses will be considered for Pier 15 in order to meet the preferred goals of increased community open space, maritime educational programming, and providing a portion of the funds required for the maintenance of the esplanade and piers.

Comment 7: A more comprehensive look at dredging is needed to guarantee that permits are in place, costs are budgeted, timetables are ensured, and that a full and dynamic use of all three sides of Pier 15 will be possible. Dredging should be a part of maintenance and should encompass the whole dynamic use of Pier 15 to allow numerous vessels to come and go. A survey of the South Street Seaport Museum’s dredging needs and the surrounding waters (including those surrounding Pier 16) should be undertaken to determine the scope of dredging.

We hope the high cost of dredging and the disposal of material has been factored into the project’s budget. The operating budget should also have a line item for maintenance dredging, which will be necessary over the years. (Gruzen)

Response: Necessary dredging to implement the Proposed Action has been considered in Chapter 9, “Natural Resources.” As stated, any dredging associated with the construction and long-term maintenance of Pier 15 will require permits from the New York State Department of Environmental Conservation (DEC) and the U.S. Army Corps of Engineers, and all budget implications will be considered. Pier 16 is not within the Project Area and is not part of the Proposed Action.

Comment 8: Maritime uses along the water’s edge and on Pier 15 are highly desirable. Piers 13 and 14 should not be lost and should reappear on the waterfront as soon as possible, programmed for maritime and public access uses. (CB1)

Although Piers 13 and 14 are in poor condition and a secondary focus of the East River Waterfront Plan, we question the decision to demolish them in the near future. These piers have unlimited potential only hinted at in the DEIS. We urge the City to invest funds to keep them intact and also to prohibit the transfer of overwater rights to the New Market site before thoughtful concepts have been

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developed and permits acquired. Demolishing these piers or allowing their disintegration could also affect the silting of the adjacent Pier 15. (Gruzen)

Response: The removal of Piers 13 and 14 is planned independently of the Proposed Action and the Project Area does not encompass these piers. The removal of Piers 13 and 14 is necessary to prevent further damage, loss and collapse into the East River, and is an independent project funded through separate City capital dollars. As part of the DEC permit process, which will occur before in-water construction begins, the City may agree not to rebuild Pier 14 as mitigation for the Proposed Action's new overwater coverage. This is discussed in Chapter 19, "Alternatives," as the Alternataive In-Water Configuration South of Pier 15.

The removal of the two piers has the potential to result in resuspension of bottom material within the pier footprint during pile and debris removal. While some of this material has the potential to be deposited under Pier 15, it would not be expected to be significant and would be expected to discontinue once the removal activities have been completed. In general, piles cut at the mud line, which is expected to be the case for the removal of Piers 13 and 14, continue to stabilize the bottom. Therefore, the removal of these two piers would not be expected to result in the resuspension of all of the bottom material retained between the piles.

Comment 9: The FEIS should commit to removing the parking beneath the FDR Drive from Brooklyn Bridge to Catherine Slip. (CB3)

Response: It is the intent of the Proposed Action to remove all parking beneath the FDR Drive. The "Alternative Retaining a Portion of Automobile Parking" in Chapter 19, "Alternatives," however, examines the potential retention of some of the parking and concludes that no additional significant adverse impacts would result.

Comment 10: Pier 42 should be developed as passive open space, but there is no assurance of funding for this. There is mention of the removal of 25,000 square feet of existing overwater structure on Pier 42, but there should be no removal of overwater pier areas in Community District 3. Approvals to build new piers are difficult to obtain and loss of existing pier area would be the loss of a valuable asset. (CB3)

Response: Any removal of pier structure on Pier 36 or Pier 42 is likely to be tied to new over-water coverage within the Project Area. The design team is interested in creating a cove specifically at these piers to break up the repetitiveness of the pier line and create a protected water feature for docking small to medium craft. This in-water recreational area would be a unique benefit for the community beyond the benefits of facilities on the piers and esplanade.

Comment 11: Details of important components of this project are not fully discussed in the DEIS and should have been incorporated. These include the New Market Building replacement, the beach on Pier 42, and the Battery Maritime Building (BMB) Plaza. The City should share details on these components in the FEIS and identify funds to fully build these projects. The City should also work with Community Board 1 in their efforts to obtain community space in the rebuilt New Market Building. (Silver)

Response: The City is currently looking to identify funds for all project components and will bring designs to the community for feedback at design milestones. Programs for the various components of the esplanade will also be evaluated with the community at design milestones. Designs for the New Market Building replacement and the BMB Plaza will be made available to the public as discussed in the proposed final Programmatic Agreement.

Comment 12: A 2006 charette by Seaport Speaks developed consensus around the opportunity for a public boating center on the waterfront between Pier 17 and the Brooklyn Bridge. Figures 1-2 and 1-3 of the DEIS show a large marina for that north shore north of Peck Slip, and we assume the figures misrepresent the City's current intentions. (Gruzen)

Response: Figures 1-2 and 1-3 accurately depict the size and location of the proposed marina as currently contemplated.

