APPENDIX C
Waterfront Revitalization Program

For Internal Use Only:	WRP no.
Date Received:	DOS no.

NEW YORK CITY WATERFRONT REVITALIZATION PROGRAM
Consistency Assessment Form

Proposed action subject to CEQR, ULURP, or other Local, State or Federal Agency Discretionary Actions that are situated within New York City's designated Coastal Zone Boundary must be reviewed and assessed for their consistency with the *New York City Waterfront Revitalization Program (WRP)*. The WRP was adopted as a 197-a Plan by the Council of the City of New York on October 13, 1999, and approved in coordination with local, state and Federal laws and regulations, including the State's Coastal Management Program (Executive Law, Article 42) and the Federal Coastal Zone Management Act of 1972 (P.L. 92-583). As a result of these approvals, state and federal discretionary actions within the city's coastal zone must be consistent to the maximum extent practicable with the WRP policies and the city must be given the opportunity to comment on all state and federal projects within its coastal zone.

This form is intended to assist an applicant in certifying that the proposed activity is consistent with the WRP. It should be completed when the local, state, or federal application is prepared. The completed form and accompanying information will be used by the New York State Department of State, other State Agency or the New York City Department of City Planning in its review of the applicant's certification of consistency.

A. APPLICANT

1. Name:

The Refinery, LLC (CPC Resources, Inc.)
Susan Pollock

Address:

28 East 28th Street, 9th Floor

3. Telephone: **(212) 869-5300** Fax: **(212) 683-2193**

E-mail Address:

spollock@communityp.com

4. Project site owner:

The Refinery, LLC

B. PROPOSED ACTIVITY

1. Brief description of activity:

The proposed project would include up to 2,400 residential units (including 660 affordable units), up to 127,537 gross square feet (gsf) of retail/commercial space, up to 98,738 gsf of commercial office space and up to 146,451 gsf of community facility space. The proposed project requires a number of discretionary actions on the part of the New York City Planning Commission as well as permits from the New York State Department of Environmental Conservation and the United States Army Corps of Engineers (see FEIS Chapter 1, "Project Description").

2. Purpose of activity:

The proposed project would revitalize an underutilized waterfront site, creating market rate and affordable housing, retail, office, and community facility space, and public open space. The project also would adaptively reuse the landmarked complex of buildings known as the Refinery.

3. Location of activity: **Kent Avenue between Grand and S. 5th Streets** Borough: **Brooklyn**

Street Address or Site Description:

The project site comprises Block 2414, Lot 1, which is located along the East River waterfront between Grand and South 5th Streets and Block 2428, Lot 1, which is located on the east side of Kent Avenue between South 3rd and South 4th Streets. The project site is located within the coastal zone (see Figure C-1).

Proposed Activity Cont'd

4. If a federal or state permit or license was issued or is required for the proposed activity, identify the permit type(s), the authorizing agency and provide the application or permit number(s), if known:

   No permits have been issued at this time.

5. Is federal or state funding being used to finance the project? If so, please identify the funding source(s).

   The project may seek funding from the New York City Housing Development Corporation.

		Yes	No
6.	Will the proposed project result in any large physical change to a site within the coastal area that will require the preparation of an environmental impact statement?		
	If yes, identify Lead Agency:	X	
	New York City Department of City Planning		

7. Identify City discretionary actions, such as **zoning amendment or adoption of an urban renewal plan**, required for the proposed project.

   The following discretionary actions are being requested to facilitate the proposed project: zoning map amendment, zoning text amendments, special permits to establish a General Large Scale Plan and to exceed the maximum number of parking spaces permitted under zoning, authorization for modification of waterfront access requirements to achieve a superior open space plan, authorizations to modify requirements for visual corridors and waterfront access areas and for phased implementation of waterfront access requirements, City Planning Commission Chair certification for compliance with waterfront public access and visual corridor requirements, City Planning Commission Chair certification to subdivide a waterfront zoning, and a Coastal Zone Consistency determination.

C. COASTAL ASSESSMENT

The following questions represent, in a broad sense, the policy of the WRP. The number in the parentheses after each question indicated the policy or policies that are the focus of the question. A detailed explanation of the Waterfront Revitalization Program and its policies are contained in the publication the *New York City Waterfront Revitalization Program.*

Check either "Yes" or "No" for each of the following questions. Once the checklist is completed, assess how the proposed project affects the policy or standards indicated in "( )" after each question with a Yes response. Explain how the action is consistent with the goals of the policy or standard.

For Yes responses, see "Consistency with Local Waterfront Revitalization Program Policies" below.

