125TH STREET BUSINESS IMPROVEMENT DISTRICT

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November 10, 2026

Via online submission and FedEx

MTA Government & Community Relations
Attn: 125 Street Subway
2 Broadway, D16.94
New York, NY 10004

Re: Comments of the 125th Street District Management Association, Inc. (125th Street Business Improvement District) on the Draft Scoping Document for the 125th Street Subway Tunnel Environmental Impact Statement (October 2026)

To the Metropolitan Transportation Authority:

On behalf of the Board of Directors, I write as general counsel to the 125th Street Business Improvement District ("BID") to submit the BID's comments on the Draft Scoping Document[1] for the 125th Street Subway Tunnel Environmental Impact Statement, dated October 2026 ("Draft") (Ex. 1). SEQRA's regulations require that scoping include an opportunity for public participation (6 NYCRR 617.8(d), Ex. 2) and direct that "All relevant issues should be raised before the issuance of a final written scope" (6 NYCRR 617.8(f), Ex. 2). The BID takes that direction seriously. These comments are extensive because the stakes for the corridor are high, and because the BID would rather put every concern before the MTA now than ask it to reopen the scope later.[2]

How these comments are organized

- Part I. Summary of the BID's position and requests
- Part II. The corridor and the people the BID serves
- Part III. What the Draft proposes

[1] Page citations are to the printed page numbers of the Draft. Because the Draft has no line numbers, line citations count the lines of text on each printed page from the top, including headings and excluding the running header, footer and footnotes. Quotations from the Draft are reproduced as printed. Every source cited in these comments is attached as a numbered exhibit and cited as "Ex." with its number; the exhibit index appears at the end.

[2] As set out in Part X, because the staging, shaft and vent sites, the construction sequence and the parcels to be acquired have not been identified, the BID reserves the right to supplement these comments as that information becomes available.

- Part IV. What subway construction has already done to small businesses in this city
- Part V. The legal framework for the scope
- Part VI. Comments and requests, section by section
- Part VII. A corridor business protection program for the MTA's findings
- Part VIII. How the 125th Street subway tunnel project will impact BID operations
- Part IX. Corrections to the Draft
- Part X. Reservation and conclusion
- Exhibit index

Part I. Summary of the BID's position and requests

The BID supports a crosstown subway on 125th Street. The MTA's Draft makes the case for it. It describes the corridor as home to roughly 253,000 people and 82,000 jobs, and as an "equity priority area" (Ex. 1, p. 4, ll. 20-25). It projects that "An estimated 11,300 trips would be trips to and from origins and destinations in the 125th Street corridor" on the future line (Ex. 1, p. 4, ll. 44-45). Harlem's merchants, property owners, residents and cultural and community organizations stand to gain from that service, but only if they survive its construction. As scoped, infrastructure meant to serve the community threatens to displace the very people who have waited decades for it. The MTA must balance transit access with community preservation, which means managing immediate construction impacts alongside long-term economic shifts. The scope should cover the short-term risks to each group: for merchants and small businesses, lost foot traffic, blocked storefronts and reduced visibility; for residents and tenants, noise, dust, poorer air quality and disruptive utility relocations; for cultural organizations, disrupted event access, vibration risks to historic venues and lower attendance; and for property owners, property acquisition and forced relocation.

The BID's concern is the path from here to there. Under the Draft, the district's busiest block, between Lenox Avenue and Adam Clayton Powell Jr. Boulevard, will host Second Avenue Subway staging and then this project's staging, ground improvement and truck traffic. This block is home to the newly opened Studio Museum in Harlem and the National Urban League's Urban Civil Rights Museum, which opens this month. The BID's ten pedestrian counters, on West 125th Street, at Frederick Douglass Boulevard and at the corners of Malcolm X Boulevard, recorded more than 30 million passes a year (Ex. 46). The sites for the staging yards, shafts and permanent vent buildings have not been chosen. And the socioeconomic analysis, as outlined, is built to look for buildings removed and residents added, not for customers lost. A scope that does not measure construction-period harm to small businesses will not produce findings that mitigate it.

The record shows what happens when that harm goes unmeasured. During Phase 1 of the Second Avenue Subway, the city's Public Advocate found that 90 percent of surveyed corridor businesses reported that construction had hurt them and that net sales had fallen by an average of 32 percent; 98 percent had received no financial support from the MTA (Ex. 4; Part IV). During Phase 2, East Harlem businesses are reporting the same pattern today. In 2017, the MTA's own Capital Construction president presented the lessons of Phase 1, among them that "Proposed megaproject costs and schedules are generally overly optimistic" and that fence wrap, retail signage and sidewalk width are quality-of-life issues the MTA must address (Ex. 3; Part IV).

The retail landscape, business mix and zoning along the 125th Street commercial corridor are fundamentally different from the Upper East Side and East Harlem stretches of Second Avenue affected by the Second Avenue Subway.

