



THE CITY OF NEW YORK
MANHATTAN COMMUNITY BOARD 3

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Alysha Lewis-Coleman, Board Chair

Susan Stetzer, District Manager

June 28, 2019

Marisa Lago, Director
Department of City Planning
120 Broadway, 31st Floor
New York, New York 10271

Dear Director Lago,

At its June 2019 monthly meeting, Community Board 3 passed the following resolution:

TITLE: To Approve With Conditions ULURP #C190357PQM to Facilitate the East Side Coastal Resiliency Project

WHEREAS, on April 29, 2019 ULURP application #C190357PQM, for an acquisition of real property to facilitate the development of the East Side Coastal Resiliency Project (ESCR), was referred to Community Board 3 Manhattan for review; and

WHEREAS, the ESCR project is a multi-agency initiative that was selected by HUD to receive disaster recovery grant funding through the Rebuild By Design competition, which was organized in response to the devastation of Hurricane Sandy in order to promote enhanced resiliency in impacted communities; and

WHEREAS, the ESCR project would create a comprehensive flood protection system intended to reduce flood risk for the East Side of lower Manhattan, while also providing improved access to the waterfront and enhancing the waterfront parkland from East 25th Street to Montgomery Street; and

WHEREAS, these flood protection systems would consist of a combination of floodwalls, 18 closure structures, additional parallel conveyance infrastructure to assist with drainage and flood mitigation at upland locations, and other supporting infrastructure to reduce the risk of coastal storm flooding; and

WHEREAS, in Community District 3, the ESCR project includes the significant redevelopment of John V. Lindsay East River Park (East River Park) as well as a portion of Corlears Hook Park; and

WHEREAS, since 2015, the City has regularly engaged the Community Board on design proposals for the ESCR; and

WHEREAS, in March 2018, CB 3 voted to not support the ESCR design that emerged from this process, which is identified in the Draft Environmental Impact Statement (DEIS) as "Alternative 3,"; and

WHEREAS, in October 2018, the City unveiled a significantly redesigned proposal for the ESCR project, identified in the DEIS as the "Preferred Alternative,"; and

WHEREAS, for many in the community, the ESCR process since Fall 2018 has frayed trust in government and public agencies because of the drastic change in plan design done without community consultation, despite the needs of the community who look to their government to supply desperately needed protection of their lives and homes, (and often both); and

WHEREAS, many members of the community stated a preference for the previous design iteration because it utilized a method of resiliency well-established in modern environmental thinking of using parkland as a natural buffer for protection of upland regions, and replicated a system of floodplains and floodwalls as a defense to protect the neighborhood; and

WHEREAS, many members of the community have also requested a study by outside experts of the feasibility of all approaches that have been discussed including the original plan, Alternative 3, the Preferred Plan as well as one that includes the decking over of the FDR to evaluate the feasibility of achieving the following goals: not permanently and negatively impacting the residents of the lower floors of the NYCHA residents and other waterfront homes, that meets the federal spending deadline, and considers the impact on the health and well-being of community residents; and

WHEREAS, there has not been consensus among the NYC Administration, City Council and State Legislature on whether the Preferred Alternative triggers the necessity of the public trust doctrine on dedicated parkland approval via alienation for this preferred park plan, although on June 11, 2019, Parks provided the Community Board with a letter clarifying their position on alienation, noting that the current plan, including construction within the park, will "further park purposes" and be consistent with New York State's public trust doctrine because it provides flood protection and integral infrastructure upgrades to the park itself, and therefore does not require alienation legislation; and

WHEREAS, the ULURP for the ESCR Preferred Alternative only authorizes the city to acquire property and does not preclude or limit any negotiations with any property owner; and

WHEREAS, the Preferred Alternative moved the line of flood protection from the west side of East River Park, abutting Franklin Delano Roosevelt Drive, further east toward the East River and located wholly within East River Park, in order to adhere, to the City's primary objective to protect both the residential neighborhood, people, and the park itself. The new plan intends to avoid needing to repair the new park after flooding and storm events, as well as to account for the likelihood of increased tidal inundation from anticipated sea level rise; and

WHEREAS, according to the City, a major reason for abandoning the original plan, Alternative 3, was that the Preferred Alternative could be more expeditiously constructed because it's construction was not adjacent to the FDR Drive and therefore there would be far less disruption to traffic and this would reduce the construction schedule from five to three and a half years.