Location Questions:		**Yes**	**No**
1.	Is the project site on the waterfront or at the water's edge?	X	
2.	Does the proposed project require a waterfront site?		X
3.	Would the action result in a physical alteration to a waterfront site, including land along the shoreline, land underwater, or coastal waters?	X	

Policy Questions:		**Yes**	**No**
	The following questions represent, in a broad sense, the policies of the WRP. Numbers in parentheses after each questions indicate the policy or policies addressed by the question. The new Waterfront Revitalization Program offers detailed explanations of the policies, including criteria for consistency determinations. Check either "Yes" or "No" for each of the following questions. For all "yes" responses, provide an attachment assessing the effects of the proposed activity on the relevant policies or standards. Explain how the action would be consistent with the goals of those policies and standards.		
	For Yes responses, see "Consistency with Local Waterfront Revitalization Program Policies" below.		
4.	Will the proposed project result in revitalization or redevelopment of a deteriorated or under- used waterfront site? (1)	X	

Policy Questions cont'd:		Yes	No
5.	Is the project site appropriate for residential or commercial redevelopment? (1.1)	X	
6.	Will the action result in a change in scale or character of a neighborhood? (1.2)	X	
7.	Will the proposed activity require provision of new public services or infrastructure in undeveloped or sparsely populated sections of the coastal area? (1.3)		X
8.	Is the action located in one of the designated Significant Maritime and Industrial Areas (SMIA): South Bronx, Newtown Creek, Brooklyn Navy Yard, Red Hook, Sunset Park, or Staten Island? (2)		X
9.	Are there any waterfront structures, such as piers, docks, bulkheads or wharves, located on the project sites? (2)	X	
10.	Would the action involve the siting or construction of a facility essential to the generation or transmission of energy, or a natural gas facility, or would it develop new energy resources? (2.1)		X
11.	Does the action involve the siting of a working waterfront use outside of a SMIA? (2.2)		X
12.	Does the proposed project involve infrastructure improvement, such as construction or repair of piers, docks, or bulkheads? (2.3, 3.2)	X	
13.	Would the action involve mining, dredging, or dredge disposal, or placement of dredged or fill materials in coastal waters? (2.3, 3.1, 4, 5.3, 6.3)	X	
14.	Would the action be located in a commercial or recreational boating center, such as City Island, Sheepshead Bay or Great Kills or an area devoted to water-dependent transportation? (3)		X
15.	Would the proposed project have an adverse effect upon the land or water uses within a commercial or recreation boating center or water-dependent transportation center? (3.1)		X
16.	Would the proposed project create any conflicts between commercial and recreational boating? (3.2)		X
17.	Does the proposed project involve any boating activity that would have an impact on the aquatic environment or surrounding land and water uses? (3.3)		X
18.	Is the action located in one of the designated Special Natural Waterfront Areas (SNWA): Long Island Sound-East River, Jamaica Bay, or Northwest Staten Island? (4 and 9.2)		X
19.	Is the project site in or adjacent to a Significant Coastal Fish and Wildlife Habitats? (4.1)		X
20.	Is the site located within or adjacent to a Recognized Ecological Complex: South Shore of Staten Island or Riverdale Natural Area District? (4.1and 9.2)		X
21.	Would the action involve any activity in or near a tidal or freshwater wetland? (4.2)	X	
22.	Does the project site contain a rare ecological community or would the proposed project affect a vulnerable plant, fish, or wildlife species? (4.3)	X	
23.	Would the action have any effects on commercial or recreational use of fish resources? (4.4)		X
24.	Would the proposed project in any way affect the water quality classification of nearby waters or be unable to be consistent with that classification? (5)		X
25.	Would the action result in any direct or indirect discharges, including toxins, hazardous substances, or other pollutants, effluent, or waste, into any waterbody? (5.1)		X
26.	Would the action result in the draining of stormwater runoff or sewer overflows into coastal waters? (5.1)	X	
27.	Will any activity associated with the project generate nonpoint source pollution? (5.2)		X

Policy Questions cont'd:		Yes	No
28.	Would the action cause violations of the National or State air quality standards? (5.2)		X
29.	Would the action result in significant amounts of acid rain precursors (nitrates and sulfates)? (5.2C)		X
30.	Will the project involve the excavation or placing of fill in or near navigable waters, marshes, estuaries, tidal marshes or other wetlands? (5.3)	X	
31.	Would the proposed action have any effects on surface or ground water supplies? (5.4)		X
32.	Would the action result in any activities within a Federally designated flood hazard area or State designated erosion hazards area? (6)	X	
33.	Would the action result in any construction activities that would lead to erosion? (6)		X
34.	Would the action involve construction or reconstruction of flood or erosion control structure? (6.1)		X
35.	Would the action involve any new or increased activity on or near any beach, dune, barrier island, or bluff? (6.1)		X
36.	Does the proposed project involve use of public funds for flood prevention or erosion control? (6.2)		X
37.	Would the proposed project affect a non-renewable source of sand? (6.3)		X
38.	Would the action result in shipping, handling, or storing of solid wastes; hazardous materials, or other pollutants? (7)		X
39.	Would the action affect any sites that have been used as landfills? (7.1)		X
40.	Would the action result in development of a site that may contain contamination or has a history of underground fuel tanks, oil spills, or other form or petroleum product use or storage? (7.2)	X	
41.	Will the proposed activity result in any transport, storage, treatment, or disposal of solid wastes or hazardous materials, or the siting of a solid or hazardous waste facility? (7.3)	X	
42.	Would the action result in a reduction of existing or required access to or along coastal waters, public access areas, or public parks or open spaces? (8)		X
43.	Will the proposed project affect or be located in, on, or adjacent to any federal, state, or city park or other land in public ownership protected for open space preservation? (8)	X	
44.	Would the action result in the provision of open space without the provision for its maintenance? (8.1)		X
45.	Would the action result in any development along the shoreline but NOT include new water enhanced or water dependent recreational space? (8.2)		X
46.	Will the proposed project impede visual access to coastal lands, waters and open space? (8.3)		X
47.	Does the proposed project involve publically owned or acquired land that could accommodate waterfront open space or recreation? (8.4)		X
48.	Does the project site involve lands or waters held in public trust by the state or city? (8.5)		X

