

BROOKLYN BRIDGE PARK SECTION 6(f) CONVERSION



Environmental Assessment

Prepared for:
National Park Service

Prepared for:
Brooklyn Bridge Park Development Corporation
City of New York

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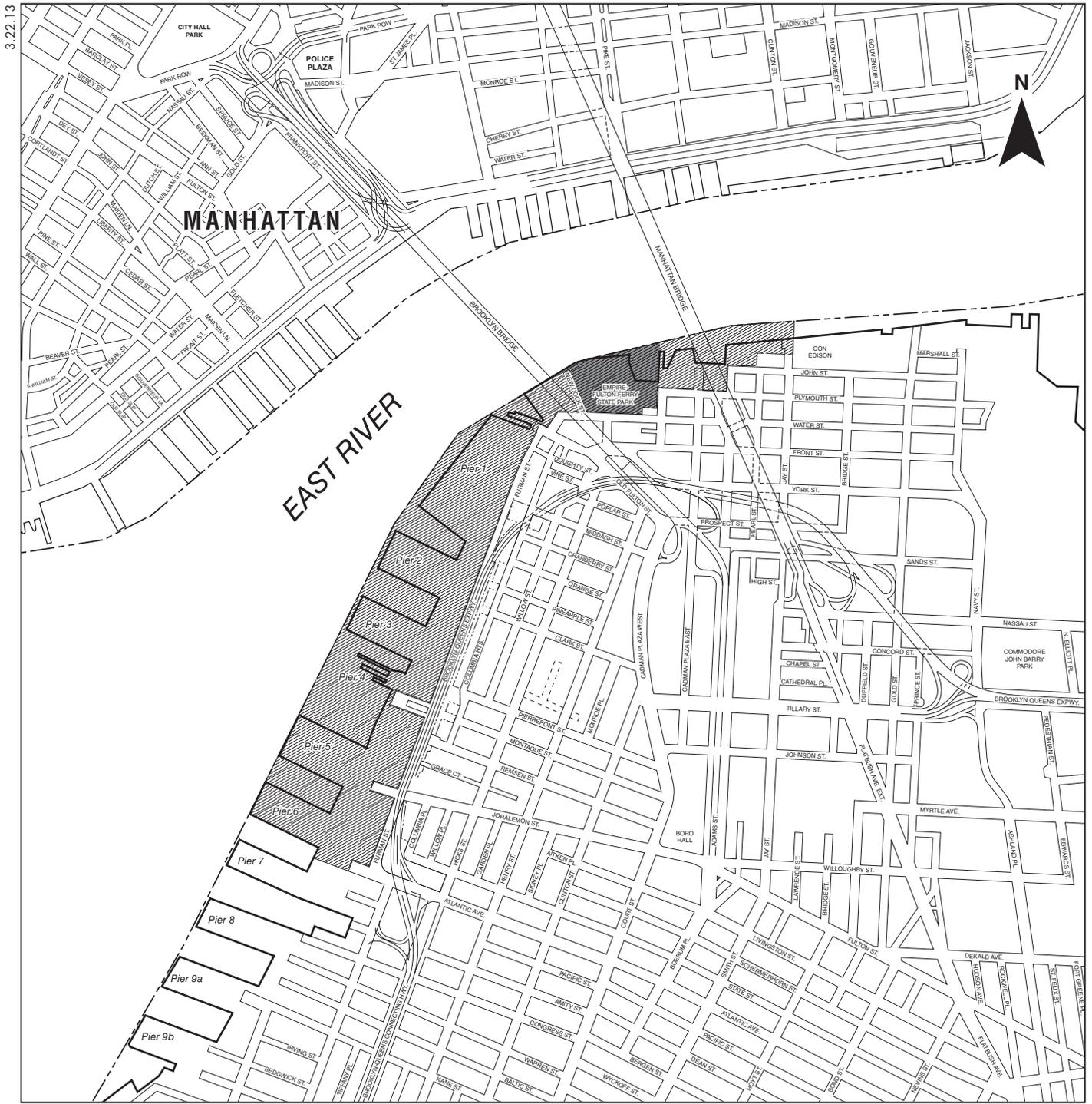
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A. INTRODUCTION

This document is an Environmental Assessment (EA) prepared by the Brooklyn Bridge Park Corporation (BBPC), in cooperation with the City of New York, for the National Park Service (NPS) as lead agency, in accordance with the National Environmental Policy Act of 1969, as amended (NEPA). This EA considers the potential environmental impacts associated with the proposed conversion of a parcel of outdoor recreation land that is protected by the provisions of the federal Land and Water Conservation Fund Act (LWCFA). This EA was prepared to satisfy the requirements of the LWCFA, 16 USC §§ 4601-4 to 4601-11 (commonly referred to as Section 6(f), as the provision was originally contained in Section 6(f)(3) of the LWCFA, Public Law 88-578 of 1965, as amended, codification). This statute prescribes the conditions that must be satisfied for the outdoor recreation use or transfer of lands that have been improved with funds received through the LWCFA. This EA has been prepared in compliance with the requirements of NEPA and its implementing regulations (40 CFR 1500-1508); the Department of the Interior's NEPA regulations (43 CFR Part 46); the NPS Land and Water Conservation Fund (LWCF) State Assistance Program Manual, and NPS Director's Order #12, *Conservation Planning, Environmental Impact Analysis, and Decision-Making* (DO-12) including the accompanying DO-12 Handbook.

Brooklyn Bridge Park is an 85-acre park currently being created along 1.3 miles of waterfront in Brooklyn, New York. Prior to adoption of Brooklyn Bridge Park's General Project Plan (GPP) in 2005, a publicly reviewed and approved document, an approximately 9-acre portion of the Brooklyn Bridge Park area between the Brooklyn and Manhattan Bridges, (including some lands under water) was a state park known as Empire-Fulton Ferry State Park. That state park received federal funding through the LWCFA through a 2001-2003 grant obtained by the New York State Office of Parks, Recreation and Historic Preservation (OPRHP), and therefore is subject to the protections provided by that act (referred to as *Section 6(f) protections* or *Section 6(f) protected land* throughout this document). With the adoption of the Brooklyn Bridge Park Project GPP in 2005, Empire-Fulton Ferry State Park became part of the larger, 85-acre Brooklyn Bridge Park, and is therefore referred to throughout this document as the *former* Empire-Fulton Ferry State Park (see **Figure 1-1**). Approximately 5.44 acres of the approximately 9-acre former Empire-Fulton Ferry State Park are protected under Section 6(f); the remainder of the 9-acre park is underwater land (see **Figure 1-2**).

This EA analyzes the proposed conversion from Section 6(f) protection of a 2.65-acre portion of the former Empire Fulton Ferry State Park that is currently protected by Section 6(f). The other 2.79 acres will remain Section 6(f) protected land. As required by Section 6(f), replacement parcels of at least equal fair market value and reasonably equivalent recreational usefulness and location would be added to the boundaries of Section 6(f) protected land and restricted to outdoor recreational and ancillary uses. Three parcels, totaling 0.86 acres, would be used as the replacement parcels for this conversion proposal. In addition, Section 6(f) protection would be



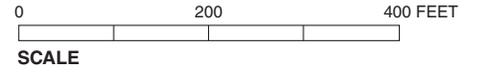
-  Brooklyn Bridge Park
-  Former Empire-Fulton Ferry State Park
(Approximately 9 Acres)

0 1000 2000 Feet



- Former Empire-Fulton Ferry State Park (Approximately 9 Acres)
- Existing Section 6(f) Protected Parkland (5.44 Acres)
- Proposed Conversion Parcels
- Proposed Replacement Parcels
- Additional Section 6(f) Protected Area

- 1 Washington Street streetbed
- 2 NYCDEP Water Meter Facility
- 3 NYCDOT Paint Shed
- 4 Northern Sidewalk of Plymouth Street



Location of Proposed Conversion and Replacement Parcels
Figure 1-2

extended along the northern sidewalk of Plymouth Street, connecting the replacement parcels with the parcels that will remain under Section 6(f) protections. **Figure 1-2** depicts the area proposed for conversion, the proposed replacement parcels, the area to remain under Section 6(f) protection, and the proposed connection between the replacement parcels and the area to remain under Section 6(f) protection. Specific information on the conversion proposal is provided in Chapter 2, “Alternatives,” of this EA.

B. REGULATORY FRAMEWORK

The U.S. Department of the Interior (DOI), through NPS, provides matching financial assistance under the LWCFA for state and local efforts to plan, acquire, or develop land to establish and protect public outdoor recreation resources and opportunities. In New York State, OPRHP serves as the state agency that administers LWCFA funds received from DOI. When LWCFA funds are used to acquire or improve park property, the LWCFA and applicable DOI regulations (36 CFR Part 59; see **Appendix A** of this EA) require that the park property and any adjoining open space designated by the local state agency be used only for outdoor recreation and ancillary uses. Once LWCFA funds are used for a particular project and the property is restricted to outdoor recreational and supporting use, the restricted park property cannot be converted from outdoor recreational and supporting purposes unless the conversion is approved by NPS. The aforementioned statute prescribes the conditions that must be satisfied for such a conversion and any NPS approval must be based on a determination that the conversion meets the requirements of Section 6(f).

Under the LWCFA and applicable federal DOI regulations (36 CFR Part 59), conversion of parkland may be approved only if NPS finds that the following criteria have been met:¹

- 1) All practical alternatives to the proposed conversion have been evaluated;
- 2) The fair market value of the park property to be converted has been established and the property proposed for substitution is of at least equal fair market value, as established by an approved appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisition, excluding the value of structures or facilities that will not serve recreational purposes;
- 3) The proposed replacement property is of reasonably equivalent usefulness and location as the converted property;
- 4) The proposed replacement property meets the eligibility requirements for LWCFA-assisted acquisition;
- 5) For properties that are proposed to be partially rather than wholly converted, the impact of the converted portion on the remainder must be considered and the unconverted area must remain recreationally viable;
- 6) All necessary coordination with other federal agencies has been satisfactorily accomplished;
- 7) The guidelines for environmental evaluation have been satisfactorily completed and considered by NPS during its review of the conversion proposal; and

¹ In addition to the eight criteria listed here, the LWCFA and DOI regulations require satisfaction of a ninth criterion, which does not apply to this proposal: when a proposed conversion and substitution proposal constitutes a significant change to the original LWCFA project, State intergovernmental clearinghouse review procedures must be adhered to.

- 8) The proposed conversion and substitution are in accordance with the applicable Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreational plans.

As noted in item 7 above, as part of the conversion process, NPS must consider the environmental impacts of the conversion in accordance with NEPA. This EA was prepared to satisfy that requirement.

C. BACKGROUND

Brooklyn Bridge Park is an 85-acre park currently being created along the Brooklyn waterfront, extending from Atlantic Avenue on the south to Jay Street on the north, just north of the Manhattan Bridge. The park was originally established in May 2002, when the State of New York and the City of New York entered into a Memorandum of Understanding (MOU) that provided for the creation of the Brooklyn Bridge Park Development Corporation (BBPDC), a subsidiary of the Empire State Development Corporation (ESDC, now Empire State Development, or ESD), to plan, design, and build Brooklyn Bridge Park. The park was created from an amalgam of waterfront properties owned by various entities, including the City and State of New York, the Port Authority of New York & New Jersey, and Consolidated Edison. These properties included two existing parks—the former Empire-Fulton Ferry State Park, a New York State park that was under the jurisdiction of OPRHP, and Main Street Park, a New York City park that was under the jurisdiction of the New York City Department of Parks and Recreation. A founding principle of Brooklyn Bridge Park was that all these properties would be under the unified management of a single entity. BBPDC managed the planning and design of Brooklyn Bridge Park from 2002 to 2010 when BBPDC transferred financial and operational responsibility for the entire 85-acre project to BBPC, a not-for-profit entity created to complete development of the Brooklyn Bridge Park project and to manage and operate Brooklyn Bridge Park. BBPC is governed by a seventeen member board, with eight members, and the Executive Director, appointed by the Mayor. Any action of the board requires a majority vote that includes the votes of three mayoral appointees.

The creation of Brooklyn Bridge Park required approvals from a number of different New York State, New York City, and federal agencies. It was reviewed in an Environmental Impact Statement prepared by BBPDC in accordance with New York's State Environmental Quality Review (SEQRA) in 2005, and the required approvals were obtained following completion of the environmental review. The entire 85-acre area was then designated by a GPP adopted by ESDC in 2005, which outlines the requirements of the Brooklyn Bridge Park project. In July 2010, BBPDC transferred financial and operational responsibility for the entire 85-acre Brooklyn Park project to the BBPC. All properties within the 85-acre park area were then leased to BBPC under a 99-year master ground lease. BBPC is now the entity primarily responsible for the creation, maintenance, and operation of the Brooklyn Bridge Park project in accordance with the GPP.

Although the former Empire-Fulton Ferry State Park, including the Section 6(f) protected land, is now part of the larger Brooklyn Bridge Park, the Section 6(f) protections nonetheless remain in place and NPS must approve a conversion before any portion of the Section 6(f) protected land is adapted for use other than outdoor recreation.

D. PURPOSE AND NEED FOR PROPOSED CONVERSION

The former Empire-Fulton Ferry State Park includes two vacant, historic structures—the Tobacco Warehouse and Empire Stores—and an area between the two structures, formerly Old Dock Street, that connects Dock and Water Streets to the waterfront. The City is seeking conversion to remove LWCFA Section 6(f) protection from the property where the two structures and the walkway are located. This will allow for the rehabilitation, preservation, and adaptive reuse of the properties, which will ensure their long-term preservation while providing needed funding to Brooklyn Bridge Park.

As planned, Brooklyn Bridge Park will include a combination of landscaped areas, ecological habitats along the water’s edge, and planned recreational areas. It will also include approximately eight acres of revenue-generating development, which may include hotel, residential, retail and restaurant uses, and ancillary office space. The revenue-generating development was included in the Brooklyn Bridge Park project to ensure that the park would be financially self-sustaining, as required by the terms of the 2002 MOU that was signed by New York Governor Pataki and New York City Mayor Bloomberg authorizing creation of Brooklyn Bridge Park. The MOU requires that the park must include sufficient revenue-generating uses to cover its annual maintenance and operation budget.

The GPP that establishes Brooklyn Bridge Park identifies specific development parcels for the revenue-generating uses and the envelope for the development program on these parcels and includes an override of the underlying zoning that allows these parcels to be developed accordance with the GPP. One of the specified development parcels in the GPP is the Empire Stores, a complex of seven connected, historic brick warehouses with a total building² footprint of 79,650 square feet (1.828 acres)³. Empire Stores is in complete disrepair and has been closed to the public and the New York State Office of General Services and the New York City Department of Buildings will not allow any part of the building to be open to the public due to its deteriorated state. This site is designated in the GPP for adaptive reuse with a mixed-use project that will provide some of the funding toward Brooklyn Bridge Park’s ongoing maintenance and operation. The proposed conversion would allow the rehabilitation and reuse of the Empire Stores site to preserve and maintain this historic resource.

The proposed conversion to remove Section 6(f) protection from the parcels would also allow rehabilitation and adaptive reuse of the Tobacco Warehouse site, a two-story shell of a building that is open to the elements. This building has a footprint of 27,502 square feet (0.631 acres). The GPP envisions that the “Tobacco Warehouse may be used to house a walled garden, café, or space for arts groups” and BBPC intends to seek modification to the GPP for a proposed use by a local theater and cultural organization. This would allow creation of a new, high-quality, year-

² For both the Empire Stores and Tobacco Warehouse, each building footprint is slightly larger than the parcel on which it stands, since both buildings encroach slightly on mapped city streets. This results in a small difference between the total acreage of the proposed conversion parcels (2.652) and the total acreage of the buildings on these parcels (2.657).

³ For the purposes of a formal legal appraisal of the conversion parcels, the 8,637-square-foot area between the Empire Stores and Tobacco Warehouse (a.k.a. former Old Dock Street) was split in half and added to the total square foot area of each structure (see red *Proposed Conversion Parcels* outline in Figure 1-2). However, for the purposes of analysis, this EA refers to three distinct areas: Empire Stores, Tobacco Warehouse, and the area between the two structures.

round facility within Brooklyn Bridge Park to house cultural, educational, and/or community uses. Its conversion to non-recreational use would allow it to be leased to an outside entity that could ensure the structure's long-term stability without incurring additional costs for Brooklyn Bridge Park, since the park does not have money in its budget to fund the cost of maintenance and preservation of this historic structure.

As mentioned previously, the proposed conversion also includes the area between the Empire Stores and Tobacco Warehouse, 8,637 square feet (0.198 acres) of former Old Dock Street. After the conversion, this parcel would remain reserved for park purposes pursuant to use restrictions recorded against the property.

The proposed replacement parcels together comprise 37,617 square feet (0.863 acres) of land owned and operated by the City for non-park municipal purposes (a street, a water meter testing facility, and a paint shed). BBPC's concept plan for the proposed replacement parcels includes a mixture of passive and active recreation, a nature exhibit and education area, public facilities, and much needed space for park maintenance and operation.

The proposed conversion would be consistent with New York State's Statewide Comprehensive Outdoor Recreation Plan (SCORP). Conversion would allow for the stabilization and protection of two unique historic structures, enabling their adaptive reuse and preservation and the reopening Empire Stores after 60 years. New amenities proposed for the replacement parcels would enhance recreational opportunities in the area and would be constructed in accordance with the park's sustainability principles. These amenities would be in close proximity to where people live, work, and/or go to school. Both the conversion process and the design of the replacement parkland are proceeding with extensive public input and consultation.

E. EVALUATION OF ALTERNATIVES TO THE PROPOSED CONVERSION CONSIDERED BUT REJECTED

The Preferred Alternative and the No Action Alternative are discussed in Chapter 2. In addition, BBPC and the City considered other alternatives to avoid the conversion but determined they were not feasible. An alternative was also considered that would reduce the size of the Section 6(f) conversion, but this alternative was found not to meet the need for the project.

ALTERNATIVES TO AVOID THE NEED FOR THE CONVERSION

BBPC and the City considered ways to ensure the long-term preservation of the historic structures without the Section 6(f) conversion but determined that they were not feasible. One alternative considered was leaving Empire Stores shuttered, but stabilizing both historic structures so that they could remain scenic backdrops to Brooklyn Bridge Park. This alternative is not feasible because of the funding needed to preserve and maintain these structures. Empire Stores requires structural stability work--structural monitoring reveals that it continues to settle unevenly due to the building's aging foundation and crack monitors along the façade reveal unacceptable levels of cracking. Monitoring has also revealed that moisture has penetrated areas of the building façade, further weakening the building's structure. The Empires Stores was further damaged as a result of Hurricane Sandy in October 2012. The building was flooded, and the existing floors heaved in many areas, and several doors fell off their hinges. BBPC estimates that a significant capital investment is required to preserve and maintain this structure. Tobacco Warehouse is structurally sound today, but will continue to require restoration and upkeep. Absent conversion, private lessees could not provide the funding necessary to stabilize, preserve

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and maintain these structures. Securing other sources of funding is not feasible given the constraints on public funding. Further, this alternative would not provide funding for the maintenance of Brooklyn Bridge Park as envisioned in the GPP and would not meet the goal of adaptive reuse of these historic structures.