WHEREAS, the Preferred Alternative would raise the majority of East River Park 8-9 feet above its current elevation and would locate the flood protection systems below grade, essentially raising the entire park above the current 100-year floodplain and the predicted year 2050 100-year floodplain; and

WHEREAS, the Preferred Alternative includes a full reconstruction and reconfiguration of East River Park's underground sewer and water infrastructure, some of which is reaching the end of its serviceable life, including outfalls, associated pipes, and tide gates within the park, as well as the addition of new parallel conveyance to assist with drainage and flood mitigation; and

WHEREAS, the Preferred Alternative has not had outside review by scientists, a blue ribbon-type panel nor an assessment process like Envision (which has been used on other large-scale NYC projects); and

WHEREAS, the Preferred Alternative features a number of new design elements in East River Park that differ from the previous design iteration, including:

- The reconstruction of an additional overpass bridge at Corlears Hook Park
- An additional connecting bridge to provide access at the northern end of East River Park
- The full reconstruction of the East River esplanade, including the aging bulkhead, which would include the addition of direct waterfront access and step-downs to the East River
- The rebuilding of all of the comfort stations
- The renovation and expansion of the 10th Street playground
- The location of basketball courts above Houston at 10th Street and south of Houston at Delancey
- The reconstruction of the East River Park amphitheater, which is a cultural institution for the Lower East Side
- The removal of approximately 200 more trees, including many mature trees, to be replaced by 1,442 new trees; and

WHEREAS, in the Preferred Alternative, pile driving related to floodwall construction is now proposed to happen within the park and closer to the waterfront, further away from residential units than in the previous design iteration; and

WHEREAS, in the Preferred Alternative, barge delivery and water-side construction will be necessary, and drainage and sewer construction is now proposed to happen largely within East River Park, limiting construction traffic on the residential side of the Park and minimizing the drainage repair work that would have to be done on active roadways that the previous design iteration would have required; and

WHEREAS, such water-based construction greatly increases the degree of scrutiny the project will be subject to from permitting agencies such as the US Army Corp of Engineers (USACE), the National

Oceanic and Atmospheric Administration (NOAA) and the NYS Department of Environmental Conservation (NYS DEC), given the impact that such construction will have on the marine ecology; and

WHEREAS, this project will be subject to a rigorous permitting process that will involve consultation with many federal and state agencies and the project must secure permits from USACE and NYS DEC, and the City has not fully discussed this process with the community or adequately advised them of steps and timeline involved in obtaining those permits and being able to commence construction because of them or the possible seasonal restrictions that the permits will place on the construction because of concerns about aquatic life; and

WHEREAS, despite these changes, during the construction period for the proposed project there will be the potential for significant adverse impacts in the immediate area and on the residents of the surrounding neighborhood as well as on the environment, including:

- Urban Design and Visual Resources, as the proposed project would block existing waterfront views from certain upland locations;
- Natural Resources, as the proposed project would destroy trees, plantings, insect habitats and adversely affect littoral zone tidal wetlands which will require compensatory mitigation and likely have an adverse impact on several vulnerable aquatic species including winter herring and striped bass as noted by NOAA;
- Hazardous Materials, as the proposed project would disturb the subsurface of hazardous materials, including at historical Manufactured Gas Plant sites, where contaminants could be disturbed during excavation;
- Transportation, as during construction of the proposed project, East 10th Street between the traffic circle and the FDR Drive service road would be converted from two-way to one-way eastbound and the service road in front of the BP Gas Station would be closed to vehicular traffic at East 23rd Street;
- Noise and Vibration, as the proposed project construction would generate noise and air pollutant emissions that could affect open public space and community member health;
- Greenhouse Gas Emissions, as total fossil fuel use in all forms associated with construction under the Preferred Alternative would result in up to approximately 48,889 metric tons of CO₂e emissions; and
- Open Space, as the proposed project construction would displace the open space resources at East River Park for at least 3 and a half years; and

WHEREAS, construction of the new park may generate significant pollutants as the park is razed, rebuilt and filled with imported soil that may affect the health of local residents; and

