

**A. INTRODUCTION**

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

As described in Chapter 22, “Mitigation,” the Proposed Project would result in significant adverse impacts with respect to open space, shadows, historic and cultural resources, visual resources, transportation, noise, and construction. To the extent practicable, mitigation has been proposed for these identified significant adverse impacts. However, in some instances no practicable mitigation has been identified to fully mitigate significant adverse impacts, and there are no reasonable alternatives to the Proposed Project that would meet the purpose and need, eliminate potential impacts, and not cause other or similar significant adverse impacts. In other cases mitigation has been proposed, but absent a commitment to implement the mitigation, or if the mitigation is determined to be impracticable upon further review between the Draft EIS and Final EIS, the impacts may not be eliminated.

**B. OPEN SPACE**

The Proposed Project would result in direct and indirect significant adverse impacts on open space resources. As described in Chapter 6, “Open Space,” the Proposed Project would result in a direct impact due to the elimination of portion of the through-block east plaza on Site 5 that is part of the 1 Penn Plaza privately owned public space (POPS). The elimination of the plaza represents a reduction of approximately 0.16 acres of passive open space as compared to the No Action condition. An indirect impact would occur as the result of the introduction of a substantial new worker population, causing a decrease in the passive open space ratio of approximately 8.87 percent. Taking into account the combined residential and worker populations within the study area, there would be an 8.17 percent decrease in the combined open space ratio for workers and residents. As discussed in Chapter 21, “Alternatives,” alternatives that would avoid these open space impacts would be impracticable.

Several measures are identified and described in more in Chapter 22, “Mitigation,” to potentially mitigate the significant adverse open space impacts. Possible measures under consideration include the provision of additional passive open space in or near the Project Area (in addition to Site 2) or the provision of funding for open space improvements. Funding improvements could serve to partially mitigate the significant adverse impact. Funding could be provided to the New York City Department of Parks and Recreation (NYC Parks) to address repairs and upgrades at open spaces in the study area, such Madison Square Park, Chelsea Park, and the Penn South open spaces. The New York State Urban Development Corporation d/b/a Empire State Development (ESD) will explore the feasibility of these mitigation measures in further detail between the Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS). These measures may warrant evaluation with NYC Parks and potentially other entities. If it is

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determined that there are no practicable mitigation measures that would reduce or eliminate the impacts, the significant adverse open space impacts would remain unmitigated and constitute an unavoidable adverse impact of the Proposed Project.

### **C. SHADOWS**

As described in Chapter 7, “Shadows,” shadows cast by the Proposed Project in the 2038 analysis year would result in significant adverse shadow impacts to nine sunlight-sensitive historic and open space resources: Madison Square Garden (MSG) POPS, Plaza 33, Herald Square Park, Chelsea Park, the Penn South open spaces, the Farley Building, St. Michael’s Roman Catholic Church, St. Francis of Assisi Church, and the former Greenwich Savings Bank. These nine sunlight-sensitive resources would experience substantial durations and occasionally large extents of new shadow, which would significantly reduce the attractiveness and usability of the open spaces, or, in the case of the historic resources, obscure sunlight-dependent features.

Mitigation measures to eliminate or minimize the significant adverse shadow impacts are described in detail in Chapter 22, “Mitigation.” As discussed in that chapter, mitigation measures for shadow impacts to open spaces and historic resources that involve changes to the bulk or configuration of the proposed developments would be impracticable for the Proposed Project. For significant adverse impacts to stained-glass windows and skylights, potential mitigation measures could also include the provision of artificial lighting to simulate the effect of direct sunlight. In the absence of mitigation, these impacts would remain unmitigated and constitute an unavoidable significant adverse impact of the Proposed Project.

### **D. HISTORIC AND CULTURAL RESOURCES**

As described in Chapter 8, “Historic and Cultural Resources,” the Proposed Project would result in significant adverse impacts to architectural resources in the 2028 and 2038 analysis years.