Another alternative considered, but determined not to be feasible, was developing these structures for use as park buildings. Potential uses considered were a visitors center, park maintenance and park operations. Developing the structures for these uses would require the capital investment discussed above plus significant additional investment to ensure that Empire Stores can be safely opened to the public and has the utilities and interior rehabilitation necessary, and to develop a structure within the shell of Tobacco Warehouse. Developing these structures for park buildings would meet the goal of adaptive reuse of these structures. This alternative is not feasible given the constraints on public funding and the lack of other funding sources. This alternative would also not meet the goal of providing funding for the maintenance of Brooklyn Bridge Park as envisioned in the GPP.

ALTERNATIVE TO REDUCE THE SIZE OF THE SECTION 6(f) CONVERSION

To reduce the size of the area to be converted from Section 6(f) protection, one of the two historic structures could be retained within the area under Section 6(f) protection. However, neither scenario would meet the need for the project, which is to allow the preservation and adaptive reuse of both historic structures, to provide the needed ongoing maintenance for these structures, and to provide a source of funding to Brooklyn Bridge Park to maintain and enhance the remaining 6(f) protected property and the entire park.

This alternative is not feasible, because without the conversion of both structures, adequate funding is not available for their preservation and adaptive reuse or for their ongoing maintenance.

Converting only the Empire Stores, while leaving the Tobacco Warehouse within the Section 6(f) protected area, would make providing for the long-term maintenance and preservation of Tobacco Warehouse more difficult and divert resources needed to support the overall park including the remaining Section 6(f) area. It would also not provide for the structure's use as a cultural and community space, other than the occasional public events and festivals for which the Tobacco Warehouse is used today. Similarly, converting only the Tobacco Warehouse would not provide the needed capital funding for the stabilization and rehabilitation of the Empire Stores. The deteriorating building would remain vacant and continue to fall into disrepair. In addition, retaining the 6(f) protection on Empire Stores would not generate ongoing operation and maintenance funds for Brooklyn Bridge Park. A smaller conversion site would also not meet the dual goals of providing a space for community cultural or civic use and ensuring the preservation and rehabilitation of both structures. Thus, excluding either the Tobacco Warehouse or the Empire Stores from the conversion proposal would not meet the need for the project.

F. OTHER REPLACEMENT PARCELS CONSIDERED BUT REJECTED

In addition to the three replacement parcels included in the conversion proposal, BBPC in coordination with the City considered 18 other City-owned sites in Brooklyn as potential replacement properties that could be added to the Section 6(f) protected land. However, none of the other replacement sites were considered to be as suitable as the proposed replacement parcels

based on a variety of factors, including their proximity to the former Empire-Fulton Ferry State Park, recreational usefulness, price, and ability to meet LWCFA criteria.

In addition, BBPC in coordination with the City considered the possibility of acquiring land not owned by the City of New York to replace the land being converted, but this was dismissed as a viable option. Any privately owned parcel would have to be acquired by the City. The only potentially available, privately owned, waterfront property in the vicinity of Brooklyn Bridge Park that the City and BBPC are aware of is along John Street in a highly dilapidated state and cannot feasibly be appropriately developed for sufficient recreational use. Furthermore, if other such property were available, the timeframe for acquisition and development for outdoor recreation uses could take a number of years and would likely require a number of public reviews and approvals that would mean that the property's use as a replacement parcel would not be certain until some time in the future. Among other things, acquisition of property by the City of New York is subject to the City's Uniform Land Use Review Procedure (ULURP), a lengthy process with a seven-month public review period. Because of the uncertainty and delay associated with acquisition of non-City-owned land, the use of alternative replacement parcels was not considered viable. *

A. INTRODUCTION

Under the federal Land and Water Conservation Fund Act (LWCFA) and applicable U.S. Department of Interior (DOI) regulations (36 CFR Part 59), conversion of outdoor recreation land that has received funding under the LWCFA may be considered by the National Park Service (NPS) when certain prerequisites have been met, including the development and evaluation of project alternatives and associated environmental impacts in accordance with the National Environmental Policy Act (NEPA). This chapter describes the proposed conversion of outdoor recreation land, which is the Preferable Alternative, and the No Action Alternative, in which the conversion does not occur. In accordance with NPS guidance provided in the DO-12 Handbook, this chapter also describes the Environmentally Preferred Alternative, which is the alternative that minimizes environmental impact and best protects, preserves, and enhances historic, cultural, and natural resources. Other alternatives that were considered but found not to meet the need for the project or not to be reasonable are discussed in Chapter 1 of this EA.

The Section 6(f) protected land (approximately 5.44 acres) at the former Empire-Fulton Ferry State Park consists of four general areas, as shown in **Figure 1-2** (in Chapter 1, “Background and Purpose and Need” of this Environmental Assessment [EA]):

- **Empire Stores:** The Empire Stores is a complex of seven adjoining brick warehouses dating from 1870 and 1885 and originally used for storing coffee. The combined structure contains approximately 328,000 gross square feet of indoor space with a building footprint of 79,650 square feet (1.828 acres). The structure has been largely vacant for over 60 years, during which time almost no public access has been permitted. A small area of Empire Stores, roughly 3,000 square feet, was used for a time to house public restrooms and administrative space used by OPHRP in connection with the former Empire-Fulton Ferry State Park, but this area was closed to the public in 2008 after the New York State Office of General Services declined to issue a Certificate of Occupancy due to structural and safety issues. Since the building is closed to the public, it does not provide any current recreational use for either the local or general population, although it does act as a buffer between the park and the surrounding neighborhood.
- **Tobacco Warehouse:** The Civil War-era Tobacco Warehouse, located immediately to the west of Empire Stores, occupies 27,502 square feet (0.631 acres) of land. This building was once five stories, but during the first half of the 20th century, the top three floors were removed. Until 2003, the Tobacco Warehouse was in a deteriorated state and had not been used for approximately 60 years. In 2003, New York State funded an emergency stabilization of the building to prevent its immediate collapse and, as part of the stabilization, removed the roof and reinforced the walls. As it stands today, the Tobacco Warehouse is a roofless and windowless, two-story structure with a concrete floor. The Tobacco Warehouse is currently used for public events, such as art festivals and theater

productions. When not in use for these events, the Tobacco Warehouse is open to Brooklyn Bridge Park users for passive recreation during park hours.

- **Pathway between Tobacco Warehouse and Empire Stores:** An 8,637-square-foot (0.198-acre) area between Empire Stores and the Tobacco Warehouse that was formerly Old Dock Street. This area serves as an entrance into the former Empire-Fulton Ferry State Park from Dock and Water Streets.
- **Park along Water's Edge:** To the north of the Empire Stores and Tobacco Warehouse, the rest of the former Empire-Fulton Ferry State Park (approximately 2.79 acres) consists of a grassy lawn with adjacent landscaped areas that extends to the East River waterfront and a waterfront esplanade. This area was recently renovated as part of the greater Brooklyn Bridge Park development. Along the water's edge, the western portion of the park has a paved waterfront esplanade overlooking the water. In the central portion of the water's edge, where the waterfront edge creates a corner, the esplanade is wider and includes seating and a restored historic carousel, Jane's Carousel. The carousel, enclosed within a modern glass pavilion for weather protection, operates year-round and is one of the most popular sites in the Brooklyn Bridge Park overall. East of the carousel, waterfront esplanade comes closer to the water's edge, where a curved, rip-rap shoreline creates a sheltered cove. Entrances to the former Empire-Fulton Ferry State Park are provided on the west side via New Dock Street, in the middle via a passage between the Tobacco Warehouse and Empire Stores (the extension of Dock Street), and on the east via Main Street, via walkways from adjoining areas of Brooklyn Bridge Park to the north and Water Street to the south. Throughout the park, expansive views of the water, Manhattan skyline, and Brooklyn and Manhattan Bridges are the most notable visual features in the park.

B. PREFERRED ALTERNATIVE: PROPOSED CONVERSION OF OUTDOOR RECREATION LAND

The Preferred Alternative is the proposed conversion to remove Section 6(f) protection from a 2.65-acre portion of the former Empire Fulton Ferry State Park that is currently protected by Section 6(f). The other 2.79 upland acres of this park will remain Section 6(f) protected land. Three parcels, totaling 0.86 acres, would be added to the Section 6(f) protected land as the replacement parcels for this conversion proposal and Section 6(f) protection would be extended to the north sidewalk of Plymouth Street to connect the Section 6(f) protected parcels.

This section describes the conversion parcels, the replacement parcels, and the land that is currently protected under Section 6(f) and will remain protected under Section 6(f) with the proposed conversion. **Table 2-1** at the end of this section summarizes the conversion parcels and replacement parcels proposed as part of the proposed conversion. The parcels are illustrated in **Figure 1-2** in Chapter 1 of this EA.

CONVERSION PARCELS

The conversion parcels consist of the Empire Stores, the Tobacco Warehouse, and the area between the two structures. Currently, Tobacco Warehouse provides passive recreational use and Empire Stores provides a scenic buffer between the park and the community, although the presence of scaffolding on the building detracts from those views. Both properties have the opportunity for further recreational use if significant funding were identified and allocated. Even though the area proposed for conversion would be removed from Section 6(f) protections and therefore would no longer be reserved for outdoor recreational use, it would remain within the

greater boundaries of Brooklyn Bridge Park and be subject to the requirements of the General Project Plan (GPP) established to govern development of Brooklyn Bridge Park (the GPP is discussed in Chapter 1 of this EA).

REPLACEMENT PARCELS

Section 6(f) requires that any properties converted from a Section 6(f) designation to non-outdoor recreational use be replaced with lands of at least equal fair market value and reasonably equivalent recreational usefulness and location. To replace the Empire Stores, the Tobacco Warehouse, and the area between the two structures as they are removed from Section 6(f) protection, the conversion proposal would add a total of 0.86 acres to the area under Section 6(f) protection and thereby restrict this new parkland to outdoor recreational use and outdoor recreational use support as set forth by the requirements of the LCWFA. The replacement properties were included in the GPP that established Brooklyn Bridge Park, but currently contain municipal uses that are preventing them from being used as parkland.

These 0.86 acres comprise three contiguous properties, as discussed below and shown in **Figure 1-2**. The replacement parcels and the parcels that will remain under Section 6(f) protection will be connected via the northern sidewalk of Plymouth Street, which will be included in the extent of the post-conversion Section 6(f) protected land (see **Figure 2-1**) but will not be counted in the replacement parcel acreage. The determination of future uses of the replacement parcels is undergoing a public consultation process; the anticipated uses after conversion are discussed below.

WASHINGTON STREET STREETBED ADJACENT TO 1 PLYMOUTH STREET

Immediately to the east of (and contiguous to) the Main Street portion of Brooklyn Bridge Park, this 11,170-square-foot area (0.26 acres) consists of the portion of Washington Street north of Plymouth Street, extending to the street's terminus. This property currently functions as a parking lot for the adjacent water meter testing facility operated by the New York City Department of Environmental Protection (NYCDEP), which is discussed below, and has been used for this purpose since at least 1988. A fence that encloses this property and the NYCDEP site prevents public access to either site.

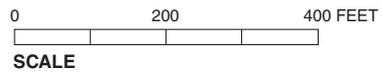
Pursuant to the GPP, the mapping of this streetbed as a public street was overridden in connection with the formation of Brooklyn Bridge Park, and the streetbed is included in the 99-year prime master ground lease between the City and Brooklyn Bridge Park Corporation (BBPC) that transferred operational and management responsibilities for City-owned parcels to BBPC so that these properties could be included within the boundaries of Brooklyn Bridge Park. However, under the lease the streetbed may be used for other municipal purposes, and the streetbed has never been dedicated or used for recreational purposes.

NYCDEP WATER METER TESTING FACILITY, 1 PLYMOUTH STREET

The second replacement parcel (Kings County Block 7, Lot 21) is located immediately adjacent to the Washington Street streetbed. The parcel is approximately 10,860 square feet (0.25 acres) and contains an approximately 9,600-square-foot, one-story brick building that is used by NYCDEP as a water meter testing facility. The property, together with the streetbed, is surrounded by a fence with a locked gate and has no public access.



-  Former Empire-Fulton Ferry State Park
-  Pre-Conversion Section 6(f) Protected Parkland
-  Post-Conversion Section 6(f) Protected Parkland
-  Additional Section 6(f) Protected Area



Pre-Conversion and Post-Conversion Section 6(f) Protection Boundaries

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This parcel is included within the boundaries of Brooklyn Bridge Park and is included in the 99-year prime master ground lease between the City of New York and BBPC. However, the lease explicitly subjects this lot to the City's continuing right to occupy and maintain the NYCDEP facility for NYCDEP or other municipal uses, and the parcel has never been dedicated or used for recreational purposes.

NYCDOT BRIDGE PAINTING FACILITY, 121 PLYMOUTH STREET

The third replacement parcel (portion of Kings County Block 7, Lot 1) is located directly under the Manhattan Bridge, to the east of the NYCDEP parcel. The property is approximately 15,587 square feet (0.36 acres), and is owned by the City of New York under the jurisdiction of NYCDEP. An 8,800-square-foot, one-story building is located on the property that is used by the New York City Department of Transportation (NYCDOT) to house paints, solvents, and other materials used for bridge and structural steel painting, as well as rigging supplies and other equipment. The remaining 6,778-square-foot portion of the parcel to the east of the building is used as a parking lot by NYCDOT. The property is surrounded by a fence with a locked gate and no public access.

The NYCDOT parcel is included within the boundaries of Brooklyn Bridge Park and is covered by the 99-year prime master ground lease between the City of New York and BBPC. However, this parcel has not yet been dedicated or used for recreational purposes. The lease between the City and the BBPC explicitly subjects this lot to the City's continuing right to occupy and maintain the site for the paint shed or for other municipal uses.

CONCEPT PLAN FOR REPLACEMENT PARCELS

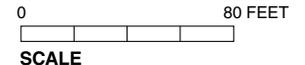
BBPC's concept plan for the proposed replacement parcels includes a mixture of passive and active recreation, a nature exhibit and education area, public facilities, and much-needed space for park maintenance and operation (see **Figure 2-2**). The replacement parcels would include a new entry plaza at Plymouth Street (at the end of Washington Street) and a lawn and landscaped area that would provide visual access to the water. The proposed path on the replacement parcels leading from the entry plaza at Washington Street would connect to adjacent areas of Brooklyn Bridge Park, including a waterfront promenade, beach access points, and to a large lawn. Improved landscaping on the replacement parcels would open currently blocked views from Washington Street into the entire Section 6(f) protected area and improve views from inside the park to the surrounding harbor, creating new view corridors of the Brooklyn and Manhattan Bridges.

The NYCDEP building would be reused as an interpretive nature center, restrooms, and a park support and maintenance facility. The northern and western side of the NYCDEP building would be developed as a year-round nature interpretive center for classes and school groups. Complementing the proposed outdoor nature exhibit facility discussed below, this space would be used for year-round programs on park horticulture, waterfront ecology, potential nature exhibits, and a flexible space for school groups. This portion of the building would also provide public restrooms, which are in high demand at the northern portion of the park, given the already extremely well used playground and lawn space nearby. BBPC is investigating design options to improve the outside of the building. The southeastern and center portions of the building would support maintenance and operation needs. The existing NYCDOT paint storage facility would be demolished and redeveloped with lawns, a dog run, and an active recreation area. The active recreation area would be developed as a bouldering wall designed for a variety of skill sets.



SOURCE: Michael Van Valkenburgh Associates, Inc. and Architectural Resource Office

- Portion of Remaining Section 6(f) Protected Parkland
- Additional Section 6(f) Protected Area
- Proposed Replacement Parcels



These outdoor uses would be partially on the replacement parcel and partially in the area of Brooklyn Bridge Park that is adjacent to the replacement parcel.

BBPC also currently anticipates an outdoor community space that may include an outdoor nature exhibit and education area to provide public information regarding the park's ecology and habitat, and be used for outdoor classes and school groups on topics including park horticulture, marine biology related to the Main Street beach, and an interactive composting program, including composting equipment for public and park use (composting equipment is in high demand from neighborhood residents).

ADDITIONAL SECTION 6(f) PARCELS

In addition to the replacement parcels, the City and BBPC are proposing to extend the Section 6(f) protections along the northern sidewalk on Plymouth Street from the eastern boundary of the remaining Section 6(f) parcel to the eastern boundary of the replacement parcels in order to connect the two Section 6(f) protected parcels post-conversion (see **Figure 2-1**).

REMAINING SECTION 6(f) PROTECTED LAND NOT CONVERTED

The remaining 2.79 acres of Section 6(f) protected land that is not converted would continue to include the lawn, waterfront esplanade with seating, and Jane's Carousel. This area would continue to be subject to Section 6(f) protection, which restricts it to outdoor recreational use. It would also remain part of the larger Brooklyn Bridge Park.

FUTURE USE OF CONVERSION PARCELS

After the proposed conversion, the Tobacco Warehouse and Empire Stores would be adaptively reused.

With respect to the Empire Stores, BBPC is seeking a private lessee to restore and adaptively reuse the historic structure. As anticipated in the GPP, a private developer is needed to fund the building's rehabilitation and renovation, since Brooklyn Bridge Park does not have the resources for such a large project, estimated at over \$85 million for the required structural stabilization, new floors and new mechanical, electrical, and plumbing systems. The adaptive reuse of Empire Stores is an important part of Brooklyn Bridge Park's funding plan. While Brooklyn Bridge Park receives public funding for its construction, ongoing maintenance and operations costs must be funded by park revenues, particularly by five development sites identified in the GPP including the rehabilitated and redeveloped Empire Stores. Once rehabilitated, Empire Stores is expected to generate revenue sufficient to cover roughly 10 percent of the park's expenses over the next several years and roughly 5 percent of the total budget when the park is complete. The revenue from Empire Stores is expected to be greater than the cost of maintaining the former Empire-Fulton Ferry State Park area.

The Tobacco Warehouse would also be leased to a private entity that can rehabilitate the historic structure without cost to Brooklyn Bridge Park, since the park does not have money in its budget to fund the cost of maintenance and preservation of this historic structure. BBPC has conditionally designated a local not-for-profit theater and cultural organization as the future lessee of the Tobacco Warehouse, should the conversion be approved. After conversion, it is anticipated that 18,000 square feet of the structure would be roofed and adaptively reused as a year-round performance venue and community space. The 7,000-square-foot triangle would remain public outdoor space.

Brooklyn Bridge Park Section 6(f) Conversion EA

OTHER PERMITS AND APPROVALS REQUIRED

No other permits or approvals are required for the conversion proposal. New York City Public Design Commission approval is required for the design of the new recreational uses on the replacement parcels. After conversion, the GPP would be modified to allow for the adaptive reuse of the Tobacco Warehouse Permits and approvals for the development of Brooklyn Bridge Park as a whole were obtained following completion of environmental review of that project, beginning in 2005.

