Chapter 29: Response to Comments on the DEIS[1]

This document summarizes and responds to all substantive comments on the DEIS. Oral and written comments were received during a public hearing held by City Planning Commission (CPC) and the Metropolitan Transportation Authority (MTA) on September 9, 2009, together with the public hearing under the City's Uniform Land Use Review Procedure (ULURP) on the Developer's zoning and related land use applications. Written comments were accepted from issuance of the DEIS through the public comment period, which ended September 21, 2009.

Section A lists alphabetically the elected officials, community boards, organizations, and individuals commenting on the DEIS. Section B summarizes these comments and responds to each of them. Comments are organized by subject matter and generally follow the chapter structure of the DEIS. Where more than one commenter expressed a similar view, the comments have been grouped and addressed together.

A number of commenters did not comment on the environmental impacts of the Proposed Actions or the DEIS methodology for impact assessments. Others suggested only editorial changes. Where appropriate, these edits (as well as other substantive changes to the DEIS) have been incorporated into this FEIS.

A. LIST OF ORGANIZATIONS AND INDIVIDUALS WHO COMMENTED ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT

ELECTED OFFICIALS

1. Thomas K. Duane, New York State Senate, written comments, September 9, 2009; oral comments made at public hearing by Seth Berliner, September 9, 2009 (Duane)
2. Richard Gottfried, New York State Assembly, oral and written comments, September 9, 2009 (Gottfried)
3. Jerrold Nadler, United States House of Representatives, written comments, September 9, 2009; oral comments made at public hearing by Celine Mizrahi, September 9, 2009 (Nadler)
4. Scott M. Stringer, Manhattan Borough President, written comments, August 26, 2009; oral comments made at public hearing by Anthony Borelli, September 9, 2009 (Stringer)

COMMUNITY BOARD

5. Community Board 4, letter to Chairperson Amanda Burden signed by John Weiss, Elisa Gerontianos, Joe Restuccia, and Sarah Desmond, July 27, 2009 (CB 4)

[1] This chapter is new to the FEIS.

6. Christine Berthet, Community Board 4, oral comments, September 9, 2009 (Berthet)
7. John Lee Compton, Community Board 4, oral and written comments, September 9, 2009 (Compton)
8. Sarah Desmond, Community Board 4, oral comments, September 9, 2009 (Desmond)
9. Pete Diaz, Community Board 4, oral comments, September 9, 2009 (Diaz)
10. Elisa Gerontianos, Community Board 4, oral and written comments, September 9, 2009 (Gerontianos)
11. Walter Mankoff, Community Board 4, oral comments, September 9, 2009 (Mankoff)
12. Yvonne Morrow, Community Board 4, oral and written comments, September 9, 2009 (Morrow)
13. Jean-Daniel Noland, Community Board 4, oral and written comments, September 9, 2009 (Noland)
14. Joe Restuccia, Community Board 4, oral comments, September 9, 2009 (Restuccia)

ORGANIZATIONS AND INTERESTED PUBLIC

15. Association for a Better New York, Jordan Isenstadt, written comments, September 10, 2009 (ABNY)
16. American Institute of Architects New York Chapter, Sherida Paulsen and Fredric Bell, written comments, September 9, 2009 (AIA)
17. Friends of the High Line, Robert Hammond, oral and written comments, September 9, 2009 (FOHL)
18. Friends of the High Line, Peter Mullan, oral comments, September 9, 2009 (Mullan)
19. Hell's Kitchen Neighborhood Association, Kathleen McGee, oral and written comments, September 9, 2009 (HKNA)
20. Hudson Yards Community Advisory Committee, Edward Kirkland, oral comments, September 9, 2009 (Kirkland)
21. Institute for Rational Urban Mobility, George Haikalis, President, oral and written comments, September 9, 2009 (IRUM)
22. New York Building Congress, Andrew Hollweck, Vice President, oral and written comments, September 9, 2009 (NYBC)
23. New York Public Interest Research Group Straphangers Campaign, Gene Russianoff, Senior Attorney, written comments, September 9, 2009 (NYPIRG)
24. New Yorkers for Parks, written comments, September 9, 2009 (NYFP)
25. Regional Plan Association, L. Nicolas Ronderos, oral and written comments, September 9, 2009 (RPA)
26. West 55th Street Block Association, Christine Gorman, oral and written comments, September 9, 2009 (Gorman)
27. West Side Neighborhood Alliance, written comments, September 1, 2009 (WSNA)

28. Anita M. Black, oral and written comments, September 9, 2009 (Black)
29. Abigail Candel, oral comments, September 9, 2009 (Candel)
30. Rebecca Cole, oral comments, September 9, 2009 (Cole)
31. Christina Filippelli, written comments, September 6, 2009 (Filippelli)
32. Joyce Goldzman, oral comments, September 9, 2009 (Goldzman)
33. Shelley Grant, oral and written comments, September 9, 2009 (Grant)
34. Gloria Sukenick, oral comments, September 9, 2009 (Sukenick)
35. Matthew Urbanski, written comments, September 9, 2009 (Urbanski)
36. Marguerite Yaghjian, oral and written comments, September 9, 2009 (Yaghjian)

B. COMMENTS AND RESPONSES

CHAPTER 1: PROJECT DESCRIPTION

The following comments were received with regard to various aspects of the project description, the proposed zoning text, and the associated Restrictive Declaration. In some instances, the comments are not specifically directed towards the environmental impacts of the Proposed Actions, but have been included in order to provide an opportunity for lead agency response.

DEVELOPMENT SITE

Comment 1-1: The design of spaces should convey that the Western Rail Yard is accessible to all and functions like surrounding City streets. Streets and open spaces must be clearly accessible to the public. (CB 4) Given the near impossibility of opening the development to the surrounding neighborhood because of the platform, it is particularly important that the street level be truly public space. (Duane) Pedestrian and vehicular circulation and public spaces should facilitate the flow of people across the site so that the streetscapes and public spaces are animated, and pedestrian flow in both the east-west and north-south directions is not blocked by the private/exclusive nature of the development. There should be direct pedestrian linkages between adjacent greenway systems. (AIA) Providing sufficient access from street level to the elevated green interior platform of the Rail Yard must be considered. (Kirkland)

Response 1-1: The new roadways and open spaces proposed on the Development Site would be fully accessible to the public. The zoning text and Restrictive Declaration will require this access and establish a future public review process for its implementation. Under the provisions of Section 93-78, "Site and Landscape Plans for Public Access Areas in Subdistrict F," of the zoning text governing public review of Site and Landscape Plans,

the Community Board, Borough President, and local City Council member will review the specific elements of each open space design.

Comment 1-2: The streets must be planned and operated as real City streets, with full public access, parking regulations, sidewalks, and street-level retail uses. (CB 4, Gottfried) Regulations regarding signage, traffic enforcement or on-street parking should be concretely defined. (CB 4, Gerontianos) The streets should conform to the look and feel of New York City's other public streets, and be optimized for pedestrian usage. (Duane) In order to fully integrate the Western Rail Yard development with local streetscapes, these roadways should be designed and treated to feel like typical New York City streets. (Stringer)

Response 1-2: As described in the zoning text, the streets will be constructed to minimum New York City Department of Transportation (NYCDOT) and Fire Department standards for public streets, including curbs and curb drops. The Northern Street will have a 20-foot minimum sidewalk along its entire northern curb and a 25-foot minimum sidewalk along its entire southern curb. The Southern Street will have a 15-foot minimum sidewalk along its entire northern curb and a 20-foot minimum sidewalk along its entire southern curb. The specifics of street design will be the subject of a future public review process under the provisions of Section 93-78 of the zoning text governing Site and Landscape Plans. Neither the Northern nor Southern Street would accommodate on-street parking. The proposed zoning text requires street level retail uses and defines the locations.

Comment 1-3: The wall that will be created along Twelfth Avenue between street level and the level of the Western Rail Yard platform above should be activated for street activity. (CB 4) The potentially long stretches of louvered facades for the Long Island Rail Road (LIRR) train holding area under the High Line along Twelfth Avenue must be addressed with creative solutions. (AIA)

West 33rd Street must be pedestrian friendly and integrated into the site. The current street elevations change drastically in the project site. Street elevations at Eleventh Avenue and West 33rd Street are nearly 30 feet higher than elevations throughout the project site. The pedestrian at street level must not feel disconnected or overwhelmed by the scale of the project area. (CB 4) The pedestrian experience and streetwall along West 33rd Street must be addressed with creative solutions. (AIA)

The Developer should create opportunities to accommodate pedestrian amenities as part of the streetwall on West 33rd Street, such as shallow vendor stalls or display cases for portable businesses like a farmers

market or similar vendors. (Stringer, CB4) The streetwall along West 33rd Street should be permeable, and provide multiple access points to buildings and the central open space on the Western Rail Yard site. The Developer should consider vegetated walls, transparencies where appropriate, and using a variety of materials at the base of developments fronting West 33rd Street. (Stringer)

Response 1-3: CPC is considering a modification to the zoning text that would require articulation of these walls, including plantings. Due to the location of the railroad tracks, the platform and other infrastructure, there is no space for shallow booths or street level uses along the West 33rd Street or Twelfth Avenue frontage.

Comment 1-4: The incline of the West 33rd Street grade should be consistent with a maximum sidewalk incline for compliance with the Americans with Disabilities Act (ADA). (CB 4, Gottfried, Gerontianos)

Response 1-4: NYCDOT will comply with all ADA requirements for the new street grade, as is typical for all City streets.

Comment 1-5: Should the LIRR passenger platform bed be extended to West 33rd Street, train platforms should be accessible from the street. (CB 4)

Response 1-5: Extension of the LIRR passenger platform is not part of the Proposed Actions nor is anticipated in the Future without the Proposed Actions and, as discussed in Response 24-6, is not feasible.

Comment 1-6: Large scale development with zoning that is too prescriptive or a master plan that is frozen in time can suffer aesthetically. There is risk of uniformity and isolation that is likely to set buildings within the development apart from the surrounding urban fabric. The Western Rail Yard project should allow for evolving building types and a variety of architectural styles that would help to create an authentic sense of place. (AIA)

Response 1-6: Although the location of streets, walkways, and open spaces is specific in the proposal's site plan, the development plan studied in the EIS is illustrative. The zoning allows flexibility in building and streetwall heights, materials, and most design elements. The proposed zoning is specific in how it addresses design features that affect public spaces and people's experiences in encountering the development.

Comment 1-7: The site plan only calls for the setting aside of the land for elementary/intermediate school (PS/IS) use. Construction delays, financing and the selection of a developer could delay this project

beyond the timeline identified in the DEIS. To ensure that it is built on the timeline projected in the DEIS, the certificates of occupancy for the residential buildings should not be granted until the PS/IS is built. (CB 4, Desmond) It is imperative that the new school come online with the first phase of residential development on the Western Rail Yard site to avoid overcrowding in local schools. (Stringer)

Response 1-7: The Restrictive Declaration will establish milestones for the design and construction of the school, relative to the residential development. Site 6, which is the likely location of the school, would be developed no later than the third residential building on the Western Rail Yard site.

Comment 1-8: Proposed open spaces must be user-friendly and accessible to the public to serve the larger neighborhood as well as immediately adjacent buildings. All of the design elements of the open spaces must reflect inclusiveness. (CB 4, Noland, WSNA) Park signage should reflect accessibility to the public. (CB 4) The open space should have a public "feel" to it and include as many public park elements as possible, including restrooms and drinking fountains, with cafes incorporated into the surrounding buildings. (Gottfried) Landscaping at the proposed open spaces should include shade-tolerant vegetation to mitigate for shadows. (CB 4)

Response 1-8: The proposed zoning requirements governing open space are designed to facilitate user-friendly publicly accessible open spaces. The zoning text requires that the specific design for each open space be the subject of future public review. Under provisions of the zoning text governing public review of Site and Landscape Plans, the Community Board, Borough President, and local City Councilmember will review the specific elements of each open space design. Plantings for the proposed open spaces will be selected based on their suitability for conditions on the site.

Comment 1-9: The proposed open space within the Western Rail Yard site will be a significant amenity to the neighborhood and will help to connect upland residents and workers to the long underused waterfront from West 30th to West 34th Streets. A key attraction to this space will no doubt be the northernmost section of the High Line. This is a unique element of the City's past, and we are pleased to learn that this final section will be preserved and ultimately complete a park that has captured the City's imagination. (NYFP)

Response 1-9: Comment noted.

Comment 1-10: Concrete action must be taken now to preserve the High Line in its entirety and continue its development as a New York City park. The entire High Line on the Eastern Rail Yard, including the Tenth Avenue Spur, at the corner of Tenth Avenue and 30th Street, should be preserved and developed as public open space. (CB 4, Duane, Gottfried, FOHL) Preserving the Tenth Avenue High Line Spur and converting it to a publicly accessible park would provide critical open space to the members of the community as the Western Rail Yard development moves forward. (Nadler) The High Line should be extended as a unified park to 34th Street. (Goldzman)

Response 1-10: The zoning text requires the adaptive reuse of the High Line as an open space on the Development Site. The High Line spur and northern High Line extension are not located on the Western Rail Yard Development Site and are not part of the Proposed Actions.

Comment 1-11: The proposed zoning action is not accompanied by the necessary parallel actions of High Line Site Selection and Acquisition that would enable the development of the High Line on this site. (CB 4) The High Line remains the property of the railroad, CSX, and, therefore, there is still no guarantee that this part of the High Line will be redeveloped and it can actually still be torn down. The City acquisition of the High Line is the only viable path for the redevelopment of the High Line on these sites. (FOHL, Cole) The City should initiate the Site Selection and Acquisition ULURP for the remaining portions of the High Line. (FOHL, Stringer) A strict timetable for Site Selection and Acquisition by the City should be specified. (CB 4, Duane, Stringer, Candel) CPC should not approve the current rezoning until a specific timetable for these actions is provided. (FOHL) The next step should be a follow up corrected action to include site selection and acquisition of the High Line to this current rezoning package. There should be at least a commitment that there will be a follow-up corrected action. (Mullan)

Response 1-11: At the October 5, 2009 CPC Review Session, it was announced that the New York City Department of City Planning (DCP) will move forward with the preparation of an application for the acquisition and site selection of the High Line north of West 30th Street.

Comment 1-12: Parking should be limited to as-of-right, accessory off-street parking. (CB 4, Compton, Gerontianos, Gottfried, NYPIRG, Stringer) Garages should not be allowed to operate as public parking garages at any time. (CB 4, Gerontianos)

Response 1-12: All parking associated with the Western Rail Yard is limited to accessory off-street parking in accordance with Article I, Chapter 3 of the Zoning Resolution. No public parking is allowed.

Comment 1-13: During build-out of the proposed development, the number of parking spaces available should be proportionate to the degree of completion of the development. For example, if the two garages were allowed a total of 1,330 parking spaces, when 50 percent of the residential units and commercial space had been completed, one-half of the total number of parking spaces, 665 spaces, would be allowed to operate. (CB 4, Gerontianos)

Response 1-13: The Restrictive Declaration will require that the number of parking spaces allowed in the garage be closely related to completion of development.

Comment 1-14: Depending on the final uses, the applicant would be entitled to approximately 1,000 and 1,300 accessory off-street parking spaces. The proposed project includes a total of up to 1,600 on-site accessory parking spaces, which is significantly more than the number available as-of-right.(Compton) The capacity of the south garage should be limited to a maximum of one-fourth of the total number of parking spaces provided by the two proposed garages. (CB 4, Compton)

Response 1-14: The two proposed garages are in markedly different locations. The Proposed Actions would include a maximum total cap of 1,600 parking spaces, of which no more than 1,100 spaces could be in the North Garage and no more than 800 spaces could be in the South Garage. The Developer continues to work with LIRR on engineering and security issues related to these garages. Such issues could result in a severe limitation on parking in one or both garages, making the suggested limitation inappropriate.

Comment 1-15: Access to the south parking garage should be restricted to one entrance on the Southern Road—there should be no access from West 30th Street. (CB 4, Gottfried, Compton) The entrance to the garage on West 30th Street is a special concern because West 30th Street feeds one of the entrances to the Lincoln Tunnel. During rush hour traffic, back ups on West 30th Street could spread gridlock throughout Chelsea. (Compton) West 30th Street is already really congested; it's a difficult street for business owners to do business. (Cole)

Response 1-15: A garage of this size requires a minimum of two access/egress points for operational efficiency. Limiting the garage to only one entrance would exacerbate traffic around the site as drivers coming north on

Twelfth Avenue would have to drive up to West 34th Street and then travel down Eleventh Avenue to access the West 31st Street extension.

Comment 1-16: The two proposed garages would not likely present a greater overall impact than what multiple garages with the same number of combined parking spaces would have (although multiple garages present additional localized impacts). Therefore the consolidation of all future parking on the Western Rail Yard site within two proposed garage locations is advantageous to site planning, construction feasibility, and the pedestrian environment. (Stringer)

Response 1-16: Comment noted.