In the 2028 With Action condition, the Proposed Project would result in significant adverse direct impacts on five architectural resources located on Sites 2 and 3 that would be removed for the proposed below-grade expansion of Penn Station, and one architectural resource on Site 7 that would be demolished to allow for new commercial development on Site 7. These architectural resources are: (#1, S/NR-eligible, NYCL-eligible) Penn Station Service Building at 236-248 West 31st Street; (#2, S/NR-eligible) Fairmont Building at 239-241 West 30th Street; (#3, S/NR-eligible, NYCL-eligible) St. John the Baptist Roman Catholic Church Complex at 207-215 West 30th Street; (#4, S/NR-eligible) Penn Terminal Building at 370 Seventh Avenue; (#5, S/NR-eligible, NYCL-eligible) Stewart Hotel at 371-377 Seventh Avenue; and (#6, S/NR-eligible) Hotel Pennsylvania at 401 Seventh Avenue. Measures that could partially mitigate these significant adverse impacts are described in Chapter 22, “Mitigation;” consultation with the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) regarding these potential measures is ongoing. In the absence of practicable mitigation, the significant adverse direct impacts would be unavoidable adverse impacts of the Proposed Project.

In the 2038 With Action condition, the Proposed Project would result in significant adverse shadows impacts on four architectural resources in the primary and secondary study areas and one architectural resource that is located north of the secondary study area. These architectural resources are: (#7, S/NR, NYCL) U.S. General Post Office, on the block bounded by Eighth and Ninth Avenues, West 31st and West 33rd Streets; (#22, S/NR-eligible, NYCL-eligible) St. Francis Roman Catholic Church at 129-143 West 31st Street; (#37, S/NR-eligible) Penn South Apartment Complex, bounded by West 29th and West 23rd Streets, Eighth and Ninth Avenues; (#40, S/NR-eligible, NYCL-eligible) St.

Michael's Roman Catholic Church at 414-424 West 34th Street; and the former Greenwich Savings Bank (S/NR, NYCL) at 1352-1362 Broadway, which is outside the study area. Measures that could partially mitigate the significant adverse impacts on the U.S. General Post Office, St. Francis Roman Catholic Church Complex, and St. Michael's Roman Catholic Church Complex are described in Chapter 22, "Mitigation;" consultation with OPRHP regarding these potential measures is ongoing. Potential measures to mitigate the significant adverse shadow impacts on the other architectural resources would not be practicable and the significant adverse impacts would remain unmitigated. In the absence of practicable mitigation, the significant adverse shadow impacts would be unavoidable adverse impacts of the Proposed Project.

In the 2038 With Action condition, the Proposed Project would also result in significant adverse visual impacts with respect to the Empire State Building by obstructing views towards the architectural resource east on West 34th Street and northeast from the east portion of Chelsea Park along Ninth Avenue, from the south side of the Ninth Avenue and West 28th Street intersection, and along the western portion of West 28th Street between Eighth and Ninth Avenues. Potential measures to mitigate these significant adverse visual impacts would not be practicable; therefore, the obstruction of views to the Empire State Building would be an unavoidable significant adverse impact of the Proposed Project.

## **E. VISUAL RESOURCES**

As described in Chapter 9, "Urban Design and Visual Resources," the Proposed Project would result in a significant adverse impact to visual resources in the 2028 and 2038 analysis years. Demolition of visual resources on two development sites, the Church of St. John the Baptist on Site 2 by the 2028 analysis year and the copper skybridge spanning from Site 8 across West 32nd Street by the 2038 analysis year, would constitute a direct significant adverse impact on visual resources. In addition, the Proposed Project would obstruct views of the Empire State Building in eastward views along West 34th Street and in views northeast from the east portion of Chelsea Park along Ninth Avenue, from the south side of the Ninth Avenue and West 28th Street intersection, and along the western portion of West 28th Street between Eighth and Ninth Avenues. The obstruction of these views east and northeast from certain vantage points within the western portion of the secondary study area towards the Empire State Building in the 2038 With Action condition would constitute a significant adverse impact to visual resources. As discussed in Chapter 22, "Mitigation," potential measures to mitigate the significant adverse impact to visual resources were assessed. As the St. John the Baptist Roman Catholic Church Complex is an architectural resource, partial mitigation measures would be developed as discussed in Section D, "Historic and Cultural Resources." Potential mitigation measures considered with respect to the demolition of the copper skybridge on Site 8 and the obstruction of views to the Empire State Building from certain vantage points within the western portion of the study area would not be practicable; therefore, the significant adverse impacts constitute an unavoidable significant adverse impact of the Proposed Project.