**Table 2-1
Conversion and Replacement Properties**

No. (See Figure 1-2)	Property	Size (Acres)	Current Use	Proposed Park Use
Conversion Parcels				
-	Empire Stores	1.826	Vacant, not accessible to public; property is protected under Section 6(f) for outdoor recreation use but no recreation use is currently provided	None
-	Tobacco Warehouse	0.628	Public events; unprogrammed passive space; property is protected under Section 6(f) for outdoor recreation use	7,000 square feet will be maintained for public outdoor recreational use after conversion
-	Adjacent Area	0.198	Small walkway area adjacent to buildings; property is protected under Section 6(f) for outdoor recreation use	Will be maintained as public outdoor space after conversion
Total		2.652		
Replacement Parcels				
1	Washington Street streetbed	0.256	Municipal agency parking, closed to public	Section 6(f) protected lawn, landscaping, and grand entrance plaza
2	NYCDEP Water Meter Testing Site	0.249	Municipal water meter testing, closed to public	Section 6(f) protected park operation and maintenance building, interpretive nature center, restrooms; portion of path and landscaped area
3	NYCDOT Paint Shed	0.358	Municipal storage of paints and solvents, closed to public	Section 6(f) protected maintenance and operation yard, portion of active recreation (i.e. bouldering wall) and portion of dog run
Total		0.863		
Additional 6(f) Protected Area				
4	Plymouth Street sidewalk (north side)	0.128	Sidewalk	Will continue to serve as a sidewalk and will provide Section 6(f) protected connection between the replacement parcels and the parcels that will remain under Section 6(f) protections
Note: For both the Empire Stores and Tobacco Warehouse, the building footprint is slightly larger than the parcel on which it stands, since both buildings encroach slightly on mapped city streets. This results in a small difference between the total acreage of the proposed conversion parcels (2.652) and the total acreage of the buildings on these parcels (2.657).				

C. NO ACTION ALTERNATIVE

In the No Action Alternative, the Empire Stores and Tobacco Warehouse would remain part of the former Empire-Fulton Ferry State Park and subject to the protections of Section 6(f), which

restrict them to outdoor recreation uses and outdoor recreational use support. Under this scenario, a private developer would not fund the rehabilitation and redevelopment of Empire Stores or Tobacco Warehouse, since such adaptive reuse by a private party is not permitted for Section 6(f) protected land and, therefore, cannot occur absent a conversion. Without private investment to fund stabilization and preservation, additional funding would have to be sought for rehabilitation by BBPC, which is not anticipated to be feasible.

In the No Action Alternative, the Empire Stores could not be developed with a revenue-generating use as envisioned in the GPP for Brooklyn Bridge Park but instead would remain in its current dilapidated condition, closed to the public for safety reasons. Empire Stores would continue to serve as a scenic backdrop to park activities in the former Empire-Fulton Ferry State Park, but would also negatively affect views because it is covered in scaffolding and graffiti and surrounded by a fence to protect passers-by. The opportunity for future recreational use at the site would remain; however, significant financial resources would need to be identified and allocated in order to realize such an opportunity.

Should the Tobacco Warehouse retain its Section 6(f) restrictions, it would continue to be made available for seasonal public events and be open for passive recreation during park hours, and would not be adaptively reused and would not be made into a year-round community facility. While it would be open to the public, there would be no funding for any recreational amenities at the site, such as an outdoor garden, as envisioned in the GPP.

In addition, in the No Action Alternative, the replacement parcels would continue to be occupied by municipal uses that prevent their use as recreational spaces.

D. ENVIRONMENTALLY PREFERABLE ALTERNATIVE

In accordance with the DO-12 Handbook, NPS identifies the environmentally preferable alternative in its NEPA documents for public review and comment. The environmentally preferable alternative is the alternative that causes the least damage to the biological and physical environment and best protects, preserves, and enhances historical, cultural, and natural resources. The environmentally preferable alternative is identified upon consideration and weighing by the Responsible Official of long-term environmental impacts against short-term impacts in evaluating what is the best protection of these resources. In some situations, such as when different alternatives impact different resources to different degrees, there may be more than one environmentally preferable alternative (43 CFR 46.30).

Based on the analyses provided in Chapter 3 of this EA, “Affected Environment and Environmental Impacts of the Proposed Conversion,” the proposed conversion outlined in section B above as the Preferred Alternative is the Environmentally Preferable Alternative. Of the two alternatives analyzed in this EA (the No Action Alternative and the proposed conversion), the effects of the proposed conversion in comparison to the No Action Alternative are as follows:

- **Parks and Recreational Resources:** The proposed conversion would enhance recreational resources more than the No Action Alternative, because the adaptive reuse of the Empire Stores would create new recreational opportunities at the replacement parcels in a location now occupied by municipal uses and provide funding for Brooklyn Bridge Park that would not otherwise be available.
- **Visual Characteristics:** The proposed conversion would improve aesthetic resources in comparison to the No Action Alternative. The user experience of the remaining, unconverted

Brooklyn Bridge Park Section 6(f) Conversion EA

Section 6(f) area would be enhanced by the rehabilitation of the dilapidated vacant Empire Stores. Additionally, the redevelopment of the replacement parcels for recreational use would positively affect the aesthetics of the area beneath the Manhattan Bridge and increase waterfront views and vistas between the Brooklyn and Manhattan Bridges.

- **Historic Resources:** The proposed conversion would allow for the adaptive reuse of the Empire Stores and Tobacco Warehouse and the needed funding to rehabilitate and maintain these structures. Conversion would allow for the stabilization and protection of two unique historic structures, enabling their adaptive reuse and preservation and the reopening Empire Stores after 60 years. This would be an improvement over the No Action Alternative, in which the structures would remain in their current condition. As any adaptive reuse of these structures would be undertaken pursuant to review by the State Historic Preservation Office (SHPO), and in accordance with the Secretary of Interior's Standards for Rehabilitation. The SHPO has indicated that the proposed conversion would have No Adverse Effect on properties eligible or listed on the National Register of Historic Places, the proposed conversion would best protect and preserve these resources.
- **Hazardous Materials:** With respect to contaminated and hazardous materials, construction to be undertaken at the replacement parcels would include remedial actions to prevent public contact with contaminated soils, with all excavation and construction work involving soil disturbance to be performed under a Construction Health and Safety Plan (CHASP) so that construction workers, the surrounding community, and the environment are not adversely affected by the construction activities. These measures would ensure that no environmental impacts occur. *

A. INTRODUCTION

This chapter of the Environmental Assessment (EA) describes existing conditions and considers the effects of the alternatives evaluated in this EA on the outdoor recreational land currently protected by Section 6(f) and replacement sites proposed to be protected by Section 6(f) (collectively referred to in this chapter as the “Project Sites”).

As noted earlier, the Brooklyn Bridge Park General Project Plan (GPP) that established Brooklyn Bridge Park included the former Empire-Fulton Ferry State Park, including the Section 6(f) protected portion of that park. In 2010, the State transferred title to the former Empire Fulton Ferry State Park to the Brooklyn Bridge Park Development Corporation (BBPDC) via Letters Patent. The property (along with all of the property to be included in Brooklyn Bridge Park) was then leased by BBPDC to Brooklyn Bridge Park Corporation (BBPC), and BBPC is currently responsible for the overall operation and maintenance of the park, including the former Empire Fulton Ferry State Park.

Both the conversion parcels and the replacement parcels were evaluated in the Final Environmental Impact Statement (FEIS) prepared for the Brooklyn Bridge Park project in 2005 by the BBPDC with the New York State Empire State Development Corporation serving as lead agency. That FEIS considered the impacts associated with creation of a new, 85-acre park along the Brooklyn Bridge waterfront, including revenue-generating development to support the operations and maintenance of the park pursuant to the plan set forth in the park’s GPP. The 2005 FEIS considered potential environmental impacts resulting from the redevelopment of the Empire Stores as a mixed-use commercial site as one of five development sites expected to produce revenue to fund all of Brooklyn Bridge Park’s ongoing maintenance and operations costs. The FEIS evaluated potential impacts resulting from use of the Tobacco Warehouse, a historic building, as a walled garden, café, or space for arts groups. The FEIS also considered the potential environmental impacts of incorporating the proposed replacement parcels into the larger Brooklyn Bridge Park.

The analysis for this chapter of the EA incorporates information and technical analyses prepared for the FEIS, where relevant. Existing conditions presented in the 2005 FEIS have been verified and updated, where needed, through Geographic Information Systems (GIS) and field verification. When appropriate for the technical analyses of potential impacts from the proposed conversion, this EA chapter addresses the conversion and replacement parcels specifically, and if appropriate, the former Empire-Fulton Ferry State Park or Brooklyn Bridge Park overall.

As part of the Section 6(f) conversion process, BBPC, in coordination with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP), has prepared a Proposal Description and Environmental Screening Form (PD/ESF) as required by the National Park Service (NPS) Land and Water Conservation Fund Act (LWCFA) guidance. The PD/ESF provides a screening analysis for both the conversion parcels and the replacement parcels with respect to a broad range of environmental resources. For this proposal, most environmental

resources would have no impacts, or negligible or minor impacts, as a result of the conversion, and detailed analysis in this EA is not required. For some resource areas, the potential for impact is greater and those resource areas are evaluated in this chapter of the EA.

B. ENVIRONMENTAL RESOURCES FOR WHICH ANALYSIS IS NOT REQUIRED

Following screening in the PD/ESF, no analysis is required for the following environmental resource areas:

- **Geological resources** (includes soils, bedrock, slopes, streambeds, landforms, etc.). No significant geological resources would be affected by the conversion proposal.
- **Air quality.** The conversion proposal would not introduce any new sources of air pollution, whether stationary (e.g., stacks serving heating, ventilation and air conditioning systems) or mobile (e.g., traffic).
- **Sound (noise impacts).** The conversion proposal would not introduce recreational opportunities that are significantly different from the rest of the former Empire-Fulton Ferry State Park and adjacent portions of Brooklyn Bridge Park, including the area already developed as outdoor recreational land directly under the Manhattan Bridge. Therefore significant changes in noise levels in the park are not expected. Noise levels resulting from the development of Empire Stores and Tobacco Warehouse that would be permitted as a result of this conversion would be designed to meet all applicable noise codes and therefore no impacts would be expected to the recreational resources in the unconverted Section 6(f) land. As evaluated in detail in the FEIS, noise levels in former Empire-Fulton Ferry State Park and the replacement parcels would be higher than recommended for park uses, but as stated above, consistent with the noise levels at other parks in New York City in close proximity to major roadways.
- **Natural resources.** This includes water quality/quantity, streamflow characteristics, marine/estuarine resources, plant/animal/fish species of special concern and habitat, state/federal listed or proposed for listing, unique or important wildlife/wildlife habitat, unique or important fish/habitat, and unique ecosystems, such as biosphere reserves, World Heritage sites, old growth forests, etc.

The proposed conversion would not remove natural habitat, since the conversion parcels are occupied by two structures and a small fully paved adjacent area; the replacement parcels are also occupied by structures and impervious surfaces. The Section 6(f) protected land is located along the eastern shore of the lower East River, which supports marine wildlife, but the proposed conversion would not affect the East River. There are no streams or other bodies of water present in the former Empire-Fulton Ferry State Park or on the replacement parcels.

Requests for information on rare, threatened or endangered species within the immediate vicinity of the project area were submitted to the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and the New York State Department of Environmental Conservation (NYSDEC) New York Natural Heritage Program (NYNHP) during preparation of the 2005 FEIS. Individual requests for updated information on rare, threatened, or endangered species were submitted to the USFWS on May 17, 2013 through

the USFWS ECOS IPaC Initial Project Scoping tool¹ for the conversion and replacement parcels. In response to that request, the USFWS identified two bird and one plant species as having the potential to occur within the area of the project—piping plover (*Charadrius melodus*, threatened), roseate tern (*Sterna dougallii dougallii*, endangered), and seabeach amaranth (*Amaranthus pumilus*, threatened), see **Appendix B**. However, the project area lacks suitable habitat for those three species. Piping plover uses wide, open expanses of unvegetated beach, such as the Rockaway Beach Colonial Seabird Site on Rockaway Peninsula, more than 10 miles from the project site (Boretti et al. 2007²). While the Rockaway Beach Colonial Seabird Site is the most substantial nesting habitat for beach-nesting birds remaining in the vicinity of the project area, roseate terns are not among those that breed there (Fowle and Kerlinger 2001³, Boretti et al. 2007). Further, roseate terns were not recorded in Kings County or any neighboring counties by the 1980-1985 or 2000-2005 Breeding Bird Atlases (Mitra 2008⁴). Seabeach amaranth is found along sandy beaches of the Atlantic coast, where it grows on shifting sands between dunes and the high tide mark.

NMFS indicated that the federally listed and state-listed endangered shortnose sturgeon (*Acipenser brevirostrum*) and four species of marine turtle (loggerhead, green, Kemp's ridley, and leatherback) may be present in the East River near Brooklyn Bridge Park, but only as occasional transients. As noted above, the proposed conversion would not affect the East River.

- **Floodplains/wetlands.** Brooklyn Bridge Park experienced extensive flooding during Superstorm Sandy, which caused flooding and damage in the New York City area in October 2012. At the time that Superstorm Sandy hit, the Federal Emergency Management Agency (FEMA) had been in the process of revising its base flood elevation maps. While the new maps had not yet been formalized, after the storm FEMA released the maps on an advisory basis. The Advisory Base Flood Elevation (ABFE) maps for New York City, when formally adopted, will raise the base flood elevation by several feet. In the ABFE maps, both the conversion and replacement parcels are within the 100-year floodplain; the base flood elevation (the area to which floodwater is anticipated to rise during the base flood) will increase to 13-14 feet above datum. Flooding in or near the former Empire-Fulton Ferry State Park would not be affected by the conversion proposal, since the amount of impervious surfaces would not increase and the number of structures within the floodplain on the replacement parcels would decrease.

No wetlands are present within the Section 6(f) protected outdoor recreational land or at the replacement parcels.

- **Land use/ownership patterns; property values; community livability.** The proposed re-uses of the Empire Stores and Tobacco Warehouse—mixed-use commercial space and a performing arts venue with community space and an outdoor public garden, respectively—would not be in conflict with the recreational uses on the unconverted portion of the Section

¹ <http://ecos.fws.gov/ipac/wizard/chooseLocation!prepare.action>.

² Boretti, T, E. Fetridge, and A. Brash. 2007. The piping plover colony at Rockaway Beach within a regional context. *Transactions of the Linnaean Society of New York* 10:213-228.

³ Fowle, M. and P. Kerlinger. 2001. *The New York City Audubon Guide to Finding Birds in the Metropolitan Area*. Cornell University Press, Ithaca, NY.

⁴ Mitra, S.S. 2008. Roseate tern. pp. 268-269 in: *The Second Atlas of Breeding Birds in New York State* (K. McGowan and K. Corwin, Eds.). Cornell University Press, Ithaca, NY.

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6(f) protected outdoor recreational land and would in fact re-activate underused portions of the park and create new community resources within the park. The transformation of the replacement parcels from their current municipal uses, which would be relocated by the City of New York, to outdoor recreational and supporting uses would be supportive of the rest of Brooklyn Bridge Park and would enhance the livability of nearby residential areas.

- **Circulation/transportation.** The former Empire-Fulton Ferry State Park, including the Section 6(f) protected outdoor recreational land, is accessible by public transit (subway and bus service), walking, and vehicle. The proposed conversion would not change the travel characteristics in the remaining portion of the park, and creation of the new park space at the replacement parcels would not change the existing travel characteristics in the nearby area. Current access to the Section 6(f) protected land from Main Street and Water Street would not be affected by the conversion.
- **Accessibility for populations with disabilities.** The proposed conversion would not affect accessibility for populations with disabilities. All of Brooklyn Bridge Park, including the Section 6(f) protected portion of the park, is being developed in accordance with the Americans with Disabilities Act (ADA). The replacement parcels will similarly be developed in accordance with the ADA.
- **Socioeconomics,** including employment, occupation, income changes, tax base, infrastructure. The proposed action would have no effect on socioeconomics. The proposed conversion would allow the rehabilitation and redevelopment of Empire Stores and redevelopment of the Tobacco Warehouse as a cultural facility and outdoor garden. Both of these uses were previously analyzed in the 2005 FEIS and neither use is expected to create substantial socioeconomic changes in the area. The proposed conversion would displace the NYCDEP and NYCDOT uses from the replacement parcels. These uses would be relocated to other suitable sites by the City of New York, and their function and associated jobs would not be eliminated. Extending the Section 6(f) protection to the replacement parcels would not affect socioeconomic conditions, because the planned recreational uses are similar to, and would enhance, currently available recreational uses as part of the larger Brooklyn Bridge Park.
- **Minority and low-income populations.** Overall, the area in the immediate vicinity of the Project Sites (i.e., within ½ mile of the conversion and replacement parcels) has a population with 42.6 percent minority representation and 20.7 percent of the population living below the poverty threshold, while New York City overall has a population with 66.7 percent minority and 19.1 percent living below the poverty threshold. The area within ½ mile of the Project Sites includes four census block groups with substantially higher proportions of minority and/or low-income populations than Brooklyn or New York City as a whole. The new outdoor recreational land created as part of this conversion proposal will benefit residents and workers in this immediate vicinity and will also serve a larger area as a part of Brooklyn Bridge Park, since that major regional park has all of New York City in its service area. By enhancing recreational opportunities for the city as a whole, the proposed conversion would benefit the aforementioned minority and low-income populations, and would not result in disproportionate adverse effects to those environmental justice populations.
- **Energy resources (geothermal, fossil fuels, etc.).** Removing the Section 6(f) protections from the proposed conversion parcels would not result in any increased demands for infrastructure or energy within the park. Creation of new Section 6(f) protected outdoor recreational and supporting uses on the replacement parcels would result in a demand for

infrastructure and energy associated with the new uses, but at the same time would eliminate the existing energy demands on those sites. If energy demand does increase as a result of the anticipated uses at the replacement parcels, the increase would be negligible and would not affect the ability of New York City or Con Edison to supply services to the sites.

- **Other agency or tribal land use plans or policies.** As noted earlier, the former Empire-Fulton Ferry State Park and the replacement parcels are within an area designated for development as a public waterfront park, Brooklyn Bridge Park. This park is not designated on New York City's zoning maps but instead is outlined in the GPP that governs the future development of Brooklyn Bridge Park. The GPP identifies that the waterfront area of the former Empire-Fulton Ferry State Park would be used as open space, and that the Empire Stores building would be adaptively reused and redeveloped as a mixed-use project. The GPP describes that the Tobacco Warehouse would be developed as a walled garden, café, or space for arts groups. The GPP identifies the replacement parcels as land that is used for municipal purposes and, at some time in the future, could possibly be incorporated into Brooklyn Bridge Park and used for park uses. In addition, the proposed conversion would be consistent with New York State's Statewide Comprehensive Outdoor Recreation Plan (SCORP). Conversion would allow for the stabilization and protection of two unique historic structures, enabling their adaptive reuse and preservation and the reopening Empire Stores after 60 years. New amenities proposed for the replacement parcels would enhance recreational opportunities in the area and would be constructed in accordance with the park's sustainability principles. These amenities would be in close proximity to where people live, work, and/or go to school. Both the conversion process and the design of the replacement parkland are proceeding with extensive public input and consultation. Therefore, the conversion proposal is consistent with relevant policies. No other land use plans or policies would be affected by the proposed conversion.

C. ENVIRONMENTAL RESOURCES ANALYZED IN THIS EA

Four environmental resource areas from the PD/ESF are discussed in this chapter of the EA:

- **Parks and recreational resources.** Includes recreation resources, land, parks, open space, conservation areas, recreational trails, facilities, services, opportunities, public access, etc.
- **Visual characteristics.** Includes overall aesthetics, special characteristics/features.
- **Historic resources.** Includes historic/cultural resources, including landscapes, ethnographic, archaeological, structures, etc.
- **Hazardous materials.** Includes land/structures with history of contamination/hazardous materials even if remediated.