Comment 1-17: The construction of a great number of market-rate housing units balanced only by the small number of low-income housing that may be created under existing programs, e.g., 80/20 and inclusionary bonuses, does not achieve the community's goal and is unacceptable. The Western Rail Yard is the largest publicly owned development site left in Manhattan. While the MTA has a responsibility to maximize the value it gets for the property, it is also a public entity; it is appropriate that the MTA's drive for financial gain be tempered by standards of public responsibility that would not apply to either a privately held corporation or a private land owner. (CB 4, WSNA) The plan for the Western Rail Yard, even including those moderate and middle income off-site affordable developments, falls far short of the commitment achieved in the Hudson Yards rezoning with less than 4.5 percent of the square feet (sf) dedicated for the development of permanently affordable apartments, which is entirely unacceptable. (CB 4, WSNA WSNA, Black, Diaz)

The on-site buildings are planned to house zero permanently affordable housing units, which is unacceptable. (Duane, Nadler, HKNA, Yaghjian)

30 percent of the residential development in this public site must be allocated to permanent affordable housing for low-moderate- and middle-income families. Condominium or cooperative units are exempt from any affordable housing requirement, and none of the rental units are required to be permanently affordable. (CB 4, Black)

No less than 20 percent of all residential units constructed on-site in the Western Rail Yard must be permanently affordable. (CB 4, Gottfried, Gerontianos, Restuccia, Diaz) This must apply to all forms of housing: rentals, co-operatives, and condominium units (Gottfried, Diaz) Permanently affordable shall mean that apartments are so designated by

deed restriction, regulatory agreement or other legal instrument and may not be converted to market rate units after a given expiration date of a mortgage, tax incentive or any other government program. These specific units shall remain affordable in perpetuity. (CB 4, Restuccia)

Between 20 and 30 percent of all residential units should be permanently affordable for all ranges of income—low, moderate, and middle income. (WSNA)

The Developer must commit to a minimum amount of on-site affordable housing, and strive to exceed the amount of permanently affordable housing (173,084 sf or 261 units) proposed for the Western Rail Yard site in its Supplemental Proposal submitted to the MTA in February 2008. Additionally, the Developer should work with the City to determine if new provisions of the Inclusionary Housing Program may be applied to condominium buildings. (Stringer)

The temporarily affordable units will only be for those households earning less than 60 percent of Area Median Income (AMI), with no provisions for moderate and middle income families that the community desires. (Duane, CB 4) The units should be affordable to enable low-, moderate-, and middle-income families to live on-site. (Gottfried)

Response 1-17: The Proposed Actions include off-site permanent affordable housing in recognition that such affordable housing should be developed in tandem with development of the Development Site in order to maintain CB4 as an economically diverse community. The Proposed Actions include a series of measures that represent a strong commitment to continued economic diversity, taking into account the costs of rail yard development, and the goal and objective of providing funding for the MTA Capital Plan.

ADDITIONAL HOUSING SITES

Ninth Avenue Site

Comment 1-18: The MTA originally surrendered its right to the 30,000 sf of ground floor retail space, and has now decided to retain this space. (Black) The 30,000 sf of office space that the MTA is seeking in the Ninth Avenue Additional Housing Site is unacceptable in a building that should be reserved for permanently affordable housing, particularly when there is other available space that could meet the MTA's needs. (Duane, CB 4, Gottfried, Stringer) By removing the office space from the proposal, approximately 30-35 additional units of permanently affordable housing could be developed on the site. (Stringer, Restuccia)

The additional MTA needs can be accommodated at the existing MTA Control Center to the east or on the 7 million sf development on the Western Rail Yard. (CB 4) The MTA's request for 15 parking spaces should also be denied considering the small lot size for affordable housing. (Gottfried, CB 4) To reduce construction costs and to avoid additional curb cuts on residential streets, parking for New York City Transit (NYCT) vehicles should be accommodated within its existing facility, and eliminated from the proposed development. (Stringer)

Response 1-18: The NYCT facility adjacent to the proposed Ninth Avenue Site currently houses a Rail Control Center (RCC) and a Power Control Center (PCC) that are vital to the operation of the transit system. The 30,000 sf reserved on the Ninth Avenue Site is primarily required to support the functioning of this existing facility where the introduction of new technologies and their associated equipment require that adequate space be reserved for future operations. Among the uses projected for the reserved floor area are training, office, and support space for personnel and equipment required for new technologies, such as Automated Train Supervision (ATS) systems, as well as laboratory space for the development, testing, and evaluation of software systems directly related to the operation of the RCC and the PCC. The proposed parking spaces for emergency response vehicles would be below grade and would not affect the number of housing units that could be built on the site. The Memorandum of Agreement (MOA) between the City and MTA regarding development of the Western Rail Yard provided that MTA could retain a portion of the Ninth Avenue site for its operational use. MTA did not and cannot previously relinquish space it had reserved at the Ninth Avenue Site and doing so would be inconsistent with its operation needs and requirements.

Comment 1-19: The proposed second-floor office space is uncharacteristic of the Ninth Avenue local shopping corridor. Commercial uses above the ground floor of residential buildings occurs only twice on Ninth Avenue in the Preservation Area, and those uses are accessory to ground-floor restaurants. The only other second-floor commercial uses in the area are located in fully commercial buildings that predate the creation of the Special Clinton District. (Stringer)

Response 1-19: Comment noted. The layout and design of the building will be considered as part of the required future ULURP actions for development at this site.

Comment 1-20: A multi-story building at Ninth Avenue and West 54th Street is not complimentary to other buildings on Ninth Avenue in this area, most of

which are under 5 stories. (Filippelli) The appropriate height of the project, should it exceed the as-of-right maximum building height, should be determined at the time the special permit is filed. (Stringer) The special permit for the Ninth Avenue Site should not be granted unless the frontage along Ninth Avenue peaks at 85 feet, and beginning 50 feet east from Ninth Avenue on 54th Street, no higher than 99 feet. These heights would preserve the low-rise, 19th-century scale of the avenue, while adding additional affordable housing to the neighborhood, and creating a minor exception to the Clinton Special District. (Gottfried, CB 4, WSNA)

The special permit for the Tenth Avenue Site should not be granted unless the building is no taller than 76 feet. This would be another exception to one of the City's strongest Special District codes. (Gottfried, CB 4, WSNA) The appropriate height of the project, should it exceed 66 feet, should be determined at the time the special permit application is filed. (Stringer)

Response 1-20: Any proposal to exceed the as of right maximum building height for the Ninth Avenue and Tenth Avenue buildings will be subject to future public review.

Comment 1-21: MTA should release the City owned site from the New York City Transit Authority (NYCTA) master lease upon approval of the Western Rail Yard ULURP application by City Council, not a release contingent upon construction start at the Western Rail Yard. The off-site housing is mitigation under the DEIS for the Proposed Actions, namely the rezoning from an FAR of 2.0 to a floor area ratio (FAR) of 10.0. Therefore, when the zoning is approved the mitigation is required. (CB 4)

Response 1-21: The EIS did not identify any significant adverse impact resulting from direct or secondary residential displacement. Development of the off-site housing is not mitigation, but rather a component of the Proposed Actions.

Tenth Avenue Site

Comment 1-22: There should be no commercial or retail included; street level retail on West 49th Street would further intensify an already growing problem. (Gottfried, CB 4) Retail commercial uses on the residential side streets are a growing problem now exacerbating an already problematic bar/club use on residential blocks, which is negatively impacting the character of the neighborhood. (CB 4) Ground-floor retail at this

location would be inconsistent with the character of existing residential development on the block. (Stringer)

Response 1-22: The existing zoning at this location allows for ground-floor retail. The precise program for this building, including ground-floor retail, will be determined by the New York City Department of Housing Preservation and Development (HPD) and a future developer selected through the HPD Request for Proposals (RFP) process in consultation with other parties, including but not limited to CB4. Further, the retail component may be necessary to help with the building financing. This specific land use decision should not be made at this time.

Comment 1-23: The proposed text amendment would reduce the size of the Special Clinton District's Preservation Area sub-area and expand its Other Area. While the proposed zoning text change may appear to undermine the intent of the Preservation Area's zoning, which is to preserve the social and physical character of Clinton/Hell's Kitchen's residential core, unique conditions around the development site warrant this change. The bulk regulations of the Other Area would allow the construction of a single, efficient U-shaped building with frontages on both West 48th Street and West 49th Street. This development scenario would provide greater design flexibility and produce more affordable housing than what could be developed under Preservation Area bulk regulations. (Stringer) DCP and CB4 are pursuing a rezoning of West Clinton that would expand the Preservation Area between West 45th Street and West 50th Street to almost Eleventh Avenue. If this is accomplished, only the tunnel staging area, the future park, and the proposed development site would remain in the Other Area. (Stringer)

The proposed zoning text amendment to move the boundaries of the Preservation Area on the Tenth Avenue Site, which reduces the Preservation Area, is in direct contravention with CB4's longstanding policy to expand the Preservation Area. It is also consistent with DCP's own framework for the Eleventh Avenue Rezoning to extend the boundaries of the Preservation Area westward within 100 feet of Eleventh Avenue. The regulations for the Tenth Avenue Site are best modified through subsequent text amendments governing rear yard requirements and permitted great lot coverage. (CB 4)

Response 1-23: Comment noted. CPC is currently considering a modification that would limit the expansion of the Other Area so that it does not extend within 100 feet of Tenth Avenue and only covers the railroad right-of-way.

RESTRICTIVE DECLARATION, PROJECT COMMITMENTS, AND MONITORING

Comment 1-24: A Restrictive Declaration embodying specific provisions of the development plan will be prepared for the Western Rail Yard during these ULURP actions and be executed in conjunction with approval by the City Council. That declaration should address the following matters:

- Planning and siting for community facilities;
- The establishment of a governance and management agreement to ensure that the private open space functions as a public park. Include the active participation and ongoing roles for the developers, future owners and operators, CB4, the Manhattan Borough President and the City Council in such a management plan;
- Construction Health and Safety Plan (CHASP) describing precautionary measures and safety procedures to be followed to minimize pathways of exposure to contaminants prior to any excavation or construction activity. The CHASP would include a Materials Handling Plan identifying specific protocols and procedures to be employed to manage the contaminated soil and groundwater at the Development Site and at both the Ninth Avenue and Tenth Avenue Additional Housing Sites in accordance with applicable regulations;
- Wind-reduction measures;
- Noise attenuation;
- All commitments in Restrictive Declaration must be binding on successors. (CB 4, Gerontianos)
- Procedures of addressing hazards materials on site and Environmental controls during construction
- Creation of a Western Rail Yard Construction Task Force to act a central clearinghouse to manage and resolve construction issues;
- Commitments to sustainable development;
- Restrictions on fuel use and location of air intakes for ventilation systems. (CB 4)

Response 1-24: The Restrictive Declaration will include a comprehensive set of obligations requiring implementation of construction-period and operational-period Project Components Related to the Environment and Mitigation, consistent with the analyses and conclusions of the EIS.

Comment 1-25: Leadership in Energy and Environmental Design (LEED) Silver sustainable design features, designed to reduce demand on existing

infrastructure, must be incorporated in the Restrictive Declaration. (CB 4, Stringer) In addition to making the Western Rail Yard project a leading example of environmentally responsible development, meeting LEED Silver and Neighborhood Development standards will reduce environmental impacts, address community concerns, and ensure that an important objective of the RFP is fulfilled. (Stringer) Requiring LEED Silver certification would help to guarantee energy efficient buildings and provide an excellent opportunity to lessen this development's environmental impact. (Gottfried) One of the overarching planning principles intended to guide future development of the Western Rail Yard site is compliance with LEED Silver sustainability requirements. (Stringer)

Response 1-25: The Restrictive Declaration will require buildings to meet the standards for LEED Silver certification in the LEED New Construction or Core and Shell rating systems.

Comment 1-26: The applicant has committed to energy efficient buildings on the Development Site that would result in 14 percent less energy use than the current building code, and buildings on the affordable housing sites that would result in 20 percent less energy use. These commitments should be formalized in a form that enables ongoing assessment of their fulfillment and specifies consequences for failure to meet the proposed standards. (CB 4)

Response 1-26: The Restrictive Declaration will include the commitments to energy efficiency for the Development Site identified in the EIS.

Comment 1-27: According to the DEIS, a Construction Environmental Protection Plan (CEPP) will be incorporated into the Restrictive Declaration, committing the Developer to a number of protective measures, including the creation and implementation of a site-specific CHASP for the Western Rail Yard site and off-site affordable housing sites, and the creation of a Construction Task force that will oversee the entire project.

The CEPP should require the Developer to coordinate monthly construction task force meetings with the Hudson Yards Development Corporation (HYDC), the Hudson Yards Community Advisory Committee (HYCAC), MTA, appropriate City agencies, and construction contractors to discuss project progress, site safety and adherence to all agreed upon conditions for the project, in particular for the Emissions Reduction Program, Noise Mitigation Program, and the Maintenance and Protection of Traffic Plan, and to ensure that accountable personnel are available to address community questions and concerns. (Stringer, Gottfried)

Response 1-27: The Restrictive Declaration will incorporate a comprehensive set of environmental protective measures. Compliance with these measures will be monitored by an environmental monitor who will report to DCP as lead agency. In the event a community based construction task force is formed, the monitor, at the lead agency's direction, will provide reports and updates to the task force.

Comment 1-28: Protecting the environment and public health during the build-out depends on the development and implementation of a series of health and safety plans, reduction programs and mitigation plans—CHASP related to hazardous materials, noise mitigation plan required by the New York City Noise Control Code, emission reduction program related to air quality.

Because of the number and complexity of the issues, there should be a single individual or entity responsible for ensuring that the plans and programs in each category are prepared and implemented. This individual or entity must be qualified to prepare, evaluate and monitor the appropriate plans and programs, and must be an active participant in the Construction Task Force with sufficient authority to ensure that all necessary steps are taken to protect the environment and public health properly. (CB 4)

Response 1-28: The Restrictive Declaration will require the Developer to pay for an environmental monitor who will report to DCP with respect to implementation of and compliance with the environmental controls required under the Declaration, including those noted above.

Comment 1-29: The proposed ownership and development structure for the High Line should be part of the Restrictive Declaration between the City and the Developer identified in the DEIS. (CB 4)

Response 1-29: The purpose of the Restrictive Declaration is to set forth the obligations of the Developer. It is anticipated that the High Line above West 30th Street will be in City ownership. Other decisions about the development structure for the High Line will involve multiple parties and will be the subject of other agreements.

GENERAL COMMENTS

Comment 1-30: The Commission should postpone its decision on the proposed rezoning until its staff can make a full review of the impact of remaking the commuter rail lines serving the NY-NJ-CT metropolitan area into a Regional Rail System, with frequent service, integrated fares, and through running at New York City's Pennsylvania Station ("Penn

Station"). Through-running seems to be on the verge of becoming a reality. The concept is included in MTA's 20 Year Capital Needs Assessment for 2010-2029, which will be brought before the MTA Board at its September 23, 2009 meeting. In addition, Metro-North Railroad is preparing an Environmental Assessment of its Penn Station Access Study. These actions by MTA have the potential to change the function and operation of the commuter rail lines serving the Hudson Yards District.

An easement for a two-track connection to Amtrak's Empire Line should be preserved in the Hudson Yards District. This would permit much higher service levels on this lightly-used line. With frequent service and through running, the need for continued operation of LIRR's West Side Yard can be questioned. The yard can be reduced to a two track station served by LIRR trains, using existing tracks to link to Penn Station. The opportunity exists for the Commission and its staff to actively participate in plans to reshape the rail lines that serve West Midtown. (IRUM)

Response 1-30: The CPC actions related to the proposed development of the Western Rail Yard are independent of the regional transportation goals set forth in the comment. The EIS assesses the potential for the Proposed Actions to result in significant adverse transportation impacts within the context of the existing system and specific changes that are scheduled to be in place when the project is completed. Since there are no actual implementation plans for the long term transportation changes noted in the comment, they are not included in the environmental assessment. Moreover, the Proposed Actions do not impede the implementation of larger regional transportation initiatives that would further improve access to and from Penn Station and improve access to and from the Hudson Yards District and the Western Rail Yard.

Comment 1-31: Several implementation concerns remain that inhibit understanding of the full impacts and benefits of the project. The following issues could ultimately affect what will be constructed on the Western Rail Yard site:

- Delays due to the current fiscal climate, which is likely to impact the construction deadline and could impact the development plan;
- Structural and engineering feasibility concerns, which could have an effect on the density, height and/or footprint of proposed buildings;
- The RFP-required "Threat, Risk, and Vulnerability Assessment" for parking and loading docks is not yet completed and is subject to MTA approval;

- Several agreements between the Developer and government agencies are required, but have yet to be executed, including those with the Department of Education (DOE) regarding the proposed school, and DOT regarding street reconstruction, and MTA regarding column spacing. (Stringer)

Response 1-31: The DEIS has addressed a "reasonable worst-case" scenario of development on the Development Site. The items listed above would have the effect of reducing the amount and overall pace of development, thus generating fewer or lesser impacts than those of the reasonable worst-case development scenario.