Policy Questions cont'd:	Yes	No
49. Would the action affect natural or built resources that contribute to the scenic quality of a coastal area? (9)	X	
50. Does the site currently include elements that degrade the area's scenic quality or block views to the water? (9.1)	X	
51. Would the proposed action have a significant adverse impact on historic, archeological, or cultural resources? (10)	X	
52. Will the proposed activity affect or be located in, on, or adjacent to an historic resource listed on the National or State Register of Historic Places, or designated as a landmark by the City of New York? (10)	X	

D. CERTIFICATION

The applicant must certify that the proposed activity is consistent with New York City's Waterfront Revitalization Program, pursuant to the New York State Coastal Management Program. If this certification cannot be made, the proposed activity shall not be undertaken. If the certification can be made, complete this section.

"The proposed activity complies with New York State's Coastal Management Program as expressed in New York City's approved Local Waterfront Revitalization Program, pursuant to New York State's Coastal Management Program, and will be conducted in a manner consistent with such program."

Applicant/Agent Name: **The Refinery, LLC (CPC Resources, Inc.) / Susan Pollock**

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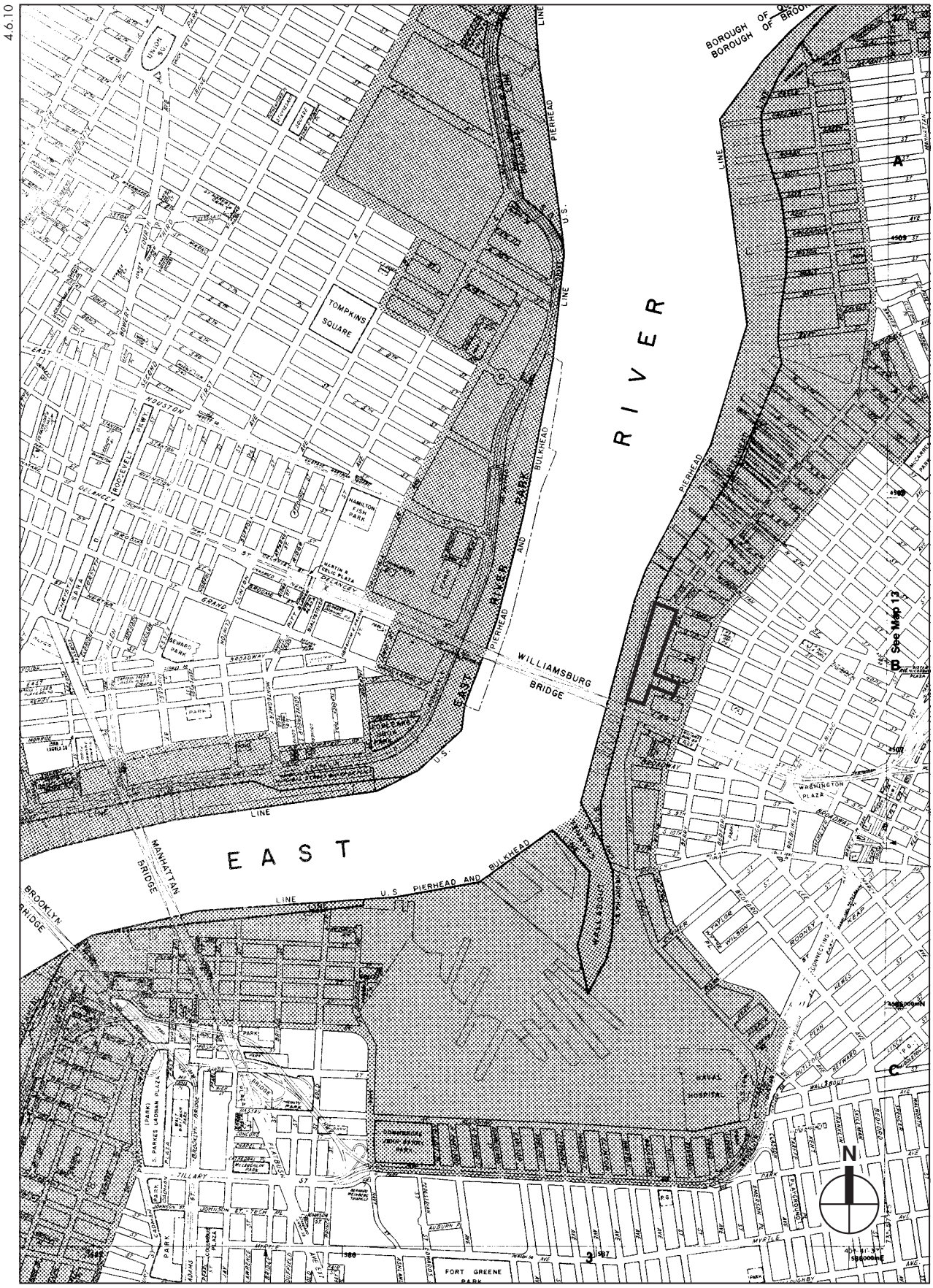
Applicant/Agent Signature: _____ Date: 5/26/10