In addition, while not included as an environmental resource category in the PD/ESF, NPS guidance (NPS Director's Order #12, *Conservation Planning, Environmental Impact Analysis, and Decision-Making* (DO-12) and the accompanying DO-12 Handbook) indicates that an analysis of **cumulative impacts** should be included in EAs.

For each of those resource areas, the EA includes an overview of the regulatory framework and methodology, as appropriate; the affected environment; and the anticipated direct, indirect, and cumulative impacts of the conversion proposal and the No Action Alternative. Consistent with NPS guidance on environmental review for Section 6(f) parkland conversions, the scope of the environmental review is the entire Section 6(f) park proposed for partial conversion, and lands proposed for replacement, including their proposed development for public outdoor recreation

use and associated activities.⁵ Also in accordance with National Park Service guidance on environmental review for Section 6(f) parkland conversions, this assessment considers potential impacts resulting from the diminution of open recreation space and on the remaining area of the Section 6(f) protected land, as well as impacts associated with development of new replacement outdoor recreational land.

PARKS AND RECREATIONAL RESOURCES

METHODOLOGY AND REGULATORY FRAMEWORK

This analysis considers the effects of the proposed conversion on parks and recreational resources. This includes an assessment of the existing recreational resources available at the Section 6(f) protected outdoor recreational land at the former Empire-Fulton Ferry State Park, the effects of the proposal on the remaining, unconverted portion of this land, and the effects of creating new Section 6(f) protected uses on the replacement parcels. An overview of the regulatory framework for this assessment, the Land and Water Conservation Fund Act (LWCFA) and related regulations, is provided in Chapter 1 of this EA, “Background and Purpose and Need.”

AFFECTED ENVIRONMENT

Brooklyn Bridge Park

The Project Sites are currently, and will continue to be, within the boundaries of the 85-acre Brooklyn Bridge Park currently being developed along the Brooklyn waterfront. Construction of Brooklyn Bridge Park commenced in 2009, following a full evaluation of its environmental impacts in the 2005 FEIS. When completed, Brooklyn Bridge Park will consist of a combination of landscaped areas, ecological habitats along the water’s edge, and planned recreational areas including a paved waterfront promenade, a bikeway, multi-purpose playing fields, playgrounds, shaded ball courts, open lawns, safe paddling waters, and slips for the mooring of historic or educational vessels as well as a marina.

Former Empire-Fulton Ferry State Park and Adjacent Areas

The former Empire-Fulton Ferry State Park is located on the Brooklyn waterfront between the Brooklyn and Manhattan Bridges. This park comprises approximately 9 acres; roughly 5.44 acres of the park are protected under Section 6(f) (see **Figure 1-2**). Recreational resources within the Section 6(f) protected portion of the former Empire-Fulton Ferry State Park include a recently renovated grassy lawn with adjacent landscaped areas that extends to the East River waterfront; an esplanade at the water’s edge with panoramic views of the two bridges, the East River, and the Manhattan skyline; lawn and picnic areas, and Jane’s Carousel, a restored historic carousel.

To the south of the waterfront and lawn, the historic warehouses of the Empire Stores and the Tobacco Warehouse are also located within the Section 6(f) protected area. The Empire Stores serve as the backdrop, although in a dilapidated condition, to the former Empire-Fulton Ferry State Park and as a buffer between the park and Water Street. However, the structure is not

⁵ U.S. Department of Interior, National Park Service, Land and Water Conservation Fund State Assistance Program Manual, 2008, page 4-5.

currently used for any recreational purposes as it is closed to the public due to structural and safety issues. The Tobacco Warehouse, which is a roof-less shell of a Civil War era structure, is open to Brooklyn Bridge Park users for passive recreation during park hours, except when it is being used for events.

Adjacent to Empire-Fulton Ferry State Park to the east, the Main Street section of Brooklyn Bridge Park includes a children's play area with a nautical theme as well as a beach area, grassy fields, and an esplanade with seating and viewing areas. The Main Street section is not protected under Section 6(f) and is not part of this impact analysis. Together, the former Empire-Fulton Ferry State Park and Main Street Park create a waterfront cove sheltered between the two bridges. The replacement parcels are immediately east of the Main Street portion of Brooklyn Bridge Park, and, when developed as for outdoor recreation and related uses, will fill in an existing gap in the park design.

Park Service Area

Since the former Empire-Fulton Ferry State Park, including the Section 6(f) protected land, is now part of Brooklyn Bridge Park, a regional park, it serves all of Brooklyn as well as greater New York City. Brooklyn Bridge Park overall is readily accessible by public transportation from neighborhoods throughout the city. Therefore, its service area is and will continue to be New York City as a whole, with the range of racial, ethnic, and income characteristics that exist in New York City.

Even so, Brooklyn Bridge Park is likely to be used most often by the local communities. In New York City, a park's local service area can generally be considered the area within walking distance ($\frac{1}{4}$ to $\frac{1}{2}$ mile) of the park. Workers visiting a park during breaks will generally walk shorter distances, up to $\frac{1}{4}$ mile, while residents will typically walk longer distances to use a neighborhood open space. The area within the immediate vicinity of the former Empire-Fulton Ferry State Park and the proposed replacement parcels is home to a total population of 21,000 residents (in 17 census tract block groups). For the $\frac{1}{4}$ -mile worker study area, numerous businesses are located within $\frac{1}{4}$ mile of the Project Sites, with a total of approximately 5,100 employees.⁶ Slightly farther away, the concentration of businesses located in downtown Brooklyn, which include numerous government offices and courthouses, are also located close to the Project Sites.

POTENTIAL IMPACTS OF NO ACTION ALTERNATIVE

In the No Action Alternative, the Empire Stores and Tobacco Warehouse would remain part of the former Empire-Fulton Ferry State Park and subject to the protections of Section 6(f), which restrict them to outdoor recreation uses and outdoor recreational use support. However, without private investment to fund stabilization and preservation, additional funding would have to be sought for rehabilitation by BBPC or the structures would continue to deteriorate.

In the No Action Alternative, the Empire Stores could not be developed with a revenue-generating use as envisioned in the GPP for Brooklyn Bridge Park and Tobacco Warehouse could not be adaptively reuse as a year-round community facility. However, the structures would remain a buffer between the Section 6(f) protected land and the surrounding neighborhood, and

⁶ Source: ESRI Business Analyst Online 2012 (a Geographic Information Systems tool).

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Tobacco Warehouse would continue to be made available for seasonal public events and be open for passive recreation during park hours.

The No Action Alternative also would not create new recreational uses on the replacement parcels. The replacement parcels would continue to be occupied by municipal uses that prevent their use as recreational spaces.

POTENTIAL IMPACTS OF THE PROPOSED CONVERSION

The proposed conversion would remove the Empire Stores and the Tobacco Warehouse from Section 6(f) protection, which would allow for the adaptive reuse of two historic structures and provide funding for their long-term maintenance. This would ensure the long-term preservation of the structures. This change would not adversely affect the quality or characteristics of the unconverted portion of the Section 6(f) protected land at the former Empire-Fulton Ferry State Park since the uses of the Tobacco Warehouse and Empire Stores after conversion will be limited to the structures' footprint. Furthermore, user experience of the Section 6(f) protected area will likely be enhanced by the rehabilitation of the dilapidated vacant Empire Stores, and by the creation of a cultural center with community uses and an outdoor garden at the Tobacco Warehouse. The proposed conversion would also assist with the maintenance and operation of this area as outdoor recreation, since revenue expected from the Empire Stores would support the overall operation and maintenance of the park. Therefore, the remaining Section 6(f) protected land that is not converted will remain part of a viable public outdoor recreation area.

The Empire Stores is currently closed to the public and not available for recreational use, so removal of Section 6(f) protection would not reduce utilized recreational space. The Tobacco Warehouse offers only limited recreational usefulness during the times it is open to the public for passive recreation, since it is an unshaded, roof-less shell with a concrete floor. The building is accessible to the public from the waterfront side and it is usually used by park users who enter the Tobacco Warehouse shell to walk through or take photos. The removal of 6(f) protections from the conversion parcels would result in a relatively small change in the amount of usable recreational land (a loss of 36,139 square feet, or 0.83 acres—27,502 square feet in the Tobacco Warehouse and 8,637 square feet in the area between the two structures) from the 85-acre Brooklyn Bridge Park, and would not meaningfully change the ratio of open space acres to population in the area. Though they would lack Section 6(f) protection, it is anticipated that the area between the two structures and 7,000 square feet of the Tobacco Warehouse would remain available for public outdoor recreational use after conversion. With the proposed conversion, the former Empire-Fulton Ferry State Park would continue to serve the same population as it serves today. The proposed conversion would not preclude access to recreational opportunities for any disadvantaged populations. The area of Section 6(f) protected land not included in the conversion would remain a viable public outdoor recreation area, and is expected to continue to be one of the most popular areas of the park.

The proposed conversion would facilitate the development of recreational facilities on the replacement parcels, which would otherwise be precluded by the presence of municipal activities. The conversion would add new Section 6(f) protected land and, it is currently anticipated, would allow for the creation of a support facility (including an interpretive nature center, restrooms and space for operation and maintenance) and new outdoor recreational facilities (e.g., expanded lawn, dog run and bouldering wall). The amenities proposed for the replacement parcels would be as accessible by walking and public transportation as the former Empire-Fulton Ferry State Park is today.

The replacement parcels are located in close proximity (less than 500 feet away) to the portion of the former Empire-Fulton Ferry State Park that will retain its Section 6(f) protection, as well as to the conversion parcels. The replacement parcels are also adjacent to the already opened Main Street Park section of Brooklyn Bridge Park. To connect the replacement parcels to the area of the former Empire-Fulton Ferry State Park that will remain under Section 6(f) protection, the northern sidewalk of Plymouth Street will be incorporated into the post-conversion Section 6(f) protected land boundaries.

VISUAL CHARACTERISTICS

METHODOLOGY AND REGULATORY FRAMEWORK

The analysis of potential effects of the proposed conversion on urban design and visual resources focuses on the potential impact that the conversion would have on the design and visual features of the remaining 6(f) land, including its landscape features, noteworthy views, and distinctive characteristics. The analysis also looks at similar effects on the neighborhood surrounding the proposed replacement parcels.

AFFECTED ENVIRONMENT

Visual resources within the former Empire-Fulton Ferry State Park include a panoramic view of the Brooklyn Bridge, Lower Manhattan, the East River, and the Manhattan Bridge. The view inland from the grassy lawn portion of the park includes the Empire Stores and the Tobacco Warehouse shell. The deck of the Brooklyn Bridge is visible overhead and provides the lawn with shading during some portions of the day. At the replacement parcels, similarly wide vistas of the water and bridges are available, although public access is currently not permitted on the replacement parcels.

Today, the Empire Stores and Tobacco Warehouse provide a scenic backdrop to park activities in the former Empire-Fulton Ferry State Park, but in its current condition, the Empire Stores building also creates a negative aesthetic experience. The building is covered in scaffolding and graffiti and surrounded by a fence to protect passers-by, which detracts from views of the structure.

POTENTIAL IMPACTS OF NO ACTION ALTERNATIVE

In the No Action Alternative, without additional funding for Empire Stores and the Tobacco Warehouse, the structures would continue to deteriorate, negatively affecting views in the Section 6(f) protected land. In addition, the replacement parcels would continue to be occupied by municipal uses and therefore would not provide public access or new views of the waterfront and other scenic resources.

POTENTIAL IMPACTS OF THE PROPOSED CONVERSION

After the proposed conversion, the Tobacco Warehouse and Empire Stores would be adaptively reused. This would ensure the maintenance and long-term preservation of the structures. This change would not adversely affect the quality or characteristics of the unconverted portion of the Section 6(f) protected land at the former Empire-Fulton Ferry State Park since the uses of the Tobacco Warehouse and Empire Stores after conversion will be limited to the structures' footprint. Furthermore, user experience of the remaining Section 6(f) protected area would likely

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be enhanced by the rehabilitation of the dilapidated vacant Empire Stores, and by the creation of a cultural center with community uses and an outdoor garden at the Tobacco Warehouse.

After conversion, the Empire Stores and Tobacco Warehouse would retain the same visibility in views from the remaining Section 6(f) protected land. Since both buildings are expected to be adaptively reused, their conditions would be improved and, therefore, improve views from the 6(f) land. All other existing visual resources, including the panoramic waterfront view, would remain unaffected by the proposed conversion.

The addition of the replacement parcels to the Section 6(f) protected land would facilitate their development for public recreational use and therefore expand the area from which the public has access to the wide waterfront views and vistas between the Brooklyn and Manhattan Bridges. The demolition of the NYCDOT bridge painting facility on one of the replacement parcels would also open views from the new portions of Brooklyn Bridge Park toward the water. Improved landscape in this area would open currently blocked views from Washington Street into the park and improve views from inside the park to the surrounding harbor, creating new view corridors of the Brooklyn and Manhattan Bridges.

HISTORIC RESOURCES

METHODOLOGY AND REGULATORY FRAMEWORK

This section considers the potential of the proposed conversion to affect cultural resources, including buried archaeological resources and historic structures. The analysis in this EA was based on consultation under Section 106 of the National Historic Preservation Act (NHPA) with the New York State Historic Preservation Officer (SHPO) at OPRHP.

Section 106 of the NHPA, as implemented by federal regulations at 36 CFR Part 800, mandates that federal agencies consider the effect of their actions on any properties listed on or determined eligible for listing on the National Register of Historic Places (NR). Properties on the National Register may include historic structures, sites, and districts as well as buried archaeological sites. Federal agencies, in consultation with the SHPO, must determine whether a proposed action would have any effects on the characteristics of a site that qualify it for the NR. The review under Section 106 can be conducted in coordination with NEPA.

AFFECTED ENVIRONMENT

Archaeological Resources

Area of Potential Effect for Archaeological Resources

The Area of Potential Effect (APE) for archaeological resources (i.e., the study area) consists of the specific areas included in the conversion proposal: three replacement parcels, which is where subsurface disturbance could occur as a result of the conversion proposal, and the conversion parcels, which include the Tobacco Warehouse and the Empire Stores.

Archaeological Resources Identified in the APE

The FEIS for Brooklyn Bridge Park identified certain portions of the proposed Brooklyn Bridge Park site as sensitive for (i.e., having the potential to contain) historic-period archaeological resources and identified the potential of the Brooklyn Bridge Park project to adversely impact potential archaeological resources in portions of the park site that may be located at depths

ranging from one to 25 feet below the surface. This includes the Empire Stores, which has been the subject of prior archaeological studies and is considered archaeologically sensitive, as well as areas north and west of the existing Tobacco Warehouse building footprint in the former Empire Fulton Ferry State Park that are sensitive for the potential presence of foundation remains of the original larger Fulton Stores and Tobacco Warehouse buildings. To avoid significant adverse effects on potential archaeological resources, the FEIS committed to further testing, and if appropriate, development of mitigation measures in consultation with OPRHP. These commitments were set forth in a Letter of Resolution (LOR) among OPRHP, the Empire State Development Corporation, and BBPDC executed in January 2006 pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law and amended in 2009 and 2010 (see **Appendix C**).

Pursuant to the LOR, a testing and monitoring protocol was prepared and submitted to and approved by the SHPO and the New York City Landmarks Preservation Commission (LPC) in July 2007. With respect to the replacement parcels beneath the Manhattan Bridge, these parcels were identified in the FEIS as archaeologically sensitive for buried 19th century bulkheads at a depth of five to 10 feet below the surface. The July 2007 archaeological testing protocol did not identify areas to be tested or archaeologically monitored in this area, as no substantive disturbance was proposed in these locations.

Historic Structures

Area of Potential Effect for Historic Structures

For historic structures, the APE (study area) has been developed based on proposed work activities and their potential to affect historic properties, including potential direct and indirect effects of the proposed conversion. For direct effects, the APE includes the Project Sites (i.e., the conversion parcels that include the Empire Stores and Tobacco Warehouse, and the replacement parcels). As stipulated in the New York City Department of Buildings Technical Policy and Procedure Notice (TPPN) #10/88, historic structures should be protected during adjacent construction, defined as a lateral distance of 90 feet from the resource. The 90-foot distance was included in the 2006 LOR in determining properties to be included in the Brooklyn Bridge Park project's Construction Protection Plans for historic structures. Therefore, the APE to evaluate the potential construction-related effects of the conversion proposal is an area within 90 feet of the replacement parcels, where construction resulting from the conversion would occur.

In terms of potential indirect effects, the APE includes an area in which any proposed changes at the replacement parcels may be visible. The conversion proposal would have limited visibility beyond the immediately surrounding streets, with the principal change being the removal of a one-story building used by NYCDOT beneath the Manhattan Bridge and its replacement with a bouldering wall and a maintenance and operations yard. Areas adjacent to and across streets from the replacement parcels include the former Empire-Fulton Ferry State Park within the Fulton Ferry Historic District, and vacant land and buildings located in the D.U.M.B.O. Historic District.

Historic Structures Identified in the APE

The former Empire-Fulton Ferry State Park, including the conversion parcels that contain the Tobacco Warehouse and Empire Stores, is part of the Fulton Ferry Historic District, which is listed on the State and National Registers of Historic Places (S/NR). The Tobacco Warehouse and Empire Stores are contributing properties to the Fulton Ferry Historic District.

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The proposed replacement parcels are located in the NR-listed D.U.M.B.O Historic District and are described in the NR Nomination Form as non-contributing properties (not possessing historic significance). They are located beneath the S/NR listed Manhattan Bridge. Subsequent to the 2005 FEIS, LPC in 2007 established a New York City D.U.M.B.O. Historic District but excluded the block beneath the Manhattan Bridge in the historic district boundaries, and, therefore, these replacement parcels are excluded from the LPC historic district designation. Therefore, the replacement parcels do not possess historic and/or architectural significance.

POTENTIAL IMPACTS OF NO ACTION ALTERNATIVE

Archaeological Resources

In the No Action Alternative, no subsurface excavation would occur in the APE. Therefore, there would be no impacts to potential archaeological resources.

Historic Structures

In the No Action Alternative, the Empire Stores would continue to deteriorate as no funds are available for the building's rehabilitation. In addition, no funding would be available to ensure the maintenance and long-term preservation of the Tobacco Warehouse. This would likely lead to long-term adverse impacts on these historic structures, including the potential for loss of the structures.

POTENTIAL IMPACTS OF THE PROPOSED CONVERSION

Archaeological Resources

Subsurface disturbance would occur as a result of the conversion proposal on the replacement parcels, in connection with the removal of the existing NYCDOT structure and the development of recreational uses on this site. If disturbance would not exceed a depth of five feet, then no archaeological investigations would be required. If disturbance could exceed five feet, the Brooklyn Bridge Park Corporation would consult with the SHPO regarding the need to either undertake archaeological testing in advance of project construction, or to undertake archaeological monitoring during construction to evaluate the presence/absence of archaeological resources. If archaeological resources are encountered, appropriate protocols for the further evaluation and treatment of archaeological resources would be undertaken in consultation with the SHPO.

Consultation with the SHPO regarding archaeological resources and the future use of the Tobacco Warehouse and the Empire Stores would be undertaken as stipulated in the LOR. This ensures the appropriate treatment of archaeological resources that might exist at these sites. By following these procedures, there are no adverse impacts to archeological resources expected from the proposed conversion.