Comment 1-32: The redevelopment of the Western Rail Yard will be beneficial for New York City for several reasons. It will provide jobs and economic activity to support the growth of midtown and the Hudson Yards. Then Proposed Actions would create an opportunity to propel a significant construction project forward that will generate thousands of construction and permanent jobs as well as significant secondary economic benefits. (Stringer, ABNY, NYBC, RPA). It will provide new additions to the skyline. (Stringer, ABNY) It will reintroduce the street grid and better integrate the site into the rest of the neighborhood. (ABNY, Duane, Gerontianos, Stringer) It will provide new ground floor retail, and a new public school. In addition, it provides public benefits, including a 5-acre network of open spaces and the preservation of the High Line. (ABNY, Duane, NYBC) It will have multiple access points to central open spaces. (Gerontianos) It will generate a consistent source of income for the MTA capital plan to support the agency's on-going mission of providing safe and high-quality public transportation. (ABNY, Duane, Stringer) It will also provide a new residential community. (Duane)

Response 1-32: Comments noted.

Comment 1-33: The proposed text amendment requires that the entire High Line on the Western Rail Yard site be reserved for open space. This is a real victory for the High Line and represents real progress at the rail yard. (FOHL)

Response 1-33: Comment noted.

Comment 1-34: The construction of permanently affordable housing on the Additional Housing Sites would support the Clinton neighborhood by emphasizing its residential character and help to preserve its mixed-income character.

Replacing a large, underutilized, and inaccessible site with a mix of uses, open spaces and reactivating the street grid would complement the emerging development in the Hudson Yards and West Chelsea

neighborhoods, and would provide a link in the system of open spaces now under development. The project would accommodate anticipated population and employment growth in Manhattan. The proposed density is consistent with the rest of Hudson Yards and will create a transition from the higher density development along 34th Street and Eleventh Avenue to the riverfront to the west and Chelsea to the south. (RPA)

Response 1-34: Comments noted.

Comment 1-35: There are a number of beneficial design changes at the Western Rail Yard site. The elongation of West 31st and West 32nd Streets through the site will make the Western Rail Yard development look and feel like a part of Manhattan. Apportioning the proposed open space into a series of smaller open spaces dispersed throughout the site is an improvement upon the original plan to create one massive open space spanning the site from east to west. Finally, including the preservation of the High Line in the proposed zoning text will go a long way toward ensuring that the full vision for the elevated park—which is already transforming the West Side—is realized. (Stringer)

Response 1-35: Comment noted.

Comment 1-36: The new development will bring a number of public activities and programs to the neighborhood, including places for individual relaxation as well as space for public gatherings and organized activities. A diverse range of landscape types will be developed in an area that has been traditionally underserved with respect to outdoor recreational opportunities. By structuring park space over parking and over rail yards, maximum use is made of every sf of available urban space. The Western Rail Yard development will be a major contributor to an emerging network of open space. In addition, the project will also explore various environmentally positive material decisions and construction techniques. (Urbanski)

Response 1-36: Comment noted.

CHAPTER 2: FRAMEWORK FOR ANALYSIS

Comment 2-1: The applicant analyzes the proposed development against a baseline condition called the Future without the Proposed Actions. This formula includes projects that are currently under construction, or expected or proposed to be in place by the analysis year. Proposed projects do not all become a reality. The underlying *Hudson Yards FGEIS* must be updated and supplemented to reflect current conditions in order that the

Western Rail Yard DEIS accurately reflects the impacts of this proposed project. (Gerontianos)

Response 2-1: The *Western Rail Yard EIS* analysis of future conditions in 2019 with and without the Proposed Actions included a review and update of the Hudson Yards development program in terms of major programmatic changes (i.e., no Multi-Use Facility) and the timing and forecast of future development, including the timing and applicability of potential mitigation identified in the *Hudson Yards FGEIS*.

Comment 2-2: The inadequate assessment of the cumulative environmental impacts of separate actions is of concern. (Compton)

Response 2-2: The conditions examined in the EIS included the activity generated by No Build projects and background growth added to the conditions generated by the Proposed Actions, thus presenting a conservative, cumulative analysis of future conditions with the Proposed Actions, in accordance with the methodologies and approaches recommended in the *City Environmental Quality Review (CEQR) Technical Manual*. As noted in Chapter 2, "Framework for Analysis," more than 75 No Build development projects that have been announced, are in planning or approval processes, or in construction with estimated completion dates on or before 2019, were included in the cumulative analysis of the Western Rail Yard project.

CHAPTER 3: LAND USE, ZONING, AND PUBLIC POLICY

Comment 3-1: The base FARs of 11 on the Eastern Rail Yard and 10 on the Western Rail Yard seem reasonable until you realize that they are calculated across the entire sites, including open space and streets. Excluding open space and streets (as parks and streets are excluded elsewhere in the City), the effective density of these proposals is in the neighborhood of 25 FAR. That is, to our knowledge, an unprecedented density over such a large area anywhere in the City, and far exceeds what can be considered good planning for the future of the City or the local community. To develop successfully, this must be a place where people will want to live, work and visit. That is unlikely to happen with the proposed density on the Western Rail Yard site, which results in an environment dominated by monumental and intimidating buildings, no matter how much open space there is or how carefully it is designed. (CB 4) To build at an appropriate density, open space and streets must be subtracted the calculation of floor area for the site. (CB 4, Gottfried, Gerontianos) This FAR is inconsistent with the low-rise character of the adjacent Chelsea and Hell's Kitchen areas. (Gottfried)

Response 3-1: Chapter 3, "Land Use, Zoning, and Public Policy" of the EIS analyzed the proposed zoning of the Development Site, including the allowable FAR, and considered the Proposed Actions' consistency with, and effect on, the area's zoning and other applicable public policies. The analysis determined that the Proposed Actions would not result in significant adverse impacts to land use, zoning, and public policy.

The Western Rail Yard is a single parcel being planned and developed as an integrated whole, and its FAR is calculated across the entire site. Exclusion of the over five acres of privately owned public space on the Western Rail Yard from the calculation of floor area would be contrary to other recently approved projects, such as the East River Realty development on First Avenue. Similarly, the interior roadways would be privately owned but would function as publicly accessible private streets, and their area should not be excluded from the calculation of floor area. The 10 FAR for the Western Rail Yard is consistent with the high density development approved in 2005 for the Hudson Yards area, including for the adjacent Eastern Rail Yard, which accommodates 11 FAR on-site.

MTA, as owner of the Western Rail Yard and the party responsible for providing public transit throughout the region, is relying on the proceeds from this project to carry out its obligations to the public, particularly in an environment of fiscal austerity. Given the fact that this LIRR rail yard operates continuously and is critical to the functioning of the largest commuter railroad in the United States, the creation of the foundations and platform on which the development of the Western Rail Yard would proceed, without interrupting rail service, is complicated and costly. Reductions in the proposed 10 FAR would not only reduce the project's important contribution to the MTA's financial plan, but could also affect the feasibility of the development as a whole. The MTA has encouraged its Developer to include significant open space in the Western Rail Yard plan and to reintroduce the street grid onto the site, and density on the Western Rail Yard should not be affected by these sound planning decisions.

The EIS also examined a Reduced Density Alternative with an 8.0 FAR in the alternatives analysis, which would result in approximately 20 percent less development on the Development Site. As described in Chapter 25, "Alternatives," the Reduced Density Alternative would result in significant adverse environmental impacts similar to those of the Proposed Actions while failing to realize a principal project goal—to maximize revenue for MTA's capital plan—and reducing the number of affordable housing units likely to be constructed on the Development Site. In areas where the Proposed Actions are anticipated to result in

significant adverse impacts, the Reduced Density Alternative would not eliminate those impacts.

CHAPTER 4: SOCIOECONOMIC CONDITIONS

Comment 4-1: We disagree with the DEIS conclusion that "the Proposed Actions would not significantly alter or substantially accelerate the study area's long-term trend toward increasing residential development, affluence, and residential desirability." The City should be mitigating the market trend through public policy initiatives and commitment of resources to ensure affordability for all New Yorkers, not just those with the highest incomes. This new neighborhood will not be a healthy neighborhood unless it includes the broadly diverse population that is this City's hallmark. The Proposed Actions present an opportunity to promote inclusiveness for all New Yorkers, not to rationalize creating a high income exclusive community on the West Side. The construction of a great number of market-rate housing units balanced only by the small number of low-income housing that may be created under existing programs, e.g., 80/20 and inclusionary housing bonuses, does not achieve the community's goal and is unacceptable. (CB 4)

Response 4-1: The analysis in Chapter 4, "Socioeconomic Conditions," concludes that the Proposed Actions would not result in a significant adverse indirect residential displacement impact, and therefore mitigation is not required. In the Future with or without the Proposed Actions, housing prices, rents, and median incomes are expected to continue to rise in the study area, and the Proposed Actions would not significantly alter or substantially accelerate the study area's already existing long-term trend toward increasing residential development, affluence, and residential desirability. In addition, the Proposed Actions would provide affordable housing on the Development Site and on the two Additional Housing Sites.

Comment 4-2: As mitigation of the anticipated loss of Single Room Occupancy (SRO) units, a dedicated fund within existing resources should be established to preserve SRO's in CB4. There are over 1,000 SRO units noted in the DEIS to be at risk in the Western Rail Yard study area. CB4 requests preservation of existing SRO housing with at least 60 percent community resident requirement. (CB 4, Restuccia)

Response 4-2: The EIS does not anticipate a loss of SRO units as a result of the Proposed Actions. The SRO units in the study area are subject to legal and community support structures, which are designed to protect against

illegal evictions and would protect against displacement pressures that exist in the study area.

CHAPTER 5: COMMUNITY FACILITIES AND SERVICES

Comment 5-1: The current infrastructure is inadequate. Fire, police, and emergency services will be severely strained by the new development.

The *Hudson Yards EIS* called for a number of facilities to be provided, including fire station, police station, public schools, library, and a daycare facility. Five years later, no planning or siting has begun. It's proposed that some of the nonexistent Hudson Yards requirements will suffice for the Western Rail Yard. Fundamental infrastructure is essential to the sustained longevity of this project and for the growth of a neighborhood. All of the original infrastructure additions need planning and coordination. We cannot rely on separate actions for these facilities. City Planning has taken the position that because development in the area is proceeding at a slower rate than what was anticipated, there is no current need to do planning or acquiring sites for facilities. This position is shortsighted and destined for trouble. As property values are likely to rise steeply as the area develops, it is important to designate sites for such public infrastructure and community facilities now. (Gerontianos, Gottfried, Mankoff, Duane)

Response 5-1: As described in the response to Comment 2-1, the *Western Rail Yard EIS* analysis of future conditions in 2019 with and without the Proposed Actions included a review and update of the Hudson Yards development program in terms of major programmatic changes (i.e., no Multi-Use Facility) and the timing and forecast of future development, including the timing and applicability of potential mitigation identified in the *Hudson Yards FGEIS*. This included assessment of the timing and applicability of potential mitigation identified in the *Hudson Yards FGEIS*. Information and future demand projection provided by service providers of the key community services studied in the *Hudson Yards FGEIS* (school, day care, fire and police services) were obtained and incorporated into the Western Rail Yard analyses. These service providers also reviewed the development program associated with the Western Rail Yard project and their comments were incorporated into the analyses (See Appendix B1 of the EIS for agency correspondence and Appendix B2 for a detailed school projection and mitigation analysis). The City has broad powers related to the siting and acquisition of property for new public facilities, and the relevant agencies can be expected to monitor the need for and timing of acquisition, consistent with their agency service functions.

PUBLIC SCHOOLS

Comment 5-2: The 354-seat expansion of PS 51 is incorrectly stated to be for elementary seats; in fact, the current proposal adds an IS component at the school. It is presently intended that half of the new seats will be for intermediate use. (CB 4)

Response 5-2: The expansion of PS 51 is part of the West 44th Street and Eleventh Avenue Rezoning project. According to the DEIS for that project, (published August 5, 2009) it is currently anticipated that the expanded PS 51 would have a total of 630 seats, consisting of 353 elementary school seats and 277 intermediate school seats. This would represent a capacity increase of 77 elementary school seats and 277 intermediate school seats over existing conditions. However, final determinations concerning the numbers of elementary and intermediate school seats will not be made by DOE and the School Construction Authority (SCA) until a later date.

At the time of the publication of the *Western Rail Yard DEIS*, the proposed program for the expansion of PS 51 had not been determined and the DEIS assumed that all seats in the expanded PS 51 would be elementary seats. The FEIS has been revised to analyze the currently anticipated number of elementary and intermediate school seats at the expanded PS 51.

Comment 5-3: The DEIS does not consider a number of undeveloped sites in CB4 that are not yet planned, but will certainly be developed over time—at which point there will be no location left to site a public school as the area will be so densely developed. (CB 4)

Response 5-3: The Proposed Actions include a PS/IS school on the Development Site. As discussed in Chapter 1, "Project Description," the PS/IS school would be located in the common base of buildings WR-2 and WR-3. The timing for the interior construction and opening of the school would be determined by DOE and SCA.

As projected development of the Hudson Yards areas is built out in the future, DOE and DCP will continue to monitor and project student enrollment demand and the need for new school capacity (See Appendix B2 for the extensive summary of school demand forecasting that provided the basis for the EIS school impact analysis). SCA will continue to be the primary agency responsible for finding appropriate sites and undertaking the construction projects. The long term development of the Hudson Yards area is not expected to include all available parcels and eliminate every potential school site. Like the

proposed development on the Western Rail Yard, new developments will also provide opportunities to co-locate new school facilities, an option permitted under the Hudson Yards Special District regulations.

Comment 5-4: The selective data used in the DEIS is self-serving and used to justify adequate capacity. The data includes planned expansions of PS/IS schools within the entire school district 2 ("CSD2"), ranging as far south as Battery Park City and to the east side of Manhattan, however it fails to take into consideration the concentration of new development projects adjacent to the study area. Even including all PS/IS planned expansions within the entire CSD2, there remains a significant gap between projected enrollment and PS/IS seats throughout CSD2. (CB 4)

Response 5-4: The schools analysis in the EIS was conducted in accordance with CEQR methodology. As described in Chapter 5, "Community Facilities," the schools analysis considered two study areas: a ½-mile radius around all three project sites, and CSD 2 as a whole. The focus of the schools analysis and determination of impacts is based on potential effects on the ½-mile study area because it includes the schools most likely to serve the project sites. The consideration of CSD 2 as whole is intended to provide an approximation of future conditions at CSD 2 elementary and intermediate schools and to illustrate the potential effect of development within the study area on CSD 2 enrollment in 2019.

The EIS concludes that there would be capacity shortfalls in three of the school study areas. In the 2019 Future with the Proposed Actions, elementary schools within the ½-mile study area and CSD 2, as well as intermediate schools within the ½-mile study area would have a shortfall of seats.

Comment 5-5: Using the school enrollment/capacity data included in the DEIS, we calculate that the study area will need to accommodate 12,606 new and current students (3,947 elementary, 2,114 intermediate, and 6,545 high school). The capacity in the study area, even including the new Western Rail Yard PS/IS and the proposed expansion at PS51, is significantly lower with only 10,088 total seats (2,248 elementary, 1,982 intermediate, and 5,857 high school). (CB 4)

The proposed expansions will only accommodate 2,249 elementary seats out of an identified need of 3,947, representing only 57 percent of the district's needs. As mitigation, PS51's expansion of 354 new seats should be solely used for elementary and that no IS component be included. (CB 4, Desmond)

Response 5-5: The basis for the enrollment and capacity numbers provided above is unclear. The EIS projects higher levels of elementary and intermediate school enrollment in the 2019 Future with the Proposed Actions in accordance with CEQR and DOE methodology. As shown in Table 5-10, the EIS projects that schools within the ½-mile study area would have an enrollment of 4,118 elementary students and 2,213 intermediate students, compared to a capacity of 2,423 elementary seats and 1,805 intermediate school seats in the 2019 Future with the Proposed Actions. The EIS analysis indicates that in the 2019 Future with the Proposed Actions, elementary school capacity would accommodate approximately 59 percent of the ½-mile study area's needs.

The high school enrollment and capacity numbers presented in the comment are for high schools within the ½-mile study area. The EIS provides information on existing enrollment and capacity at high schools within the ½-mile study area. Consistent with CEQR methodology, the EIS analyzed future conditions at high schools within Manhattan as a whole (see Tables 5-8 and 5-11). High school students are not required to attend a specific high school in their neighborhood. Students may attend any of the schools within any borough of the City, based on seating availability and admissions criteria. Thus, high school students introduced by future development projects and the Proposed Actions are unlikely to substantially affect enrollment at neighborhood schools. As shown in Table 5-11, Manhattan high schools would have sufficient capacity in the 2019 Future with the Proposed Actions.