DOMINO
SUGAR

Coastal Zone
Figure C-1

Consistency with Local Waterfront Revitalization Program Policies

The WRP consists of 10 policies, which are intended to maximize the benefits derived from economic development, environmental preservation, and public use of the waterfront, while minimizing the conflicts among these objectives. Each of the policies that were identified in the CAF as requiring further assessment are presented below, followed by a discussion of the proposed project's consistency with the policy.

Policy 1: Support and facilitate commercial and residential redevelopment in areas well-suited to such development.

1.1 Encourage commercial and residential redevelopment in appropriate coastal zone areas.

The proposed project would redevelop an 11-acre site within the coastal zone with residential, retail, community facility, and commercial office uses and would provide public open space and access to the waterfront. The project site presents an opportunity to connect the adjacent neighborhoods to the waterfront at a location where public waterfront access has not been possible in the past. The project site is appropriate for residential and commercial development because it is currently vacant and is near to the existing residential and mixed-use neighborhoods of Southside, South Williamsburg, and Northside. The proposed project's retail uses and open space would serve residents of these adjacent neighborhoods, as well as residents of the proposed project. The proposed project would make use of a vacant site to create affordable and market-rate housing and would economically revitalize this stretch of the Williamsburg waterfront.

The proposed mixed-use redevelopment of the project site would create approximately four acres of public open space, including an esplanade along the water's edge. The proposed project's waterfront esplanade would also connect to Grand Ferry Park, which borders the project site to the north.

Therefore, the proposed project is consistent with this policy.

1.2 Encourage non-industrial development that enlivens the waterfront and attracts the public.

As discussed above, the proposed project would introduce retail, office, and community facility uses to a currently vacant waterfront site, and these uses would serve the surrounding neighborhoods and attract people to the project site. Furthermore, the proposed project, with up to 2,400 residential units, would introduce a substantial new residential population that would add activity to this currently unused waterfront area. The proposed project's public open space, which would connect to Grand Ferry Park and would include a waterfront esplanade, a lawn area, and active recreational areas such as tot lots, would also attract the public to the waterfront. Therefore, the proposed project is consistent with this policy.

Policy 2: Support water-dependent and industrial uses in New York City coastal areas that are well suited to their continued operation.

2.3 Provide infrastructure improvements necessary to support working waterfront uses.

The proposed project includes replacement of the existing overwater platform at the project site. However, the project site neither currently houses a working waterfront use nor would it under the proposed project. Therefore, this policy does not apply.

However, as described in Chapter 1, "Project Description," it is anticipated that the proposed project could be served by water taxi service in the future. A water taxi would require its own approval process for dock designs and operations, and the design and location have not been specified at this time.

Policy 3: Promote use of New York City's waterways for commercial and recreational boating and water-dependent transportation centers.

Policy 3.2: Minimize conflicts between recreational, commercial, and ocean-going freight vessels.

The proposed project does not include any recreational or commercial boating facilities. Therefore, this policy does not apply.

Policy 4: Protect and restore the quality and function of ecological systems within the New York City coastal area.

4.2 Protect and restore tidal and freshwater wetlands.

As described in Chapter 11, "Natural Resources," the East River shoreline along the project site includes tidal wetlands. Reconstruction of the overwater platform would be conducted within the footprint of the existing platform and would not result in significant adverse impacts to littoral zone tidal wetlands.

The construction of the two stone riprap aprons to be located below the stormwater outfalls at the western terminus of South 3rd Street and South 2nd Street would result in the removal of approximately 142 cubic yards (cy) of bottom material within an approximately 1,275-square-foot area (0.03 acres), and replacement with an equal volume of stone riprap to generally match the existing bottom profile. The proposed installation of new sheet piling and backfill within the project site would adversely affect approximately 414 square feet (sf), or 0.01 acres, of NYSDEC designated shaded littoral zone tidal wetlands and their use as aquatic habitat. Driving of piles to support the reconstructed overwater platform would result in the permanent loss of approximately 1,205 sf (0.03 acres) of benthic habitat. The temporary loss of aquatic habitat within the area of disturbance for the stone riprap aprons, the permanent loss of a small amount of shaded aquatic habitat within the area of disturbance for the new sheet piling and piles, the loss of some benthic macroinvertebrates within the area of disturbance for these in-water structures, and the loss of open water habitat that would become unavailable with the installation of the new sheet piling north of South 2nd Street would not be expected to result in significant adverse impacts to NYSDEC littoral zone tidal wetlands and populations of aquatic species using shaded habitats within the East River.