Historic Structures

As part of the conversion proposal, no changes would occur to the grassy lawn area included in the former Empire-Fulton Ferry State Park. The conversion proposal would remove the Section 6(f) protections from the Tobacco Warehouse and Empire Stores so that they could be rehabilitated and re-used for purposes other than outdoor recreation.

After the proposed conversion, the Tobacco Warehouse and Empire Stores would be adaptively reused. This would ensure the maintenance and long-term preservation of the structures. The

future reuse of these structures would be required to comply with the terms of the LOR, which requires rehabilitation to be compatible with and respectful of the architectural and historic significance of the buildings. Consequently, there would be no adverse impacts to the historic structures.

Extension of Section 6(f) protections to the replacement parcels, requiring that they be used for outdoor recreation and appropriate support purposes, would not have an adverse impact on the historic character of the National Register-listed D.U.M.B.O. Historic District in which those parcels are located. As described above, the replacement parcels do not contribute to the significance of the National Register historic district and replacement of the NYCDOT paint shed with outdoor recreation uses would not alter the characteristics for which the D.U.M.B.O. Historic District has been determined significant.

Pursuant to the LOR, to avoid potential inadvertent construction-related impacts on historic resources, a Construction Protection Plan would be prepared and submitted to SHPO for the Manhattan Bridge and other historic resources located within 90 feet of project construction on the replacement parcels, as appropriate.

Summary

In a letter dated May 30, 2013, the SHPO determined that the proposed conversion would have No Adverse Effect on properties listed on or considered eligible for listing on the NR (Appendix B). In making this determination, the SHPO found that there are appropriate and adequate covenants in place, including the Letter of Resolution and subsequent amendments, which ensure consultation with the SHPO with respect to activities that may occur at the Empire Stores and Tobacco Warehouse. Accordingly, there are no adverse impacts to historic resources expected from the proposed conversion.

HAZARDOUS MATERIALS

METHODOLOGY AND REGULATORY FRAMEWORK

A Phase I Environmental Site Assessment (ESA) was prepared for the entire Brooklyn Bridge Park in support of the 2005 FEIS to identify the potential for hazardous materials to be present in the soils or groundwater and Phase II subsurface sampling was conducted.

AFFECTED ENVIRONMENT

The Phase I Environmental Site Assessment conducted for the FEIS noted that in the vicinity of the former Empire-Fulton Ferry State Park, potential environmental concerns included impacts from current and former on- and off-site storage of petroleum and petroleum-related industrial activities as well as from incidental oil spillage from parked vehicles. Former on-site metal and coal storage yards previously located at the site could also have historically impacted the subsurface. Former Consolidated Edison operations on site might have adversely impacted the property with PCB-containing dielectric oils as well as with other petroleum-related products. Subsurface contamination could also be present in the urban fill material imported to this area. Based on the age of the current buildings on the replacement parcels (ca. early 1900s), potential ACMs and lead-based paints might be present at the site. Creosote and asbestos from pier construction also has the potential to have impacted the subsurface.

According to a Soil Investigation Report prepared in 2003 by Tully Environmental, soil sampling of the top two feet of soil in the area between Washington and Adams Streets behind

future reuse of these structures would be required to comply with the terms of the LOR, which requires rehabilitation to be compatible with and respectful of the architectural and historic significance of the buildings. Consequently, there would be no adverse impacts to the historic structures.

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According to a Soil Investigation Report prepared in 2003 by Tully Environmental, soil sampling of the top two feet of soil in the area between Washington and Adams Streets behind

the NYCDEP and NYCDOT buildings indicated that total metals exceeded recommended cleanup guidelines at all sample locations and that hazardous levels of lead were detected in the soil sampled from four of the locations, most likely because of deteriorating lead-based paints from the overlying Manhattan Bridge. Based on those results, it was recommended that those soils should be considered contaminated and not reused for site development. In addition, soil sampled at four locations contained hazardous levels of lead and it was recommended that soil from the four locations at which hazardous lead levels were detected should be managed as hazardous waste.

No known underground petroleum storage tanks were identified on the proposed replacement properties. Analysis of groundwater conducted for the FEIS did not reveal any widespread groundwater contamination.

POTENTIAL IMPACTS OF NO ACTION ALTERNATIVE

In the No Action Alternative, no changes would occur to the Project Sites, and therefore no temporary increase in exposure pathways to potential contaminants would be created.

POTENTIAL IMPACTS OF THE PROPOSED CONVERSION

The development of the proposed replacement parcels may involve excavation and disturbance of on-site soil as part of construction activities. These activities would temporarily increase exposure pathways of potential contaminants in the soil for construction workers and workers on nearby sites. To avoid the potential for significant adverse impacts from the proposed project, environmental conditions would be remediated as part of the construction and development of the replacement parcels, as described below.

To mitigate the detected contamination, the top two feet of soil in this area of the proposed park would be transported off-site for disposal and replaced with two feet of clean fill. Soil from the four locations at which hazardous lead levels were detected would be managed as hazardous waste. These remedial actions would prevent public contact with contaminated soils as this area is developed and used.

To prevent impacts to workers and nearby residents, all excavation and construction work involving soil disturbance would be performed under a Construction Health and Safety Plan (CHASP) so that construction workers, the surrounding community, and the environment are not adversely affected by the construction activities. The plan would specify the appropriate testing and/or monitoring by field personnel during construction and excavation activities and detail appropriate measures in the event that underground storage tanks, soil and groundwater contamination, or other unforeseen environmental conditions are encountered, including notification of the proper regulatory agencies as necessary and clean-up under regulatory guidance. The handling, storage, and disposal of contaminated or hazardous materials encountered at the site would be done in accordance with all applicable regulatory requirements.

Prior to any renovation or demolition activities, a licensed asbestos inspector would perform the necessary inspections to ensure that the project would not disturb ACMs in the buildings on the replacement parcels or that the ACMs are abated prior to any construction activities. ACMs at the replacement parcels that may be disturbed by renovation/demolition activities would be abated following proper regulatory protocols prior to commencing such activities. Any identified ACMs remaining at the property would be regularly inspected and maintained under a site-specific Operation and Maintenance Plan to prevent deterioration.

Based on the ages of the NYCDOT paint shed on one of the replacement parcels (1966), potential lead-based paint may also be present. Layers of old paint beneath newly painted surfaces may also include materials that are lead-based. Renovation/demolition activities would adhere to OSHA regulations governing lead-based paint.

PCB-containing light ballasts and electrical equipment may also be present in the buildings on the replacement parcels. If disposal of any of these items is required, it would be in accordance with applicable federal, state, and local regulations and guidelines, unless there is labeling or test data to indicate they are not PCB-containing.

To prevent the potential off-site transport of dust that may contain above-background levels of contaminants, dust control measures would be implemented during all soil-disturbing operations. Water would be available (and used) on-site for sprinkling/wetting to suppress dust in dry weather or as necessary. All haul trucks would have tarp covers and gravel pads would be placed at access points to prevent site soils from being tracked onto roads in the community.

The implementation of these remedial actions would protect construction workers and the public from potential contaminants and no significant adverse impacts related to hazardous materials would be expected to occur as a result of the construction activities. Once construction is complete, the presence of two feet of clean fill would protect park users and make the replacement sites suitable to support safe public outdoor recreation activities.

With the implementation of the aforementioned controls and remedial actions, the proposed conversion would not result in significant adverse impacts related to hazardous materials.

CUMULATIVE IMPACTS

METHODOLOGY AND REGULATORY FRAMEWORK

The federal Council on Environmental Quality's regulations implementing the procedural provisions of NEPA, set forth at 40 CFR Parts 1500-1508, require federal agencies to consider the environmental consequences of their actions, including cumulative effects. Cumulative effects result from the incremental consequences of an action (the project) when added to other past and reasonably foreseeable future actions (40 CFR 1508.7). Cumulative effects are the net result of both the project and the other reasonably foreseeable projects in the same geographic vicinity. In the area of the Project Sites, the most notable project that will occur in the vicinity is the development of the rest of Brooklyn Bridge Park, extending from Atlantic Avenue on the south to Jay Street, just past the Manhattan Bridge, on the north. In addition, a number of residential buildings are being constructed in the D.U.M.B.O. neighborhood close to the Project Sites, including new developments and conversions of former industrial buildings.

POTENTIAL CUMULATIVE IMPACTS OF NO ACTION ALTERNATIVE

With respect to the four environmental resources analyzed in more detail in this chapter, the impacts of the No Action Alternative in combination with the other projects anticipated in the area would be as follows:

- **Parks and recreational resources.** The No Action Alternative would result in continued deterioration of the two historic structures and lack of funding to develop the Empire Stores. In the context of the larger Brooklyn Bridge Park project, recreational uses would not be realized and revenue would not be generated as envisioned; thus, the No Action Alternative would detract from the achieving the goals of the Brooklyn Bridge Park project. Considered

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together, the Brooklyn Bridge Park project would cumulatively result in a substantial improvement in terms of parks and recreational resources in the project area, but the adverse impacts of the No Action Alternative would offset those overall cumulative benefits to some degree.

- **Visual characteristics.** The Brooklyn Bridge Park project and residential developments in the D.U.M.B.O. neighborhood nearby would result in beneficial cumulative impacts by contributing to an overall revitalization and improvement in the aesthetic characteristics of the waterfront area. The No Action Alternative would contribute an adverse increment to the cumulative impacts on visual resources due to continued deterioration of the two structures plus continuation of municipal uses on the replacement parcels. Overall, the cumulative impacts would likely remain beneficial due to the larger projects; however, the adverse impacts of the No Action Alternative would offset these benefits to some degree.
- **Historic resources.** The No Action Alternative would have no impacts on archeological resources; therefore, there would be no cumulative impacts. The No Action Alternative would have adverse impacts on historic structures due to continued deterioration of the two buildings and possibility of future loss of the structures if funding is not obtained. The Brooklyn Bridge Park project would be constructed in accordance with the terms of an LOR among OPRHP, the Empire State Development Corporation, and BBPDC, which ensures appropriate treatment of archaeological resources and historic structures. Any residential development in the D.U.M.B.O. neighborhood would have to be undertaken in accordance with New York City and New York State laws and regulations regarding historic preservation. As a result of these efforts, the projects would avoid and minimize cumulative adverse impacts and would likely result in overall cumulative benefits to historic structures through increased preservation. The adverse impacts of the No Action Alternative would offset these benefits to a small degree, although the overall cumulative impacts would likely remain beneficial due to the larger projects.
- **Hazardous materials.** The No Action Alternative would have no impacts with regard to hazardous materials; therefore, there would be no cumulative impacts.

POTENTIAL CUMULATIVE IMPACTS OF THE PROPOSED CONVERSION

An evaluation of cumulative effects of the proposed conversion takes into account the proposed action together with other proposed actions that are expected to occur in the same geographic vicinity. In the area of the Project Sites, the most notable project that will occur in the vicinity is the development of the rest of Brooklyn Bridge Park, extending from Atlantic Avenue on the south to Jay Street, just past the Manhattan Bridge, on the north. In addition, a number of residential buildings are being constructed in the D.U.M.B.O. neighborhood close to the Project Sites, including new developments and conversions of former industrial buildings. As noted in the beginning of this chapter, the effects of the proposed conversion on most environmental resources would be minimal. With respect to the four environmental resources analyzed in more detail in this chapter, the effects of the proposed conversion in combination with the other projects anticipated in the area would be as follows:

- **Parks and recreational resources.** The proposed conversion would be undertaken as an element of the much larger Brooklyn Bridge Park project, and would enhance that project by allowing the rehabilitation and reuse of two historic structures, providing funding for the park, and creating a new outdoor recreation space in the park in a location now occupied by municipal uses. Considered together, therefore, the proposed conversion and the Brooklyn

Bridge Park project would cumulatively result in a substantial improvement in terms of parks and recreational resources in the project area.

- **Visual characteristics.** The proposed conversion together with the larger Brooklyn Bridge Park would collectively improve the visual characteristics of the urban waterfront between Atlantic Avenue to Jay Street, creating a new park in an area once occupied by underutilized industrial sites. Residential developments in the D.U.M.B.O. neighborhood nearby would contribute to an overall revitalization and improvement in the aesthetic characteristics of the waterfront area.
- **Historic resources.** The proposed conversion and the larger Brooklyn Bridge Park project would be constructed in accordance with the terms of an LOR among OPRHP, the Empire State Development Corporation, and BBPDC, which ensures appropriate treatment of archaeological resources and historic structures. Therefore, no cumulative adverse impact would occur. Any residential development in the D.U.M.B.O. neighborhood would have to be undertaken in accordance with New York City and New York State laws and regulations regarding historic preservation and therefore would not create cumulative adverse impacts related to historic resources.
- **Hazardous materials.** As described above, construction activities for the proposed conversion would involve remedial actions to prevent public contact with contaminated soils as this area is developed and used. To prevent impacts to workers and nearby residents, all excavation and construction work involving soil disturbance would be performed under a Construction Health and Safety Plan (CHASP) so that construction workers, the surrounding community, and the environment are not adversely affected by the construction activities. Brooklyn Bridge Park is being developed using similar remedial and protective measures. Therefore, these two actions would not result in cumulative adverse impacts related to hazardous materials. *

The following chapter lists agencies and organizations contacted for the information included in this Environmental Assessment (EA). These entities were involved in identifying important issues which allowed the Brooklyn Bridge Park Corporation (BBPC) to develop conversion alternatives and analyze impacts. The chapter also outlines public involvement efforts to date and any public involvement to be conducted for this EA. The chapter ends with a list of preparers.

A. REGULATORY AND RESOURCE AGENCIES

Where relevant, the analysis of the affected environment prepared for this EA incorporates information and technical analyses prepared for the 2005 Final Environmental Impact Statement (FEIS), which were updated and verified as needed. During the preparation of this EA, BBPC and its consultants coordinated with federal, New York State, and City resource agencies, including the U.S. Fish and Wildlife Service (USFWS), the New York State Historic Preservation Officer (SHPO), New York State Office of Parks, Recreation and Historic Preservation (OPRHP), and the New York City Public Design Commission (PDC).

Individual requests for updated information on rare, threatened or endangered species was submitted to the USFWS on May 17, 2013 for the former Empire-Fulton Ferry State Park, the proposed conversion parcels, the proposed replacement parcels and the additional Section 6(f) protected area. Responses received from USFWS for these four areas were identical (see **Appendix B**). As described in Chapter 3 of this EA, the USFWS identified two bird and one plant species as having the potential to occur within the project area, but suitable habitat for these species is not present at the Project Sites.

BBPC has consulted with the SHPO, and the National Park Service (NPS) has consulted with the Delaware Tribe, the Delaware Nation, and the Stockbridge-Munsee Community, with respect to the project's potential effects on historic properties. This has included providing the following information:

- 1) Summary of the conclusions of the 2005 Final Environmental Impact Statement (FEIS) for Brooklyn Bridge Park and commitments made with respect to historic and archaeological resources;
- 2) Description of the measures stipulated in the project's Section 14.09 Letter of Resolution (LOR) and subsequent amendments and implementation status of those measures; and
- 3) Assessment of the potential effects associated with the proposed conversion (as also detailed in Chapter 3 of this EA).

In a letter dated May 30, 2013, the SHPO determined that the proposed conversion would have No Adverse Effect on properties listed on or considered eligible for listing on the National Register of Historic Places (see **Appendix B**).

BBPC presented plans for the replacement parcels to the PDC in January 2013 and updated the committee of the PDC in March 2013. BBPC will present the proposed design again in July 2013.

B. PUBLIC INVOLVEMENT

BBPC has actively engaged with the public regarding the proposed conversion. A summary of the public outreach undertaken is provided below.

- **Brooklyn Bridge Park Community Advisory Council (CAC).** The CAC provides a forum through which the communities surrounding the park, and the public as a whole, can provide feedback and comments to BBPC on its major initiatives and policies. Membership for the CAC was chosen in consultation with local elected officials representing communities near the park; the public can also attend CAC meetings. BBPC has presented to and updated the CAC on several occasions regarding the proposed conversion. BBPC held a public meeting regarding the conversion on July 25, 2012 at the offices of Brooklyn Bridge Park, which was attended by approximately 40 people. At this meeting, BBPC made a presentation outlining the requirements for conversion and the proposed conversion plan. The presentation from the meeting has been made available on Brooklyn Bridge Park's website since July 2012. Comments from the July 2012 meeting included interest in ensuring that the replacement parcels are of greater market value than the conversion parcels, questions about the appraisal process, and the conversion application process in general. There was also discussion about the newly created Park Expansion Design and Development Committee (PEDDC) and Tobacco Warehouse Public Spaces Programming Committee (TWSPSP). BBPC and the City committed to working with the community to create these committees (which have been recently created, as discussed below).

During the conversion process that is the subject of this EA, BBPC has briefed and will continue to brief the CAC every 14 days. During these briefings, BBPC reported the status and progress of conversion and communications with federal governmental agencies concerning the proposed conversion. BBPC has also made drafts of the documents related to the conversion process available to the public on its website.

BBPC is also engaging the community on the adaptive reuse of the Empire Stores and the Tobacco Warehouse. For the Empire Stores, BBPC met with the CAC design committee to receive feedback on a request for proposals (RFP) for its adaptive reuse prior to the release of the RFP. In March 2013, BBPC met with the CAC to present on responses to the RFP and received feedback on the proposed design elements.

- **Park Expansion Design and Development Committee (PEDDC).** At BBPC request, the CAC created a special subcommittee known as the Park Expansion Design and Development Committee (PEDDC). The PEDDC is charged with providing input on design of the replacement parcels. Review of the design of the replacement began in September 2012, and has continued with additional input provided in December 2012, February 2013, and May 2013. PEDDC feedback from each review has served to refine the design for the replacement parcels, including opening up views and locating pathways, defining entrances and landscape, and improving design and locations for amenities such as the dog run, climbing wall, and multi-purpose park building to include an interpretive nature center, restrooms, and park and maintenance facilities.

- **Tobacco Warehouse Public Spaces Programming Committee (TWSPSPC).** Regarding the Tobacco Warehouse, BBPC, along with a local theater and cultural organization (the designated lessee) and their architect, met with the Tobacco Warehouse Public Spaces Programming Committee (TWSPSPC) in May 2013 to present the proposed design for the adaptive reuse of the structure and to receive feedback. BBPC and the designated lessee also met with the Brooklyn Bridge Park architect to review the preliminary design for the outdoor triangle space of the structure and to provide feedback in May 2013.
- **Community Board 2.** In October 2012, BBPC presented to the Brooklyn Community Board 2 Parks Committee and, at the community board’s full board meeting in November 2012, the board voted in favor of BBPC’s plan, with some refinements. BBPC presented an updated plan to the Community Board 2 Parks Committee, taking into consideration their comments and the comments of the PEDDC on May 20, 2013. The Parks Committee voted in favor of recommending approval of this plan to their full board at their June meeting. Regarding the proposed adaptive reuse of the Tobacco Warehouse, in April 2013, BBPC and the designated lessee presented the design plan to the Community Board 2 Land Use Committee, which included some members of the Community Board 2 Parks Committee, and the Land Use Committee voted in favor of the plan with one abstention. In May 2013, the full board also voted in favor of the plan.

In addition, BBPC has reached out to other local community groups including the D.U.M.B.O Business Improvement District, the Brooklyn Bridge Park Conservancy, and dog run advocates who use the portion of the park adjacent to the replacement parcels. BBPC has also consulted with local elected officials including Brooklyn Borough President Marty Markowitz, Councilmember Steve Levin, Senator Daniel Squadron, and Assemblymember Joan Millman.

