A. INTRODUCTION

This chapter summarizes unavoidable significant adverse impacts resulting from the Proposed Actions. According to the 2021 *City Environmental Quality Review* (CEQR) *Technical Manual*, unavoidable significant adverse impacts are those that would occur if a proposed project or action is implemented regardless of the mitigation employed, or if mitigation is infeasible.

As described in **Chapter 11, "Mitigation,"** the Proposed Actions would result in significant adverse impacts with respect to open space (direct impacts from shadows), shadows, natural resources (direct impacts from shadows), and construction (noise). To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in some instances no practicable mitigation was identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the Proposed Actions that would meet their purpose and need, eliminate their impacts, and not cause other or similar significant adverse impacts. In other cases, mitigation has been proposed, but absent a commitment to implement the mitigation, the impacts may not be eliminated.

B. OPEN SPACE, SHADOWS, NATURAL RESOURCES

As described in **Chapter 3, "Open Space," Chapter 4, "Shadows,"** and **Chapter 5, "Natural Resources,"** the Proposed Project would result in significant adverse impacts due to direct shadows effects on open space and natural resources in Brooklyn Botanic Garden and on open space resources in Jackie Robinson Playground.

As discussed in **Chapter 11, "Mitigation,"** the Applicant has identified and considered two measures, introduced in the DEIS, as potential mitigation for the significant adverse shadow impacts. They included 1.) Relocating the Brooklyn Botanic Garden sunlight sensitive resources, and 2.) the installation of artificial lighting within the Brooklyn Botanic Garden sunlight sensitive resources. However, In consultation with the New York City Department of Parks and Recreation (NYC Parks), the Lead Agency concluded that the relocation of the Brooklyn Botanic Garden facilities to mitigate the shadow impacts of the Proposed Project analyzed in the DEIS would be infeasible, as it would present major challenges both financially and logistically to the Applicant and the Brooklyn Botanic Garden. Likewise, based on guidance from NYC Parks, the implementation of artificial lighting to mitigate the shadow impacts on Brooklyn Botanic Garden by~~of~~ the Proposed Project ~~on Brooklyn Botanic Garden~~ was also deemed infeasible by the Lead Agency for financial and logistical reasons ~~by the Lead Agency~~ due to the magnitude, duration and extent of the significant adverse shadows impacts of the Proposed Actions.

Since the issuance of the DEIS, DCP as Lead Agency, in consultation with NYC Parks and the Applicant have further explored mitigation measures and alternatives to the Proposed Actions that would reduce or eliminate the significant adverse shadows impacts to the Brooklyn Botanic Garden. As detailed in the Alternatives chapter, no Proposed Action Alternative has been identified which completely eliminates significant adverse shadows impacts on the Brooklyn Botanic Garden. However, the reduced magnitude,

duration and extent of effected resources of the potential impact based on the Proposed Action Alternatives (Alternatives 5, 6 and 7; the R7X with 17-Degree Sloping Plane Alternative; the R7D with 15-Degree Sloping Plane Alternative; and the R7A with 10-Degree Slope Plane Alternative) make partial mitigation strategies feasible. In conjunction with adoption of a Proposed Action Alternative which reduces the potential for shadows impacts to the Brooklyn Botanic Garden, the significant adverse shadow impact on the Brooklyn Botanic Garden could be partially mitigated by the Applicant contributing to improve structures in the nursery yard that remain impacted by shadows. Because the significant adverse shadow impact would not be fully mitigated, the Proposed Actions would result in an unavoidable significant adverse shadow impact on Brooklyn Botanic Garden.

Additionally, because the shadows diagrams, impact determinations and mitigations are based on a specific base plane as demonstrated in the shadows and alternatives chapters, this specific base plane from which the analysis was conducted will be codified in the RD as a component of the shadows mitigations. The base plane shall be defined as 87.38 ft above sea level NAVD88.

~~Additionally,~~ NYC Parks has advised that potential mitigation for the Proposed Action's shadows impact on the Jackie Robinson Playground could be provided by improvements to the facility, consisting of ~~two~~ several elements, such as the reconstruction of the handball court, new lighting for the basketball courts, repairing existing benches and drinking fountains, and/or sidewalk improvements.

The Applicant will construct the improvements to Jackie Robinson Playground in conjunction with the Proposed Project pursuant to an agreement between the Applicant and NYC Parks, the details of which will be codified in a restrictive declaration. This will require the Applicant to bring the design of the improvements through Parks design review process.

With the implementation of these elements, the impacts to Jackie Robinson Playground may be considered partially mitigated. As such, the significant adverse shadow impact on Jackie Robinson Playground would not be avoided.

Mitigation measures explored in the DEIS to counter the effects of incremental shadows generated by the Proposed Project on BBG were deemed to be infeasible due to the magnitude, duration and extent of the shadows impact. Therefore, the Proposed Project would result in unmitigated significant adverse impacts. The Proposed Action Alternatives (Alternatives 5, 6 and 7: the R7X with 17-Degree Sloping Plane Alternative; the R7D with 15-Degree Sloping Plane Alternative; and the R7A with 10-Degree Sloping Plane Alternative), introduced in the FEIS, in conjunction with the Applicant contributing to improve structures in the nursery yard that remain impacted by shadows, would be partial mitigation. Therefore, both the Proposed Project and Proposed Alternatives would result in unavoidable significant adverse shadows impacts to both the BBG and Jackie Robinson Playground.