Comment 13: The marine engineer advising Seaport Speaks feels strongly that a new marina will only be safe and successful if a fixed breakwater is constructed. A floating wave attenuator is not adequate. (Gruzen)

Response: As reflected in the FEIS, the proposed marina would include a breakwater structure on piles extending parallel to the shoreline from the New Market Building pier. The wave attenuation element will be designed on the basis of maximum wave heights measured within the vicinity of the proposed marina location and industry guidelines for the operation of boating basins for small watercraft. The design for the marina, including the wave attenuation elements, will be subject to review and approval by DEC.

Comment 14: A deadline for the relocation of the New York City Department of Transportation (NYCDOT) staging area on Pier 36 should be set so that improvement of this area is not delayed. (CB3)

Response: The City is currently evaluating potential sites to relocate this use.

Comment 15: The opening up of Piers 35, 36, and 42 is significant and must be fully analyzed. There should be a way to relocate the DSNY operation and open up the full area of the piers for park use. (Gerson)

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Response: The creation of new recreational space on Piers 35 and 42 as well as on a portion of Pier 36 has been analyzed as part of the Proposed Action. Developing the portion of Pier 36 occupied by DSNY facilities is not currently contemplated as part of the Proposed Action.

Comment 16: Consideration should be given to expanding the esplanade from the Brooklyn Bridge to Pier 35 by adding a grated platform extending over the water that would allow sunlight to penetrate the water below. This would allow people on the esplanade to enjoy the sunlight and could enhance the economic viability of the pavilions. (CB3)

Response: An overwater platform between the Brooklyn Bridge and Pier 35 is not contemplated as part of the Proposed Action. Current DEC policy considers grated platforms to create shade over the water. Americans with Disabilities Act (ADA)-compliant design mandates that, the spacing in the grating be small (no more than a quarter to half an inch) and therefore would not allow for the penetration of a substantial amount of light.

Comment 17: South Street is important for community access to the waterfront. Any areas that are not needed for traffic should not be squandered for transient purposes but instead should be used as pedestrian friendly open space that provides access to the waterfront. (CB3)

Response: Comment noted.

Comment 18: Funding is in place for the improvement of South Street south of the Brooklyn Bridge. Funding must also be assured for the area north of it. (CB3)

Response: Funding has been secured for South Street improvements north of the Brooklyn Bridge.

Comment 19: Additional on-street automobile parking is being planned for the area north of the Brooklyn Bridge. This is not acceptable to Community Board 3. In addition, information is not provided as to where the parking is planned and for whom the parking is planned. The area below the Brooklyn Bridge attracts tourists and may therefore have more revenue-producing capabilities. The area north of the Brooklyn Bridge should be designed for use by the community as pedestrian friendly open space. (CB3)

Response: No additional on-street parking is being planned north of the Brooklyn Bridge as part of this project.

Comment 20: Street connections to the waterfront should be strengthened, particularly in the area of Montgomery and South Streets. This is a wide connecting street that

should be redesigned to protect the safety of pedestrians and bicycle traffic alongside vehicle traffic. (CB3)

Response: The City recognizes that it is critical to establish a safe and direct pedestrian and bicycle access point to the East River Esplanade at this intersection and will design safe access accordingly.

Comment 21: The DEIS makes no mention of community waterfront planning efforts undertaken by Community Board 3. The FEIS should acknowledge these efforts. Community Board 3 has undertaken community-based planning in partnership with the National Park Service Rivers and Trails Program and the City College of New York’s Architectural Center and has held approximately ten community forums over the past few years. (CB3)

Response: A summary of Community Board 3’s planning efforts is incorporated into the FEIS.

Comment 22: Assemblyman Silver signed a Memorandum of Understanding with the City in 1994 to provide for a recreational facility on a rehabilitated Pier 36. Over the past several years, the Pier 35/36 Task Force and Community Board 3’s Waterfront Task Force have been developing criteria for such a plan and have successfully negotiated with Basketball City to build the facility and maintain affordability for community residents. There is no mention in the DEIS of a recreational facility on Pier 36. The City should incorporate this soon to be built facility into the design plans for the East River Waterfront. (Silver)

Response: While the Basketball City facility on Pier 36 is not part of the Proposed Action analyzed in the DEIS, it is described in Chapter 2, “Methodology,” under “Independent Nearby Projects,” and its location is shown on Figure 2-1 (background project #50 on that map). Additionally, the Proposed Action’s compatibility with Basketball City is noted in Chapter 3, “Land Use, Zoning, and Public Policy.”

Comment 23: The FEIS should include projections of the number and types of jobs that would be created by the project. (GOLES)

Response: A Regional Input-Output Modeling System (RIMS) economic analysis prepared for EDC showed that total direct and generated employment from construction of the Proposed Action is estimated at 1,749 person-years in New York City and 2,145 person-years in broader New York State economy (a person-year is the equivalent of one person working full-time for a year). Permanent employment at the project site once development is completed is projected at 254 full-time equivalent (FTE) jobs. Including the indirect and generated economic activity that will occur off-site as a result of the on-site economic activity, the total employment in New York City from the operation of the development is

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estimated at 315 FTE jobs. The total employment in the broader New York State economy from the operation of the development is estimated at approximately 355 FTE jobs. This analysis was based on the maximum program buildout of 150,000 square feet of retail and/or community facility space along the esplanade and piers.