As noted in the response to Comment 5-2, the expansion of PS 51 is part of the West 44th Street and Eleventh Avenue Rezoning project. The ultimate programming of the PS 51 will be determined by the DOE and SCA at a later time and the *Western Rail Yard FEIS* analyses have been revised to utilize the currently anticipated assumptions for this No Build project.

Comment 5-6: The on-site proposed school is a much needed provision. With only 420 elementary school seats for the approximately 600 elementary-aged children the development is expected to generate. However, it is insufficient and will exacerbate school overcrowding. CB4 has surveyed the population growth of the West Side and has concluded that more than 1,000 new elementary school seats will be needed within the next ten years. The Western Rail Yard project should include an elementary school that will help accommodate the growth of the West Side community. DOE should look at the area's long-term school seat needs, including eliminating its planned introduction of intermediate-school seats when PS 51 is expanded and planning for new public—not charter—elementary and intermediate schools. The DOE and SCA must

consider additional means to address the increases in new students such as finding additional new school space and prioritizing elementary school children at the proposed PS 51 expansion. (Stringer, Duane, Gottfried, Diaz, Grant)

Response 5-6: The FEIS examination of potential impacts generated by the Proposed Actions is based on the addition of project-generated school enrollment, analyzed cumulatively with the conservative projections by the DOE and expected school enrollment from the identified No Build development projects. The considerations identified in the comments are components of the long term forecasting and projections that will be used by DOE and SCA in establishing future planning for new school facilities (See Appendix B2).

POLICE AND FIRE

Comment 5-7: The New York City Police Department (NYPD) has stated that it will determine any potential needs in the future. NYPD's approach is to base infrastructure needs on actual, not planned, development. However, given the expected rise in land value resulting from the proposed Western Rail Yard development, securing a site in the future for an NYPD substation or new precinct will be prohibitively expensive. There will be a substantial new population that cannot be adequately served by a private security force. NYPD services on the Western Rail Yard site should not be entirely supplanted by private security forces, and a space of a minimum of 7,500 sf should be identified for a NYPD substation within the base of a proposed Western Rail Yard building. This massive development will require a police presence and a space must be allotted for that. (CB 4, Gottfried)

Response 5-7: NYPD service on the Development Site would not be supplanted by private security forces. As described on pages 5-34 and 5-35 of the EIS, the Development Site and Additional Housing Sites are currently served by the NYPD 10th and 18th precincts. These precincts are expected to continue to serve the project sites in the future. Office and residential users may provide additional private security on the Development Site in the future, but these private security forces would not supplant NYPD services.

As detailed in Appendix B1 of the EIS, NYPD has not identified a need for a new substation as a result of the Proposed Actions. As development associated with the Proposed Actions is constructed, NYPD, consistent with its established practice, will continue to evaluate its staffing and resource needs in the area. As noted in the response to Comment 5-1, the City has broad powers related to the siting and

acquisition of property for new public facilities, and the relevant agencies can be expected to monitor the need for and timing of acquisition, consistent with their agency service functions.

Comment 5-8: The DEIS assumes that the firehouse committed as part of the Hudson Yards, which has yet to be sited or developed, will be built. (CB 4)

Response 5-8: The DEIS did not assume for analysis purposes that the firehouse would be built. As discussed in Chapter 5, "Community Facilities," FDNY has stated that, in the event that the No Build developments conservatively estimated in the EIS materialize by 2019, the firehouse previously identified in the *Hudson Yards FGEIS* would be required at that time (i.e., some eight years earlier than envisioned in the *Hudson Yards FGEIS*). The FDNY did not determine that the Proposed Actions would require a firehouse. Rather, according to the FDNY, the firehouse proposed in the *Hudson Yards FGEIS* would accommodate the fire protection demands of the Proposed Actions (see Appendix B1). Therefore, an additional firehouse on the Development Site is not needed as the result of the Proposed Actions.

Comment 5-9: A space of a minimum of 5,000 sf for a firehouse, in addition to the firehouse committed as part of the Hudson Yards rezoning, should to be located on West 30th Street under a bay of the High Line to meet the FDNY stated need as noted in the *Western Rail Yard DEIS*. The Developer, the City and FDNY should take steps to site a new FDNY facility as part of the Western Rail Yard development, consulting with the local community on potential locations. (CB 4, Stringer)

Response 5-9: As noted in the response to Comment 5-8, an additional firehouse on the Development Site is not needed as the result of the Proposed Actions. The City has broad powers related to the siting and acquisition of property for a new firehouse; and FDNY and the City will coordinate to identify an appropriate site for the firehouse within the Hudson Yards area when it is required.

HEALTHCARE FACILITIES

Comment 5-10: The Proposed Actions will result in a significant increase in residential, commercial, and recreational population to the study area that, collectively, will have a significant adverse impact on both outpatient and urgent care facilities. The methodology used in the study of outpatient facilities is faulty, as the study includes a number of private facilities that only serve specific populations or building residents. Further, since the closing of St. Vincent's Midtown, the two emergency

facilities serving CB4 are located at polar ends of the district—relying on these two facilities is problematic as travel times can be significantly delayed that may result in dire consequences for patients en route to either of these facilities. (CB 4)

Response 5-10: The EIS concluded that the Proposed Actions would not result in a significant adverse impact on hospitals and emergency rooms. The assessment of impacts is based only on the two hospital and emergency room facilities listed in Table 5-17. As discussed on page 5-30 of the EIS and in accordance with CEQR methodology, a significant adverse impact may occur if an action would result in a 5 percent increase in the demand for services over the no action condition, or if it would result in a facility exceeding its capacity. The Proposed Actions would result in approximately 684 annual visits to study area emergency rooms, which would represent a less than 1 percent increase in the study area hospital and emergency room visits (684 divided by 184,122 total emergency room visits = 0.4 percent increase).

Although a number of other outpatient facilities are listed in Tables 5-18 to 5-23, these facilities are identified for informational purposes only and are not factored into the impact analysis.

Comment 5-11: As mitigation for impacts to healthcare facilities, an additional urgent care facility must be provided at a location that is accessible to members of the district. Adequate space for additional outpatient facilities that serve the general population must be identified as part of the Restrictive Declaration. Considering the influx of residential and commercial populations, an urgent care and outpatient facility should be within reasonable distance for people in the area. (CB 4, Gottfried)

Response 5-11: The EIS concluded that the Proposed Actions would not result in a significant adverse impact on hospitals and emergency rooms. Therefore, no mitigation for healthcare facilities is required.

LIBRARIES

Comment 5-12: The Muhlenberg Library is the only public library branch that will directly serve future residents of the Western Rail Yard. The only reason both the Riverside and Columbus Branches are included in the EIS assessment is because each falls within ¾-mile from the smaller off-site developments; it is highly unlikely that either of those two branches would be accessed by on-site Western Rail Yard residents, as they are located more than ¾-mile from the Western Rail Yard.

The facilities at the Muhlenberg Branch are simply inadequate to handle the increase population planned on the site. (CB 4) Adequate space for a

New York Public Library branch must be sited and planned in the overall site plan. (CB 4, Gottfried)

Response 5-12: In accordance with CEQR methodology, the EIS analysis assumes that the Muhlenberg Library is the only public library branch that will directly serve future residents of the Western Rail Yard because it is the only public library within ¾-mile of the Development Site. The Columbus and Riverside Library Branches are referenced in the analysis because they are within ¾-mile of the Additional Housing Sites, but it is not assumed that the population of the Development Site would use these libraries.

As discussed on page 5-23 of the EIS, the Proposed Actions would introduce approximately 9,795 residents to the Development Site. The EIS concludes that the 9,795 residents of the Development Site would represent a 7 percent increase in the population of the Muhlenberg Library catchment area. The EIS states that although the catchment area population would increase by more than 5 percent, the increase is not expected to impair the delivery of library services within this catchment area, because of its unique Midtown location. Residents of the Muhlenberg catchment area and the Development Site would also have access to the five central libraries located within or near the study area, including the Mid-Manhattan circulating library.

The Proposed Actions would not result in a significant adverse impact on library services in the study area in 2019. Therefore, no library-related mitigation is required in the EIS.

CHAPTER 8: HISTORIC RESOURCES

Comment 8-1: Individual landmark designation should be considered for the following list of architectural resources taken from the *Hudson Yards EIS* and *Western Rail Yard DEIS*:

- St. Raphael's RC Church and Rectory, 502 W. 41st St. (NYCL- and S/NR-eligible)
- Commercial Building, 300 W. 38th St. (NYCL-eligible and S/NR-listed)
- Hill Building, 469-475 Tenth Ave. (S/NR-eligible)
- Harding Building, 440-448 Ninth Ave. (S/NR-listed)
- Former Manhattan Opera House, 311 W. 34th St. (NYCL- and S/NR-eligible)
- New Yorker Hotel, 481-497 Eighth Ave. (NYCL-eligible and S/NR-listed)

- Master Printers Building, 406-416 Tenth Ave. (NYCL- and S/NR-eligible)
- St. Michael's RC Church Complex, 414-424 W. 34th St. (NYCL- and S/NR-eligible)
- William F. Sloan Memorial YMCA, 360 W. 34th St. (NYCL- and S/NR-eligible) (CB 4)

These nine individual landmarks are each notable examples of landmark-quality architecture and highlight various aspects of the neighborhood's prior uses. (Gottfried) The community board has identified several nearby historic sites that are at risk of redevelopment. The applicant, the City or HYDC should study historic resources in the area as identified by the community and evaluate the potential for landmarking individual buildings. (Stringer)

Response 8-1: The buildings listed in the comment were identified in the *Hudson Yards FGEIS*. They were not identified in the *Western Rail Yard EIS* as none of them is located within the 800-foot study area for the Development Site or the 400-foot study areas for the two Additional Housing Sites. New York City Landmark (NYCL) designation of any of these buildings will be at the discretion of the New York City Landmarks Preservation Commission (LPC) and is not part of the Proposed Actions.

Comment 8-2: Hell's Kitchen South Historic District is worthy of historic district designation. (CB 4, Gottfried) This district is proposed to be bounded in the north by 407 West 40th Street on the north side of the block and 408 West 40th Street on the south side of the block and continuing east to include both blockfronts facing Ninth Avenue between 39th and 40th Streets; the northern boundary is also made up of a portion of the northern side of 39th Street between Eighth and Ninth Avenues. The eastern boundary extends along the centerline of Eighth Avenue between 34th and 39th Streets. The southern boundary includes 481 Eighth Avenue and 315 West 34th Street, returns north to 35th Street and extends south to include 440 Ninth Avenue. The western boundary returns north along the centerline of Ninth Avenue from 35th Street to 40th Street, only extending west to include 485-497 and the western side of Ninth Avenue between 38th and 40th Streets. A portion of the proposed district was listed on the State and National Registers of Historic Places (S/NR) in January 2009. (CB 4) This proposed historic district would allow for the preservation of intricate layers of industry, manufacturing, residential, and commercial spaces in Hell's Kitchen. (Gottfried) The applicant, the City or HYDC should study historic resources in the area as identified by the community and evaluate the potential for creating historic districts. (Stringer)

The following is a selection of significant individual buildings in the proposed Hell's Kitchen South Historic District:

- Loft building, 315-325 West 36th St. (S/NR-listed)
- Shampan Eighth Avenue Building, 553-555 Eighth Ave. (S/NR-listed)
- Loft building, 344-348 W. 38th St. (S/NR-listed)
- Loft building, 323-327 West 39th St. (S/NR-listed)
- Former Barbour Dormitory, 330 W. 36th St. (S/NR-listed)
- 523-539 Ninth Avenue (S/NR-eligible)
- Former New York Edison Co., 308-312 W. 36th St. (S/NR-listed)
- Christ Church Memorial, 334-344 W. 36th St. (S/NR-listed) (CB 4)

Response 8-2: The proposed Hell's Kitchen South Historic District, including the individual buildings listed in the comment, is not located within the 800-foot study area for the Development Site or the 400-foot study areas for the two Additional Housing Sites. NYCL-designation of this proposed historic district or of any building within the boundaries of the proposed district will be at the discretion of the LPC and is not part of the Proposed Actions. As cited in the comment, most of the proposed historic district falls within the boundaries of the Garment Center Historic District, which is listed on the S/NR.

Comment 8-3: A West Chelsea North Historic District is worthy of historic district designation. (CB 4, Gottfried) This district is proposed to include two clusters of formerly industrial properties between Tenth and Eleventh Avenues. The western cluster includes numbers 534, 536, 538, 540, 550 and 541-561 West 29th Street. The eastern cluster is composed of 517-523 and 525 West 29th Street. (CB 4, Kirkland) The grouping on the south side reflects the first stage of highly industrial development in West Chelsea. The Sloane Warehouse reflects the second stage dominated by large warehouses. (Kirkland) This proposed historic district would allow for the preservation of intricate layers of industry, manufacturing, residential, and commercial spaces in Chelsea. (Gottfried) The applicant, the City or HYDC should study historic resources in the area as identified by the community and evaluate the potential for creating historic districts. (Stringer)

The following is a selection of notable buildings in the proposed West Chelsea North Historic District, some of which have been identified in the *Western Rail Yard DEIS*.

- Charles P. Rodgers & Company Building, 517-523 West 29th St. (S/NR-eligible)

- W&J Sloane Warehouse and Garage, 541-561 West 29th St. (S/NR-eligible)
- 550 West 29th St. (S/NR-eligible) (CB 4)

Response 8-3: Designation of the identified clusters of buildings, which are located within the 800-foot Development Site study area, as a City Historic District is at the discretion of the LPC and is not part of the Proposed Actions.

The three individual buildings listed in the comment, and which were identified in the DEIS, were originally determined eligible for listing on the S/NR as part of the Hudson Yards Rezoning environmental review process. As part of that environmental review, one building in the boundary of CB4's proposed West Chelsea North Historic District—536 West 29th Street—was identified as a potential architectural resource. However, the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) determined that the building did not appear to meet the eligibility criteria for listing on the Registers. OPRHP's determination is found in a letter dated October 30, 2003 included in Appendix J, "Architectural Historic Resources" of the *Hudson Yards FGEIS*. In addition, in its review of the identified potential resources within the Hudson Yards rezoning area, LPC did find 536 West 29th Street to be a NYCL-eligible property. The remaining four buildings located within the boundaries of CB4's proposed historic district—525, 534, 538, and 540—have all been altered; alterations include removed cornices, infilled or modernized storefronts, and replaced windows. Current photographs of, and historical and descriptive information on, CB4's proposed West Chelsea North Historic District were submitted to OPRHP and LPC for their evaluation in response to the above comments. In a letter dated September 17, 2009, OPRHP determined "that the buildings at 525, 534, 546, 538, 540 West 29th Street do not meet the National Register criteria for individual listing nor are they eligible as part of a West 29th Street historic district. Though historic, they do not posses the level of integrity required for NR eligibility." LPC also determined that the proposed district does not appear to be either LPC or S/NR eligible, as indicated in a letter dated September 18, 2009 from OPRHP. (See Appendix C for the OPRHP and LPC determination letters.)

Comment 8-4: Individual landmark designation should be considered for the following architectural resources identified in the *Western Rail Yard DEIS*: St. Benedict the Moor Church (NYCL-eligible, S/NR-eligible) at 342 West 53rd Street and the blockfront of tenements at 781-795 Ninth Avenue (S/NR-eligible). (CB 4)

Response 8-4: Designation of these buildings as City Landmarks will be at the discretion of the LPC and is not part of the Proposed Actions.

Comment 8-5: The DEIS identifies seven potentially eligible buildings for landmarking within 800 feet of the Western Rail Yard project. These sites should be considered for landmarking as they have already been deemed eligible. (Stringer)

Response 8-5: The buildings or structures referenced in the comment are the High Line, the W&J Sloane Warehouse and Garage, 550 West 29th Street, the Charles P. Rodgers & Company building, the former Berlin & Jones Envelope Company, the New York Terminal Warehouse Company, and the Hudson River Bulkhead. Designation of these buildings and structures as City Landmarks will be at the discretion of the LPC and is not part of the Proposed Actions.

Comment 8-6: West 34th Street between the Eastern and Western Rail Yard and midtown will suffer major pressures for new development as Midtown eventually spreads west of the proposed new development. Designating or protecting the five buildings listed in the EIS as eligible for landmarking would provide mitigation for the impacts on the 34th Street corridor and enhance the main approach to the new Rail Yard development. (Kirkland)

Response 8-6: There are no eligible, listed, or designated historic resources on West 34th Street within the 800-foot Development Site study area. In addition, the EIS did not identify any significant adverse impacts on historic resources located within the 800-foot Development Site study area.