## **F. TRANSPORTATION**

As discussed in Chapter 14, "Transportation," and Chapter 22, "Mitigation," under the 2028 and 2038 With Action conditions, a number of significant adverse transportation impacts could not be fully mitigated during one or more analysis peak hours; therefore, these unmitigated impacts would constitute unavoidable significant adverse impacts of the Proposed Project. Subject to continuing review by the New York City Department of Transportation (DOT), the Metropolitan Transportation Authority (MTA), and New York City Transit (NYCT), some of the analyses and mitigation conclusions presented in this Draft EIS could change and may be revised, as needed,

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for the Final EIS. In the event that certain mitigation measures are deemed impracticable and/or transportation analysis conditions change such that no other practicable mitigation measures can be identified, then there could be additional impacts that would be unmitigated.

In the 2028 With Action condition, the Proposed Project would result in significant adverse traffic impacts that could not be fully mitigated at 15, 11, and 14 intersections during the weekday AM, midday, and PM peak hours, respectively. For transit, the Proposed Project would result in significant adverse subway station element impacts that could not be fully mitigated at two and one analysis elements during the weekday AM and PM peak hours, respectively. For pedestrians, the Proposed Project would result in significant adverse pedestrian impacts that could not be fully mitigated at one, one, and zero analysis elements during the weekday AM, midday, and PM peak hours, respectively.

In the 2038 With Action condition, the Proposed Project would result in significant adverse traffic impacts that could not be fully mitigated at 69, 43, and 65 intersections during the weekday AM, midday, and PM peak hours, respectively. For transit, the Proposed Project would result in significant adverse subway station element impacts that could not be fully mitigated at 12 and 13 analysis elements during the weekday AM and PM peak hours, respectively. For pedestrians, the Proposed Project would result in significant adverse pedestrian impacts that could not be fully mitigated at 38, 15, and 41 analysis elements during the weekday AM, midday, and PM peak hours, respectively.

Regarding mitigation for traffic and pedestrian impacts, ESD in coordination with DOT, would require developers for the Proposed Project to undertake a future transportation monitoring plan (TMP) to evaluate actual project-generated demand and background conditions during various stages of project development and occupancy and would consider adjusting the identified mitigation strategies as appropriate to address traffic and pedestrian issues at those points in time.

For transit mitigation, ESD in coordination with the MTA and NYCT will assess in further detail the feasibility, practicability, and the implementation timing of the potential transit mitigation measures. In the event that certain mitigation measures are deemed impracticable and no other practicable mitigation measures can be identified, those impacts would be unmitigated. Furthermore, mitigation measures identified for station elements within the footprint of a development site may be implemented together with the construction of that development site therefore, if the development of a building at a development site is delayed or does not occur, the mitigation measures at that development site may be delayed or may not be implemented.

Should there be delays in implementing certain traffic, transit, or pedestrian mitigation measures because a development site has not been constructed, then the projected impacts would be unmitigated until the development site is constructed and the corresponding mitigation measures implemented. In the event that certain development sites are not developed, then some of the projected impacts may not occur and others would be unmitigated.

## **G. NOISE**

Traffic noise generated by the Proposed Project would increase noise levels resulting in significant adverse noise impacts at receptors along West 31st Street between Ninth and Tenth Avenues, along West 31st Street between Sixth and Seventh Avenues, and along West 30th Street between Sixth and Seventh Avenues, primarily due to project-generated trucks travelling along the New York City Department of Transportation (DOT)-designated truck route on these streets. As discussed in Chapter 22, "Mitigation," many of the buildings at these locations feature modern

façade construction, including insulated glass windows and an alternate means of ventilation that would allow for the maintenance of a closed-window condition. At impacted residential buildings' façades that do not already have one or both of these features, ESD would require project developers to make mitigation measures (i.e., storm windows and/or alternative means of ventilation in the form of window air conditioners) available at no cost for purchase and installation on the buildings' West 31st Street or West 30th Street façades. Building façades with insulated glass windows or storm windows and alternative ventilation would provide sound attenuation such that even during warm weather conditions, interior noise levels would be approximately 25 dBA less than exterior noise levels. However, traffic generated by the Proposed Project by the 2038 analysis year would still result in interior noise levels up to approximately 9 dBA higher than 45 dBA during the peak hour of truck activity. Therefore, the significant adverse noise impacts predicted to occur at the above-mentioned residences would be only partially mitigated. In addition, some building owners may not accept the offer of storm windows and/or alternative means of ventilation; at these locations, the significant adverse noise impacts would be unmitigated. Because these impacts cannot be fully mitigated, the impacts would constitute an unavoidable significant adverse impact of the Proposed Project.