Comment 24: GOLES looks forward to working with the Community Boards, the City, and community organizations to advance the following three goals: 1) the project must ensure that residents of CBs 1 and 3, particularly the 30,000 public housing residents who live along the project area's northern half and immediately above it, are given first priority access to the jobs created both in the construction phase and during operation; 2) these jobs must adhere to family-supporting wage and benefit standards that provide real economic security; and 3) the City and other project administrators should engage workforce development agencies to develop the training opportunities residents will need in order to qualify and retain these jobs. (GOLES)

Response: Comment noted.

Comment 25: The DEIS expresses confidence that the proposed cladding under the FDR Drive will reduce noise and that the transparency of the pavilions beneath the FDR Drive can be maintained. Seaport Speaks questions whether the noise spilling over from the highway as well as the particles dropping down from the highway complicate those claims. (Gruzen)

Response: Chapter 15, "Noise," acknowledges that current noise levels at the project site are high and that noise levels within the new open space areas created as part of the Proposed Action would, in some areas, be above the 55 dBA L₁₀ noise level for outdoor areas requiring serenity and quiet contained in the *City Environmental Quality Review (CEQR) Technical Manual* noise exposure guidelines. Based on the U.S. Department of Housing and Urban Development (HUD) noise standards described above, the noise levels at these new open space areas would result in potentially significant adverse noise impacts on their users.

Transparency as a design goal will help prevent pavilion structures from creating the undesirable effect of walling off the waterfront from the upland neighborhoods. Of course, not all functions will be appropriately housed in a transparent structure, and such design details will be addressed in the final stages once specific programs have been identified for the pavilions.

Comment 26: Page S-16 refers to 14 kiosks. Seaport Speaks hopes that this refers to pavilions and not some other invasive structure. At the moment, the Seaport Historic District is addressing the challenge of pavilions within and adjacent to Pier 15.

We see no room for pavilions or kiosks at Peck Slip, where open access to the river is critical. (Gruzen)

Response: The kiosks described on page S-16 of the DEIS refer to the proposed pavilions, and the FEIS has been updated to clarify this. As per the proposed final Programmatic Agreement, SHPO will be consulted regarding pavilions and other project elements within the South Street Seaport Historic District. As shown in Figure 1-2, pavilions are currently contemplated in the area just north of Peck Slip and would not block views of or access to the river at Peck Slip.

Comment 27: General Growth has announced that it is planning to rebuild the entire Pier 17 complex, completely changing its physical structure and usage. This project and how it might impact the East River Waterfront Esplanade and Piers project should be discussed in the FEIS. (EPA)

Response: The Pier 17 redevelopment is not part of the Proposed Action. Redevelopment of that site has not been fully designed and is expected to occur beyond the Proposed Action's 2009 analysis year and would likely be subject to its own environmental impact study. Therefore, it is not appropriate to include that project in the FEIS.

HISTORIC RESOURCES

Comment 28: The *John A. Lynch* (a.k.a. the *Major General William H. Hart*) sunk. The *Helen M.*, the *Pioneer*, and the *Peking* are historic ships at the South Street Seaport that should be discussed in the EIS. The *Progress* has been an essential working barge for maintaining the fleet and may be needed in the future. (Gruzen)

Response: References to the *John A. Lynch* will be removed from the FEIS. The DEIS identifies the *Helen McAllister* as a historic resource and notes that it listed is on the State and National Registers of Historic Places (S/NR). SHPO has concluded that the *Peking* and the *Progress* are not S/NR-eligible. The *Pioneer* has been determined to be S/NR-eligible and the *Marion M.* has been determined S/NR-eligible, and a discussion of these historic resources will be included in the FEIS.

Comment 29: The heft and scale of the design under consideration for Pier 15, with double trusses and a 30- to 50-foot span, is questionable. The marine engineer advising Seaport Speaks feels strongly that building a high level platform with 20-foot spacings between piles will allow water to flow effectively and can support any type of superstructure, including a two-story pier. (Gruzen)

We are concerned that a deep truss structure with two levels may not be appropriate for the South Street Seaport Historic District. The piers should remain simple open structures. (SHPO, Gruzen)

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The berms and other design features shown in schematic plans for Pier 15 do not add historic and community character and should be left out. (CB1)

Response: Pursuant to the proposed final PA for this project, SHPO will be involved in the design process for project elements in the South Street Seaport Historic District (SSSHD). The design team is currently contemplating a 25-foot span reconstruction of Pier 15 with two levels, inspired by photographs of two-level recreational pier structures that historically existed in this area on piers south of the Brooklyn Bridge. The current concept plan is reflected in the FEIS.

Comment 30: Trees are out of character with the industrial waterfront, as are the proposed esplanade planters and trellis with swing. (SHPO)

Preserving the historic character of the Lower Manhattan landscape along the river is important. (CB1)

Response: As per the PA, SHPO will be consulted regarding seating and landscape elements within the SSSHD. As described in Chapter 3 and Chapter 5, “Open Space,” Lower Manhattan is a growing residential community served by limited amounts of open space, and there is a need for additional green space for active and passive recreation. The project site includes few areas that are exposed to sun and are therefore appropriate for vegetation, and these include Pier 15 and the esplanade area north of the New Market Building.