CHAPTER 9: URBAN DESIGN

Comment 9-1: The buildings will be grossly out of scale—they are far too tall. (Duane) The scale and density of the buildings is overwhelming. (CB4, Gottfried, Gerontianos) The size and design of the Western Rail Yard project are out of context with our communities' integrity and the impact of this development will be felt by its residents for decades to come. The height and density are incompatible with the core Chelsea and Hell's Kitchen neighborhoods. (WSNA)

Response 9-1: Chapter 9, "Urban Design and Visual Resources," of the EIS evaluated the potential impacts of the Proposed Actions on the urban design and visual resources of the surrounding area, including building use, bulk, height, density, and setbacks. The analysis determined that although the Proposed Actions would result in the development of up to eight tall

buildings on the Development Site, they would not have a significant adverse impact on the urban design.

Ranging in height from approximately 350 feet to 950 feet, the proposed buildings on the Development Site would be in keeping with the scale of many of the No Build projects planned for completion in the study area by 2019. The proposed development would be similar to the height, density, and uses of other planned developments expected to be completed elsewhere in the study area by 2019, including those on the east side of Eleventh Avenue occupying entire block fronts between West 33rd and West 35th Streets—the planned 900 to 1,000-foot-tall Moinian Group development and the planned 650 to 700-foot-tall Extell Development—and smaller lots located south of the Development Site between West 28th and West 30th Streets—the 355-foot-tall residential building at the southeast corner of West 30th Street and Eleventh Avenue and the planned Avalon Bay Properties development at approximately 280 feet in height. In addition, the proposed buildings on the Development Site would be similar in building use, bulk, height, density, setback, and massing to the planned development of the Eastern Rail Yard, which would range in height from approximately 500 feet to 900 feet.

CHAPTER 11: NATURAL RESOURCES

Comment 11-1: The DEIS assessment concludes that there would be no significant adverse environmental impacts on wetlands, water quality and aquatic biota, and coastal fish and wildlife habitats, and that there are no identified rare, special concern, threatened, endangered, or candidate species within the vicinity. However, given the scale of the Proposed Actions and the proximity of the Development Site to the Hudson River, the plans for both the design and construction phases should include the services of a wildlife biologist or similarly trained person to assess the ongoing impacts on habitats and wildlife species to ensure protection of natural resources. (CB 4)

Response 11-1: As presented in Chapter 11, "Natural Resources," of the EIS, field observations by qualified personnel were conducted to assess the existing natural resources within the project sites and the potential for adverse impacts to these resources resulting from the Proposed Actions. As described in the EIS, the project sites provide limited habitat for wildlife and is considerably upland from the Hudson River both in elevation and separation from the River by Route 9A/Twelfth Avenue. The analyses in Chapter 11 determined that the Proposed Actions would not result in any significant adverse direct or indirect impacts to the Hudson River. Vegetation and wildlife at the project sites is primarily

composed of common species tolerant of urban ecosystems. The loss of the existing vegetation and wildlife within the project sites would not result in a significant adverse impact on terrestrial resources of the New York City metropolitan region, and would not require monitoring to protect these resources during construction phases.

Comment 11-2: To ensure protection of natural resources, the designers of both the High Line and the non-High Line open space should be encouraged to include habitat creation among the principal criteria for the open space designs. (CB 4)

Response 11-2: As presented in Chapter 11, "Natural Resources," of the EIS, landscaping vegetation within the proposed open space areas on the Development Site would provide substantially more high quality habitat for wildlife than currently found within the Development Site and would complement other open space areas being developed as part of the Hudson River Park, High Line, Eastern Rail Yard, and Hudson Park and Boulevard, by creating additional compatible upland habitat for native plants and wildlife such as birds and butterflies. The design of the High Line will also likely include naturalistic plantings that would provide habitat for wildlife.

Comment 11-3: All reasonable measures to reduce bird loss due to building collisions, including those listed in Chapter 11 of the DEIS, should be implemented—not just mentioned—and overseen by experts with the requisite experience in reducing building collisions to ensure protection of natural resources. (CB 4)

Response 11-3: Chapter 11, "Natural Resources," of the EIS discusses building collision-related bird mortality in the urban environment, and the potential sources of mortality due to lighting regimes, building material design and landscaping. The practices described in Chapter 11 to reduce bird losses due to building collisions will be required to be considered in the design of the building structures and the open space areas.

Comment 11-4: Creative steps to reduce stormwater runoff, such as contour infiltration planting for the open spaces, should be considered and implemented as appropriate to ensure protection of natural resources.(CB 4)

Response 11-4: The Restrictive Declaration will require implementation of measures to reduce stormwater runoff, including incorporation of softscapes and similar features into the design of the site that will serve to reduce and retain stormwater runoff. Additionally, all new buildings would meet the requirements of LEED Silver certification.

CHAPTER 12: HAZARDOUS MATERIALS

Comment 12-1: The soil and water contamination that has occurred over the years at the Ninth Avenue Additional Housing Site, which used to be a bus depot, is a concern. Long time residents remember when gasoline filled up the basements in buildings that were downhill of the site. A spill was discovered in 1997 and has been registered as Department of Environmental Conservation (DEC) Spill Case 96-13939. The City's environmental impact study cites extensive contamination with petroleum, benzene, xylene and other volatile organic compounds at the Ninth Avenue site. This will require soil removal and "appropriate vapor mitigation systems" to protect workers and residents. Stirring up all those chemicals will cause a health problem. We have been told it is better to cover up brownfield sites like this one with plastic, clean dirt, grass and trees—not to stir up the chemicals beneath them. Why is the Ninth Avenue Site any different? (Gorman)

Response 12-1: As described in Chapter 12, "Hazardous Materials," remediation activities at the Ninth Avenue Site are ongoing and will continue to take place until the cleanup objectives are met in accordance with the existing DEC Global Consent Order with the MTA. The remediation measures (i.e., removal of material, vapor management, and, as noted in the comment, containment and adding fill or cover to avoid contact with contaminated materials) necessary to avoid potential impacts to public health during construction and to create a site ready for new development are typical of an urban development site in New York City. Following remediation at the Ninth Avenue Site, construction would be conducted in accordance with a specific Health and Safety Plan undertaken in accordance with applicable local, state, and federal regulations.

CHAPTER 14: INFRASTRUCTURE

Comment 14-1: The Amended Drainage Plan must be implemented.(CB 4, Gottfried)

Response 14-1: As noted in Appendix M of the FEIS, the Department of Environmental Protection (DEP) has committed to implement the Amended Drainage Plan and set forth an associated construction schedule.

Comment 14-2: The impact of the Western Rail Yard development on the North River Pollution Control Plant in Harlem is a major concern—the plant is near capacity. The Western Rail Yard site will contain thousands of residents, commercial and retail workers and clients, visitors to the public open space, a school filled with students and teachers and parent

advocates, site and building maintenance and operations personnel, and many more. On a daily basis, baths and showers will be taken; hands will be washed many times; dishes in apartments, offices, and restaurants will be washed (by hand or automatic); open space plantings will be watered; apartments, offices, and retail spaces will be cleaned; clothes will be washed (by hand or automatic); etc. Most importantly, all the population living, working, or visiting the Western Rail Yard development will flush the toilet several times per day. Further, the rest of the Hudson Yards development will cause the impact on existing infrastructure to mushroom. (Morrow)

Response 14-2: The *Western Rail Yard EIS* infrastructure assessment in Chapter 14, "Infrastructure," examined the Proposed Actions' incremental demand on treatment capacity at the North River Water Pollution Control Plant in the context of long term utilization trends and forecasts prepared by the DEP, which includes the growth and water usage demand noted in the comment. The EIS analyses, which were reviewed by the DEP, determined that the Proposed Actions would not result in significant adverse impacts to the operation of the North River Water Pollution Control Plant.

CHAPTER 16: ENERGY

Comment 16-1: The current infrastructure is inadequate. The 2004 Hudson Yards Environment Impact Statement called for the creation of two additional power substations. Five years later, no planning or siting has begun. Fundamental infrastructure is essential to the sustained longevity of this project and for the growth of a neighborhood. All of the original infrastructure additions need planning and coordination. This must include the two power substations. We cannot rely on separate actions for these facilities. The DEIS assumes that the two substations and a transmission facility committed in the Hudson Yards will be built and they must be committed to in the Proposed Actions. The DEIS does not assess the situation with the possibility of the Hudson Yards' energy plan not being implemented. (Gottfried, Mankoff, CB 4)

Response 16-1: The DEIS analyses did not assume that the two substations and a transmission facility would be built. As set forth in its correspondence (see Appendix L of the EIS), Con Edison determined that the energy forecast since completion of the *Hudson Yards FGEIS* has changed substantially and the need for additional substations is projected for a later date than identified in the *Hudson Yards FGEIS* and is not required for the Western Rail Yard project. Con Edison indicates it will be able to provide service to the Western Rail Yard project with no additional substation or transmission facility requirements.

Comment 16-2: Substations require special consideration in their location because they are perceived by the public to represent potential terrorist targets, and because electromagnetic radiation from transformers and cabling needs to be minimized due to of alleged adverse health impacts. In addition, the locations require special consideration in location because oil-cooled transformers present fire hazards. It is crucial that specific, suitable locations for these facilities be identified and reserved quickly. Further, because of the construction of a platform, the project offers the opportunity for novel placement, especially of cabling, that could increase shielding from potentially harmful radiation. (CB4)

Response 16-2: Con Edison will identify appropriate sites for future electrical distribution infrastructure in accordance with applicable codes, regulatory requirements, and public health standards and is responsible for determining the appropriate timetable to make capital investment in new infrastructure and the sites to accommodate such infrastructure. As noted in Appendix L of the EIS, the revised energy forecast by Con Edison indicates that the need to provide more substations has been shifted farther into the future even with the proposed Western Rail Yard and other projected Hudson Yards development.

With respect to the Western Rail Yard platform, Con Edison would require permanent easements for high voltage distribution cables installed within the interstitial area of the platform above the rail yard.

Electromagnetic fields (EMF) at or adjacent to Con Edison substations would be expected to be comparable to EMF near other substations within Manhattan and to other typical or normally experienced EMF including household appliances. Although there are no Federal or State standards related to human health effects from EMF, the EMF levels typically associated with electric substations and underground distribution lines are far less than (within) the engineering-based guidelines or standards promulgated by State regulations applicable to new transmission lines and are also far less than the health-based standards promulgated by the International Commission on Non-Ionizing Radiation Protection and the American Conference of Governmental Industrial Hygienists.

CHAPTER 17: TRAFFIC AND PARKING

Comment 17-1: Parked or idling charter buses clogging our neighborhood streets is already an overwhelming problem. While a charter bus layover garage was identified in the *Hudson Yards EIS*, that garage has yet to be sited or planned. The *Western Rail Yard DEIS* incorrectly assumes that his garage is built. (CB 4)

Response 17-1: The analysis in the EIS does *not* assume that the Port Authority Bus Garage would be constructed by the Western Rail Yard analysis years.

Comment 17-2: The Port Authority charter bus layover garage identified in the *Hudson Yards EIS* must be planned, sited, funded and built. (CB 4, Gottfried) Planning for the layover garage must comprehensively address: current needs of commuter bus layovers and charter bus use of on-street parking for layovers. (CB 4) A garage on the West Side to serve New Jersey Transit buses using the Port Authority Bus Terminal as well as charter buses and commuter vans is necessary to get commercial buses off the street, remove the temptation for idling, provide facilities for drivers, all while encouraging the tax dollars generated by passengers. (Duane)

Response 17-2: The Port Authority charter bus layover garage is not part of the Proposed Actions. Due to current economic conditions, the Port Authority has removed the garage from its 10-Year Capital Plan in order to reallocate funds to other projects, including the need to provide for a state of good repair (on-going maintenance) for existing facilities.

Comment 17-3: The Western Rail Yard development will be displacing a Greyhound parking lot that houses 52 buses. (Duane) An additional site must be identified to accommodate the relocation of the 52 Greyhound Buses that will be displaced as a result of the Proposed Actions.(CB 4) The development does nothing to mitigate the removal of a 52-slot bus garage on and Twelfth Avenue (Gottfried)

Response 17-3: As stated in Chapter 4, "Socioeconomic Conditions," of the EIS, the Port Authority is committed to maintaining Greyhound's service in the Port Authority Bus Terminal and would work with Greyhound to identify potential relocation sites when appropriate. The location needs of the bus parking lot could be satisfied at other locations in the City or in the surrounding areas with access to the Port Authority Bus Terminal.

Comment 17-4: The residential parking estimates of future demand from the DEIS is significantly overestimated. The DEIS estimate for residential parking is based on auto ownership in high income areas of the City, ignoring the much lower auto ownership for the 20 percent of units that will be lower income. With a balance of higher and lower income units, the auto ownership would be about 25 percent of units, rather than the 32 percent used in the DEIS. (CB 4)

Response 17-4: As indicated in Appendix E1 of the EIS, residential parking demand was estimated using a weighted average based on 80 percent of auto ownership data from Upper East Side census tracts (representing the projected parking demand in the Future with or without the Proposed

Actions for market-rate residential units with higher household incomes) and 20 percent of data from Hudson Yards area census tracts (representing the projected parking demand in the Future with or without the Proposed Actions for affordable housing units with lower household incomes). As such, the projected parking demand reflects a mix of higher and lower income units appropriate for a conservative CEQR analysis.

Comment 17-5: The commercial parking estimates of future demand from the DEIS is significantly overestimated. The DEIS estimate for commercial parking relies on a 30-year old RPA study (*"Urban Space for Pedestrians,"* RPA, The MIT Press, 1975). At that time, the floor space per worker in office buildings was 190 sf, while the current number used in the *Hudson Yards FGEIS* is 250 sf. By relying on the 40-year old one worker per 190 sf instead of 250 sf, the calculated number of employees, and consequently the number of automobile trips and parking spaces needed, was overestimated by 34 percent. (CB 4)

Response 17-5: This comment is inaccurate. Page 14 of the cited publication indicates that office buildings have an average of 250 sf per employee.

Comment 17-6: The settlement between DCP and HKNA regarding Hudson Yards parking represents a much more realistic estimate of parking needs in the area. The parties agreed that parking demand generated by the full Hudson Yards development program will be no more than 6,086 spaces, consisting of 3,606 spaces for 13,272 housing units and 2,480 spaces for 26.3 million sf of office and hotel development. These figures represent parking spaces equivalent to approximately 27 percent of residential units and one space per approximately 10,600 sf of commercial space. (CB 4)

Response 17-6: The settlement between DCP and HKNA was entered into during the course of the preparation of the *Western Rail Yard EIS* and provides an alternative basis for evaluating the need for on-site parking for the Proposed Actions. However, the somewhat higher rates utilized in the EIS yield more conservative traffic and parking impact analyses.

Comment 17-7: The DEIS did not identify potential impacts caused specifically by the proposed garages and did not study an alternative development scenario without the proposed parking. Therefore, the impacts of the proposed development must be considered in terms of the project as a whole.

Further, the DEIS fails to demonstrate the need for additional parking spaces above those allowed as of right. Typically this analysis is done by demonstrating the anticipated accumulation of vehicles by accessory

use. Without this analysis there is no evidence to show that the garages, if built as proposed, will not be underused. An underused garage at the Western Rail Yard site, near a major highway and regional transit hubs, has a high potential to be used illegally as a public parking garage. (Stringer)

Response 17-7: As discussed in Appendix E4 of the EIS, the traffic analysis conservatively assumed a total of 1,600 on-site parking spaces, which concentrated project-generated vehicle trips at intersections proximate to the Development Site, providing a comprehensive analysis of the potential impacts of the proposed parking garages. If less on-site parking were provided, vehicles would be intercepted by parking facilities in the perimeter of the study area and there would be fewer project-generated trips at intersections near the Development Site.

The total projected parking demand for the Development Site for each of the development scenarios was discussed in Appendix E1 of the EIS, which ranged from approximately 1,700-1,860 spaces during the weekday midday period and approximately 1,540-1,995 spaces during the weekday overnight period. The amount of accessory parking proposed is also consistent with the proposed parking ratios under the settlement between DCP and HKNA.

CHAPTER 19: AIR QUALITY AND GREENHOUSE GAS EMISSIONS

Comment 19-1: Ventilation and lighting of the area under the proposed platform would account for 38 percent of the estimated electricity consumption for the entire Western Rail Yard project, and would represent 13 percent of the total annual greenhouse gas emissions for the entire project. It is imperative that these systems be made as efficient as possible and installed in a manner that facilitates their replacement as more efficient systems become available in future years. (CB 4)

Response 19-1: LIRR will work with the Developer to install efficient lighting and ventilation systems, in accordance with LIRR's operational requirements and LIRR design criteria for the Western Rail Yard.

CHAPTER 20: NOISE

Comment 20-1: Noise monitoring studies at 18 sites found only one with a noise level characterized as "Marginally Acceptable," the other 17 were either "Marginally Unacceptable," or "Clearly Unacceptable," and noise levels from the actions would increase at four sites from "Marginally Unacceptable" to "Clearly Unacceptable."