~~The first would entail installation of synthetic turf with asphalt painted, track and adjacent sidewalk. These new facilities would replace existing handball courts, including handball court wall in the playground's southwestern portion of the playground. The second would entail the installation of lighting for the existing basketball courts in the playground's southeast portion. The appropriateness and desirability of these, or potentially other improvements and mitigation measures, will be further explored between the DEIS and FEIS by the Applicant together with community stakeholders, with the advice of NYC Parks. If implementation of these or other appropriate and desirable measures is determined to be financially feasible, the impacts to Jackie Robinson Playground may be considered partially mitigated.~~

~~Consideration of other measures that could provide full or partial mitigation at these sunlight-sensitive resources are being explored by the Applicant in consultation with the Lead Agency and NYC Parks and will be further explored between the DEIS and FEIS.~~

~~In the event that the implementation of measures that are being explored between the DEIS and FEIS are found to be infeasible or the Lead Agency determines that they would not fully mitigate the Proposed Actions' significant adverse shadow impacts on open space and natural resources, then the Proposed Project would result in unmitigated significant adverse shadow impacts to these resources.~~

C. CONSTRUCTION

Noise

Chapter 10, "Construction," concludes that the Proposed Actions would have the potential to result in temporary significant adverse construction noise impacts at receptor locations surrounding the Proposed Development Site. Portions of four ~~six~~ buildings would be affected, including the south-facing courtyard and southern façades of the future 960 Franklin Avenue residential building, the northeastern façade directly adjacent to the construction work area and the eastern half of the southern façade of 1015 Washington Avenue, the northern façade of 1035 Washington Avenue, and the western façade of the P.S. 375 Jackie Robinson school~~the southern façade nearest to the Franklin Avenue Shuttle and courtyard façades of the future 960 Franklin Avenue residential building, the western and southern facades of 1015 Washington Avenue, the northern façade of 1035 Washington Avenue, the eastern façade and a portion of the northern façade of 1 Sullivan Place, the western façade of the P.S. 375 Jackie Robinson school, and the western façade of the Ebbets Field Apartments~~. However, construction would typically occur during weekday daytime hours and would therefore not produce noise during nighttime hours when residents would be most sensitive to noise. Construction activities would follow the requirements of the New York City Noise Control Code (also known as Chapter 24 of the Administrative Code of the City of New York, or Local Law 113) for construction noise control measures. Specific noise control measures would be incorporated in noise mitigation plan(s) required under the New York City Noise Control Code. These measures could include a variety of source controls (i.e., reducing noise levels at the source or during the most sensitive time periods) and path controls (e.g., placement of equipment, implementation of barriers or enclosures between equipment and sensitive receptors). However, the implementation of these measures would not eliminate all of the identified significant adverse construction noise impacts predicted to occur during hours when the loudest pieces of construction equipment are in use. Consequently, these construction (noise) impacts would not be fully mitigated and would therefore constitute an unavoidable significant adverse construction (noise) impact.

At the receptors predicted to experience impacts, mitigation measures to control noise would also be offered~~ during construction of the Proposed Project~~. While some of the impacted buildings feature modern façade construction, including insulated glass windows and an alternative means of ventilation that would allow for the maintenance of a closed-window condition (such as the future residential building at 960 Franklin Avenue that is expected to be completed in late 2026), it is not possible to definitively determine the presence of these features at all receptors that would have the potential to experience temporary construction noise impacts. As described in **Chapter 10, "Construction,"** various façades of 1015 and 1035 Washington Avenue, ~~1 Sullivan Place,~~ and P.S. 375 Jackie Robinson school~~, and the Ebbetts Field Apartments~~ are predicted to experience a temporary construction noise impact. In order to partially mitigate the construction noise impacts, the Applicant would offer to provide storm windows for impacted façades that do not already have insulated glass windows and/or one window air conditioner

per living room or bedroom or other noise sensitive space that do not already have alternative means of ventilation. These mitigation measures would be implemented prior to the start of construction. Building façades with insulated glass windows or storm windows and alternative ventilation would provide sound attenuation such that even during warm weather conditions, interior noise levels would be approximately 30 dBA less than exterior noise levels. However, the most noise-intensive construction activity nearest the receptors experiencing significant adverse impacts would result in interior noise levels up to 56 dBA L_{10}, which is 11 dBA greater than the level considered acceptable according to *CEQR Technical Manual* noise exposure guidelines and none of the identified significant adverse construction noise impacts would be fully mitigated. Consequently, the temporary significant adverse noise impacts predicted to occur at the above-mentioned receptors would be only partially mitigated in any event and as such is considered an unavoidable adverse impact. ~~A measure to partially mitigate the construction noise impacts would be to make available, for purchase and installation, storm windows for façades that do not already have insulated glass windows and/or one window air conditioner per living room or bedroom or other noise sensitive space that do not already have alternative means of ventilation. If implemented, these mitigation measures would be implemented prior to the start of construction. The feasibility of this measure along with additional mitigation measures will be explored further by the Applicant in consultation with DCP and DEP between the DEIS and FEIS.~~