Second Avenue construction runs through a mix of residential high-rises, institutional health centers and neighborhood retail such as bodegas, laundromats and local restaurants. 125th Street operates as a major regional commercial, cultural and entertainment hub. The BID stresses the contrasts because the MTA must tailor its mitigation to the corridor it is building under:

- Shopping: neighborhood retail on Second Avenue; a regional shopping destination on 125th Street.

- Culture: fewer major cultural institutions along Second Avenue; a dense concentration of nationally known cultural institutions on 125th Street.

- Foot traffic: a steady local flow on Second Avenue; high-volume commuter and visitor surges on 125th Street.

- Buildings: low- and mid-rise residential buildings on Second Avenue; mixed-use commercial development on 125th Street.

- Loading: standard curbside loading on Second Avenue; a complex freight and transit ecosystem on 125th Street.

Because of these differences, the MTA's strategies must evaluate disruption to foot traffic at national and flagship retailers; vibration and structural impacts on landmark cultural properties; preservation of freight, delivery and crosstown logistics; and continuity of commuter transfers among the subway and bus lines on 125th Street.

The real duration is far longer than two years. The Draft schedules only the tunnel. Counting Phase 2 work under way today and the station construction that must follow, the BID estimates that 125th Street will host subway construction for about thirteen to fourteen years under the most likely scenario, with full service around 2040 (Part III). The BID asks the MTA to publish its own estimate.

The BID's requests are summarized below and set out in full in Parts VI, VIII and IX. The BID asks that the final scope respond to each by number and, for any it declines, explain why, consistent with 6 NYCRR 617.8(e)(7) (Ex. 2).

No.	Request	Draft (Ex. 1)	Part VI section
1	Disclose candidate staging, shaft and vent sites and siting criteria before the final scope; study each	Ex. 1, p. 5, ll. 28-33; p. 7, ll. 20-21	A
2	Analyze combined, continuous staging on the Lenox to Adam Clayton Powell block; footprint cap; slurry plant controls	Ex. 1, p. 3, ll. 18-21; p. 7, ll. 6-31	B
3	Treat construction as long-term; corridor timeline; delayed-schedule scenario	Ex. 1, p. 7, ll. 46-49; p. 8, ll. 1-5	C
4	Treat future stations as reasonably foreseeable in the cumulative analysis; share preliminary station designs and entrance locations, including side streets	Ex. 1, p. 2, ll. 20-22; p. 9, l. 47 to p. 10, l. 2	C
5	Construction-period business impact analysis with a pre-construction baseline	Ex. 1, p. 10, l. 43 to p. 11, l. 16	D
6	Identify parcels to be acquired; relocation assistance at federal levels regardless of funding	Ex. 1, p. 11, ll. 15-16; p. 8, Table 1	E
7	Full-day curb, loading and bus analysis; enforceable business access standards; street vendor plan	Ex. 1, p. 7, ll. 49-51; p. 13, ll. 1-22	F

8	Commercial uses and the Apollo as receptors; quantified boring machine vibration; monitoring and claims	Ex. 1, p. 13, ll. 23-39	G
9	Quantified construction air analysis; full disadvantaged community analysis under the Environmental Justice Siting Law (Ex. 23); clean-equipment commitments	Ex. 1, p. 14, ll. 1-3, 40-46; p. 15, ll. 1-15; p. 8, Table 1	H
10	Reinstate urban design and visual resources for permanent structures	Ex. 1, p. 10, ll. 8-15	I
11	Construction protection plans and wider condition surveys for older buildings	Ex. 1, p. 12, ll. 22-40	J
12	Site, sequencing and timing alternatives	Ex. 1, p. 15, ll. 31-36	K
13	Business support program, liaison and access standards as conditions in the findings; local business participation goals	Ex. 1, p. 15, ll. 26-30; p. 9, ll. 18-23	L
14	Add NYC Small Business Services, Empire State Development and the City agencies that work on the corridor daily; construction advisory committee; co-governance committee; information and grievance office	Ex. 1, p. 8, Table 1	M
15	Correct five drafting errors	various	Part IX
16	Construction-period sanitation, rodent control and public safety analysis; contract commitments; enclosure durations; BID contribution plan;	Ex. 1, p. 10, ll. 12-14; p. 11, ll. 22-24; p. 14, ll. 35-39	N

	contractor waste removal; indemnity for the BID		
17	BID district plan as public policy; vacancy and rent trends; assessment roll effects; maintenance of MTA frontage; station retail; MTA contribution to BID services	Ex. 1, p. 10, ll. 33-37; p. 11, ll. 2-4, 15-16	O
18	Special 125th Street District compatibility; Studio Museum as sensitive receptor; public realm assets; Harlem Holiday Lights; fence art	Ex. 1, p. 10, ll. 35-37; p. 11, ll. 37-38	P
19	Formal partnership with the BID and CS3: real-time routing, pedestrian sensors, trash detection, curbside loading reservations, environmental and structural sensors, construction data feed; #HarlemNeatStreetsChallenge	Ex. 1, p. 11, ll. 2-4; p. 15, ll. 27-30	VIII.A
20	Accessibility measures for people with disabilities, older people and parents with strollers; consultation with disability organizations	Ex. 1, p. 13, ll. 12-15	VIII.B
21	BID foot-traffic and Vibe Report data for the baseline; local versus destination visitors; subway transfers; monitoring before, during and after construction; peak-period scheduling; station design; Vibemap as an added outreach channel	Ex. 1, p. 11, ll. 2-4	VIII.C