Not only do the actions increase noise levels from already-unacceptable levels, when they are considered along with increases caused by the development of the Eastern Rail Yard the increases come very close to being an unacceptable increase on top of an unacceptable base level. This is an excellent example of the folly of evaluating impacts of projects independently of each other and of any overall consideration of the City. (CB 4)

Response 20-1: The EIS indicates that noise levels at most locations in the study area for all three conditions examined—existing, Future without the Proposed Actions, and Future with the Proposed Actions—are relatively high. These levels principally reflect the noise generated by the existing high level of vehicular traffic in the area. However, these levels are typical of busy, heavily trafficked urban areas.

The incremental change in noise level due to a proposed action is the critical issue for the determination of significant adverse impacts. As shown in Table 20-20 (in Chapter 20, "Noise") of the EIS, the Proposed Actions would not result in any significant increases in noise levels. At most of the analysis sites during most of the time periods examined, the cumulative increase in noise levels due to the Proposed Actions would be less than 1 dBA, an imperceptible increase.

Comment 20-2: As proposed, the project forces people into buildings with required noise attenuation in order to experience an acceptable noise environment, a sad result for a project with 5 acres of open space. Outdoor noise mitigation is a crucial need. (CB 4) Noise will be an issue. With Hudson River Park just to the west and development occurring in stages, noise mitigation is crucial. (Gottfried)

Response 20-2: While noise levels at most locations in the study area, for all three conditions examined—existing, Future without the Proposed Actions, and Future with the Proposed Actions—are relatively high, they are typical of noise levels experienced in other heavily trafficked locations of New York City. Existing traffic results in most of the ambient noise, not additional traffic caused by the Proposed Actions. Similar noise levels are experienced in parks and open space areas adjacent to busy roadways. For example, similar noise levels occur in portions of the nearby Hudson River Park (which is adjacent to Route 9A), Riverside Park (which is adjacent to the Henry Hudson Parkway), and Central Park (which is surrounded by major avenues and crosstown streets).

CHAPTER 22: PUBLIC HEALTH

Comment 22-1: Environmental standards represent efforts to determine and set levels for pollutants above which there is likely to be a threat to health. In a situation where the level of a pollutant exceeds the appropriate standard, any project that further increases the level of that pollutant creates a government-recognized increased threat to health. Environmental regulations require that an action not increase the levels of a pollutant above a set standard, or, if the level of the pollutant already exceeds that standard, that the increase over the standards caused by the action be less than a set amount. From the DEIS, this is the situation with both air quality ($PM_{2.5}$) and noise; the actions would create government-recognized increased threats to health.

In order to promote public health, the level of a pollutant should not be permitted to increase further beyond the safe limit by "only" a certain amount. If the level of a pollutant is unacceptable, no action should be allowed that would increase that pollutant unless the base level is reduced to the point where the addition caused by the action would result in a level that does not exceed the applicable standard. (CB 4)

The environmental standards governing exposure to pollutants, such as hazardous materials, particles and gases in our air, and noise are based on our best estimates of what we need to achieve to avoid harming ourselves. These standards are lessened due to politics. If the existing level of a pollutant exceeds these already weakened standards, it still is permissible to approve something that increases that unacceptable level as long as the increase is less than a certain amount. We should be creating incentives to reduce the level of that pollutant below the safe threshold, and not permit any increases until the level of the pollutant is below the safe level. The issue here is doing bodily harm, and we must address it. (Compton)

Response 22-1: The *CEQR Technical Manual* presents environmental criteria for determining whether air quality pollutants (such as $PM_{2.5}$) and/or noise level increments due to a proposed action would constitute a significant adverse impact. These criteria are based upon either standards that are designed to protect the public health or incremental threshold values, below which the changes in the air quality pollutant concentration or noise level due to the project would be considered *de minimis*. For example, with respect to $PM_{2.5}$, DEC and DEP have provided interim guidance criteria with defined threshold levels to ensure that concentrations are not significantly increased due to a project even in areas that are designated as non-attainment. With respect to noise, the *CEQR Technical Manual* provides guidance for determining impact

significance based on both absolute noise level limits and incremental changes from no action conditions. In determining the significance of public health impacts, the State Environmental Quality Review Act (SEQRA) regulations and the *CEQR Technical Manual* state that the significance of a likely consequence (i.e., whether it is material, substantial, large, or important) should be assessed in connection with, its setting (e.g., urban or rural); its probability of occurrence; its duration; its irreversibility; its geographic scope; its magnitude; and the number of people affected.

When considering these impact criteria, the public health analysis presented in the EIS concluded that the increase in air quality pollutants and noise resulting from the Proposed Actions would not result in significant adverse public health impacts.

CHAPTER 24: MITIGATION

COMMUNITY FACILITIES

Comment 24-1: The DEIS found that the Proposed Actions will result in a significant adverse impact on child care services by increasing demand by 33 percent. The mitigation measure proposed in the DEIS stating that the New York City Administration for Children's Services (ACS) consider a partnership initiative to meet the need is simply insufficient and faulty. As mitigation, adequate space for use as a day care facility with a determined square footage, to be offered at a nominal rent, must be identified as part of the Restrictive Declaration. Given the density proposed for the Western Rail Yard site, the Developer should provide community facility space on-site to service the community's childcare needs. In lieu of space, the Developer should provide funds to supplement the number of ACS daycare slots in the area after the number of completed residential units on the Western Rail Yard site reaches a threshold of need. Childcare facilities will likely see a 33 percent increase of demand. A facility must be made possible with adequate space at nominal rent. (CB 4, Stringer, Gottfried)

Response 24-1: The Restrictive Declaration will require the Developer of the Western Rail Yard to offer ACS 10,000 sf of space for use as day care facility, at a rate affordable to ACS providers (currently $10 sf), in the event that ACS determines that development of the site would result in a need for additional day care capacity.

Comment 24-2: For day care impacts, similar mitigation measures should be used to fund daycare slots such as the mechanism approved by the CPC as a

requirement of the rezoning approval of "Clinton Park" at 770 Eleventh Avenue developed by Two Trees Management LLC. (CB 4)

Response 24-2: The Restrictive Declaration would provide that, in the event that ACS declines the offer of space for use as day care described in the response to Comment 24-1 above, ACS may request implementation of alternative measures to make program or physical improvements that would support additional day care capacity. The Developer would consider such alternative measures, when identified.

OPEN SPACE

Comment 24-3: The DEIS states that the development needs "to mitigate indirect significant adverse impacts on the total open space and active open space in the Development Site residential study area." The following street planting and open space greening measures should be implemented for off site open space mitigation:

- Provide open space and greening on Port Authority- and DOT-controlled marginal land surrounding the Lincoln Tunnel Dyer Avenue approaches between West 34th and West 36th Streets between Ninth and Tenth Avenues. Fund such improvements through DOT's existing Greenstreets Program.
- Plant trees and install tree guards on all streets and avenues from West 30th to West 41st Streets, Eighth to Eleventh Avenues at all locations where no sidewalk vaults exist.
- Remove unused curb cuts West 30th to West 41st Streets, Eighth to Eleventh Avenues to permit street tree plantings.
- Choose standard planter for street planting for planting of street trees on all streets and avenues from West 30th to West 41st Streets, Eighth to Eleventh Avenues at locations where sidewalks are on viaducts over Dyer Avenue below grade approaches, the Amtrak right of way and the rail yard viaducts, to permit street tree planting.

To create additional open spaces in the neighborhood, the City and HYDC should take steps to implement the community's street greening plan by using the DOT's Greenstreets Program and other initiatives to green sidewalks, traffic islands and publicly-owned marginal properties. (CB 4, Stringer)

Response 24-3: As described in Chapter 6, "Open Space," of the EIS and noted in the comment, the Proposed Actions would result in significant adverse impacts on total open space and active open space in the Development Site residential study area.

The Restrictive Declaration will include provisions to establish an Open Space Fund with contributions made by the Developer of the Western

Rail Yard at the time development proceeds on the site. The proceeds of the Open Space Fund will be utilized by the New York City Department of Parks and Recreation (DPR), in consultation with CB4 and the local Council Member, to fund programs or improvements which would improve or increase capacity for active recreation within CB4.

Comment 24-4: The following park development and renovation measures should be implemented for off-site open space mitigation:

- Design and build Hell's Kitchen Park West at the DEP site, Tenth Avenue between West 48th and 49th Streets.
- Repair the steps at the western end of DeWitt Clinton Park.
- Renovate Ramon Aponte Park on West 47th Street between Eighth and Ninth Avenues. (CB 4)
- Redesign Hudson Boulevard solely as park and pedestrian thoroughfare with limited automobile use. (CB 4, NYPIRG)

The Developer should create additional active open space programming within the Development Site or fund improvements to neighborhood parks nearby. Chelsea Park is located three blocks from the Development Site, and its ball fields were last updated in 1998. The Developer should fund a capital project in Chelsea Park or contribute to a maintenance fund that will help the park accommodate the influx of new users generated by this development. (NYFP)

If this proposal is approved, environmental review requires that it be mitigated by funding existing off-site neighborhood parks run by the Parks Department. We need the details of that commitment in writing. (Noland)

Response 24-4: As described in Chapter 6, "Open Space," of the EIS, the open space area that will be developed as part of the DEP City Water Tunnel Number 3 project was assumed to be built in the 2019 Future without the Proposed Actions. Therefore, the analysis assumes this open space will serve the existing and future population demand for open space in the study area. DPR, in coordination with DEP, is responsible for the design and construction of this future open space. Changing the responsibility for construction of this open space would not address the identified significant adverse impact.

The Restrictive Declaration will include provisions to establish an Open Space Fund with contributions made by the Developer of the Western Rail Yard at the time development proceeds on the site. The proceeds of the Open Space Fund will be utilized by DPR, in consultation with CB4 and the local Council Member, to fund programs or improvements which would improve or increase capacity for active recreation within CB4.

TRAFFIC AND PARKING

Comment 24-5: Among the mitigation proposals offered, the DEIS proposes to remove the northern parking lane of West 30th Street, thus making the location unfit for a school bus stop and pick up area for children. (CB 4)

Response 24-5: The eastbound 30th Street approach to Eleventh Avenue is 34 feet wide with parking permitted on both the north and south sides of the street. A peak period prohibition of curb parking on the north side of 30th Street, at the Eleventh Avenue intersection approach was recommended in the EIS to create two moving approach lanes (i.e., daylighting within 150 feet of the intersection). This daylighting could be moved to the south side of the street if necessary to accommodate school buses. It should be noted that the exact location of school entrances has not been determined, and thus drop-offs and pick-ups may not be affected by the proposed daylighting. In addition, since West 30th Street is a one-way, eastbound street, special buses with driver's side doors would be required for school buses to use the north side curb for drop-offs and pick-ups.

TRANSIT AND PEDESTRIANS

Comment 24-6: The DEIS demonstrated that the anticipated vehicle trips generated by this development will result in substantial deterioration in traffic operations, that the expected levels of intersection congestion will have a significant negative impact on traffic, and that sidewalks and pedestrian crossings will be severely overcrowded. Mitigation for these impacts should include the creation of a passenger shuttle connecting Penn Station to the Western Rail Yard by utilizing or converting LIRR tracks along West 33rd Street. We need speedy and reliable mass transit between Penn Station and the Port Authority Trans-Hudson service (PATH). The existing LIRR trains could go all the way to the development without new tracks. (CB 4, Gottfried, Berthet)

Response 24-6: When the yard was placed into service, the Federal Railroad Administration (FRA) and LIRR entered into an agreement that prohibited the use of the yard for trains carrying passengers, except under disrupted conditions, due to the yard's configuration and infrastructure. Therefore, operation of an LIRR shuttle on existing yard tracks would not be feasible due to the negative impact it would have on existing peak period LIRR commuter train operations. Further, FRA regulations, by which train operations on LIRR property are governed, require brake tests, speed control tests and a walking inspection of the vehicle to be performed whenever trains change direction at a terminal,

to ensure passenger and operator safety. In addition, there is no excess rail capacity in the LIRR rail yard or platform capacity in Penn Station.

Comment 24-7: Additional buses to the M11 and M34 routes should be included as mitigation for the transportation impacts. (CB 4, Gottfried)

Response 24-7: The additional bus service needed to meet the projected demand in the Future with the Proposed Actions condition was identified on page 24-6 of Chapter 24, "Mitigation." Additional buses on the M11 and M34 routes were included in the analysis of traffic conditions with proposed mitigation measures (e.g., signal timing adjustments, parking restrictions, etc.)

Although an estimate for additional buses on the M11 and M34 was identified in the EIS, NYCT's general policy is to provide additional bus service where demand warrants, taking into account financial and operational constraints. Based on NYCT's ongoing passenger monitoring program and as development is implemented throughout the study area, a comprehensive service plan would be generated to respond to specific, known needs with capital and/or operational improvements where fiscally feasible and operationally practicable. NYCT's capital program is developed on a five-year cycle; through this program, expansion of bus services would be provided as the need is determined, subject to operational and financial feasibility.

Comment 24-8: Creation of a Bus Rapid Transit lane on Eleventh Avenue (Eleventh Avenue BRT) to provide a connection between the Western Rail Yard and the Clinton residential community and the Upper West Side will be needed to help alleviate traffic. In addition, a mass transit connector among the Western Rail Yard, the Javits Convention Center and the Unconvention Center at Pier 92 at West 54th Street should be included as mitigation for the transportation impacts. (CB 4, Gottfried, NYPIRG, Berthet)

Response 24-8: With the exception of the M42 and M34 bus routes, which operate for short distances along Eleventh Avenue near the termini of their routes, no bus routes currently operate on Eleventh Avenue. Projected bus ridership associated with the Proposed Actions could be accommodated by existing bus routes with the recommended mitigation measures. The EIS analyses do not indicate the need for new service on Eleventh Avenue to accommodate ridership gains due to the Proposed Actions.

Comment 24-9: Implementation of a taxi share program from the Penn Station transportation node to the Western Rail Yard should be included as mitigation for the transportation impacts. There should be prominent

signage indicating that a taxi share program is available to the public. (CB 4, Gottfried)

Response 24-9: Implementation of a new Penn Station taxi share program would be at the discretion of the City and/or Taxi and Limousine Commission. It is not required to mitigate impacts associated with the Proposed Actions.

Comment 24-10: Posting prominent signage indicating that the underground bicycle parking is available to the public should be included as mitigation for the transportation impacts. (CB 4, Gottfried)

Response 24-10: Bicycle parking and associated signage will be provided as part of the Proposed Actions in accordance with the requirements of the New York City Zoning Resolution.

Comment 24-11: Along the perimeter of the Western Rail Yard site, the installation of infrastructure under sidewalks that prevents the planting of street trees should be avoided. Where appropriate, facilities, such as Con Edison vaults, should be located beneath the parking lanes of roadbeds. (Stringer) Con Edison grids should be located in the parking lanes to allow for maximum space on the sidewalk for trees and a clear pedestrian path to address street design, vehicle flow, and pedestrian safety and as mitigation or the transportation impacts. (Stringer, CB 4)

Response 24-11: The project co-sponsors will work with Con Edison to minimize the number of facilities located under sidewalks consistent with engineering design standards and requirements.

Comment 24-12: Sidewalks on West 33rd Street from Penn Station to the Western Rail Yard should be widened by converting the parking lanes to sidewalk to address street design, vehicle flow, and pedestrian safety to accommodate the expected number of pedestrians and as mitigation for the transportation impacts. (CB 4, Gottfried) Sidewalks on West 33rd Street between Eleventh and Twelfth Avenues (and ideally from Penn Station to the river) should be widened to create a significant pedestrian corridor connecting Hudson River Park, the High Line, and the Western Rail Yard to Penn Station and the Midtown central business district. (Stringer) Pedestrian safety is of upmost concern requiring wider sidewalks and more time to cross. This is important since a school will be located at the south-eastern portion of the site. (Berthet)

Response 24-12: Sidewalk widening on West 33rd Street between Tenth and Twelfth Avenues are not required to mitigate impacts associated with the Proposed Actions.

Closer to Penn Station, the Western Rail Yard project is expected to have only limited sidewalk impacts, specifically on the south side of West 33rd Street between Ninth and Tenth Avenues and on both sides of West 33rd Street between Eighth and Ninth Avenues. It is important to note that any street-related mitigation must strike a balance between pedestrian and traffic use. Therefore, between Ninth and Tenth Avenues, a sidewalk widening is not feasible since all three lanes on westbound 33rd Street at Tenth Avenue are used as travel lanes as part of the proposed traffic mitigation and consequently could not be dedicated to use as pedestrian space. Sidewalks cannot easily be widened to the south since that would require removal of existing buildings. The sidewalk impacts on West 33rd Street between Eighth and Ninth Avenues are located at or adjacent to the site for the proposed Moynihan Project, which is expected to have two travel lanes and a taxi drop off lane along the midblock entrance to the station, thereby eliminating curbside widening of the sidewalk.

The pedestrian safety comment relating to schools is discussed in the response to Comment 24-15 below.