WHEREAS, many years of stewardship and composting have ensured that native plants and habitat for birds, insects and fish were thriving in the park they may now require moving the habitats that are able to be 'moved' in certain seasons; and

WHEREAS, East River Park is the largest park in the Community District and at the peak of construction, over 45 acres of open space would be temporarily lost; and

WHEREAS, this park is used extensively by elders, disabled persons, including sight and hearing impaired; and

WHEREAS, this loss will be disproportionately felt by lower-income communities of color living in the 1/2-mile area adjacent to the proposed project, including:

- Approximately 28,000 residents living in NYCHA developments¹;
- Approximately 101,000 minority residents (51% of all residents in the study area)²;
- Approximately 20% of all residents in the study area are living in poverty³; and

WHEREAS, these impacts will also be felt by all nearby residents, nearby CB3 members (including children, parents, elders), youth sports groups, all other sports groups; and

WHEREAS, the youth of the Lower East Side and their parents rely on East River Park for activities to keep children safe and active; and

WHEREAS, Title 1 schools do not have buses to move children to other parts of the city to access open space resources; and

WHEREAS, the DEIS cites the introduction of new publicly accessible ADA open space at Pier 42, Pier 35, and Phase IV of the East River Waterfront Esplanade project, and recreation improvements at the site of the to-be demolished LaGuardia Bathhouse as mitigating factors to offset the temporary loss of open space. While the LaGuardia Bathhouse site was targeted for active recreation as a direct response to the loss of open space incurred by the East River Park closure, the other projects were set to be completed regardless of the final design and construction plan for ESCR; and

WHEREAS, Parks has also promised a number of improvements to local parks for district wide mitigations and all of which taken together still do not provide full compensation for the tremendous loss of open space that the community will suffer, many of which are already in the pipeline, including:

- **Planting up to 1,000 trees and approximately 40 rain gardens throughout CB3 and CB6 – First plantings to begin this fall**
- **Improving turf at seven locations**
 - o **Installing new synthetic turf at five sites by Spring 2020 – La Guardia Bathhouse/Little Flower Playground, St. Vartans, Tompkins Square, Tanahey, Robert Moses**

¹ East Side Coastal Resiliency Project DEIS, pg. 5.11-7.

² East Side Coastal Resiliency Project DEIS, *Table 5.11-1*, pg. 5.11-6.

³ Ibid.

- o **Turf improvements at two sites** -Coleman (resod field), Baruch field (underway)
- **Installing new sports coating at seven sites by Spring 2020** – Tanahey, Sara D. Roosevelt, Al Smith Rec Center, St. Vartans, Columbus Park, Coleman, Al Smith Playground
- **Increasing play time at six fields through solar field lights by Spring 2020** - Columbus Park, Coleman Field, Sara D., Baruch Playground, Corlears Hook and Chelsea Park. These lights will extend field play in the spring and fall seasons
- **Prioritizing and accommodating youth league permittees** – Parks will accommodate all youth softball, baseball and soccer leagues in our existing system of fields. Parks will also accommodate as many adults as possible. Parks has reached out to all ballfield permit holders from last year
- **Painting playgrounds and park equipment at approximately 16 sites by Spring 2020** - Columbus Park, Coleman, Al Smith Playground, Al Smith Rec Center, Little Flower Playground, Tanahey Playground, Cherry Clinton, Hamilton Fish, Corlears Hook, Baruch Playground, Tompkins Square, Dry Dock, First Park, St. Vartan, Robert Moses Playground, John Jay.
- **Increasing barbecues sites by Spring 2020** – New grills and picnic tables at Coleman and replacements at Al Smith Recreation Center
- **Transforming Dry Dock Pool into a Cool Pool by Summer 2019**
- **Identifying alternative tennis locations**
 - o John Jay Park courts will be re-striped to formalize the tennis area by Spring 2020
 - o Queensboro Oval (in Manhattan) will be open to NYC Parks tennis permit holders Summer 2019, and for even more weeks (22) per summer starting 2020
 - o Randall's Island is opening a new facility with courts open to NYC Parks tennis permit holders
- **Increasing staffing for recreation, maintenance and operations by Summer 2020**
 - o New playground associates (9 new staff lines) will provide new programming and help organize events and activities for park users
 - o All existing M&O staff for East River Park will remain on the east side of Manhattan, below 34th Street
- **Providing new open spaces and recreational opportunities**
 - o LaGuardia Bathhouse asphalt-to-turf as noted in #2a)
 - o Baruch Bathhouse is the current focus of a community taskforce to transform this long-abandoned building into a community space. The taskforce is reviewing proposals and will discuss recommendations this summer
 - o Pier 42 Phase 1 Upland Park is anticipated to open in 2021 and will include a playground, passive landscapes, a picnic knoll, and a comfort station upland of Pier 42