As required by National Park Service (NPS) DO-12 Handbook, this EA will be made available for public comment for a minimum of 30 days.

C. AVAILABILITY OF THIS EA

This EA was prepared pursuant to the National Environmental Policy Act (NEPA) to evaluate and document the potential impacts of the proposed conversion of approximately 2.652 acres of the former Empire-Fulton Ferry State Park in Brooklyn, including the Empire Stores and the Tobacco Warehouse, under Section 6(f)(3) of the federal Land and Water Conservation Fund Act (LWCFCA). In accordance with the requirements of the applicable NEPA regulations, the public will have the opportunity to comment on this EA during a 30-day public review period. A Notice of Availability of the EA has been published in local newspapers indicating where copies of the document are available and the period for public comment.

Paper copies of the EA are available at the offices of Brooklyn Bridge Park:

Brooklyn Bridge Park
334 Furman Street
Brooklyn, NY 11201

The EA is available on Brooklyn Bridge Park’s website at www.brooklynbridgepark.org/about-us/brooklyn-bridge-park/conversion-ea-tobacco-warehouse-empire.

Brooklyn Bridge Park Section 6(f) Conversion EA

A public hearing on this EA will be held at 6:00 PM on Thursday, June 20, 2013 at the following location:

Polytechnic University of New York University
6 MetroTech Center, room RH116 (Jay Street near Tech Place)
Brooklyn, NY

Written comments may be submitted until 5:00 PM on Friday, July 5, 2013 to Brooklyn Bridge Park, 334 Furman Street, Brooklyn, NY 11201 or at conversionpubliccomment@bbpnyc.org.

D. RECIPIENTS OF THIS EA

Brooklyn Borough President Marty Markowitz
Brooklyn Bridge Park Community Advisory Council (CAC)
Brooklyn Bridge Park Conservancy
Brooklyn Bridge Development Corporation
Brooklyn Community Board 2
Brooklyn Community Board 6
Brooklyn Heights Association
Dodge YMCA
Dumbo Neighborhood Alliance
Empire State Development
Fulton Ferry Landing Association
Ingersoll Houses Tenant Association
National Park Service
New York City Landmarks Preservation Commission
New York City Councilmember Stephen T. Levin
New York City Department of Parks and Recreation
New York State Office of Parks, Recreation and Historic Preservation (OPRHP)
New York State Senator Daniel L. Squadron
New York State Assemblymember Joan L. Millman
New York State Congresswoman Nydia M. Velasquez
The New York Landmarks Conservancy
Preservation League of New York State
Vinegar Hill Neighborhood Association

E. PREPARERS

BBPC

David Lowin
Vice President
Brooklyn Bridge Park Corporation

Haley Stein
Senior Counsel
Environmental Law Division,
New York City Law Department

Sarah Kogel-Smucker

Assistant Corporation Counsel
Environmental Law Division,
New York City Law Department

AKRF, INC.

Julia P. Cowing, AI CP

Senior Vice President

Claudia Cooney

Vice President

Dina Rybak, AI CP

Senior Planner

*

APPENDIX A
LAND AND WATER CONSERVATION FUND ACT
REGULATIONS
(36 CFR PART 59)

preference by operation of law, the Director will permit the concessioner to exercise a renewal preference for the contract subject to and in accordance with the otherwise applicable right of preference terms and conditions of this part, including, without limitation, the requirement for submission of a responsive proposal pursuant to the terms of an applicable prospectus. The Director, similarly, will permit any holder of a 1965 Act concession contract that a court of competent jurisdiction determines in a final order is entitled to a renewal preference, for any reason, to exercise a right of preference in accordance with the otherwise applicable requirements of this part, including, without limitation, the requirement for submission of a responsive proposal pursuant to the terms of an applicable prospectus.

§ 51.103 Severability.

A determination that any provision of this part is unlawful will not affect the validity of the remaining provisions.

Subpart M—Information Collection

§ 51.104 Have information collection procedures been followed?

(a) The Paperwork Reduction Act provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The information collection for submission of proposals in response to concession prospectuses contained in this part have been approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024-0125, extended through May 30, 2000. An information collection for proposed transfers of concession operations is covered by OMB Approval No. 1024-0126 effective through August 31, 2002.

(b) The public reporting burden for the collection of information for the purpose of preparing a proposal in response to a contract solicitation is estimated to average 480 hours per proposal for large authorizations and 240 hours per proposal for small authorizations. The public reporting burden for

the collection of information for the purpose of requesting approval of a sale or transfer of a concession operation is estimated to be 80 hours. Please send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Officer, National Park Service, 1849 C Street, Washington, DC 20240; and to the Attention: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

(c) Additional reporting and record-keeping requirements were identified in subpart F regarding appeal of a preferred offeror determination, subpart G regarding leasehold surrender interest and in subpart K regarding record-keeping that are not covered under OMB approval. An emergency information collection request to cover these requirements has been prepared and submitted to OMB for approvals. These additional information collection requirements will not be implemented until OMB approves the emergency request. The Director will publish a FEDERAL REGISTER notice when OMB has approved these requirements.

PART 59—LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES; POST-COMPLETION COMPLIANCE RESPONSIBILITIES

- Sec.
- 59.1 Applicability.
- 59.2 Information collection.
- 59.3 Conversion requirements.
- 59.4 Residency requirements.
- 59.5-59.6 [Reserved]

AUTHORITY: Sec. 6, L&WCF Act of 1965 as amended; Pub. L. 88-578; 78 Stat. 897; 16 U.S.C. 4601-4 *et seq.*

SOURCE: 51 FR 34184, Sept. 25, 1986, unless otherwise noted.

§ 59.1 Applicability.

These post-completion responsibilities apply to each area or facility for which Land and Water Conservation Fund (L&WCF) assistance is obtained, regardless of the extent of participation of the program in the assisted area

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or facility and consistent with the contractual agreement between NPS and the State. Responsibility for compliance and enforcement of these provisions rests with the State for both State and locally sponsored projects. The responsibilities cited herein are applicable to the area depicted or otherwise described on the 6(f)(3) boundary map and/or as described in other project documentation approved by the Department of the Interior. In many instances, this mutually agreed to area exceeds that actually receiving L&WCF assistance so as to assure the protection of a viable recreation entity. For leased sites assisted under L&WCF, compliance with post-completion requirements of the grant ceases following lease expiration unless the grant agreement calls for some other arrangement.

§ 59.2 Information collection.

The information collection requirements contained in § 59.3 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1024-0047. The information is being collected to determine whether to approve a project sponsor's request to convert an assisted site or facility to other than public outdoor recreation uses. The information will be used to assure that the requirements of section 6(f)(3) of the L&WCF Act would be met should the proposed conversion be implemented. Response is required in order to obtain the benefit of Department of the Interior approval.

§ 59.3 Conversion requirements.

(a) *Background and legal requirements.* Section 6(f)(3) of the L&WCF Act is the cornerstone of Federal compliance efforts to ensure that the Federal investments in L&WCF assistance are being maintained in public outdoor recreation use. This section of the Act assures that once an area has been funded with L&WCF assistance, it is continually maintained in public recreation use unless NPS approves substitution property of reasonably equivalent usefulness and location and of at least equal fair market value.

(b) *Prerequisites for conversion approval.* Requests from the project spon-

sor for permission to convert L&WCF assisted properties in whole or in part to other than public outdoor recreation uses must be submitted by the State Liaison Officer to the appropriate NPS Regional Director in writing. NPS will consider conversion requests if the following prerequisites have been met:

(1) All practical alternatives to the proposed conversion have been evaluated.

(2) The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by an approved appraisal (prepared in accordance with uniform Federal appraisal standards) excluding the value of structures or facilities that will not serve a recreation purpose.

(3) The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. Dependent upon the situation and at the discretion of the Regional Director, the replacement property need not provide identical recreation experiences or be located at the same site, provided it is in a reasonably equivalent location. Generally, the replacement property should be administered by the same political jurisdiction as the converted property. NPS will consider State requests to change the project sponsor when it is determined that a different political jurisdiction can better carry out the objectives of the original project agreement. Equivalent usefulness and location will be determined based on the following criteria:

(i) Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the facilities which exist and the types of outdoor recreation resources and opportunities available. The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site. This criterion is applicable in the consideration of all conversion requests with the exception of those where wetlands are proposed as replacement property. Wetland areas and interests therein

which have been identified in the wetlands provisions of the Statewide Comprehensive Outdoor Recreation Plan shall be considered to be of reasonably equivalent usefulness with the property proposed for conversion regardless of the nature of the property proposed for conversion.

(ii) Replacement property need not necessarily be directly adjacent to or close by the converted site. This policy provides the administrative flexibility to determine location recognizing that the property should meet existing public outdoor recreation needs. While generally this will involve the selection of a site serving the same community(ies) or area as the converted site, there may be exceptions. For example, if property being converted is in an area undergoing major demographic change and the area has no existing or anticipated future need for outdoor recreation, then the project sponsor should seek to locate the substitute area in another location within the jurisdiction. Should a local project sponsor be unable to replace converted property, the State would be responsible, as the primary recipient of Federal assistance, for assuring compliance with these regulations and the substitution of replacement property.

(iii) The acquisition of one parcel of land may be used in satisfaction of several approved conversions.

(4) The property proposed for substitution meets the eligibility requirements for L&WCF assisted acquisition. The replacement property must constitute or be part of a viable recreation area. Unless *each* of the following additional conditions is met, land currently in public ownership, including that which is owned by another public agency, may not be used as replacement land for land acquired as part of an L&WCF project:

(i) The land was not acquired by the sponsor or selling agency for recreation.

(ii) The land has not been dedicated or managed for recreational purposes while in public ownership.

(iii) No Federal assistance was provided in the original acquisition unless the assistance was provided under a program expressly authorized to match or supplement L&WCF assistance.

(iv) Where the project sponsor acquires the land from another public agency, the selling agency must be required by law to receive payment for the land so acquired.

In the case of development projects for which the State match was not derived from the cost of the purchase or value of a donation of the land to be converted, but from the value of the development itself, public land which has not been dedicated or managed for recreation/conservation use may be used as replacement land even if this land is transferred from one public agency to another without cost.

(5) In the case of assisted sites which are partially rather than wholly converted, the impact of the converted portion on the remainder shall be considered. If such a conversion is approved, the unconverted area must remain recreationally viable or be replaced as well.

(6) All necessary coordination with other Federal agencies has been satisfactorily accomplished including, for example, compliance with section 4(f) of the Department of Transportation Act of 1966.

(7) The guidelines for environmental evaluation have been satisfactorily completed and considered by NPS during its review of the proposed 6(f)(3) action. In cases where the proposed conversion arises from another Federal action, final review of the State's proposal shall not occur until the NPS Regional office is assured that all environmental review requirements related to that other action have been met.

(8) State intergovernmental clearinghouse review procedures have been adhered to if the proposed conversion and substitution constitute significant changes to the original Land and Water Conservation Fund project.

(9) The proposed conversion and substitution are in accord with the Statewide Comprehensive Outdoor Recreation Plan (SCORP) and/or equivalent recreation plans.

(c) *Amendments for conversion.* All conversions require amendments to the original project agreements. Therefore, amendment requests should be submitted concurrently with conversion requests or at such time as all details of the conversion have been worked out

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with NPS. Section 6(f)(3) project boundary maps shall be submitted with the amendment request to identify the changes to the original area caused by the proposed conversion and to establish a new project area pursuant to the substitution. Once the conversion has been approved, replacement property should be immediately acquired. Exceptions to this rule would occur only when it is not possible for replacement property to be identified prior to the State's request for a conversion. In such cases, an express commitment to satisfy section 6(f)(3) substitution requirements within a specified period, normally not to exceed one year following conversion approval, must be received from the State. This commitment will be in the form of an amendment to the grant agreement.

(d) *Obsolete facilities.* Recipients are not required to continue operation of a particular facility beyond its useful life. However, when a facility is declared obsolete, the site must nonetheless be maintained for public outdoor recreation following discontinuance of the assisted facility. Failure to so maintain is considered to be a conversion. Requests regarding changes from a L&WCF funded facility to another otherwise eligible facility at the same site that significantly contravene the original plans for the area must be made in writing to the Regional Director. NPS approval must be obtained prior to the occurrence of the change. NPS approval is not necessarily required, however, for each and every facility use change. Rather, a project area should be viewed in the context of overall use and should be monitored in this context. A change from a baseball field to a football field, for example, would not require NPS approval. A change from a swimming pool with substantial recreational development to a less intense area of limited development such as a passive park, or vice versa, would, however, require NPS review and approval. To assure that facility changes do not significantly contravene the original project agreement, NPS shall be notified by the State of all proposed changes in advance of their occurrence. A primary NPS consideration in the review of requests for changes in use will be the consistency

of the proposal with the Statewide Comprehensive Outdoor Recreation Plan and/or equivalent recreation plans. Changes to other than public outdoor recreation use require NPS approval and the substitution of replacement land in accordance with section 6(f)(3) of the L&WCF Act and paragraphs (a) through (c) of this section.

[51 FR 34184, Sept. 25, 1986, as amended at 52 FR 22747, June 15, 1987]

§ 59.4 Residency requirements.

(a) *Background.* Section 6(f)(8) of the L&WCF Act prohibits discrimination on the basis of residence, including preferential reservation or membership systems, except to the extent that reasonable differences in admission and other fees may be maintained on such basis. This prohibition applies to both regularly scheduled and special events. The general provisions regarding non-discrimination at sites assisted under Interior programs and, thereby, all other recreation facilities managed by a project sponsor, are covered in 43 CFR part 17 which implements the provisions of Title VI of the Civil Rights Act of 1964 for the Department.

(b) *Policy.* There shall be no discrimination for L&WCF assisted programs and services on the basis of residence, except in reasonable fee differentials. Post-completion compliance responsibilities of the recipient should continue to ensure that discrimination on the basis of residency is not occurring.

(c) *Fees.* Fees charged to nonresidents cannot exceed twice that charged to residents. Where there is no charge for residents but a fee is charged to nonresidents, nonresident fees cannot exceed fees charged for residents at comparable State or local public facilities. Reservation, membership, or annual permit systems available to residents must also be available to nonresidents and the period of availability must be the same for both residents and nonresidents. Recipients are prohibited from providing residents the option of purchasing annual or daily permits while at the same time restricting nonresidents to the purchase of annual permits only. These provisions apply only to the approved 6(f)(3) areas applicable to the recipient. Nonresident

fishing and hunting license fees are excluded from these requirements.

§§ 59.5–59.6 [Reserved]

PART 60—NATIONAL REGISTER OF HISTORIC PLACES

Sec.

- 60.1 Authorization and expansion of the National Register.
- 60.2 Effects of listing under Federal law.
- 60.3 Definitions.
- 60.4 Criteria for evaluation.
- 60.5 Nomination forms and information collection.
- 60.6 Nominations by the State Historic Preservation Officer under approved State Historic Preservation programs.
- 60.7–60.8 [Reserved]
- 60.9 Nominations by Federal agencies.
- 60.10 Concurrent State and Federal nominations.
- 60.11 Requests for nominations.
- 60.12 Nomination appeals.
- 60.13 Publication in the FEDERAL REGISTER and other NPS notification.
- 60.14 Changes and revisions to properties listed in the National Register.
- 60.15 Removing properties from the National Register.

AUTHORITY: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*, and E.O. 11593.

SOURCE: 46 FR 56187, Nov. 16, 1981, unless otherwise noted.

§ 60.1 Authorization and expansion of the National Register.

(a) The National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 *et seq.*, as amended, authorizes the Secretary of the Interior to expand and maintain a National Register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering and culture. The regulations herein set forth the procedural requirements for listing properties on the National Register.

(b) Properties are added to the National Register through the following processes.

(1) Those Acts of Congress and Executive orders which create historic areas of the National Park System administered by the National Park Service, all or portions of which may be determined to be of historic significance consistent with the intent of Congress;

(2) Properties declared by the Secretary of the Interior to be of national significance and designated as National Historic Landmarks;

(3) Nominations prepared under approved State Historic Preservation Programs, submitted by the State Historic Preservation Officer and approved by the NPS;

(4) Nominations from any person or local government (only if such property is located in a State with no approved State Historic Preservation Program) approved by the NPS and;

(5) Nominations of Federal properties prepared by Federal agencies, submitted by the Federal Preservation Officer and approved by NPS.

§ 60.2 Effects of listing under Federal law.

The National Register is an authoritative guide to be used by Federal, State, and local governments, private groups and citizens to identify the Nation's cultural resources and to indicate what properties should be considered for protection from destruction or impairment. Listing of private property on the National Register does not prohibit under Federal law or regulation any actions which may otherwise be taken by the property owner with respect to the property.

(a) The National Register was designed to be and is administered as a planning tool. Federal agencies undertaking a project having an effect on a listed or eligible property must provide the Advisory Council on Historic Preservation a reasonable opportunity to comment pursuant to section 106 of the National Historic Preservation Act of 1966, as amended. The Council has adopted procedures concerning, *inter alia*, their commenting responsibility in 36 CFR part 800. Having complied with this procedural requirement the Federal agency may adopt any course of action it believes is appropriate. While the Advisory Council comments must be taken into account and integrated into the decisionmaking process, program decisions rest with the agency implementing the undertaking.

(b) Listing in the National Register also makes property owners eligible to be considered for Federal grants-in-aid for historic preservation.

APPENDIX B
CORRESPONDENCE



**New York State Office of Parks,
Recreation and Historic Preservation**

Andrew M. Cuomo
Governor

Rose Harvey
Commissioner

Historic Preservation Field Services Bureau
P.O. Box 189, Waterford, New York 12188-0189
518-237-8643

MEMO

Date: May 30, 2013

To: Joseph Grimaldi, ASLO, NYS OPRHP

From: Julian W. Adams, State Historic Preservation Office/DHP

Re: LWCF

Empire Fulton Ferry – Cove Area
Brooklyn, Kings County
36-01225/13PR02239

Thank you for requesting the comments of the State Historic Preservation Office (SHPO) for the proposed conversion, as required under Section 6(f)(3) of the Land and Water Conservation Fund Act, at the Empire Fulton Ferry District – Cove Area. The Division for Historic Preservation, acting as the NYSHPO, has reviewed the submitted information in accordance with the provisions of Section 106 of the National Historic Preservation Act of 1966.

It is the opinion of the State Historic Preservation Office that the proposed conversion of existing recreational space and the introduction of comparable outdoor recreation on replacement property will have No Adverse Effect on properties either listed on or considered eligible for listing on the National Register of Historic Places.

There are appropriate and adequate covenants in place including a Letter of Resolution, and amendments, for all activities at the Empire Stores/Tobacco Warehouse requiring consultation with and approval by the OPRHP/SHPO, including protection of archeological resources. In addition, the Brooklyn Bridge Park, responsible for this area and its contributing historic features, has been working closely with the SHPO to develop potential redevelopment/rehabilitation of the buildings based solidly on these covenants.