Comment 31: The proposed cladding for the FDR Drive viaduct and pavilions beneath it may introduce a change of setting that is too dramatic for the SSSHD. (SHPO)

Response: As designs for the pavilions and cladding are developed, the City will consult with SHPO and the New York City Landmarks Preservation Commission (LPC) per the terms of the Programmatic Agreement.

Comment 32: It does not appear that the DEIS addresses LPC’s concerns regarding the archaeology Disturbance Memo. Therefore, SHPO cannot concur with statements made in Chapter 6 of the DEIS or conclusions that are based on that flawed study. SHPO recommends that a full Phase 1A Documentary Study be completed for all portions of the project to address this concern and that the results of this study be incorporated into the FEIS. (SHPO)

Response: The DEIS states (p. 6-1) that Phase 1A(s) will be prepared for the Area of Potential Effect (APE), and based on the conclusions of the Phase 1A(s), and in consultation with SHPO and LPC, a suitable treatment plan would be devised for any areas of potential sensitivity. The preparation of any research not completed as part of the EIS, as well as the preparation of the treatment plan, would be conducted pursuant to the Programmatic Agreement that is being developed between LMDC and SHPO.

Comment 33: It is correct to refer to the *Wavertree* but incorrect to refer to *The Wavertree*, as the names of vessels rarely include “The.” (Gruzen)

Response: This has been corrected in the FEIS.

PROGRAMMATIC AGREEMENT

Comment 34: In the stipulations under description of the project and project site, please reference the APE as shown on the maps. Further, we request the removal of “with seating, play spaces, and plantings” from the second paragraph. We believe these elements should be considered under the project design review. (SHPO)

Response: The proposed final PA (see Appendix A) has been revised to include references to the maps showing the APE. The phrase “with seating, play spaces, and plantings” in the second paragraph under description of the project and project site refers to the entire project area, not only the portion of the project site within the SSSHD. Seating, play spaces, and plantings would be located in the SSSHD in consultation with SHPO and in appropriate areas.

Comment 35: Section 3(f) Finding of Adverse Effect should be revised as follows: “If, after consultation with SHPO and the City, LMDC determines that there will be an adverse effect on a historic property that cannot be avoided, SHPO and LMDC will develop a mitigation plan.” (SHPO)

Response: The proposed final PA (see Appendix A) has been revised as requested.

Comment 36: Section 3(i) should be revised as follows: “Plan for the Mitigation of Adverse Effect. If adverse effects to historic properties cannot be avoided, SHPO, the City, and LMDC will consider, depending on...” (SHPO)

Response: The proposed final Programmatic Agreement (see Appendix A) has been revised as requested.

Comment 37: In sections 5 and 6, SHPO requests preliminary review of these proposed projects. We find that if we are not given the opportunity to comment early in the design, it is more difficult to incorporate our comments into the final design. (SHPO)

Response: As stated in the proposed final PA (see Appendix A), when preliminary (35 percent) and pre-final (75 percent) designs are prepared, LMDC and the City will consult with SHPO and provide 30 days for SHPO to submit written comments. SHPO may elect to review the final design at the time it reviews the pre-final design and, if it does, will have 30 days to submit written comments on it.

Comment 38: The proposed final PA indicates that some of the necessary archaeological testing may take place in advance of construction, while other testing may need to consist of monitoring during construction. SHPO feels it is important to: a) ensure that all work that can be carried out in advance of construction is completed as soon as possible; and b) that the document clearly indicate which areas will be examined in advance and which will have to be examined through monitoring. (SHPO)

Response: As indicated in the proposed final PA (see Appendix A), LMDC and the City will work to carry out as much as possible any archaeological testing that is required in advance of the start of construction or at the beginning of excavation for the project. The archaeology protocol will identify areas where testing or monitoring is required.

Comment 39: As written, the PA does not appear to provide for Native American Consultation. Given the federal involvement in this project, this opportunity must be provided and should be documented in the PA. (SHPO)

Response: The proposed final PA (see Appendix A) has been revised to reflect that Native American tribes have been invited to participate in the Section 106 process.

NATURAL RESOURCES

Comment 40: There has been no testing or analysis of the possible sediment contamination at either the expected dredging location near Pier 15 or at any of the sites where pier construction/rehabilitation is to be performed. While the document does include some sediment data gathered from several years ago, the data is not specific to this project and in the case of data from 1993, outdated. (EPA)

Response: The DEIS (p. 9-16) summarizes the results of sediment contamination studies conducted in the New York Harbor Estuary between 1993 and 1998. Additional information on the results of sediment samples was collected near Pier 6 within the project area in 2002. The results of the studies demonstrate that sediment contamination occurs throughout the New York Harbor Estuary, as well as the consistency of the primary contaminants of concern. Also as indicated in the DEIS (p. 9-16), the results of these studies indicate that, in general, concentration of contaminants in bottom sediment (at the surface) has been decreasing over time with the implementation of regional programs to decrease the discharge of contaminants to the estuary. Therefore, the information presented is sufficient to characterize the sediment quality and assess the potential for significant adverse impacts in the EIS. As discussed in Chapter 9 of the FEIS, the bottom material to be dredged will be required to undergo testing for contaminants in accordance with DEC specifications in order for DEC and the U.S. Army Corps of Engineers (USACE) to authorize dredging within the project site.