Encrusting organisms and benthic macroinvertebrates would be expected to quickly colonize the newly placed stone material comprising the riprap aprons for the stormwater outfalls. The proposed stone riprap for the outfall aprons may benefit aquatic resources by increasing the diversity of aquatic habitat for benthic macroinvertebrates and fish available within the project site. The minimal loss of shaded littoral zone tidal wetland and aquatic habitat due to the construction of the new sheet pile bulkhead would be offset through the restoration of at least an equal area of shaded aquatic habitat expected to include littoral zone wetlands.

Restoration would be achieved through removal of upland material between the existing mean high water (MHW) elevation and the new sheet pile bulkhead location for portions of the shoreline south of South 2nd Street. The permanent loss of aquatic habitat within the footprints of the new piles would be offset through the restoration of a greater area of aquatic habitat achieved by removing or cutting the existing piles at the mudline, resulting in a net increase of 375 sf of aquatic habitat. Additionally, by reducing the number of piles and increasing the pile spacing, the proposed reconstruction of the overwater platform would also result in an increase in open-water habitat available under the platform and improved circulation under the overwater platform, which may result in some improvement to water quality under the platform.

During pile driving for the platform and during the installation of new stormwater outfalls, measures would be implemented to minimize any temporary impacts to littoral zone wetlands due to disturbance of bottom sediments. Implementation of erosion and sediment control measures and stormwater management measures identified in a Stormwater Pollution Prevention Plan (SWPPP) would minimize potential impacts to littoral zone tidal wetlands along the edges of the project site associated with discharge of stormwater runoff during land-disturbing activities resulting from construction of the proposed project. No pile driving or other in-water construction activities would occur during the November to April window typically imposed by regulatory agencies to protect certain fish species overwintering in the Harbor Estuary (e.g., winter flounder and striped bass).

Likewise, operation of the proposed project is not expected to result in long-term significant adverse impacts to existing NYSDEC-designated littoral zone wetlands. Implementation of the SWPPP developed for the project site would minimize potential impacts to existing NYSDEC-designated littoral zone tidal wetlands. A new storm sewer system would be constructed on the project site that would separate stormwater and sanitary sewage flow. This new storm sewer would remove stormwater generated within the project site from the combined sewer system, eliminating the potential for stormwater to affect combined sewer overflows.

Therefore, the proposed project is consistent with this policy.

Policy 4.3: Protect vulnerable plant, fish, and wildlife species, and rare ecological communities. Design and develop land and water uses to maximize their integration or compatibility with the identified ecological community.

As described in Chapter 11, “Natural Resources,” the National Marine Fisheries Service (NMFS) identified the endangered shortnose sturgeon (*Acipenser brevirostrum*), Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), and four sea turtle species—the federally threatened loggerhead (*Caretta caretta*) and federally endangered Kemp’s ridley (*Lepidochelys kempi*), green (*Chelonia mydas*), and leatherback (*Dermonchelys coriacea*)—as potentially occurring within the lower East River in the vicinity of the project site. However, the proposed project would not have any significant adverse impacts on these species.

The preference of shortnose sturgeon and Atlantic sturgeon for deep-water habitat suggests that it is unlikely that individuals of these species would appear near the project site except as transients. Because water quality impacts associated with construction of the proposed project would be limited and localized to the shoreline, the deep channel habitat preferred by these species while in transit to and from spawning and nursery habitat would not be impacted during the proposed construction. Operation of the proposed project would not

result in any significant adverse impacts on water or sediment quality. Therefore, no significant adverse impacts would occur to the state- and federally listed endangered shortnose sturgeon, or to the Atlantic sturgeon.

The four turtle species noted by NMFS, when present within in-shore waters, are more likely to occur in Long Island Sound and Peconic/Southern Bays. Because they neither nest nor reside in the area year-round, and are only rarely observed in this portion of the estuary, they are not expected to be adversely affected by construction or operation of the proposed project.