o EDC is currently inspecting the Pier 42 deck to identify near term recreation feasibility and opportunities and EDC recently completed Pier 35

- **Solving the pinchpoint with the Flyover Bridge** –The project to improve connections between East River Park and Stuyvesant Cove Park has been funded with \$56M; and

WHEREAS, one mitigation that has been disclosed is the addition of BBQ pits at Coleman Playground, and the Knickerbocker Village Tenants Association has indicated that they do not think this is an appropriate area for these pits; and

WHEREAS, in the DEIS, a number of proposals for additional mitigations are currently described as being "explored," "investigated," or "assessed," by the City, it is clear that concrete plans for many of these impacts have not been fully identified and committed to at this time; and

THEREFORE BE IT RESOLVED, the City must work with the community and Community Board 3 to clearly and specifically identify these mitigations as they are identified, including clarifying the following:

- Where the DEIS states that "the City is working with other entities with open space resources to identify recreational resources that may be opened to the community during construction," (8.0-4) these other entities have since been identified as NYCHA, the Department of Education, and the Department of Transportation, and these agencies must come together in consultation with the Community Board to identify and disclose all locations and capacity of these other resources, particularly because many existing local area parks and open space resources are primarily turf and hard surfaces; and

- Where the DEIS states that "the City is assessing opportunities to open parts of East River Park as work is completed," (8.0-4) the exact construction phasing and re-opening proposal should be disclosed and the final plan decided on through engagement with the community and consultation with the Community Board;

- Where the DEIS states that the impact of the ESCR Preferred Alternative on the Essential Fish Habitat (EFH Assessment) has not been studied adequately, and the NOAA is requiring a revised assessment with alternatives that will minimize the effects on certain species like herring and striped bass (Appendix G), including the possibility that seasonal work restrictions will be one of the ways to address these effects. If such seasonal restrictions are likely to be imposed, a situation which would adversely affect the construction schedule, the City must inform and consult the community about the likely effects of these restrictions as soon as possible and discuss at the earliest possible opportunity their plan to locate additional funds for mitigation, especially for solutions that provide recreation options in the immediate vicinity, such as barges and special play features; and

- Where the DEIS states that "NYC Parks is exploring providing alternative recreational opportunities throughout the Lower East Side neighborhoods through programs like Shape-Up classes, walking clubs, Arts, greening programs, etc.," (8.0-4) the locations and funding for such programs should be disclosed and discussed with the nearby residents of those proposals prior to enacting them to ensure their feasibility and value to the community;

- Where the DEIS states that "NYDOT is investigating supporting bicycle infrastructure upgrades along the alternate route, including new markings and signage," (8.0-5) it should specify where this re-rerouting and signage would be located and consider this plan as well as additional solutions including more dedicated bicycle lanes on additional routes in consultation with the Community Board. NYC Parks should also consult the Community board on viable solutions for the needs of joggers and walkers;

- Where the DEIS states that "NYC Parks is exploring a Lower East Side Greening program with the opportunity to plant up to 1,000 trees in parks and streets, and create up to 40 bioswales," (8.0-5), Parks should also work with local community organizations to spearhead such a program, as was suggested in a February 2019 Community Board 3 resolution supporting a proposed LES Community Tree Canopy Initiative. We understand the tree planting will start in Fall 2019 but the Parks Department must update the Community Board as soon as possible regarding the proposed schedule and locations. In addition, tree guards and concrete plans for the care of the trees (such as watering) should be included as part of the tree planting operation;