Comment 41: A description and estimated volume of the material to be dredged for the relocation of the *Wavertree* should be included on page 9-34. (EPA)

Response: Chapter 9, “Natural Resources and Water Quality,” has been updated to include an estimate of this volume. As described in the chapter, based on the *Wavertree*’s draft of 18-20 feet, it is estimated that approximately 36,000 cubic yards (cy) of material would be dredged (including 15,000 cy north of pier/21,000 cy south of pier).

Comment 42: The Essential Fish Habitat and Endangered Species consultation letters with the National Oceanic and Atmospheric Association (NOAA) Fisheries Service should be included in the DEIS. (EPA)

Response: The consultation letters are included in Appendix D.1 of the FEIS.

Comment 43: “Chimney swifts (*Chaetura pelagica*)” is used twice in a list of passerine bird species on page 9-27. (EPA)

Response: The duplicate reference has been removed in the FEIS.

Comment 44: IEC (p. 9-29) should be defined and included in the glossary. (EPA)

Response: IEC refers to Interstate Environmental Commission. The FEIS includes a definition of IEC in the list of acronyms.

Comment 45: “Diameter” is misspelled on page 9-30. (EPA)

Response: This typographical error has been corrected in the FEIS.

INFRASTRUCTURE, SOLID WASTE, AND ENERGY

Comment 46: Please note that DSNY collects approximately 16,500 tons per day of refuse and recyclables, of which approximately 5,000 tons is recycled (about half is designated curbside recyclables and half other recyclables). DSNY takes approximately 14 percent of the refuse it collects directly to a waste to energy facility in Newark, New Jersey. Approximately 31 percent of the waste that DSNY collects (principally from Staten Island since the fall of 2006, and the Bronx) is transferred to rail cars, not trucks, at present. (DSNY)

Response: This information has been incorporated into the FEIS.

Comment 47: Commercial carters collect refuse and source-separated recyclables. Recyclables are delivered to recyclables handling and processing facilities, not transfer stations. Private carters handle approximately 36,000 tons per day (tpd) of solid waste of various kinds. In 2003, the most recent year for which figures are available, approximately 7,250 tpd of this commercial waste was refuse, 2,640

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tpd was designated recyclables, 8,626 tpd was construction and demolition debris, and 19,069 was dirt, rock, and masonry “clean fill” waste that is typically recycled in the region. (DSNY)

Response: This information has been incorporated into the FEIS.

Comment 48: The existing Solid Waste Management Plan (SWMP) was approved by the City Council and DEC in 2006. Rather than “mandates” (page 12-5), the SWMP “provides in general.” “Special waste” collection sites are not “hazardous” waste collection sites, but receive certain problem waste, notably mercury thermostats, fluorescent bulbs, waste oil, batteries, and latex paint. There are no bulk residential waste collection sites. Residential and commercial plastic recycling requirements are limited to bottles and jugs. (DSNY)

Response: This information has been incorporated into the FEIS.

Comment 49: Municipal post-recycling refuse from the project site area is currently driven to the Essex County Resource Recover Facility (a waste-to-energy incinerator). This is proposed to continue under the new SWMP. Only recyclable paper collected from the area is transferred at the West 59th Street Marine Transfer Station. In the last sentence of the first paragraph on p. 12-6, the correct reference is Manhattan “Sanitation Districts” 1 and 3 (not “watersheds”). (DSNY)

Response: This correction has been made in the FEIS.

Comment 50: Please revise the second and succeeding paragraphs on p. 12-9 to reflect the fact that the new SWMP was approved by the City Council and DEC in 2006. During the interim while the Long Term Export Program is being implemented, approximately half of DSNY-collected post-recycling MSW would continue to be delivered to transfer stations in the city for further transport from the city by tractor trailer truck. Footnote 4 should be updated to reference the SWMP FEIS Findings Statement, available on DSNY’s Web site at www.nyc.gov/sanitation under “resource guides.” (DSNY)

Response: This information has been incorporated into the FEIS.

TRANSPORTATION

Comment 51: The reconfiguration of South Street between Whitehall and Broad Streets and the relocation of the entrance to the Battery Park Underpass (BPU) to accommodate the proposed BMB Plaza could increase congestion on already overcrowded streets. The City should ensure that this would not further congest north-south arteries, that access to the west side of Lower Manhattan is

preserved, and that the parking needs of businesses in this area are considered. (Morris)

Response: As described in the DEIS, the traffic impacts of relocating the entrance to the BPU can be fully mitigated.