If anyone has any questions, please call me at 518-237-8643, ext. 3271



United States Department of the Interior



FISH AND WILDLIFE SERVICE
LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
PHONE: (631)286-0485 FAX: (631)286-4003

Consultation Tracking Number: 05E1LI00-2013-SLI-0116

May 17, 2013

Project Name: Brooklyn Bridge Park

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the

human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Official Species List

Provided by:

LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
(631) 286-0485

Consultation Tracking Number: 05E1LI00-2013-SLI-0116

Project Type: Development

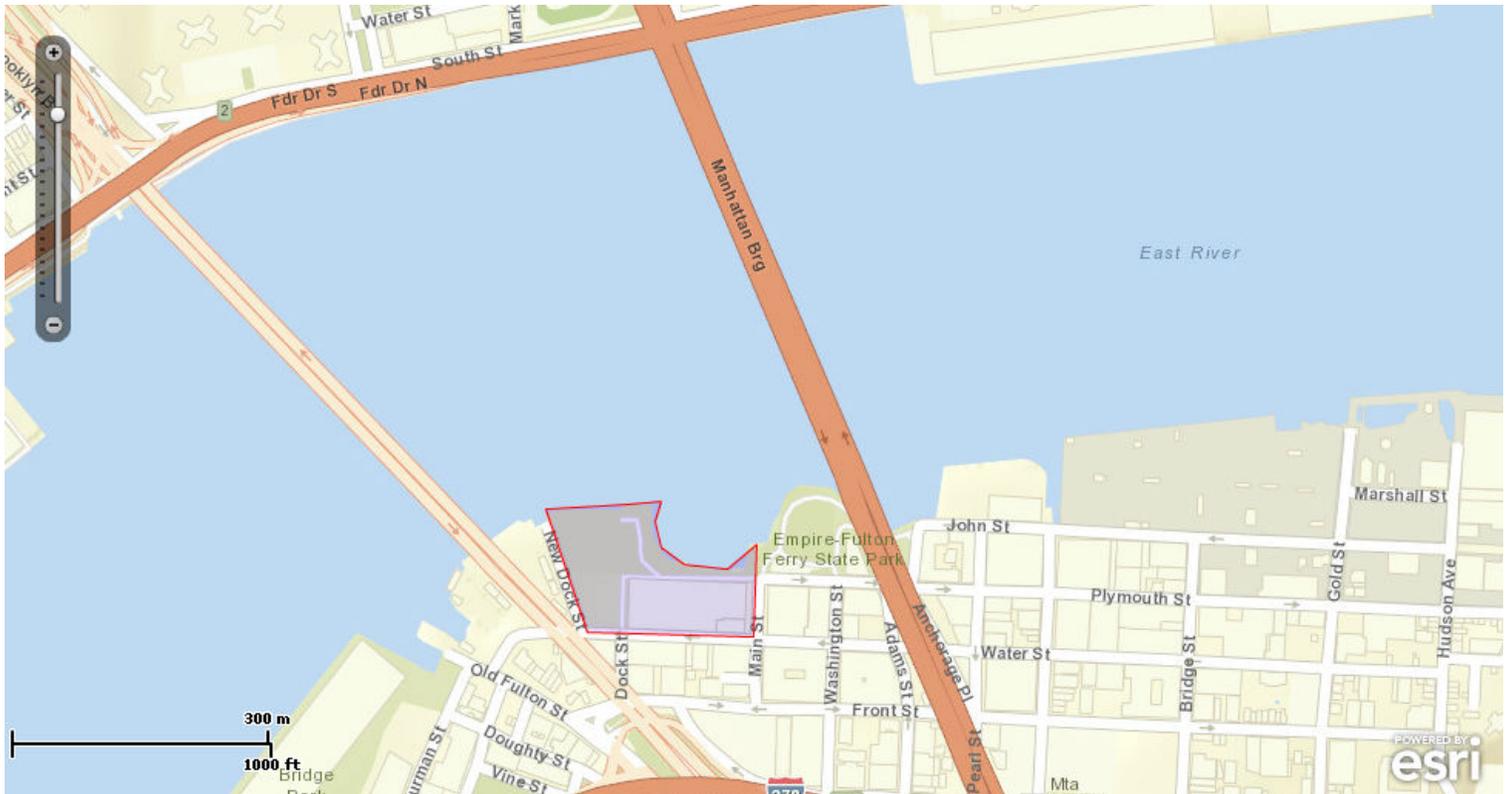
Project Description: Removing Tobacco Warehouse and Empire Stores buildings from federally protected parkland status and substituting parcels beneath Manhattan Bridge. PURPLE OUTLINE



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-73.9936159 40.7046437, -73.9920066 40.7047234, -73.9920924 40.7045127, -73.9920066 40.7042362, -73.9916848 40.7040573, -73.9910839 40.7040085, -73.9906762 40.7042687, -73.9907192 40.7032927, -73.9930366 40.7033415, -73.9936159 40.7046437)))

Project Counties: Kings, NY | New York, NY



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Endangered Species Act Species List

Species lists are not entirely based upon the current range of a species but may also take into consideration actions that affect a species that exists in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Please contact the designated FWS office if you have questions.

Piping Plover (*Charadrius melodus*)

Population: except Great Lakes watershed

Listing Status: Threatened

Roseate tern (*Sterna dougallii dougallii*)

Population: northeast U.S. nesting pop.

Listing Status: Endangered

Seabeach amaranth (*Amaranthus pumilus*)

Listing Status: Threatened



United States Department of the Interior



FISH AND WILDLIFE SERVICE
LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
PHONE: (631)286-0485 FAX: (631)286-4003

Consultation Tracking Number: 05E1LI00-2013-SLI-0117

May 17, 2013

Project Name: Brooklyn Bridge Park

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the

human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

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We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Official Species List

Provided by:

LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
(631) 286-0485

Consultation Tracking Number: 05E1LI00-2013-SLI-0117

Project Type: Development

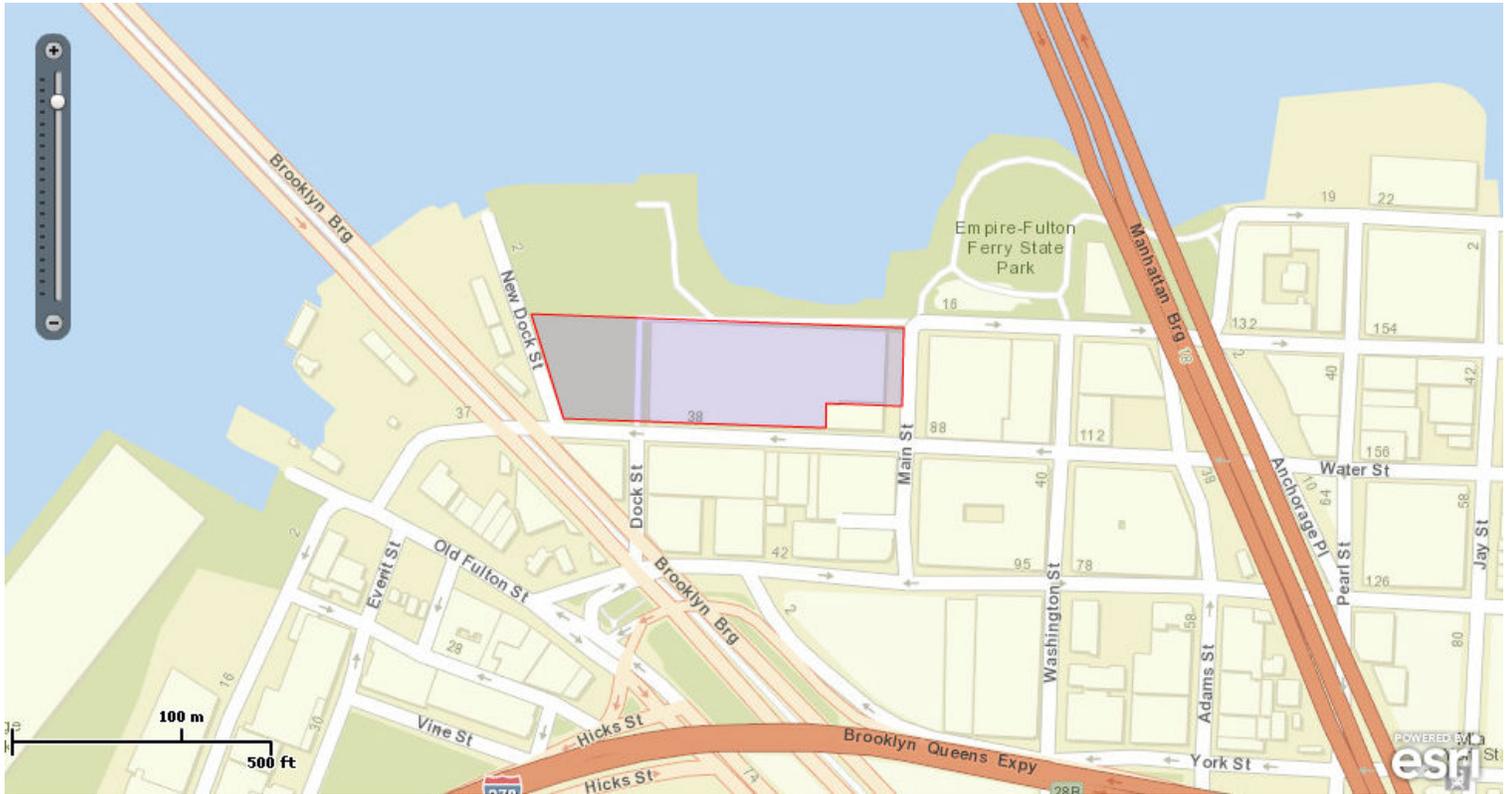
Project Description: Removing Tobacco Warehouse and Empire Stores buildings from federally protected parkland status and substituting parcels beneath Manhattan Bridge. RED OUTLINE



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-73.9906922 40.7038736, -73.9907029 40.7034588, -73.9912394 40.7034751, -73.9912394 40.7033449, -73.9930638 40.7033937, -73.9932886 40.7039468, -73.9906922 40.7038736)))

Project Counties: Kings, NY



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Endangered Species Act Species List

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Piping Plover (*Charadrius melodus*)

Population: except Great Lakes watershed

Listing Status: Threatened

Roseate tern (*Sterna dougallii dougallii*)

Population: northeast U.S. nesting pop.

Listing Status: Endangered

Seabeach amaranth (*Amaranthus pumilus*)

Listing Status: Threatened



United States Department of the Interior



FISH AND WILDLIFE SERVICE
LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
PHONE: (631)286-0485 FAX: (631)286-4003

Consultation Tracking Number: 05E1LI00-2013-SLI-0118

May 17, 2013

Project Name: Brooklyn Bridge Park

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, and proposed species, designated critical habitat, and candidate species that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

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A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the

human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

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We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Official Species List

Provided by:

LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
(631) 286-0485

Consultation Tracking Number: 05E1LI00-2013-SLI-0118

Project Type: Development

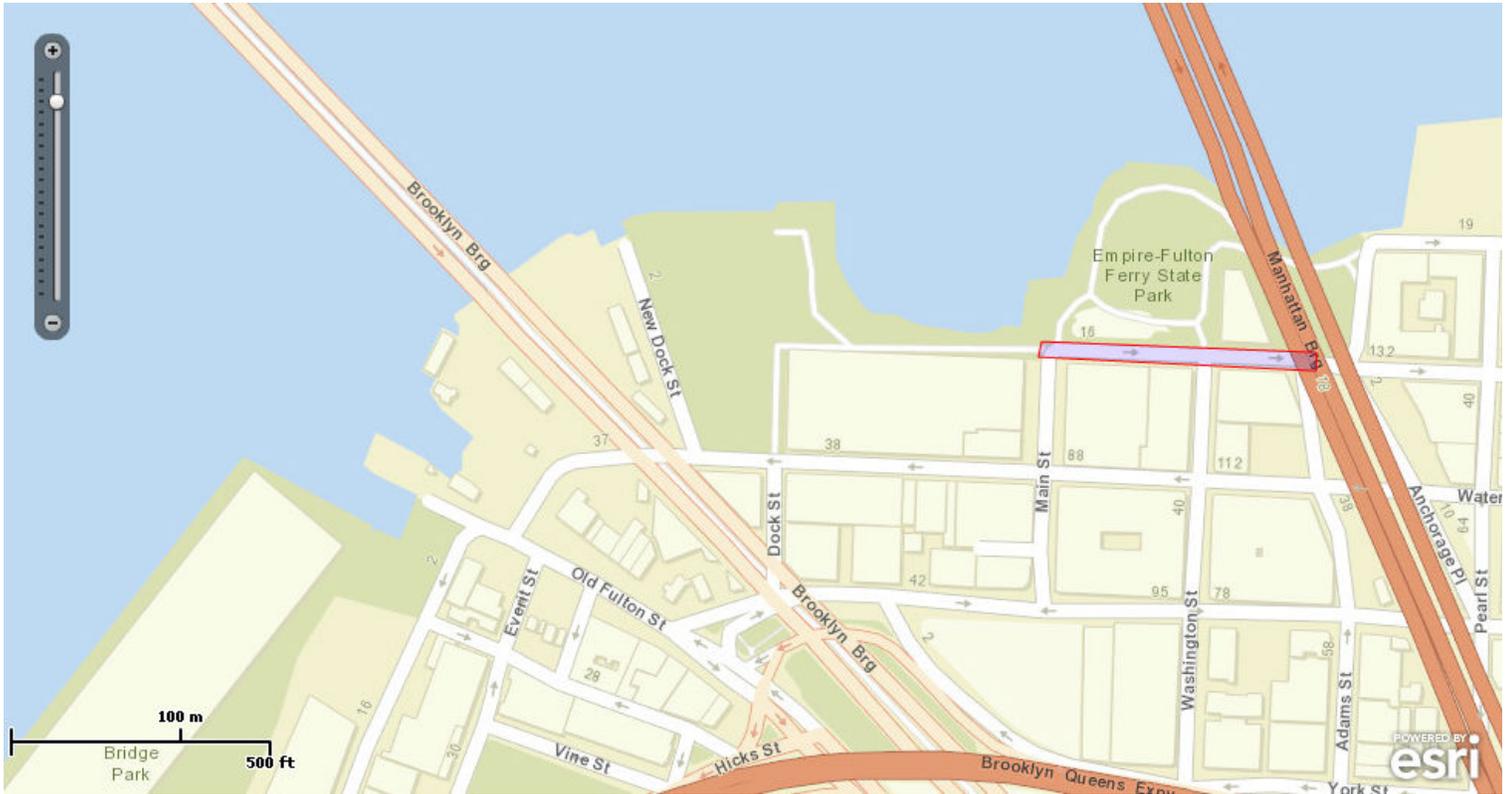
Project Description: Removing Tobacco Warehouse and Empire Stores buildings from federally protected parkland status and substituting parcels beneath Manhattan Bridge. YELLOW OUTLINE



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-73.9887874 40.7038936, -73.9887874 40.703796, -73.9907186 40.7038692, -73.9906972 40.703951, -73.9887874 40.7038936)))

Project Counties: Kings, NY



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Endangered Species Act Species List

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Population: except Great Lakes watershed

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Population: northeast U.S. nesting pop.

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Listing Status: Threatened



United States Department of the Interior



FISH AND WILDLIFE SERVICE
LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
PHONE: (631)286-0485 FAX: (631)286-4003

Consultation Tracking Number: 05E1LI00-2013-SLI-0119

May 17, 2013

Project Name: Brooklyn Bridge Park

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project.

To Whom It May Concern:

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Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Official Species List

Provided by:

LONG ISLAND ECOLOGICAL SERVICES FIELD OFFICE
340 SMITH ROAD
SHIRLEY, NY 11967
(631) 286-0485

Consultation Tracking Number: 05E1LI00-2013-SLI-0119

Project Type: Development

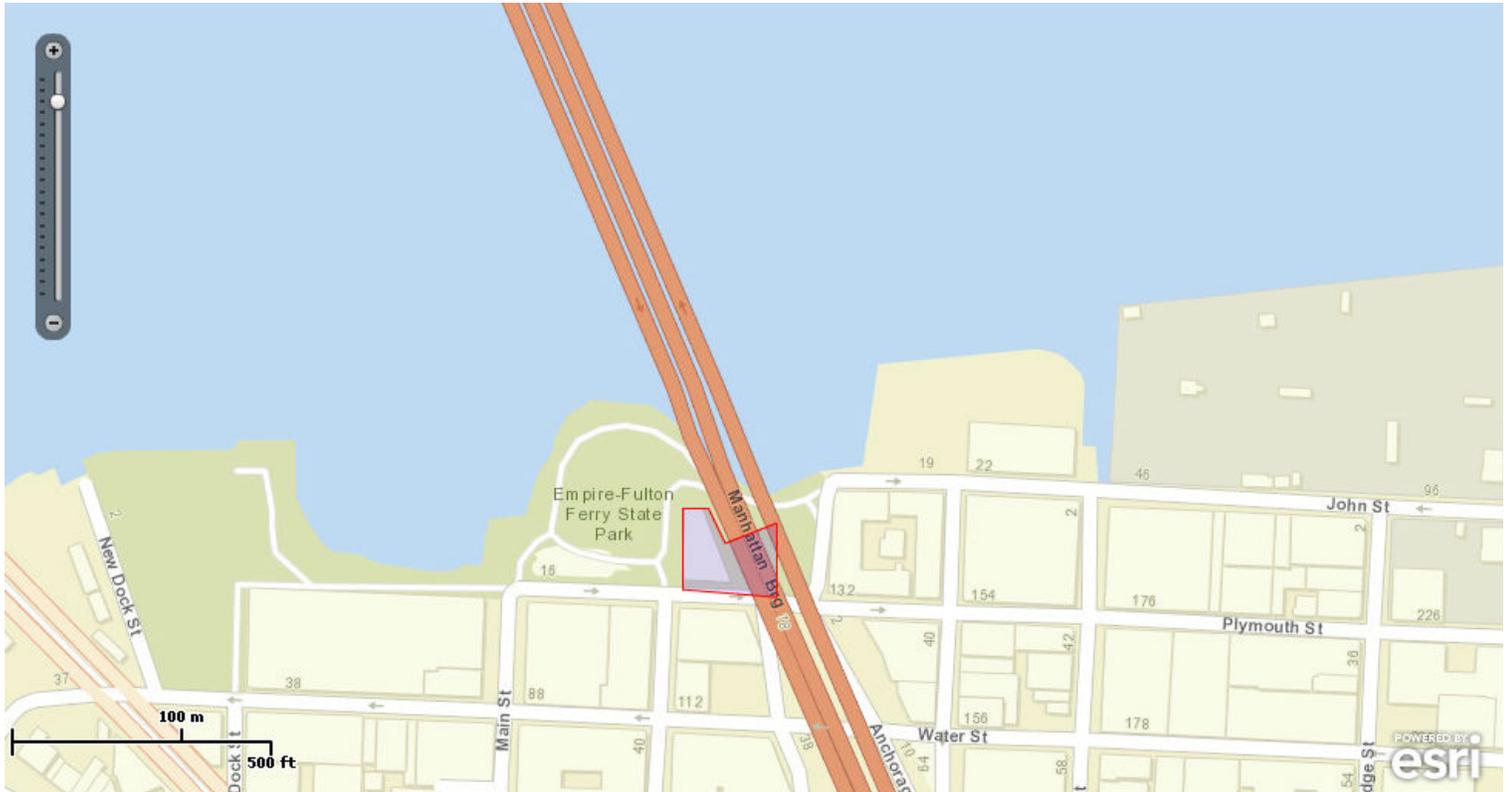
Project Description: Removing Tobacco Warehouse and Empire Stores buildings from federally protected parkland status and substituting parcels beneath Manhattan Bridge. BLUE OUTLINE



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-73.9894419 40.7038959, -73.9894419 40.704327, -73.98926 40.704327, -73.989142 40.7041399, -73.988788 40.7042456, -73.9887874 40.7038552, -73.9894419 40.7038959)))

Project Counties: Kings, NY



United States Department of Interior
Fish and Wildlife Service

Project name: Brooklyn Bridge Park

Endangered Species Act Species List

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Population: except Great Lakes watershed

Listing Status: Threatened

Roseate tern (*Sterna dougallii dougallii*)

Population: northeast U.S. nesting pop.