Comment 24-13: We applaud the tentative plans for a subterranean service area to provide a loading/unloading area and garbage hauling from the complex. It will reduce street traffic and definitely should be included in the built project. (CB 4).

Response 24-13: Comment noted.

Comment 24-14: Eleventh Avenue sidewalks should be widened as mitigation to accommodate the expected number of pedestrians. (CB 4, Gottfried)

Response 24-14: Implementation of additional sidewalk widenings beyond those proposed in the EIS are not required to mitigate impacts associated with the Proposed Actions.

Comment 24-15: Traffic calming measures should be incorporated as mitigation to accommodate the vastly increased numbers of pedestrians in the Western Rail Yard area and especially the school zone, including the following:

- signalized turn lanes
- speed humps on long blocks
- slower speed limits around the school zone to prevent pedestrian – bicycle and automobiles conflicts
- bulb-outs (CB 4)

These traffic-calming measures and transit-oriented improvements have merit and are not difficult to incorporate. (Duane) Pedestrian safety is of upmost concern requiring traffic-calming measures. This is important since a school will be located at the south-eastern portion of the site. (Berthet)

Response 24-15: Implementation of additional traffic calming measures beyond those identified in the EIS is not required to mitigate pedestrian impacts of the Proposed Actions, but they could be considered as part of a long-term pedestrian monitoring and management program. Bulb outs, where feasible, are proposed as mitigation for pedestrian impact locations.

The school that would be included on the Development Site has not been fully programmed or designed. Once the school program has been finalized (i.e., school size, grade levels, exact entrance points, and access design), the Developer, in coordination with the SCA, would conduct a pedestrian safety analysis consistent with the ongoing NYCDOT Safe Routes to School program to determine if additional localized traffic calming measures would be appropriate.

Comment 24-16: Change signal timing on all avenues and streets adjacent to the project area as mitigation in response to anticipated overcrowding of Eleventh Avenue crossings. (CB 4)

Response 24-16: To the extent practicable, changes in signal timing and increasing pedestrian space have been considered in identifying feasible measures to mitigate significant adverse impacts. Implementation of additional traffic signal timing changes, beyond those identified in the EIS, are not required to mitigate impacts of the Proposed Actions and would be considered as part of a wider-area long-term traffic monitoring and management program.

Comment 24-17: Design the West 31st and West 32nd street extensions to allocate more space to sidewalks and less to vehicular traffic as mitigation. (CB 4, NYPIRG)

Response 24-17: Streets and sidewalks internal to the Proposed Actions would be designed to accommodate emergency vehicles, and projected pedestrian and traffic demands. Increased sidewalk and reduced roadway space along these extensions do not address any significant adverse impacts identified.

Comment 24-18: The West 30th Street northern sidewalk should be widened as mitigation to accommodate arrival and departure of school children. (CB 4, Gottfried)

Response 24-18: Implementation of additional sidewalk widenings beyond those identified in the EIS is not required to mitigate impacts associated with the Proposed Actions. The zoning text requires the creation of a pedestrian access area or transition space between the sidewalk and the High Line along the entire length of West 30th Street.

SPECIFIC RECOMMENDATIONS

DEVELOPMENT SITE

Comment SR-1: The extensions of the street grid should be aptly named to reflect the continuation of the streets. (CB 4, Gottfried) The Northern Street should be called West 32nd Street and the Southern Street should be called West 31st Street. (CB 4, Duane) The Manhattan convention of numbered street names and address ranges (e.g., West 31st Street follows West 30th Street) and house numbers on streets between Eleventh and Twelfth Avenues ranging from 600 to 699 should be used. (Stringer)

Response SR-1: The streets can not legally have the names West 31st Street or West 32nd Street as they will not be City-owned. The Developer, DCP, and Manhattan Borough President will work together to establish appropriate street names. The Developer and Manhattan Borough President will work together to establish appropriate addresses.

Comment SR-2: The extensions of West 31st and West 32nd Streets, to emphasize their connection to the street grid, should be permanently protected via easements granted to the City. (CB 4)

Response SR-2: The Restrictive Declaration will require public access easements for the streets.

Comment SR-3: Zoning text should be included to prohibit enclosed sidewalk cafes and prevent sidewalk cafes from being located directly beneath residential windows. (CB 4)

Response SR-3: The zoning text prohibits enclosed sidewalks. The zoning text does not prohibit open outdoor sidewalk cafes, as they are allowed in other commercial districts. The Developer would be responsible for the decision of café placement.

Comment SR-4: Street wall setbacks should be required on Site 1 all the way to Twelfth Avenue and be at the same height and depth as the ones facing the northern street or open space. (Proposed zoning text section 93-563(a).) (CB 4)

Response SR-4: Setting the tower back from West 33rd Street would push the tower into the Western Open Space, thereby limiting the size of this important public space. Also, the zoning text currently requires the tower to be 40 feet east of Twelfth Avenue as the High Line and the 5 foot separation are between Site 1 and Twelfth Avenue. This setback minimizes the effect of the tower's bulk along the street.

Comment SR-5: Recognizing the need for ventilation for the LIRR Caemmerer Yard, ventilation louvers must be fully integrated into the open space design, the buildings design and the overall site design. (CB 4)

Response SR-5: Any ventilation infrastructure required to be located in the open spaces will be the subject of future public review as part of the Site and Landscape Plan review required in Section 93-78 and subject to LIRR requirements.

Comment SR-6: The Winter Garden and Glass Street Wall required on Site 3 must be clearly explained in the zoning text. (Proposed zoning text section 93-565(a).) (CB 4)

Response SR-6: The CPC is considering modifications to the zoning text that will clarify the requirements.

Comment SR-7: At a May 2009 presentation to the community, Related stated that 8,000 sf of not-for-profit cultural use has been planned for the site but no details on the use or siting have been provided and none are listed in their site plan. Given the overall size of the Proposed Actions, 8,000 sf is inadequate.

- At a minimum, 16,000 sf should be dedicated to small to mid-sized not-for-profit cultural uses and include, theater, musical, dance, and visual performance/ rehearsal space. (CB 4, Gottfried)
- The performance/rehearsal spaces should be integrated throughout the Western Rail Yard in publicly accessible areas.
- Dedication and operation of the arts spaces must be part of the Restrictive Declaration as follows:
- Four (4) 2,500-sf performance/rehearsal spaces; and
- Six (6) 1,500-sf performance/rehearsal spaces.
- Preference should be given to organizations currently located in CB4 with a documented history and commitment to an artistic vision.

- The planning, siting and management of the dedicated Arts spaces must be made with the ongoing participation of CB4. (CB 4)

Including a significant amount of cultural space on the Western Rail Yard site would help integrate the development with the community, address the need for affordable space for arts organizations, and reinforce the High Line's physical association with the West Chelsea arts district. At least one percent of the overall size of the Western Rail Yard project (approximately 5,700 sf) should be set aside for use by community and cultural organizations. (Stringer)

Smaller, mid-size, not-for-profit cultural institutions are currently priced out of our community. A development like this is only going to worsen and hasten the departure of those organizations. We are happy that the Developer is willing to put in more than 8,000 sf of space for cultural institutions. (Desmond)

Response SR-7: The Restrictive Declaration will include provisions governing the provision of 8,000 sf of arts and culture space, for occupancy by arts organizations based on the recommendations of the Community Board. The Developer has indicated that it will consider the provision of additional community space.

Comment SR-8: The entrance to the school must be sited on West 30th Street. (CB 4, Stringer) West 31st Street is not a public street. Children should enter at grade with an entrance through a bay of the High Line. (CB 4)

Response SR-8: The exact location of school entrances has not been determined at this time. Design of the public school, including its entrances, will be undertaken by the SCA.

Comment SR-9: In regards to public school mitigation, the City and SCA must commit to undergo a full ULURP for site selection in construction, programming and selection of a developer. The process must be more transparent than is currently required of the SCA as a public authority and must include a formal advisory board that is representative of SCA, DOE, local elected officials, CB4 members, PTA members and administrators from local schools to monitor school construction, programming and developer selection. (CB 4)

Response SR-9: The SCA site selection process will be utilized. The Developer will construct the core and shell of the school and, if agreed to by the parties, also perform the fit-out work for the school.

Comment SR-10: A playground must be included in the school design and incorporate community feedback. (CB 4) The elementary and intermediate school should have an ample playground and gymnasium. (Gottfried)

Response SR-10: Programming for the school will be conducted by DOE and/or SCA. The playground will be the subject of future public review as part of the Landscape Plan review required in Section 93-78.

Comment SR-11: Financing for the construction of the school must be codified in a Points of Agreement memorandum or a separate Memorandum of Understanding (MOU) executed by the Mayor and the Council during the final approval of the Proposed Actions, that would be executed simultaneously with the ULURPs. (CB 4, Desmond)

Response SR-11: Comment noted.

Comment SR-12: The City must also include the proposed school as part of the DOE's and SCA's Capital Plan when it is updated in February 2010. (Stringer)

Response SR-12: Comment noted.

Comment SR-13: To give identity and sense of place for the planned open spaces, CB4 recommends the following nomenclature:

- Hudson Lawn & Overlook Park—the Western Open Space
- Hudson Hill Park—the Central Open Space
- Hudson Woods—the Southwest Open Space
- Hudson Yards Square—the Eastern Rail Yard main plaza. (CB 4)

Response SR-13: The open space names will be the subject of future public review as part of the Landscape Plan review required in Section 93-78. The Eastern Rail Yard main plaza is not the subject of the Proposed Actions.

Comment SR-14: A connection should be provided to Hudson River Park by a pedestrian bridge. (CB 4) A bridge at either West 32nd Street or West 33rd Street should be built to create an accessible and pleasant second gateway to the Hudson River Park. (Gottfried) The design of the bridge should be dimensionally inspired by the adjacent High Line. The bridge should function as an extension of the Hudson River Park and Hudson Lawn & Overlook Park rather than a passageway between the two. The location of the bridge should be informed by the following goals: minimize intrusion on the Hudson River Park and minimize disruption of the High Line; provide a flow of access between Hudson River Park, the High Line and Hudson Lawn & Overlook Park. (CB 4)

Response SR-14: Street level pedestrian access to Hudson River Park would be provided at grade at the West 30th Street and West 34th Street intersections at Route 9A/Twelfth Avenue. The Proposed Actions do not include a pedestrian bridge. However, the proposed design would not preclude one in the future. Any bridge proposed in the future would be the subject of its own review and approval process.

Comment SR-15: Park amenities such as public restrooms, and maintenance facilities should not subtract from the limited footprint of available open space and should be incorporated into the buildings that surround the open space. Amenities must be designed to a high quality and be well maintained. It is critical that public restrooms be provided by the Developer at multiple locations within the site. (CB 4, Gerontianos) At least one of these bathrooms should be directly accessible from the High Line. The number of fixtures provided should be calibrated with the number of projected users of the open space. (CB 4)

CB4 and community stakeholders must have ongoing input into the design of all of the open spaces. (CB 4) Planning of the open space is critical. We must sit down now and plan how the open space is going to work and be used. Planning for the open space should involve community residents, Parks Department designers, the Parks Foundation, building owners, and City planners. (Noland)

Response SR-15: The location of amenities such as restrooms and other facilities has not yet been determined. Under Section 93-78 of the zoning text, entitled "Site and Landscape Plans for Public Access Areas," the Community Board, Borough President, and City Council Member would review the Site and Landscape Plans governing open spaces, including the location of such amenities.

Comment SR-16: A maintenance and operations facility must be provided on the site in order to support the ongoing maintenance of the open spaces, including a dedicated facility for maintenance operations for the High Line. There is currently no provision for this, and the High Line will suffer permanently without it. (CB 4, FOHL) The High Line facility should be located in Site 5 or Site 6 due to their central location. This facility should be of sufficient size to support the High Line not only on the Western Rail Yard but for the adjacent areas of the High Line as well, since there are currently no provisions for M+O facilities on those sites. (CB 4) The maintenance facility for the High Line could go in any of the adjacent buildings on the site. (Mullan)

Response SR-16: The design for the High Line north of West 30th Street will require a collaborative process between all involved stakeholders. While the need

for access points is clear and there is a potential need for a dedicated maintenance facility, it is premature to fix the number, size and location of these features of the High Line design. The CPC is considering modifications to the zoning text that would ensure that access points and potential maintenance needs are addressed in the future design of the High Line.

Comment SR-17: Because this open space will exist legally as a private plaza but is meant to function as a public park, collaboration with the community is imperative and must be defined and managed properly. (Gottfried) The Restrictive Declaration should include a governance agreement between the Developer, the City, local elected officials, and community members to ensure that the privately-owned, publicly accessible Western Rail Yard open spaces are designed, used, programmed, maintained and operated appropriately as permanent public amenities. (CB 4, Stringer) We need a more detailed funding plan. (Noland) An Open Space Program Management Organization should be set up to establish rules and regulations for use, manage programming, and monitor the owner's compliance with maintenance requirements. (Gerontianos)

The Solow Agreement for that East Side site is not adequate as a model for such an agreement at the Western Rail Yard. Most questionably, the Solow Agreement suggests an open space management entity be run by a board of directors of 12—half from the "declarants," two from the Borough President, two from City Council, and two from the Community Board. A majority vote carries. For this management organization, the governing body should include community people and the Parks Department. And, they should have voting rights. (Noland)

Response SR-17: The Restrictive Declaration will include maintenance standards and provisions to assure that maintenance obligations are adhered to in the event of multiple ownership of building sites. The Restrictive Declaration will also include provisions for the establishment of a management structure to address event programming.

Comment SR-18: As it has been developed south of 30th Street, the High Line has a unique design vocabulary that must be continued on this site. (CB 4, Stringer, FOHL)

CB4 supports the proposed five-foot separation from adjacent buildings throughout the site. This separation is important in order to insure that the physical and historic integrity of the High Line is retained and clearly visible. (CB 4)

It is important that the High Line structure be distinct on the site. The boundary/edge of the High Line should be recognized and articulated in some manner. Critically, in locations where the typical High Line decorative railing exists in this area, it should be preserved in its entirety. (CB 4)

Response SR-18: The zoning requires the improvement of the High Line as a public open space as part of development of the Western Rail Yard. CPC is considering modifications to the zoning text that would recognize that design of the High Line should reflect and be consistent with the design approach utilized for the High Line south of West 30th Street

Comment SR-19: The City should ensure that the proposed zoning text with respect to the High Line is consistent with the language of the Special West Chelsea District. (Stringer)

Response SR-19: Comment noted. The CPC is considering modifications to the proposed zoning text that would encourage a design for the High Line Open Space that is consistent with that of the High Line below West 30th Street.

Comment SR-20: The High Line should continue to be a venture that is maintained by the City and Friends of the High Line, not private building owners. (Gottfried) The proposed ownership and development structure for the High Line should be part of the Restrictive Declaration between the City and the Developer identified in the DEIS. (CB 4)

Response SR-20: At the October 5 CPC Review Session it was announced by CPC that the DCP will prepare and move forward with a ULURP application for the site selection and acquisition of the High Line north of West 30th Street. The allocation of maintenance responsibilities for the High Line under City ownership would be the subject of future agreements. The design and construction of the portion of the High Line around the Western Rail Yard will also be the subject of future agreements involving affected stakeholders. The design will further be the subject of a future public review process under Section 93-78 of the proposed zoning text.

Comment SR-21: The proposed actions should anticipate the continuation of the High Line to the north, on the 33/34 block, all the way to the point where the High Line meets grade at 34th Street, midway between Eleventh and Twelfth Avenues. Zoning language should be modified to refer to the 34th Street block as the terminus of the High Line. (CB 4)

Response SR-21: The CPC is considering modifications to the zoning text that will reflect the existing extent of the High Line.

Comment SR-22: The High Line should be developed by the City of New York on a separate track from the rest of the open spaces on the site. The High Line should be provided with a design process that is separate from the design of the other open spaces on the site, and this separate design process should be clearly articulated in the zoning. (CB 4)

Response SR-22: CPC is considering modifications to the zoning text that will recognize that the High Line design is subject to design standards separate from those governing other open spaces. It is anticipated that the High Line design will be developed through a collaborative process involving multiple stakeholders, and will then be subject to review in accordance with the Site and Landscape Plan provisions of Section 93-79 of the zoning text.

Comment SR-23: In locations where street access points may be required, connections should be treated as discrete bridges, rather than a merging of the High Line with the adjacent building. (CB 4)

Access points to the High Line need to be more precisely defined and required in the zoning text. Access points are required at least once every three standard City blocks, or approximately every 800'. The current zoning text does not make provision for access points with this frequency.