Comment 52: The project includes the elimination of bus parking along South Street, but the DEIS fails to identify any sites to which this parking would be relocated. Elimination of these parking spaces will result in congestion on Lower Manhattan streets, and buses will idle on neighborhood streets. (Morris, CB1, CB3)

Regarding the displacement of commuter and tour buses, the DEIS relies heavily on a yet to be completed NYCDOT bus management study for Lower Manhattan. While this study is necessary, no parking should be eliminated until alternate locations have been identified. (Stringer)

The lack of a creative mitigation plan for the displacement of commuter and tour bus parking spaces at the Seaport area is a concern. It is imperative to have one or several plans in place to address the parking shortage intensified by the elimination of parking areas. Options for a mitigation plan should include building a bus parking garage in the vicinity, requiring new development to build a garage on-site including parking spaces for bus layover, parking at an off-site lot with a shuttle connection to the East River area, or running a shuttle connection from a public transportation hub to the project area. (Gerson)

It is unacceptable that the DEIS fails to address how to mitigate the severe adverse impact that the loss of bus parking spaces will create even as it predicts that displaced buses would likely seek parking in the adjacent neighborhoods. The DEIS's approach of relying on an NYCDOT study and traffic enforcement agents does not go far enough. The City must identify replacement parking for these buses to avoid negatively impacting traffic, pedestrian flow, and air quality. The World Trade Center Environmental Assessment forecast up to 280 buses per day visiting the World Trade Center Memorial when it opens in 2009 but does not identify where these buses will be stored. The City must identify alternative parking areas in consultation with the community boards, and these must be identified in the FEIS. (Silver)

Seaport Speaks applauds the NYCDOT Bus Management Study in the hope that it will address this outstanding issue. We affirm the prohibition of buses along South Street from John Street northward while urging continued bus parking throughout Peck Slip. (Gruzen)

South Street and many of the surrounding residential streets are overburdened with tour buses and commuter vans. These vehicles should not be assigned layover on residential streets or on the waterfront, where they cause air pollution

and traffic and safety problems in addition to blocking access to the waterfront. (CB3)

Community Board 3 was never consulted when bus parking was put into place on South Street north of the Brooklyn Bridge. LMDC should not have to solve the problem of where these buses will go before the waterfront can be revitalized. The agency that located the parking spaces here should be responsible for finding alternative parking spots. (Johnson)

Response: The area beneath the FDR Drive and curb lanes along South Street provide for a total of approximately 65 to 75 bus parking spaces, which are used by commuter buses, tour buses, and inter-city buses. A total of 40 to 45 of the parking spaces are located within Community Board 1 and serve as parking for the commuter buses and the tour buses. The remaining spaces are located in Community Board 3 and primarily serve the inter-city buses. Given the length of the corridor from which buses would be displaced, the types of buses that use these spaces, and the temporal distribution of arrivals and departures, it is anticipated that diverted buses would be widely dispersed. Therefore, it is not likely that the diversion of buses would result in significant adverse impacts at interior intersections. However, the DEIS noted that the removal of these bus parking spaces could result in an adverse impact on the neighborhood.

NYCDOT is the City agency responsible for street and traffic improvements. As such it is the proper agency to direct a bus management plan. Therefore, it is conducting a study for Bus Management in Lower Manhattan from Canal Street to the Battery. The study entails a market analysis, possible alternative parking site selection, and possible bus management strategies. Bus parking would not be removed from South Street until NYCDOT has completed this study. Absent an off-street location for these buses, management strategies may be adopted to require that operators park buses outside of Lower Manhattan and/or other areas of the city.

Comment 53: Additional bus traffic generated by the World Trade Center Memorial will result in congestion on Lower Manhattan streets, and buses will idle on neighborhood streets. (Morris)

The additional buses that would be brought to Lower Manhattan to serve the World Trade Center Memorial are a problem for the West Side to deal with, not the East Side. (Johnson)

Response: The Port Authority of New York and New Jersey is constructing a facility at the World Trade Center site to accommodate tour bus activities at the World Trade Center Memorial.

Comment 54: The DEIS estimates the loss of 668 parking spaces beneath the FDR Drive but offers no alternative for the loss of this parking. It is not clear that nearby blocks would be able to accommodate this parking after it is lost. (Stringer)

The affects of losing public parking beneath the FDR Drive has been underestimated. The shortage of parking in this area is an important issue. (Gruzen)

The lack of a creative mitigation plan for the elimination of parking spaces underneath the FDR Drive north of the Brooklyn Bridge, on Peck Slip, and on Burling Slip is a concern. (Gerson)

Response: The DEIS estimates that 617 spaces in public parking lots would be displaced under the Proposed Action. The *CEQR Technical Manual* specifies that for Proposed Actions within Manhattan south of 61st Street, the inability to meet future parking demand is considered a shortfall but is not deemed a significant adverse impact. This is part of the City's policy of encouraging the use of public transit in Manhattan. In this case, the unmet demand for parking would either (1) use facilities outside the study area with excess capacity or (2) shift their mode of travel in the future. Therefore, although the Proposed Action would create a shortfall of parking in the study area, mitigation is not required.

The proposed improvements at Peck Slip and Burling Slip are not part of the Proposed Action and are being evaluated under separate environmental review processes.

Comment 55: Alternate side of the street parking was taken away from many residents along South Street in order to accommodate bus parking. It should be returned. Parking along the west side of South Street should be for the residents who live there and should not be removed. (Johnson)

Response: Future parking along the west curbside of South Street would be publicly-accessible, alternate side of the street parking. No on-street parking is planned on the east side of South Street.