Construction and operation of the proposed project would not be expected to result in significant adverse impacts to the use of the Williamsburg Bridge for nesting by peregrine falcons (*Falco peregrinus*). Nesting peregrine falcons did not occur on the Williamsburg Bridge in 2008, although a nesting platform is present on the Manhattan side of the bridge. Unsuccessful nesting attempts have occurred on the Williamsburg Bridge in past years. Additional coordination would be conducted with NYSDEC, New York Natural Heritage Program (NYNHP), and the New York City Department of Environmental Protection (DEP) prior to the anticipated start of construction with respect to peregrine falcon nesting activity on the Williamsburg Bridge. Peregrine falcons not breeding in the vicinity of the project site that may forage in the vicinity of the project site (such as falcons linked to the 55 Water Street nest in lower Manhattan) would not be adversely impacted by construction activities resulting from the proposed project. In the event that peregrine falcon nesting activity is documented as occurring on or near the project site (i.e., the Williamsburg Bridge and/or nearby buildings) prior to or during construction of the proposed project, measures to minimize potential adverse impacts to peregrine falcons would be developed in coordination with NYSDEC and DEP. These measures would focus on minimizing potential impacts to nesting, foraging or roosting activity by adult falcons and offspring in the vicinity of proposed construction. Potential measures could include bird-control devices on the tops of cranes or other tall construction equipment to prevent young falcons from landing on such equipment and becoming entangled or otherwise injured. Peregrine falcons are accustomed to the intensely developed habitats of New York City and are not expected to experience a significant adverse impact due to the proposed project.

Therefore, the proposed project is not expected to result in significant adverse impacts to any federally or state-listed endangered species or habitats of concern.

Policy 5: Protect and improve water quality in the New York City coastal area.

Policy 5.1: Manage direct or indirect discharges to waterbodies.

Implementation of erosion and sediment control measures during construction of the proposed project would minimize potential impacts on water quality in the East River. As described in Chapter 11, "Natural Resources," a SWPPP would be prepared for the construction of the proposed project. The SWPPP would include both structural (e.g., silt fencing, inlet protection, and installation of a stabilized construction entrance) and non-structural (e.g., routine inspection, dust control, cleaning, and maintenance programs; instruction on the proper management, storage, and handling of potentially hazardous materials), best management practices (BMPs). Implementation of erosion and sediment control measures, and stormwater management measures identified in the SWPPP, would minimize potential impacts on littoral zone tidal wetlands along the edges of the project site associated with discharge of stormwater runoff during land-disturbing activities resulting from construction of the proposed project.

Operation of the proposed project is not expected to result in long-term significant adverse impacts to existing NYSDEC-designated littoral zone wetlands. A new storm sewer system would be constructed by the developer on the project site that would separate stormwater and sanitary sewage flow. This new storm sewer would remove stormwater generated within the project site from the combined sewer system, eliminating the potential for stormwater to affect combined sewer overflow (CSO) discharges. Stormwater best management practices (BMPs) implemented within the project site would regulate the quality and rate of stormwater discharge from the project site. Therefore, the discharge of stormwater from the project site would not result in adverse impacts to littoral zone tidal wetlands within the project site, and the proposed project is consistent with this policy.

Policy 6: Minimize loss of life, structures and natural resources caused by flooding and erosion.

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

As discussed in Chapter 11, "Natural Resources," the project site is located within three different flood zones (see Figure 11-2). In general, the westernmost portion of the project site nearest the East River is located within the 100-year floodplain (Zone AE), defined as a high risk area (with a 1 percent chance of flooding each year). Adjacent to that zone, the central portion of the project site is located within the 500-year floodplain (Zone X Shaded), defined as a moderate risk area (with a 0.2 percent chance of flooding each year). The easternmost portion of the project site is located outside of the 500-year flood plain (Zone X Unshaded), defined as a low risk area, outside the 500-year floodplain. Most of the upland area within the 100-year floodplain would comprise the proposed lawn area between the Refinery and the waterfront. The use of this portion of the 100-year floodplain for open space areas would not adversely affect the floodplain.

The top of the new overwater platform would be at elevation +11 NGVD (+8.5 Brooklyn Borough Highway Datum), which is 1 foot above the 100-year flood elevation of +10 NGVD (i.e., +7.5 Brooklyn Borough Highway Datum). The slab of the below grade parking level and the mechanical-electrical-plumbing spaces for the four buildings along the East River would be below the 100-year flood elevations, but the basement structures would be floodproofed and designed structurally to withstand the hydrostatic pressure exerted by the groundwater (which will also rise to about the 100-year elevation during a 100-year flood), consistent with Appendix G of the New York City Building Code. For these reasons, the proposed project would minimize the potential for public and private losses due to flood damage, and reduce the exposure of public utilities to flood hazards.

The slabs for the retail spaces for these structures would be at elevation +21.2 NGVD (+18.6 Brooklyn Borough Highway Datum), about 11 feet above the 100-year flood elevation. Therefore, the proposed project would be consistent with the New York City Building Code requirement that residential buildings have a finished floor elevation (FFE) at or above the Base Flood Elevation (BFE) for the 100-year flood, and would meet the minimum elevation requirements for the lowest floor relative to the design flood elevation (DFE) as specified in Appendix G: "Flood Resistant Construction," of the New York City Building Code (http://home2. nyc.gov/html/dob/ downloads/pdf/cc_appendix_g.pdf) for the applicable building category (see Table 1604.5 of the New York City Building Code or Table 1-1 of Appendix G to the New York City Building Code). The proposed project would result in the development of buildings that may be classified as Structural Occupancy Category II and/or III in accordance with the New York City Building Code. Within A-Zones, the minimum

elevation of the lowest floor for Category II structures must be at the BFE, and must be at least one foot above the BFE for Category III buildings.