Access points, or access easement volumes should be provided in the following locations:

- 30th Street and Twelfth Avenue: the current zoning text requires access directly from Hudson Woods/the Southwestern Open Space to the High Line, but does not specify an exact location. This location deserves a substantial access point similar to those provided at Gansevoort Street and 14th Street. The access should be oriented to the 30th Street portion of the High Line and located near the point where the High Line begins to curve to the north.
- 33rd Street and Twelfth Avenue: until the 33/34 Block is developed, this may be the northern terminus of the High Line and requires an access/egress point. The location of this access point must be studied in relationship to the likely pedestrian traffic and the site conditions at the street level at this intersection, including the entrance to the MTA service yard under the High Line.

- 30th Street and Eleventh Avenue: an access point or access easement volume, for both stair and elevator, should be provided on 30th Street within 100' of the intersection of Eleventh Avenue.

All access points should be designed to be clearly visible as public entrances to the High Line and should use a design vocabulary that is consistent with the design of the sections of the High Line south of 30th Street. (CB 4)

This project should include one or more elevated connections from the Western Rail Yard central open space to the High Line and on to Hudson River Park. (AIA)

The access point to the High Line at 30th Street and Twelfth Avenue—which will be a major point of connection to the High Line from Hudson River Park—needs to be more specifically located and better defined. Also, additional access points—at 30th Street and Eleventh Avenue and 33rd Street and Twelfth Avenue—need to be required. This is important both for design and public safety purposes. If these additional access points are not required in the zoning text, it will be difficult to create them in the future. (FOHL) The City and the Developer should work together to provide for an access point for the High Line at West 33rd Street and Eleventh Avenue. (Stringer) There needs to be an access point to the High Line at Twelfth Avenue and 30th Street. (Mullan)

Response SR-23: Comment noted. The number and locations of access points will be considered as part of the future design of the High Line.

Comment SR-24: Although security gates are prohibited in the zoning text for open spaces within the Western Rail Yard site, the High Line, as a City park, must be exempt from that requirement. The level of security must be the same as the southern portion, so the High Line can continue to be a secure environment along its entire length. (CB 4)

Response SR-24: The CPC is considering modifications to the zoning text that would allow additional gates and fences, subject to further review.

Comment SR-25: Both parking garages should include sufficient bicycle parking to accommodate both residential and commercial demand, including people working in building maintenance and in the ground floor commercial operations. (CB 4, Gottfried, NYPIRG, Gerontianos)

Response SR-25: Bicycle parking and associated signage will be provided as part of the Proposed Actions in accordance with the requirements of the Zoning Resolution.

Comment SR-26: Both parking garages should be built with the necessary infrastructure to accommodate currently envisioned electrical vehicles, and with sufficient flexibility to enable the reasonable installation of entirely new, unanticipated infrastructure. (CB 4, Gerontianos)

Response SR-26: The Restrictive Declaration will require the Developer to include electric vehicle battery charging station(s) in the development, unless determined to be unnecessary to meet market demand, cost-prohibitive, or technologically infeasible.

Comment SR-27: The Developer and New York City should work with the community to create new affordable housing in the surrounding neighborhoods to preserve and maintain existing affordable housing in the area. (Nadler) Additional publicly owned off-site affordable housing sites in CB4 should be identified for either construction or preservation of permanently affordable housing to achieve an overall goal of 30 percent affordability in the Western Rail Yard development. Commit the use of existing publicly owned land to develop and construct affordable housing. In particular, the following underused publicly-owned locations in the community below should be considered: 136 West 20th Street (DSNY) and 415 West 40th Street (PANY/NJ). (Gottfried, Stringer, CB 4, Restuccia)

Response SR-27: In the July 2007 MOU, the City agreed to provide $40 million to subsidize over 300 permanently affordable housing units on the last two available City-owned sites in CB4 (the Additional Housing Sites) were identified as appropriate for residential development. The two additional recommended sites are both being used for important operational needs of public agencies and therefore not available for other uses.

Comment SR-28: Existing affordable housing within CB4 should be preserved subject to subsidy expiration. Specifically, those properties currently owned by other affiliates of The Related Companies: 425 West 48th Street and 525 West 47th Street should be preserved. (CB 4, Restuccia, Gottfried) The City and HYDC, with support from the Developer as appropriate, should work to stabilize the existing affordable housing stock in the area, particularly vulnerable households, such as those with low incomes living in apartments with expiring rent protections or those that require supportive services. (Stringer)

Response SR-28: Comment noted. Such preservation would require coordination with the Federal government to extend the Section 8 program.

Comment SR-29: The 2005 commitments to apply the Demolition Restrictions of the Special Clinton District in both the Hudson Yards Special District and

West Chelsea Special District to preserve existing housing should be implemented. (CB 4, Stringer)

Response SR-29: The policy and planning issues associated with any extension of Demolition Restrictions to the Hudson Yards Special District and the West Chelsea Special District are unrelated to the Proposed Actions.

Comment SR-30: The only affordable units being planned for the Western Rail Yard site are for low income housing. These affordable housing units would be under the terms of the 80/20 program; therefore, tenants will ultimately be forced to move once those units revert to market rate rents. (Black)

At the expiration of affordability restrictions for the on-site affordable units built on the Western Rail Yard under the 80/20 financing program and upon the vacancy of the tenant and legal successor(s), make those units permanently affordable to tenants with a range of moderate and middle incomes as follows:

- 20 percent of the affordable units shall be available to people with incomes up to 80 percent of the AMI;
- 50 percent of the affordable units shall be available to people with incomes up to 125 percent of AMI; and
- 30 percent of affordable units shall be available to people with incomes up to 165 percent of AMI.

Accomplish this conversion over time through deed restriction and regulatory agreement to supplement the bond covenants, similar to the extended use restrictions on Low Income Housing Tax Credit developments. Long term, as these units become vacant, they should be converted to moderate and middle-income housing. Start them as low income housing. Over the long term, keep them as moderate/middle income housing. This would prevent these units from going to market rate at the end of the bonds on this public site. (CB 4, Restuccia) The Developer and the State Housing Finance agency should consider this conversion solution. (Duane)

Response SR-30: The zoning text provides a floor area incentive for making any on-site affordable units permanent. Any restrictions pertaining to the income mix in future permanent affordable housing on-site would be within the jurisdiction of the funding agency.

Comment SR-31: Eighty percent of the floors of any mixed income building should have at least one affordable unit and there should be no more than 33 percent affordable units on any floor. (CB 4)

Response SR-31: The mixed income developments would be expected to comply with the regulations of the funding agency.

Comment SR-32: Affordable housing must become available to the real estate market at a similar rate to the market rate housing. The Restrictive Declaration should model such language from the existing Restrictive Declaration used in the Riverside South development in the West 60s. (CB 4) The distribution of affordable housing must be built throughout the development. As the development is built, affordable housing is built. (Restuccia)

Response SR-32: The Developer would determine the sequencing of ownership and rental housing. Provision of affordable rental housing will depend upon the availability of Bond Cap at the time at which the application is made.

Comment SR-33: Developments of affordable housing on- or off-site units should require of at least 50 percent two-bedroom or greater units. (CB 4) The size of units is also of great concern to our communities which have been overdeveloped with studio and one bedroom units, whereas family sized units of two and three bedrooms are what is needed. (WSNA)

Response SR-33: Comment noted. The City will work with the Developers of the Western Rail Yard and Additional Housing Sites to provide an appropriate amount of family-oriented units.

Comment SR-34: The administering agent (for affordable housing mitigation) should be an independent non-profit organization. (CB 4)

Response SR-34: Comment noted.

Comment SR-35: CB4 would like to be a participant in drafting a Restrictive Declaration, or would welcome the opportunity to comment on a Draft Restrictive Declaration prior to approval of a final version. (Gerontianos)

Response SR-35: The Restrictive Declaration is an administrative tool used to incorporate environmental conditions and mitigation obligations, as well as other conditions to the approval adopted by the Commission, including conditions adopted in response to Community Board comments during the ULURP process.

Comment SR-36: CB4 has long been known as a center for the arts, particularly in its support of smaller not-for-profit cultural organizations that gravitate to the Broadway area. However, these organizations are being priced out of the area. Integration of smaller cultural organizations in the Western

Rail Yard optimizes planning for the site and presents a perfect opportunity to mitigate the displacement of these organizations. (CB 4)

Response SR-36: The Developer will work with CB4 to provide not-for-profit cultural space and programming. The Restrictive Declaration will include provisions to implement the Developer's commitments.

Comment SR-37: The site planned for a cultural facility on the Eastern Rail Yard should include a PS/IS as a component. A school on the Eastern Rail Yard is a bigger priority for CB4 than an undetermined cultural facility. The school planned for the Western Rail Yard will not be adequate to meet the existing and forecast demand for additional school seats. The space designated for community facility use on the Eastern Rail Yard should include an additional school for use by the Eastern Rail Yard and Western Rail Yard communities. (CB 4) The undetermined cultural facility on the Eastern Rail Yard site should be planned as a school to accommodate the growth that is occurring in the neighborhood. (Desmond)

Response SR-37: As discussed on page 5-17 of the EIS, the schools analysis concluded that the project-generated elementary students would exceed the capacity of the proposed PS/IS school on the Development Site, but the additional students would increase the elementary school utilization rate within the study area by less than 5 percent, thus would not result in a significant adverse impact. In addition, the EIS concluded that the intermediate school seats in the PS/IS school on the Development Site would provide sufficient space for project-generated intermediate school students. The need for additional school space in the Hudson Yards area will be monitored by DOE/SCA in relation to actual development in the area. Current enrollment trends in the area are discussed in Appendix B2 to the EIS.

Comment SR-38: CB4 should be consulted during any modification of height and setback regulations that will accommodate ventilation requirements. (Gerontianos)

Response SR-38: The CPC is currently considering a modification to limit the bulk modification provision's applicability to refer only to the active ground floor use requirements, instead of the full range of bulk modifications. Therefore, Community Board consultation would not be necessary. To the extent that it becomes necessary to include any ventilation infrastructure in open space, the Community Board would review such a proposal as part of the Site and Landscape Plan review process.

Comment SR-39: The review period for the site plan for CB4, Council Members, and the Manhattan Borough President should be increased from 45 days to 60 days. (Gerontianos)

Response SR-39: The CPC is considering a modification to the zoning text that would increase the review period for Site and Landscape Plans under Section 93-78 from 45 to 60 days.

Comment SR-40: The City and HYDC should work to prohibit the transfer of any unused development rights off of the Western Rail Yard site. (Stringer)

Response SR-40: The zoning does not allow the transfer of any unused air rights off of the Western Rail Yard site.

ADDITIONAL HOUSING SITES

Comment SR-41: The units at both Additional Housing Sites should be for low-moderate-, and middle incomes and at least 50 percent of the units should be family sized (i.e., two bedrooms or larger). (CB 4, Gottfried, Stringer). A Restrictive Declaration should restrict development on the site for affordable housing for: 20 percent of units for 80 percent AMI; 40 percent of units for 125 percent AMI; and 40 percent of units for 165 percent AMI. (CB 4)

Response SR-41: The current proposal for the Additional Housing Sites, formulated by HPD in consultation with DCP, HYDC, CB4, and representatives of the Manhattan Borough President and City Council, includes a mix of low-, moderate- and middle-income units. All of these parties also understand the CB4 preference for family sized units. The precise mix and programming for these sites will be determined in consultation with the future developer(s) selected through the required HPD RFP process.

Comment SR-42: The City's prior commitment to use public funds to develop both sites for affordable housing must be codified in a Follow-Up Corrective Actions ("FUCA") memorandum of understanding that is executed simultaneously with the rezoning action for the Western Rail Yard. (CB 4)

Response SR-42: Comment noted.

Comment SR-43: A Restrictive Declaration must be filed stating that both sites cannot generate an inclusionary housing bonus or be used to satisfy the Special Clinton District Harassment Cure requirements pursuant to ZR Section 96-110. (CB 4) The development of affordable housing at the Ninth and Tenth Avenue Sites was specifically intended to alleviate socio-

economic pressures resulting from the Western Rail Yard development project. The proposed affordable housing development was not intended to replace affordable housing that would otherwise be created or preserved through other Inclusionary Housing Program incentives or regulations. Consequently, the site should not be allowed to generate inclusionary housing certificates or satisfy harassment cure provisions. (Stringer)

Response SR-43: Any determination whether the sites will generate inclusionary housing certificates would be made by HPD at a later date. The sites cannot be used to satisfy Special Clinton District Harassment Cure requirements. The use of a Restrictive Declaration is not the appropriate vehicle for making such determinations.

Comment SR-44: It is important that for both sites, the RFP, the selected developer, and the low-income housing plan be approved by HPD only after significant community consultation to ensure that the project meets local development goals. (CB4, Stringer)

Response SR-44: HPD and the future developer will consult the community in determining the appropriate mix of units at the Additional Housing Sites.

Comment SR-45: In the history of the Special Clinton District, a Large Scale Development Plan has never been used. To permit one for the Ninth Avenue Site now would set a precedent for the entire Special District. The City and/or future developers should commit to not filing a Large Scale Residential Plan for the site and instead the rear yard and lot coverage regulations are best modified through subsequent text amendments. If a C1-5 map amendment is approved, then the commercial FAR should be limited to 1 FAR. (CB 4)

Response SR-45: Comment noted.

Comment SR-46: The Clinton Special District zoning laws have been continually chipped away throughout the Hell's Kitchen Area. There was a reason to preserve the Clinton Special District in 1974 and there still is one today. The zoning variances for the Ninth Avenue Site should not be granted. (CB 4, Gorman)

Response SR-46: A commercial overlay is necessary to allow the future use of the General Large Scale Plan to develop the Ninth Avenue Site (MTA site) given the constraints of the existing large-coverage facility on the lot. The CPC is currently considering a modification that would limit the

expansion of the commercial overlay to the area within 150 feet of Ninth Avenue, not the entire lot.

Comment SR-47: It is understandable that DEP requires some of the space that had been promised as parkland so that it can access the City's Third Water tunnel shaft located there; however, the reduction in future open space for the adjacent space that was to be designated for a park is distressing in light of the current dearth of such space in Clinton-Hell's Kitchen. (Duane) DEP has reneged on its 1993 commitment to surrender square footage for parkland, and is now insisting on taking back property for truck space for maintenance on the water tunnel. (Black) Over a decade ago, the DEP site on the west side of Tenth Avenue was committed to open space, with DEP only needing minimal space for access to the water tunnel shaft. Now, DEP has said the site will be the main west side access point for the water tunnel, requiring a full half-block. DEP must commit to hiring a landscape architect to ensure the facility and park assimilate into the neighborhood, with pleasing design and comfort stations for park patron. (Gottfried, CB 4)

A clear written timeline for acquisition and development of this open space must be included in the overall Western Rail Yard development plan and be codified in writing by DEP. (CB 4)

There must be a resolution and codified in writing by the DEP of the exact dimensions of the publicly-accessible open space in relation to the portion of the site needed by DEP for access to the water tunnel. (CB 4)

The Mayor's Office must identify a DEP or other agency controlled site for replacement open space to be located within a sub-area of CB4 (West 34th Street to West 57th Streets and West of 8th Avenue), equal to that open space lost due to DEP's expanded site usage for water tunnel maintenance. (CB 4)

Response SR-47: Comment noted. DEP has indicated that it will work with representatives of the City Council, Manhattan Borough President and CB4 to address these concerns.

Comment SR-48: There is need for a park, not another overgrown apartment building that is too tall and too dense that does not fit into the architecture of the surrounding neighborhood. (Gorman) We need those two offsite sites for playgrounds and parks. (HKNA)

The DEP should transfer as soon as possible any portion of the site not being utilized for water tunnel maintenance and begin the process to map it as a public park. The City should map the northern portion of the staging area as parkland once it is transferred to DPR, and an easement

should be obtained to maintain unobstructed light and air from the DEP water access tunnel site. (Stringer)

Response SR-48: DEP and DPR have previously agreed that the northern portion of the Tenth Avenue blockfront would be publicly owned accessible open space, without being mapped parkland, so as to accommodate future DEP maintenance and operation requirements. Under this agreement, jurisdictional control will be transferred from DEP to DPR upon completion of the Water Tunnel No. 3 Project construction in order to create the public open space.

Comment SR-49: There should be a permanent easement on the Tenth Avenue Site for unobstructed light and air from the DEP water access tunnel site to the east. Light and air, including operational windows along the eastern façade cannot be obstructed by the DEP water tunnel structures or subsequent security measures. (Stringer, CB 4)

Response SR-49: Comment noted.

Comment SR-50: DEP must release the portion of the site not being used by DEP (that portion over the rail cut and strip of terra firma to the west) by 2010 in order to allow affordable housing development to proceed prior to 2013. (CB 4)

Response SR-50: Comment noted.

Comment SR-51: Comfort stations for public use in conjunction with the DEP open space should be included in the affordable housing development on the Tenth Avenue Site. (CB 4) However, the comfort station should not be prioritized as greater than the need for affordable units or affect the viability of the project's financing.(Stringer)

Response SR-51: Comment noted. The programming of the DEP open space is not the subject of this EIS and will be done in the future by DPR. DPR will work with the community to determine the appropriate open space program. ✷