Comment 56: Placement of a traffic light at the foot of Rutgers Street should be considered. (CB3)

Response: The DEIS traffic analysis did not show that a traffic signal was warranted at this location with implementation of the Proposed Action. NYCDOT routinely makes determinations of need for new traffic signals and installs signals based on a signal warrant analysis performed consistent with criteria set forth in the Manual of Uniform Traffic Control Devices (MUTCD).

Comment 57: It appears possible that increased numbers of pedestrians and cyclists in the area of Piers 35 and 36 could generate additional conflicts with the DSNY's use of

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Pier 36 as a sanitation garage. The need for additional design and/or traffic control measures to ensure safe crossings of the greenway by the DSNY's Pier 36 garage traffic should be assessed. (DSNY)

Response: As part of the proposed project, the existing East River bikeway and walkway would be improved. As the design for the project advances, measures will be explored to ensure the safety of cyclists and pedestrians at street and driveway crossings, including the driveway for the DSNY garage.

Comment 58: The City should work with the Metropolitan Transportation Authority (MTA) to enhance public transportation to the waterfront, including extending the M14A and M15 bus routes or establishing new routes. Consideration should also be given to studying the feasibility of upgrading the East Broadway station of the F line by adding an elevator so that the elderly and disabled would also have access to the waterfront. A site between Piers 35 and 42 should be considered for use by a clean fuel water taxi to connect the neighborhood to other areas of Manhattan and Brooklyn. (CB3)

The City should work with New York City Transit (NYCT) to adjust current bus routes or create new ones to make the waterfront more easily accessible. (Silver)

Response: The DEIS did not show that the Proposed Action would result in a substantial increase in local bus trips such that new or expanded service would be required. MTA routinely evaluates its bus service plan and makes adjustments based on ridership. MTA also evaluates its service plan based on community input.

Comment 59: Please clarify whether the new developments listed on p. 3-13 were included as part of the future no build traffic levels and if so, identify individual project traffic levels assumed in the modeling. For example, the FEIS should identify the assumed traffic levels for Pier 36 and explain why those assumptions were used. (EPA)

Response: As described in the DEIS, the future no build traffic analysis accounts for new developments located east of Pearl Street and Madison Street for the length of the project site. The future without the Proposed Action also considers general background traffic growth of 0.5 percent per year, as specified in the *CEQR Technical Manual*. Table 23-1 below presents the specific projects that were assumed in the no build conditions analysis and provides the peak hour vehicle trip estimates for each.

**Table 23-1
Vehicle Trips Generated by No Build Projects**

No Build Project	AM Peak Hour Vehicle Trips	PM Peak Hour Vehicle Trips
NY Post Site	38	41
Basketball City (Pier 36)	0	26
104-16 South Street	7	6
Pier 17/New Market Building	8	56
80-85 South Street	2	3
Piers 13 & 14	8	45
55 Water Street	189	197
Battery Maritime Building	67	116
Whitehall Ferry Terminal	74	96
150 Madison Street	16	14
Parcels 44,46,47 56	224	154
75 Wall Street	45	55
10 Hanover Square	27	31

AIR QUALITY/NOISE

Comment 60: The DEIS identifies eight intersections where the proposed action would have significant adverse impacts on traffic. The elimination of parking and the creation of the BMB Plaza are the main contributors to these impacts. The DEIS proposes modest mitigation measures such as signal changes, but the additional traffic from this project will surely negatively impact air quality and noise levels. Even if the negative impact is not enough to require mitigation, it is necessary to acknowledge the residential character of certain parts of the study area (such as Chinatown and the Lower East Side) and ensure that any proposed action positively impacts the quality of life as much as possible. (Stringer)

Response: The DEIS examined locations in the vicinity of the BMB Plaza to determine if changes in traffic circulation would result in significant adverse impacts on air quality and noise. The elimination of parking within the project area would reduce the number of vehicle trips to the area and therefore would ease congestion. The DEIS did not identify any significant adverse impacts on air quality or noise based on criteria set forth in the *CEQR Technical Manual*.

Chapter 15, “Noise,” analyzed the effects of increases in traffic volumes resulting from the Proposed Action, and changes to roadway configuration would not be large enough to result in a perceptible increase in noise levels.

Comment 61: A General Conformity Determination was not included in the DEIS. HUD must demonstrate that the direct and indirect emissions of this federal action will conform to the state implementation plan. (EPA)

Response: Since no new permanent direct or indirect sources would be introduced as part of the project operations, emissions would not be expected to increase as a result of the operation of the project and a conformity determination would not be required for project operations.