Listing Status: Endangered

Seabeach amaranth (*Amaranthus pumilus*)

Listing Status: Threatened

APPENDIX C
LETTER OF RESOLUTION & AMENDMENTS

**LETTER OF RESOLUTION
AMONG
THE NEW YORK STATE URBAN DEVELOPMENT CORPORATION
D/B/A EMPIRE STATE DEVELOPMENT CORPORATION,
BROOKLYN BRIDGE PARK DEVELOPMENT CORPORATION,
THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC
PRESERVATION,
AND
EMPIRE STORES, LLC
REGARDING
THE BROOKLYN BRIDGE PARK AND EMPIRE STORES
BROOKLYN, KINGS COUNTY**

WHEREAS, the proposed project - the result of collaboration between New York State and New York City under the aegis of the Brooklyn Bridge Park Development Corporation (BBPDC), a subsidiary of the New York State Urban Development Corporation (UDC), doing business as the Empire State Development Corporation (ESDC) - is the creation of the Brooklyn Bridge Park, an approximately 85-acre park that would stretch along approximately 1.3 miles of Brooklyn's East River waterfront from Jay Street in the north, to Atlantic Avenue in the south (the "Project");

WHEREAS, the park would dramatically transform a largely underused and publicly inaccessible waterfront into an important new public amenity that would serve the borough and the region. The proposed park would be created from those areas encompassing Piers 1 through 6 and related upland property, the existing Empire-Fulton Ferry State Park and New York City Department of Parks and Recreation-operated Main Street Park, and the Con Edison property on John Street east of the Manhattan Bridge ("John Street Site"), creating a continuous waterfront esplanade along the entire site. The park would include landscaped areas and ecological habitats; recreational facilities for sports such as soccer and basketball; a marina for recreational boating; protected waters for kayaking; and a limited amount of development essential to the park's creation, including retail, restaurant, residential, and hotel space;

WHEREAS, although the State and City will underwrite the cost of park construction, once completed, the park itself must be self-sufficient. The funds to support park operations and maintenance must flow from revenue-generating park components. These features will be limited to a small area of parkland and must be consistent with maintaining an urban environment supportive of the mission of the park. The new buildings that would result include two residential buildings in the Pier 6 upland area, a hotel and residential development in the Pier 1 upland area, and a new residential building at the northwest corner of Pearl and John Streets. In addition to the increased activity the residential and commercial land uses would bring to the site, they would provide the park with the financial resources needed to ensure its care and maintenance;

WHEREAS, the Project would have an overall positive effect on historic resources by maintaining a number of architectural resources for reuse, opening up greater views of the Brooklyn Bridge and Manhattan Bridge, creating views to the historic waterfront, and the rehabilitation and adaptive reuse of the Empire Stores in the Fulton Ferry Historic District, which is a resource eligible for listing on the State and National Registers of Historic Places, to include new retail, restaurant and commercial uses;

WHEREAS, Empire Stores, LLC ("Empire LLC") has entered into a Memorandum of Understanding with BBPDC to develop the Empire Stores to include new retail, restaurant and commercial uses;

WHEREAS, ESDC is the lead agency in the preparation of the Environmental Impact Statement ("EIS") being prepared under the State Environmental Quality Review Act ("SEQRA") and City Environmental Quality Review ("CEQR"), for the proposed park;

WHEREAS, through the preparation of the EIS and consultation with The New York State Office of Parks, Recreation and Historic Preservation (OPRHP), it has been determined that the Cold Storage Warehouse buildings at 66 Furman Street are a resource eligible for listing on the State and National Registers of Historic Places.

WHEREAS, all prudent and feasible alternatives have been explored for the reuse of the Cold Storage Warehouse buildings for use as residential and hotel facilities as needed to provide the revenue generating requirements of the Park;

WHEREAS, the demolition of the Cold Storage Warehouse buildings constitute an Adverse Impact;

WHEREAS, ESDC in consultation with OPRHP has determined that the project may have an Impact upon the following Historic Resources within the project area

1. Brooklyn Bridge, Spans the East River between Brooklyn and Manhattan
2. Manhattan Bridge, Spans the East River between Brooklyn and Manhattan
3. Fulton Ferry Historic District, roughly bounded by the East River and Doughty, Water, Front and Main Streets
4. D.U.M.B.O. Historic District, Roughly bounded by the East River and John Street, Front and York Streets, Main and Washington Streets, and Jay and Bridge Streets
5. Brooklyn Heights Historic District, roughly bounded by Cadman Plaza West (Old Fulton Street), Atlantic Avenue and Furman, Henry, Clinton and Court Streets

WHEREAS, the EIS identified historic resources located on the Project site that may be affected during construction of the Project, such as the Brooklyn Bridge's stone piers and the Tobacco Inspection Warehouse;

WHEREAS, a Phase IA Archaeological Study prepared for the project area concludes that construction of new buildings may impact potential archaeological resources. The areas that have been identified as containing potential archaeological resources are: Empire Stores, residential building sites in the Pier 6 upland area, the hotel/residential site in the Pier 1 upland area, and the John Street site;

WHEREAS, the purpose of this Letter of Resolution (“LOR”) is to ensure that appropriate mitigation measures are undertaken to address the identified Adverse Impact due to the demolition of the Cold Storage Warehouse buildings, and to avoid any construction-related damage on historic and archaeological resources;

NOW, THEREFORE, as referenced in the EIS and in accordance with Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law, ESDC, BBPDC, Empire LLC and OPRHP agree that the Project may proceed subject to the Stipulations specified below:

STIPULATIONS

1. ESDC/BBPDC will undertake a Historic American Building’s Survey (HABS) Level II photographic documentation of the Cold Storage Warehouse building. This documentation will be conducted by a recognized professional credentialed for preparing such reports. The HABS report will be reviewed by ESDC/BBPDC and OPRHP for its completeness and acceptance. Copies of the documentation will be provided to the Brooklyn Historical Society, the Museum of the City of New York, and two copies to OPRHP (one for their records and one to be forwarded to the New York State Archives).
2. ESDC/BBPDC will use best efforts to encourage future development on the Cold Storage Warehouse site to retain and reuse portions of the original building, to the extent feasible and practical. Design plans shall be developed in consultation with OPRHP and submitted at the preliminary (35%) and pre-final (75%) completion stages for OPRHP comment. If OPRHP makes substantive comments during the pre-final design review, OPRHP may request the opportunity to review the final design.
3. A Construction Protection Plan (CPP) will be prepared in coordination with a licensed professional engineer, and developed and implemented in consultation with OPRHP for the Brooklyn Bridge’s stone piers during the demolition of the Purchase Building and to avoid any construction-related damage to the Tobacco Inspection Warehouse and any other historic resources within 90 feet of the project site. The construction protection plan shall meet the requirements specified in the New York City Department of Buildings (NYCBOD) Technical Policy and Procedure Notice #10/88

concerning procedures for avoidance of damage to historic structures resulting from adjacent construction. The CPP shall describe in detail the construction procedures of the Project related to Historic Properties and the construction procedures associated with other projects under construction in the vicinity of each of the Historic Properties. This plan shall be submitted to OPRHP for review and approval prior to implementation.

4. Rehabilitation of the Empire Stores will be conducted in a manner that is compatible with and respects the architectural and historic significance of the resource and in accordance with the Secretary of the Interior's Standards for Rehabilitation. Interior and exterior design plans shall be developed in consultation with OPRHP and submitted at the preliminary (35%) and pre-final (75%) completion stages for OPRHP comment. If OPRHP makes substantive comments during the pre-final design review, OPRHP may request the opportunity to review the final design.
5. As final design for the park is advanced, consultation with SHPO will be conducted to review whether proposed construction may have an adverse impact to potential archaeological resources for those portions of the park that have been identified as potentially sensitive for 18th – 19th Century deposits. This consultation will evaluate if potential resources can be avoided and attempt to identify ways to accomplish avoidance. In the event that archaeologically sensitive areas cannot be avoided, testing methods, and if necessary, mitigation measures will be developed in consultation with SHPO and implemented as early as possible in order to avoid undue delays during construction.
6. BBPDC will share with OPRHP proposed renderings for the new building to be built in the D.U.M.B.O. Historic District at John Street. Design plans shall be developed in consultation with OPRHP and submitted at the preliminary (35%) and pre-final (75%) completion stages for OPRHP comment. If OPRHP makes substantive comments during the pre-final design review, OPRHP may request the opportunity to review the final design.
7. If construction activities or Project plans change such that the Project may newly affect an Historic Property, ESDC shall notify OPRHP and invite OPRHP to participate in consultation to determine the appropriate course of action.

Any party to this LOR may propose to ESDC that the LOR be amended, whereupon ESDC shall consult with the other parties to this LOR to consider such amendment. Any amendment must be agreed upon in writing by all parties to this agreement.

This LOR shall take effect on the date it is signed by the last signatory and will remain in effect until the Stipulations have been met.

EMPIRE STATE DEVELOPMENT CORPORATION

BY:  DATE: January 18, 2006
Eileen Mildenberger

TITLE: Chief Operating Officer & Executive VP

BROOKLYN BRIDGE PARK DEVELOPMENT CORPORATION

BY: Wendy Leventer DATE: January 18, 2006
Wendy Leventer

TITLE: President

NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC
PRESERVATION

BY: Russell A. Puzant DATE: 1/17/06

TITLE: Historic Preservation Field Services Director

EMPIRE STORES, LLC

BY:  _____

DATE: 1/18/06

TITLE: Jeshayahu Boymelgreen, Manager



COPY

**New York State Office of Parks,
Recreation and Historic Preservation**

Historic Preservation Field Services • Peebles Island, PO Box 189, Waterford, New York 12188-0189

518-237-8643

www.nysparks.com

David A. Paterson
Governor

Carol Ash
Commissioner

January 29, 2009

David Lowin
Vice President, Real Estate
Brooklyn Bridge Park Development Corp
633 Third Avenue, 33rd Floor
New York, NY 10017

Re: Army Corps/ESDC/OPRHP/PANYNJ
Brooklyn Bridge Park, Amended Letter of Resolution
Kings County
03PR02488

Dear Mr. Lowin:

Enclosed please find three signed copies of the Amendment to the Letter of Resolution (LOR) for this project. All three copies should be signed and one returned for our records.

If you have any questions, I can be reached at (518) 237-8643, ext. 3282. Please refer to the Project Review (PR) number in any future correspondences regarding this project.

Sincerely,

Beth A. Cumming *BAC*
Historic Site Restoration Coordinator
e-mail: Beth.cumming@oprhp.state.ny.us

cc: Rachel Shatz – ESDC (via e-mail)

enc: 3 copies of LOR Amendment

RECEIVED

FEB - 2 2009

BROOKLYN BRIDGE PARK

RECEIVED

FEB

COMMUNICATIONS

AMENDMENT TO THE LETTER OF RESOLUTION
AMONG THE
NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE
STATE DEVELOPMENT CORPORATION, BROOKLYN BRIDGE PARK
DEVELOPMENT CORPORATION,
THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC
PRESERVATION AND EMPIRE STORES, LLC
REGARDING THE
BROOKLYN BRIDGE PARK AND EMPIRE STORES

WHEREAS, a Letter of Resolution for the Brooklyn Bridge Park Project (Attachment A), executed in 2006 by the New York State Urban Development Corporation d/b/a The Empire State Development Corporation (ESDC), Brooklyn Bridge Park Development Corporation (BBPDC), New York State Office of Parks, Recreation and Historic Preservation (OPRHP), and Empire Stores, LLC, established procedures for implementation pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law;

WHEREAS, the stipulations of the Letter of Resolution pertained to appropriate mitigation measures to address the Adverse Impact identified in the project Environmental Impact Statement due to demolition of the Cold Storage Warehouse buildings (CSW), and to avoid any construction-related damage on historic and archeological resources;

WHEREAS, the Letter of Resolution stipulated that that ESDC/BBPDC encourage future developments on the CSW site to retain and reuse portions of the original building, to the extent feasible and practical;

WHEREAS, construction on the portion of Brooklyn Bridge Park surrounding the CSW site began in December 2008 and is expected to last approximately 12-18 months;

WHEREAS, BBPDC plans to re-use wood salvaged from CSW in several parks buildings, benches and playgrounds;

WHEREAS, BBPDC found it necessary to delay the disposition of the CSW site for future development until market conditions are more favorable;

WHEREAS the park surrounding the CSW is likely to be completely developed prior to the disposition of the CSW site for future development due to this delay;

WHEREAS, delaying the disposition of the CSW site for future development requires delaying the potential demolition of the CSW buildings in order to allow the future development to retain and reuse portions of the buildings;

WHEREAS, delaying the demolition of the CSW buildings until after the surrounding park is complete would impose significant logistical, financial, and scheduling difficulties on the project;

WHEREAS, BBPDC submitted a Construction Protection Plan for Phase I construction to OPRHP on August 14, 2008 that was approved by OPRHP on September 12, 2008.

WHEREAS, this Construction Protection Plan included provisions for the protection of the CSW buildings during the construction of Phase I of the park.

WHEREAS, Empire Stores, LLC is no longer the conditionally designated developer for the Empire Stores site and is no longer a Brooklyn Bridge Park developer;

WHEREAS, it is intended that the 2006 Letter of Resolution be amended to clarify the procedures that will be implemented to mitigate the Adverse Impact identified in the project Environmental Impact Statement due to demolition of the CSW buildings, and to avoid any construction-related damage on historic and archeological resources;

STIPULATIONS

BBPDC, will ensure that the following stipulations are implemented as part of the subsequent planning, design, and construction of the Brooklyn Bridge Park Project:

1. OPRHP concurs that the demolition of CSW buildings is warranted at this time:
2. Where financially feasible, BBPDC will salvage the long leaf yellow pine from the CSW buildings, with a goal of salvaging a minimum of 70% of the available wood. The salvaged wood will be made available for reuse in the following order of priority:
 - a. Incorporation as a design element in Brooklyn Bridge Park, (e.g., cladding for park buildings, park benches, and Pier 6 playground);
 - b. A reserve stockpile for replacement, as necessary, of the salvaged wood used in the park;
 - c. Incorporation into the rehabilitation and adaptive reuse of the Empire Stores, if deemed appropriate by BBPDC;
 - d. Incorporation into future development on the CSW site, if deemed appropriate by BBPDC;
 - e. Use in any other public park in New York, provided that the entity responsible for such park pays all costs and expenses with respect to the storage, shipment, delivery and installation of the salvaged wood; and
 - f. If the salvaged wood has not been reused in accordance with items a through e above within five years of the date of this Amendment, BBPDC may attempt to sell the salvaged lumber to a salvage lumber broker, and if there is no financially feasible offer for the salvaged lumber, then BBPDC

may use or dispose of the lumber in such manner as BBPDC deems appropriate;

3. Where financially feasible, BBPDC will salvage the ornamental metal stars at the end of the tie rods from the CSW buildings. The salvaged ornaments will be made available for reuse in the following order of priority:
 - a. Incorporation as a design element elsewhere in Brooklyn Bridge Park if deemed appropriate by BBPDC;
 - b. Incorporation into the rehabilitation and adaptive reuse of the Empire Stores if deemed appropriate by BBPDC;
 - c. Incorporation into future development on the CSW site, if deemed appropriate by BBPDC; and
 - d. Use in any other public park in New York, provided that the entity responsible for such park pays all costs and expenses with respect to the storage, shipment, delivery, and installation of the salvaged wood;
4. BBPDC will examine the cost impact, construction feasibility, aesthetic appropriateness and financial feasibility of reusing salvaged brick from the CSW buildings in the rehabilitation and adaptive reuse of the Empire Stores. If BBPDC deems it appropriate and financially feasible, BBPDC may salvage a portion of the bricks from the CSW to for reuse in Empire Stores;
5. Specific salvage plans for the wood, ornamental metal stars, and bricks shall be presented to OPRHP for review and consultation;
6. Design Plans for future development on the CSW site shall be presented to OPRHP for review and consultation;
7. Based on the above, the CSW is hereby removed from the Construction Protection Plan for Phase I of Brooklyn Bridge Park construction;
8. All other stipulations pertaining in the 2006 Letter of Resolution will remain in effect as modified by this amendment.

**SECOND AMENDMENT TO THE LETTER OF RESOLUTION
FOR THE BROOKLYN BRIDGE PARK PROJECT AMONG THE
NEW YORK STATE URBAN DEVELOPMENT CORPORATION D/B/A EMPIRE
STATE DEVELOPMENT CORPORATION, BROOKLYN BRIDGE PARK
DEVELOPMENT CORPORATION, THE NEW YORK STATE OFFICE OF GENERAL
SERVICES AND THE NEW YORK STATE OFFICE OF PARKS, RECREATION AND
HISTORIC PRESERVATION**

February 26, 2010

WHEREAS, a Letter of Resolution (LOR) for the Brooklyn Bridge Park (the "Project") (Attachment A) executed on January 18, 2006 by the New York State Urban Development Corporation d/b/a The Empire State Development Corporation (ESDC), Brooklyn Bridge Park Development Corporation (BBPDC), New York State Office of Parks, Recreation and Historic Preservation (OPRHP), and Empire Stores, LLC, established procedures for implementation pursuant to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law;

WHEREAS, Empire Stores, LLC, previously a potential tenant for the Empire Stores, has withdrawn its proposal to develop the property and is no longer a party to this MOU;

WHEREAS, the first amendment to the LOR that primarily affected the Cold Storage Warehouse buildings executed on February 28, 2009 remains in effect (Attachment B);

WHEREAS, to advance the Project the New York State Office of General Services (OGS) is conveying by letters patent Empire Fulton Ferry State Park to BBPDC in two parcels: Parcel A (open space) and Parcel B (Empire Stores and the Tobacco Inspection Warehouse);

STIPULATIONS

ESDC and BBPDC will ensure that the following stipulations are implemented as part of the planning, design, and construction of the Project:

1. Maintenance and rehabilitation of the Empire Stores and the Tobacco Inspection Warehouse and renovation of the open space will be conducted in a manner that is compatible with and respects the architectural and historic significance of the Historic Resources identified in the LOR within the Project area.
2. All other stipulations in the 2006 Letter of Resolution and the 2009 Amendment, copies of which are attached hereto and made part hereof, remain in effect.

Signature Pages to Follow

NEW YORK STATE URBAN DEVELOPMENT
CORPORATION D/B/A EMPIRE STATE
DEVELOPMENT CORPORATION

Rachel Shatz

Name: Rachel Shatz

Title: VP, Planning & Environmental Review

ACKNOWLEDGEMENT

STATE OF NEW YORK)

COUNTY OF *New York*)^{ss.:}

On the 19th day of February, in the year 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared *Rachel Shatz*, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Jezanna Plasbori
NOTARY PUBLIC

2011