As described in Chapter 11, "Natural Resources," projections of sea-level rise, changes in 100-year flood elevation, and reduction of the 100-year flood return period have been generated by the New York City Panel on Climate Change (NPCC). The placement of the elevation of the lowest floor for the proposed buildings at elevation +21.2 NGVD +18.6 Brooklyn Borough Highway Datum), about 11 feet above the current BFE, would result in the elevation of the lowest floor that would also be well above the NPCC projected increased 100-year flood elevation in the 2020s. Due to the proposed 1-foot separation between the top of the reconstructed overwater platform and the current 100-year flood elevation, the top of the platform would continue to be above the NPCC projected 100-year flood elevation in the 2020s.

Therefore, the design for these structures would reduce the potential for public and private loses due to flood damage under current and projected flood conditions, and the proposed project is consistent with this policy.

6.2 Direct public funding for flood prevention or erosion control measures to those locations where the investment will yield significant public benefit.

The proposed project would not involve any direct public funding for flood prevention or erosion control measures. This policy therefore does not apply.

6.3 Protect and preserve non-renewable sources of sand for beach nourishment.

The project site does not contain any non-renewable sources of sand that could be used for beach nourishment. Therefore, this policy does not apply.

Policy 7: Minimize environmental degradation from solid waste and hazardous substances.

7.2 Prevent and remediate discharge of petroleum products.

As described in Chapter 12, "Hazardous Materials," a Remedial Action Plan (RAP) was prepared to outline general guidelines and measures for remediation and proper handling of soil during the redevelopment of the project site. Specifically, the RAP includes requirements for confirmatory sampling to document post-development subsurface conditions, soil disposal, pre-characterization soil sampling, tank removal procedures, measures to address petroleum spills, dust and vapor controls, air monitoring, contingency planning, installation of a site cap consisting of building cover, paving or two feet of clean fill, and installation of a vapor barrier below each building to prevent potential vapor intrusion. The RAP was approved by DEP on September 24, 2009. The RAP was designed to facilitate the remediation of different phases of the proposed project in any potential order while still protecting current and future neighbors and site occupants.

Pursuant to the Restrictive Declaration to be recorded against the property, development activities, including any remediation, will be conducted in accordance with DEP-approved RAP and Construction Health and Safety Plan (CHASP) under the oversight of DEP and/or the New York City Mayor's Office of Environmental Remediation (NYCOER). This would avoid any significant adverse impacts to construction workers, the surrounding community, and future site occupants. The RAP and CHASP outline procedures for removal of any storage tanks and management of excavated soil during the construction activities, and requirements for vapor controls and a site cap to prevent future exposure to future occupants of the project site.

Therefore, the proposed project is consistent with this policy.

7.3 Transport solid waste and hazardous substances and site solid and hazardous waste facilities in a manner that minimizes potential degradation of coastal resources.

As is standard practice in the City, solid waste generated on the project site is expected to be collected by either the New York City Department of Sanitation (DSNY) (for residential, municipal, or public school uses) or private solid waste management companies (for commercial uses) and transported to a licensed solid waste management facility. No solid waste or hazardous waste facilities, such as landfills or transfer stations, are proposed as part of the project. In addition, the proposed project is not expected to conflict with the City's Solid Waste Management Plan. For these reasons, the proposed project is consistent with this policy.

Policy 8: Provide public access to and along New York City's coastal waters.

8.1 Preserve, protect and maintain existing physical, visual and recreational access to the waterfront.

The project site currently offers no physical access to the waterfront for the public, and views to the water across the site are limited. As described in Chapter 1, "Project Description," the proposed project would create approximately four acres of publicly accessible open space, including an esplanade along the water's edge, a large lawn between the Refinery and the waterfront, and new pedestrian access corridors between Kent Avenue and the waterfront along six streets extending onto the project site. The existing public access to the waterfront at Grand Ferry Park immediately to the north of the project site would be enhanced, as the approximately ¼-mile-long esplanade would connect to the park and provide continuous open space along the water's edge, where none currently exists. New, unobstructed views to the water would be created along the four streets (South 1st, 2nd, 3rd, and 4th Streets), where upland connections and visual corridors would be provided.

As described in Chapter 7, "Shadows," the proposed project's development on Site A would result in several hours of incremental midday shadow on Grand Ferry Park throughout the year, which would cause a significant adverse impact on this open space during the fall, winter, and early spring. However, as described above, the proposed project would create a substantial amount of new public open space that would connect to Grand Ferry Park, thereby enhancing this park and extending waterfront access south to South 5th Street. During the spring, summer and fall seasons, the project-created open space would provide some sunlit areas during times when Grand Ferry Park is experiencing areas of incremental shadow.

Therefore, the proposed project complies with this policy.

8.2 Incorporate public access into new public and private development where compatible with proposed land use and coastal location.