LMDC has prepared an emissions inventory estimate of construction emissions for general conformity purposes, according to the Clean Air Act (CAA) regulations Title at 40 CFR Part 93, in order to determine if a conformity determination is required, and is coordinating with the New York State Department of Environmental Conservation regarding this analysis. Because the overall predicted emissions increments due to the federal action do not exceed the *de minimis* rates defined in section 93.153, the Proposed Action would not trigger the need for LMDC to make a general conformity determination at this time. Appendix E describes that the federally funded portion of the Proposed Action does not exceed the *de minimis* thresholds currently in effect by the federal government. Nonetheless, since the maximum predicted annual nitrogen oxides emissions would exceed the *de minimis* threshold previously in effect based on New York City's former status as a severe nonattainment area for the 1-hour ozone standard, LMDC has decided to prepare a draft determination of general conformity to the ozone State Implementation Plan (SIP), subject to public review. As noted in the analysis, provided in Appendix E, projected future construction-related emissions, such as the Proposed Action, are included in the ozone SIP budget, and therefore, the Proposed Action is presumed to conform to the ozone SIP. LMDC is seeking public comments on the Draft Conformity Determination, as required by 40 CFR Part 93, and HUD will publish a notice of availability of the Draft Conformity Determination (as provided in Appendix E) in the Federal Register. LMDC will also share its Draft Conformity determination with NYSDEC and seek NYSDEC's concurrence on its determination.

CONSTRUCTION

Comment 62: GIPEC supports moving the entrance of the BPU approximately 350 feet to the northeast in order to create the new BMB Plaza, which will provide better access to the BMB and therefore to Governors Island via ferry. Though the creation of a new mainland ferry is anticipated, the BMB is currently the sole point of access to Governors Island and there is a high likelihood that a significant number of passengers, trucks, and support vehicles (for service, emergency, delivery, and construction) will require access to the island via the BMB in both the short and long term. Access to the BMB and vicinity for Governors Island and other tenants should be considered during construction of the BMB Plaza. (GIPEC)

Response: The City will consider access to the BMB and vicinity for Governors Island and other tenants during construction of the BMB Plaza.

Comment 63: Cumulative impacts of all area construction must be considered so that local businesses can remain fully operational. Agencies and contractors should cooperate with the Lower Manhattan Construction Command Center (LMCCC) and the Downtown Alliance's Construction Mitigation Group to minimize the negative impacts of construction activity on Lower Manhattan's workers, businesses, residents, and visitors throughout construction. (Morris)

Response: Construction would comply with the Environmental Performance Commitments for the Lower Manhattan Recovery Projects, which include coordination with the LMCCC, Downtown Alliance, or other entities to minimize residential and retail impacts and adding appropriate signage for affected businesses and amenities. The project would also be coordinated through LMCCC to minimize the effects of its construction on community character, access and circulation, air quality, noise and vibration, and historic resources.

Comment 64: Construction of the project would require moving the whole fleet of historic ships at the South Street Seaport. Seaport Speaks requests an assurance that all efforts will be made to keep this historic fleet safe during the estimated year of Pier 15 construction and that its temporary berth and the costs of such a dislocation have been anticipated and budgeted. (Gruzen)

Response: Once designs for Pier 15 have been finalized, a construction phasing plan will be developed in consultation with all local property stakeholders.

Comment 65: EPA applauds LMDC's assurances that it will include the Environmental Performance Commitments utilized on the Lower Manhattan recovery projects, including the use of ultra-low-sulfur diesel for all non-road construction engines and the application of tailpipe emissions reductions technologies. While LMDC states that this would not apply to any tug boats used on the project, LMDC should investigate using marine operators that may have already upgraded their equipment with new low emission engines. (EPA)

Response: The City will investigate using marine operators that have upgraded their equipment with low emission engines.

Comment 66: In the discussion of the mixed-use development at the site of the NYU Downtown Hospital on Beekman Street, the DEIS states that construction is expected to begin in 2006. Discuss whether construction has started or when it is expected to start. (EPA)

Response: The FEIS will reflect that construction at this site is under way, having started in 2006.

MITIGATION

Comment 67: The proposed narrowing of southbound South Street to one lane between Montgomery Street and Robert F. Wagner Sr. Place will require mitigation, since this section of South Street has heavy traffic volumes as cars frequently exit the FDR Drive at this point to avoid the congestions that slows traffic heading toward the Brooklyn Bridge exit. The DEIS identifies two potential mitigation measures to address this problem. One is the elimination of parking along this southbound stretch of South Street in order to create a second moving lane for traffic. Another is the build-out of the Brooklyn Bridge Ramps Project to improve the ramps from the FDR Drive to the Brooklyn Bridge and thus reduce the number of vehicles that would detour onto this stretch of South Street to access the bridge. One or both of these measures must be instituted to address the projected traffic congestion along South Street. (Silver)

Response: As described in the DEIS, NYCDOT Division of Bridges' Brooklyn Bridge rehabilitation project and its proposed widening of the ramp from the southbound FDR Drive to the Brooklyn Bridge, which would begin construction in late 2009 and be completed by 2014 would substantially reduce southbound volumes on South Street between Jackson Street and Robert F. Wagner Sr. Place, and it is anticipated that the project-generated impacts for southbound South Street would be eliminated. However, the removal of parking has been recommended as a mitigation measure in the DEIS in the interim. Once the FDR ramps project is completed, it is anticipated that parking could be provided along this stretch of South Street.

ALTERNATIVES

Comment 68: The alternative in which some parking under the FDR Drive is retained does not specify the locations at which parking would be retained. Community District 3 should not be overburdened with this parking. (CB3)

Response: The City will evaluate parking needs throughout the development process and consider adjacent land uses and future program needs. *