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**TESTIMONY OF STATE SENATORS BRAD HOYLMAN AND BRIAN
KAVANAGH AND ASSEMBLYMEMBERS HARVEY EPSTEIN AND YUH-LINE
NIOU BEFORE THE NEW YORK CITY COUNCIL SUBCOMMITTEE ON
LANDMARKS, PUBLIC SITINGS, AND DISPOSITIONS REGARDING THE EAST
SIDE COASTAL RESILIENCY PROJECT**

October 3, 2019

Good afternoon Chair Adrienne Adams and members of the Subcommittee on Landmarks, Public Sitings and Dispositions.

Thank you for the opportunity to testify during this hearing on the East Side Coastal Resiliency (ESCR) Project. We are State Senators Brad Hoylman and Brian Kavanagh and Assemblymembers Harvey Epstein and Yuh-Line Niou. Our respective districts include a large portion of the area that would be profoundly affected by this project.

We begin our testimony by commending the efforts of our local city officials, Manhattan Borough President Gale Brewer and your City Council colleagues Carlina Rivera, Margaret Chin and Keith Powers on this important issue. We have collaborated closely with them and they have shown great leadership in ensuring that the community has been engaged about the complicated issues related to this project.

Resiliency improvements are particularly crucial to our local community because of the undeniable catastrophic impact of Superstorm Sandy and flooding in our districts. As you well know, homes were flooded, neighborhoods were offline for days, elderly and disabled residents were trapped in their apartments without ready access to food and water; medical facilities were without power, and first responders had difficulties accessing those requiring immediate help.

Storm surges of this magnitude were previously unimaginable in our thriving and densely populated city, and we applaud the State's and City's desire to take decisive action in response to the urgent risks of extreme weather driven by the global climate crisis. We are

also grateful to our Congressional representatives, Carolyn Maloney and Nydia Velázquez, for allocating necessary funds to help pay for essential resiliency work.

We would also like to acknowledge the City's positive decision, announced just yesterday, to alter its design and construction plans for ESCR to allow for phasing, which will keep portions of East River Park open for our constituents to enjoy. We and many of our constituents have been insisting on phasing since the day the City announced that closing the park would be necessary for this project—so that at least a portion of the park will be available for use throughout the construction period. The City had initially said that phasing would be impossible, so we are glad that the City has changed its position in response to this feedback.

Notwithstanding this positive change and the clear need for storm resiliency in our districts, we have serious concerns about the sudden transformation of the ESCR proposal from a plan that incorporated over 4 years of community input to a new proposal unilaterally promulgated by the City in September 2018. After years of working with the community on the previous plan, this unexpected change raises numerous questions about the process by which the City selected this new proposal and its process for gathering and incorporating public feedback.

Given the \$1.45 billion dollar cost of this project, the importance of its goals, and the extensive community impacts that the construction will create—especially years of diminished use of essential public parkland—we want to ensure that the project's design and construction reflect our community's needs and that the City is held accountable to its promises as we move towards making the East Side resilient.

Allow us to enumerate our most pressing concerns.

First, even with the phased plan announced yesterday, regarding which we are seeking additional details, this project will result in a serious, years-long reduction in access to parkland and recreation space that is essential for residents of our community. The City has made general commitments to providing enhancements to existing spaces and other alternative recreational opportunities that would be available during construction but has failed to provide a coherent explanation of what will be. It is essential that this mitigation of the loss of parkland be clearly, publicly presented and reviewed before this project is approved.

Second, concerns related to the construction itself must be mitigated. The project could potentially stir up hazardous material left over from the manufactured gas plants in the area and construction noise could disrupt quality of life. Furthermore, the immense quantity of likely contaminated soil that will be excavated over the course of construction could lead to air quality issues, creating health impacts for the community. The City must put forth a detailed soil management plan to show how it will address these serious concerns, especially in light of the fact that the rate of child asthma Emergency Department visits in the Community District overlapping with Project Area 1 is well over the Citywide average. In addition to the soil to be excavated, the community must be assured that the sand being used

for infill to raise the park is of high quality and free from contaminants. The proposed project would also destroy much of the existing ecology in the area, including trees (all of which are planned to be cut down), insect habitats and tidal wetlands. It poses a risk to the wellbeing of certain species of fish in the area, such as herring and striped bass. In addition, there must be a plan developed and implemented to protect the amphitheater as well as any existing art in the park that will be impacted by construction.