- Where the DEIS states that "the City is exploring purchasing lighting to be used at several Lower East Side parks to extend playing time at fields for permitted use during construction of the proposed project," (8.0-5), and the City has confirmed they will bring the solar lights to Columbus Park, Coleman Field, Sara D., Baruch Playground, Corlears Hook and Chelsea Park, adding an additional four to five hours of field time at some parks during the Fall, it must disclose *all* parks and fields these improvements would be located at, guarantee that the lighting would be funded, identify whether the improvements would remain at the end of the ESCR construction period, and evaluate the impact of new lighting and playing on any surrounding residential buildings and consult with those local communities and guarantee field priority for local youth leagues;

- Where the DEIS states that "the City is assessing opportunities for improvements to parks and playgrounds in the vicinity," (8.0-5), and the City has identified Columbus Park, Coleman, Al Smith Playground, Al Smith Rec Center, Little Flower Playground, Tanahey Playground, Cherry Clinton, Hamilton Fish, Corlears Hook, Baruch Playground, Tompkins Square, Dry Dock, First Park, St. Vartan, Robert Moses Playground, and John Jay as locations for improvements, it must explicitly identify *all* parks and playgrounds are under consideration, which projects are new and not necessarily already in the capital projects pipeline, what the improvements would be, guarantee that the improvements would be funded and disclose the timeline for said improvements;

- Where the DEIS states that "The City is also assessing the feasibility of utilizing quieter construction methods (i.e., press in pile)" (8.0-5) and considering "selecting quieter equipment models for cranes, generators, compressors, and lifts may result in up to a 10 dBA reduction in noise levels from construction," (8.0-8) it must guarantee the equipment would be actually be available for the duration of the construction period prior to application approvals, and make these methods a condition of any bid or RFP for ESCR construction;

- Where the DEIS states that mitigations are "under consideration" in order to achieve "cost effective reduction of greenhouse gas emissions from the construction of the proposed project" (6.11-16), it should be committed to prior to project approvals that when the construction contracts are put out for bid and/or RFPs are issued, they should require the use of biodiesel fuel

on-site, require targets be met for the volume of recycled steel and aluminum generated on-site, and commit contractors to divert as much construction waste as possible for recycling; and

THEREFORE BE IT FURTHER RESOLVED, the following additional mitigations must be included in the East Side Coastal Resiliency project:

- The City must explore immediate and temporary mitigation measures for present and future threats of destructive storms to protect local neighborhoods during the time the park is vulnerable; and
- To ensure neighborhood future protection and storm resilience, the Preferred Alternative plan for the ESCR should also include the ability to add protection for the predicted surge and sea level rise for 2100; and
- The City must provide a more comprehensive and robust explanation of the schedule advantages of the Preferred Alternative over Alternative 3 given that the possible seasonal construction restrictions were not factored into the timeline advantages stated in the rationale of choosing the Preferred Alternative, a solution that is more costly than Alternative 3 which was developed in consultation with the community; and
- As the ULURP, Environmental Review and permitting processes continue the City should work with CB3 and concerned community organizations to identify a panel of 3 to 5 mutually agreed upon environmentalists to expeditiously review and evaluate the alternatives in the DEIS and describe reasonable interim measures that could be taken to minimize any adverse impacts that the community might confront until the project is implemented and such review and the DEIS should not be finalized until such recommendations and review is presented; and
- The City must commit to seek Envision certification, a rating system for infrastructure, to help assess how the ESCR plan will meet or exceed sustainability goals across a range of social, economic, and environmental indicators. And such certification should be provided before the DEIS is finalized; and
- Temporary measures for immediate storm protection need to be implemented given that the hurricane season is on the horizon and the damages of a potential storm on a community that is still recovering from the aftermath of Hurricane Sandy would be disastrous and further delay the ESCR project; and
- The City must include social resiliency and community preparedness in its planning and funding including schools, community programming and local long term recovery groups such as LES Ready and CERT, which is recognized by the Office of Emergency Management (OEM)and provide a weekly update email on construction process, alternative spaces and recreation opportunities; and
- The City must agree to regular updates with the Community Board, hold timely community engagement meetings such as town halls, large group presentations, community open houses and other similar events that offer more opportunities for Q&A, information on progress, setbacks and any changes to agreements or Park plans; and