## **H. CONSTRUCTION**

### **TRANSPORTATION**

As discussed Chapter 20, "Construction," and Chapter 22, "Mitigation," there would be temporary significant adverse traffic impacts during the Phase 1 and Phase 2 peak construction conditions that cannot not be fully mitigated during one or more construction analysis peak hours. In the Phase 1 peak construction condition, there would be significant adverse traffic impacts that could not be fully mitigated at one intersection during the weekday PM construction peak hour. In the Phase 2 peak construction condition, there would be significant adverse traffic impacts that could not be fully mitigated at two and nine intersections during the weekday AM and PM construction peak hours, respectively. Subject to continuing review by DOT, some of the analyses and mitigation conclusions presented in this Draft EIS could change and may be revised, as needed, for the Final EIS. In the event that certain mitigation measures are deemed impracticable and/or construction traffic analysis conditions change such that no other practicable mitigation measures can be identified, then there could be additional impacts that would be unmitigated.

### **NOISE**

As discussed in Chapter 20, "Construction," and Chapter 22, "Mitigation," the detailed analysis of construction-period noise determined that construction of the Proposed Project has the potential to result in construction-period noise levels that would constitute significant adverse construction-period impacts at multiple sensitive locations (see Table 22-3).

As discussed in Chapter 22, "Mitigation," additional control measures beyond those already identified in Chapter 20, "Construction," were explored to determine if there are feasible and practicable measures that could mitigate the potential construction noise impacts listed above. Where feasible and practicable, construction would use drilled piles or caissons instead of impact-driven piles. Construction of the proposed buildings at the development sites would be required to follow the requirements of the New York City Noise Control Code for construction noise control measures. At façades of impacted buildings that do not already have one or both of these features, ESD would require project developers to make mitigation measures (i.e., storm windows and/or alternative means of ventilation in the form of window air conditioners) available on façades that face construction at no cost for purchase and installation. With the provision of such measures,

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the façades of these buildings would be expected to provide approximately 25 dBA window/wall attenuation. Even with these measures, interior  $L_{10(1)}$  noise levels at these buildings would at times during the construction period exceed the 45 dBA guideline recommended for residential and community spaces according to CEQR noise exposure guidelines by up to approximately 17 dBA. Because it is not possible at this time to confirm that drilled piles would be feasible and practicable for all pile installation and interior noise levels could still exceed the acceptable threshold even with the provision of receptor noise mitigation, the significant adverse construction noise impacts identified in Chapter 20, "Construction," would be only partially mitigated. In addition, some building owners may not accept the offer of storm windows and/or alternative means of ventilation; at these locations, the significant adverse construction-period noise impacts would be unmitigated. Because these impacts cannot be fully mitigated, the impacts would constitute an unavoidable impact.

### **NEIGHBORHOOD CHARACTER**

Long-term construction activity associated with the proposed expansion of Penn Station and new buildings on Sites 1, 2, and 3 would result in significant adverse localized neighborhood character impact in the immediate vicinity of these development sites during construction. Construction activities would be disruptive and concentrated on these sites for an extended period of time. Throughout the construction period, measures would be implemented to control air quality, noise, and vibration on the construction sites, including the erection of construction fencing and in some areas fencing incorporating sound reducing measures. This fencing would reduce potentially undesirable views of construction sites and buffer noise emitted from construction activities. Furthermore, in the event that there is an extended period between the completion of the expansion of Penn Station and the commencement of construction of the new buildings on Sites 1, 2, and/or 3, MTA, in consultation with the City, would seek to activate one or more of the sites with temporary uses or other programming. There are no other practicable measures to mitigate the significant adverse localized neighborhood character impact in the vicinity of Sites 1, 2, and 3. Therefore, this impact would constitute an unavoidable adverse impact of the Proposed Project. \*