Third, the timeline for phased construction—now projected to take five years—must be enforced through contractual fines for contractors who do not deliver the project on time, or who do not comply with promises made by the City to the community. We ask that an independent expert provide monthly updates about the progress of the project, including a quarterly community meeting to enable residents to air concerns as the project progresses.

Fourth, since we know this project will take at least five years to complete, during which time another catastrophic storm could occur, a comprehensive plan for interim flood protection must be fully developed and provided to the community. The plan must include an explanation of how construction could potentially impact the neighborhood during such a storm. Unfortunately, although we wrote to Mayor de Blasio requesting such a contingency plan on July 3, 2019, we received a response without specific proposals that merely touts the protections that the ESCR project will provide upon completion. Again, with the reported 5 year timeline, we need more information.

Fifth, any plan for ESCR must take into account the recommendations of the expert firm, Deltares, retained by Manhattan Borough President Brewer and Council Member Rivera in order to evaluate ESCR proposals, particularly Design Alternative 3 (the previous proposal) and Design Alternative 4 (the current proposal). As Manhattan Community Board 3 noted in its resolution on ESCR, community members have sought the creation of an expert panel to study additional protective options including decking over the FDR, the construction of a barrier to protect NYCHA residents on lower floors, and a phasing plan for construction that ensures the timely completion of any project while mitigating the amount of time that public space is taken out of service.

Sixth, the costs and community impacts of the ESCR project demand that the project be approached with prudence, ensuring that it can proceed without the threat of legal challenges. Based on our conversations with counsel for our respective houses of the State Legislature, it is our belief that a failure by the City to seek parkland alienation legislation leaves the City vulnerable to a lawsuit that could delay the implementation of flood protections and the overall plan. We want to restate this strongly today: to avoid the delays that a lawsuit would pose, the City should seek the State Legislature's approval for the project in the form of a parkland alienation bill, which is typically sought by "municipalities wishing to convey, sell, or lease municipal parkland or discontinue its use as a park," according to New York State Parks Recreation and Historic Preservation's Handbook on the Alienation and Conversion of Municipal Parkland. Again, we believe that although the Park will be rebuilt, it is incidental to the main purpose of this project- coastal resiliency. By its own admission, the City would not be demolishing and rebuilding this park otherwise.

Seventh, the City has not adequately shown how the preferred alternative will address the underground streams that run underneath parts of Project Area 1, between East 4th Street and 10th Street, from the coastline to 1st Avenue that complicate drainage during storm surges. The community needs answers from the City as to how these streams will be factored into the drainage plan.

Finally, any project that would interrupt the day-to-day use of the park must mitigate disruptions to the daily operations of the Lower East Side Ecology Center, the 20-year-plus steward of our community's and the city's ecology is a non-profit organization located in the heart of the East River Park. It is critical that we support the Lower East Side Ecology Center by either revising the ESCR plan to mitigate the negative effects it would have on this essential Lower East Side institution, or relocate the Center to a new building within the community for the duration of the renovations and thereafter.

Since the beginning of this years-long process, we have called for the City and every agency to approach ESCR with a critical eye, geared towards protecting the East River Park our constituents know and love while providing essential resiliency protections for the community. We are here to ask you as our City Council colleagues to join us in that effort. Understandably, there is enormous distrust of the City when it comes to this plan, especially considering the sudden huge changes without community input, little transparency, and seemingly not one person in charge.

There is a golden opportunity here to not only bring our community together around the shared goal of flood protection, but also create enhanced green spaces and a park that will serve the needs of our community for many years to come. We again commend the City for altering its plan to include phased construction, and we urge the city to continue working with residents to make this project work for everyone.

With marches recently held across the world to protest the global climate crisis, this is a critical moment to focus on one of the largest infrastructure projects in the country seeking to address the impact of climate change. That's why it's so important the City gets it right.