- The City must establish a Community Advisory Group of community and institutional stakeholders of the affected project area that will meet frequently with agencies both during design and construction until project completion with regular reports and meetings made available to community at large; and
- Alternative routes deemed safe for all, including pedestrians, micro mobility users, runners, commuting and recreational cyclists of all ages, must be developed in collaboration with the community and instituted before the Greenway is closed; and
- Every effort must be made to minimize raising dust both in disturbing the soil currently in East River Park and the laying in of imported soil to reduce the drift into residences, schools and public spaces; and
- Topsoil and salt resistant indigenous plants should be considered for reuse to re-establish natural passive areas in park; and
- The City must provide the community a finalized design and timeline for completion of the flyover bridge; and
- The Parks Department must ensure ADA compliant access to and within the park including braille signage, adequate water fountains and adequate lighting for safety and accessibility; and
- The Parks Department must commit to prioritizing permits for local neighborhood youth groups both during construction (except where that would conflict with other local park youth groups) and into the future of the East River Park; and
- The Parks Department should consider sport facilities such as Basketball City, as sites for open space for children and sports leagues; and
- The Parks Department must look at other open space sites in CD3 that have yet to be identified including the Allen Street Malls (CB3's #2 Parks priority), the vacant Allen Street building and the underused lots underneath the Williamsburg Bridge; and
- The Parks Department must work with park stewards to identify and protect biodiversity including identifying alternative habitat areas and transfer usable park materials and plants rescued from East River Park to other alternative open spaces and create new open green spaces near East River Park to help offset the loss of carbon sinks in CB3; and
- The City must undertake the immediate creation of bioswales, tree canopy plantings, and permeable pavers in CB3; and
- The Parks Department must use mature trees as replacements for lost trees in East River Park in areas where they are appropriate; and
- The City must provide temporary space for the LES Ecology Center to continue all environmental education and composting programming during construction and integrate the Ecology Center's

long-delayed Compost Yard upgrades into the ESCR project and plan and create a sustainable, resilient building in East River Park so that the LES Ecology Center can continue to offer education and stewardship programming; and

- The City must make available temporary water parks or water play features that are available before the first summer season of the Park's closure.
- The City must continue to work with the Amphitheater Task Force to create a design that is consistent with local needs;
- The City must continue discussions in good faith with Gouvernuer Gardens and provide timely updates to the Community Board about any resolutions; and
- The Parks Department, DDC and all involved agencies must agree to regular updates with the Community Board to report on progress, setbacks and any changes to agreements or park plans; and
- The City must make a definitive commitment to ensure the phased construction and park reopening for the ESCR project, in a manner that does not impact the overall timetable for park closure and project completion, and the City must provide a complete timetable for the phased construction and park reopening plan, and outline any changes this would create for construction impacts; and
- Local residents should be provided assistance to access to other open areas, sports fields and city parks, in the form of Metrocards, shuttle buses, free ferry service or other types of transportation or financial support. As the current Preferred Alternative plan prioritizes access to the new ferry facilities that will remain open throughout the construction period, these especially should be made available at a reduced price or no cost to local residents
- There must be a protocol established before work begins to allow City agency oversight over decision making for contractors during the construction period, with clear avenues for community input established, in order to mitigate against contractor decision making that disregards the quality of life of area residents, and this must be a condition of any bid or RFP for ESCR construction; and

THEREFORE BE IT FURTHER RESOLVED, that Community Board 3 approves with conditions ULURP #C190357PQM to facilitate the East Side Coastal Resiliency project.

Please contact the community board office with any questions.

Sincerely,



Alysha Lewis-Coleman, Chair
Community Board 3



Trever Holland, Chair
Parks, Recreations, Waterfront,
& Resiliency Committee

cc: Jamie Torres Springer, Department of Design and Construction
Jeffrey Margolies, Department of Design and Construction
Fay Lee, Department of Design and Construction
Steve Simon, Department of Parks and Recreation
Carrie Grassi, Mayor's Office of Recovery and Resiliency
Gaby Dann-Allel, Mayor's Community Affairs Unit
Matthew Pietrus, Department of City Planning
Office of Councilmember Carlina Rivera
Office of Manhattan Borough President Gale Brewer
Office of NYS Assemblymember Yuh-Line Niou
Office of NYS Assemblymember Harvey Epstein
Office of NYS Senator Brian Kavanagh
Office of NYS Senator Brad Hoylman