As described above, the proposed project includes the creation of approximately four acres of open space extending along the waterfront from South 5th Street to Grand Street on the north. This proposed open space would complement Grand Ferry Park as well as other waterfront esplanades at sites to the north and south of the project site. The proposed project is therefore consistent with this policy.

8.3 Provide visual access to coastal lands, waters and open space where physically practical.

As described above, the proposed project would include new public open space and visual corridors that would improve visual access to the East River. The proposed project is therefore consistent with this policy.

8.4 Preserve and develop waterfront open space and recreation on publicly owned land at suitable locations.

The project site does not currently include any publicly owned land. However, in the future with the proposed project, it is expected that the esplanade and adjoining passive and active recreation areas as well as the approximately one-acre lawn in front of the Refinery would be owned, maintained, and operated by the New York City Department of Parks and Recreation (DPR), with the exception of a buffer of up to 10 feet around the buildings to allow for routine building maintenance activities.

8.5 Preserve the public interest in and use of lands and waters held in public trust by the state and City.

Although the project area does not include any lands held in public trust, the proposed project would provide direct public access to the water and facilitate the redevelopment of the area's East River waterfront. Furthermore, as described above, the public open space created under the proposed project would be transferred to DPR. Therefore, the proposed project is consistent with this policy.

Policy 9: Protect scenic resources that contribute to the visual quality of the New York City coastal area.

9.1 Protect and improve visual quality associated with New York City's urban context and the historic and working waterfront.

The proposed project would enhance the visual quality of this stretch of waterfront by restoring the Refinery, creating new public open space, and extending the east-west streets of the surrounding street grid into the project site to facilitate public access to the site and the waterfront. The proposed project's new buildings, which would include residential, retail, commercial office, and community facility uses, would enliven the site and draw people to the waterfront.

The Refinery, a complex of three buildings individually known as the Filter, Pan and Finishing Houses that was designated a New York City Landmark on September 25, 2007 would be restored and adaptively reused, and industrial artifacts from the buildings currently on the site would be incorporated into the project's open space. These elements of the proposed project would retain the project site's historical context as part of Brooklyn's working waterfront while opening the site to public use. The proposed project provides for a continuous waterfront walkway linking with the existing Grand Ferry Park and providing public access areas along the waterfront, maximizing both physical and visual access between the waterfront and the neighborhood.

For these reasons, the proposed project is consistent with this policy.

Policy 10: Protect, preserve and enhance resources significant to the historical, archaeological, and cultural legacy of the New York City coastal area.

10.1 Retain and preserve designated historic resources and enhance resources significant to the coastal culture of New York City.

As described above, the proposed project includes the restoration and adaptive reuse of the Refinery. The remaining buildings on the site would be demolished. Although the entire

waterfront parcel of the site has been determined by the New York State Historic Preservation Office (SHPO) to be eligible for listing on the State/National Register of Historic Places (S/NR) based on its historical association with the sugar industry in New York, preservation of additional buildings on the site would not allow the applicant to meet the project's objectives. As described in Chapter 8, "Historic Resources," the demolition of the S/NR-eligible buildings would constitute a significant adverse impact on architectural resources. Therefore, a feasibility study has been undertaken to determine: (1) if the physical characteristics of the former industrial buildings with the exception of the Refinery allow for conversion to residential and commercial use; (2) if the necessary alterations to convert the buildings would impact their historic industrial character; and (3) whether retaining the building would allow the proposed project to meet its program goals, including the creation of a significant amount of affordable housing and new open space. This feasibility study was prepared in consultation with SHPO.

As discussed in Chapter 23, "Mitigation," measures to partially mitigate the project's adverse impacts on architectural resources would be implemented in consultation with SHPO and would be set forth in either a Memorandum of Agreement (MOA) or Letter of Resolution (LOR) to be signed by the applicants, SHPO, and other involved agencies. Mitigation measures include preparation of Historic American Engineering Record (HAER) documentation of the buildings on the site and consultation with SHPO with respect to the adaptive reuse design of the Refinery at the pre-final and final design stages. In addition, industrial artifacts would be included in the rehabilitated Refinery and in the project's proposed open spaces where feasible. The applicant will salvage the three sets of original wood doors on the Refinery's Kent Avenue façade and seek to incorporate them into the rehabilitated Refinery. Pursuant to the terms of the MOA or LOR, the salvage and reuse of industrial artifacts would be contingent upon their feasibility for salvage and reinstallation.

With the restoration of the Refinery and the documentation of the remaining buildings on the project site, the proposed project would be consistent with this policy.

10.2 Protect and preserve archaeological resources and artifacts.

As described in Chapter 8, "Historic Resources," the New York City Landmarks Preservation Commission (LPC) determined that the site is not sensitive for archaeological resources, and SHPO has concurred with LPC's finding. As described above, it is anticipated that industrial artifacts salvaged from the existing buildings on the site would be used within the open space as design elements to retain a sense of the site's industrial history.

Therefore, the proposed project is consistent with this policy.