Part II. The corridor and the people the BID serves

The 125th Street District Management Association, Inc. is a not-for-profit corporation organized under the laws of the State of New York and provides supplemental services to the 125th Street Business Improvement District, which the City established by local law. The BID contracts with the City of New York Department of Small Business Services to represent the interests of property and business owners by working closely with the community, government leaders and residents to improve the experiences of those who live, work, visit and invest in the Harlem community. It is specifically empowered to supplement and support sanitation and public safety and promotion services to enhance the business environment of 125th Street within its jurisdiction (Ex. 24, GML 980-c(c)(1), (2), (5)).

The BID serves the property owners, retail and office tenants, residents, social service providers and cultural institutions on both sides of 125th Street, including properties that front 125th Street and extend to 124th and 126th Streets, from the east side of Morningside Avenue to the east side of Fifth Avenue. Its members include three categories of retail:

- Retail merchandise: clothing, shoe, jewelry and accessory stores; sporting goods, hobby, toy, game, music and art stores; furniture, home furnishing, electronics and appliance stores; department and general merchandise stores; building materials and garden stores; and barbershops and salons;

- Convenience: supermarkets and grocery stores, specialty food stores, beer, wine and liquor stores, convenience stores, pharmacies and drug stores, and cosmetics, beauty supply and other health stores; and

- Eating and drinking: full-service and limited-service restaurants, cafes, bars, and food delivery and takeout.

Members also operate upper-floor and below-grade retail.

Hospitality: the Renaissance New York Harlem Hotel at the Victoria and the Aloft Harlem.

Major cultural institutions:

- The Apollo Theater, home of the Apollo Walk of Fame, a New York City landmark listed on the National Register of Historic Places (Ex. 32, 33), now completing a renovation of about $65 million, its largest in more than 90 years (Ex. 38, Amsterdam News, July 3, 2025).
- The Studio Museum in Harlem, founded in 1968, which opened its $160 million new home in November 2025 (Ex. 29) and was named one of TIME's World's Greatest Places of 2026 (Ex. 39, Patch, 2026).
- The National Black Theatre, founded in 1968, which is building a $185 million home at Fifth Avenue and 125th Street with new theaters, housing, community space and retail (Ex. 40, The Real Deal, June 7, 2021).

- The National Urban League's Urban Civil Rights Museum at 117 West 125th Street, opening this month (Ex. 41, Time Out New York, Feb. 2, 2026).

Most of these businesses are small and independently owned, and many have operated on 125th Street for decades.

The Draft describes the surrounding community in its own words:

> The area within an approximately 15-block radius from 125th Street, extending from 110th Street on the south to 135th Street on the north between the Harlem and Hudson Rivers, is home to approximately 253,000 people based on 2020 Census data as well as businesses with approximately 82,000 jobs. This corridor is an "equity-priority area," defined in the MTA's 20-Year Needs Study as places where high concentrations of low-income, minority, and transit-dependent populations live. Draft, Ex. 1, p. 4, ll. 20-25
>
> Many of the residents in the project corridor rely heavily on public transit, with fewer remote workers compared to other parts of the city, reinforcing the need for improved connectivity. Draft, Ex. 1, p. 4, ll. 34-36

Those same characteristics make the corridor's businesses vulnerable during construction. Their customers are neighborhood residents, daily commuters and office workers, and domestic and international cultural tourists, who arrive on foot, by bus and by subway. Their employees are often neighborhood residents. When a storefront loses visibility or a sidewalk narrows behind a fence, the customer walks to the next block and the hourly worker loses shifts. Figure 1 shows where the work falls relative to the district.

Over the past decade, 125th Street has grown from a local shopping street into a citywide destination, with national retailers alongside local shops, a cultural heritage that draws visitors from around the world, and new dining. New educational, office and residential development, including Columbia University's, is adding the density that retail depends on. That momentum needs a solid foundation: a safe and secure street, visible signage and clean sidewalks.

Brick-and-mortar stores on 125th Street already compete with e-commerce for every customer, often on thin margins. What sets the corridor apart is experience. Harlem's place as a center of African American culture and history lets its businesses offer something no website can. Prolonged construction threatens exactly that. If sidewalks, curbs and storefronts become hard to reach, shoppers who move their buying online may not come back, and the vacancies that follow could damage Harlem's cultural and economic heart for years.

The BID calls this the tunnel-without-a-station problem. Local businesses are being asked to endure years of disruption to build a tunnel that brings no station, no new riders and no new foot traffic until a later phase.

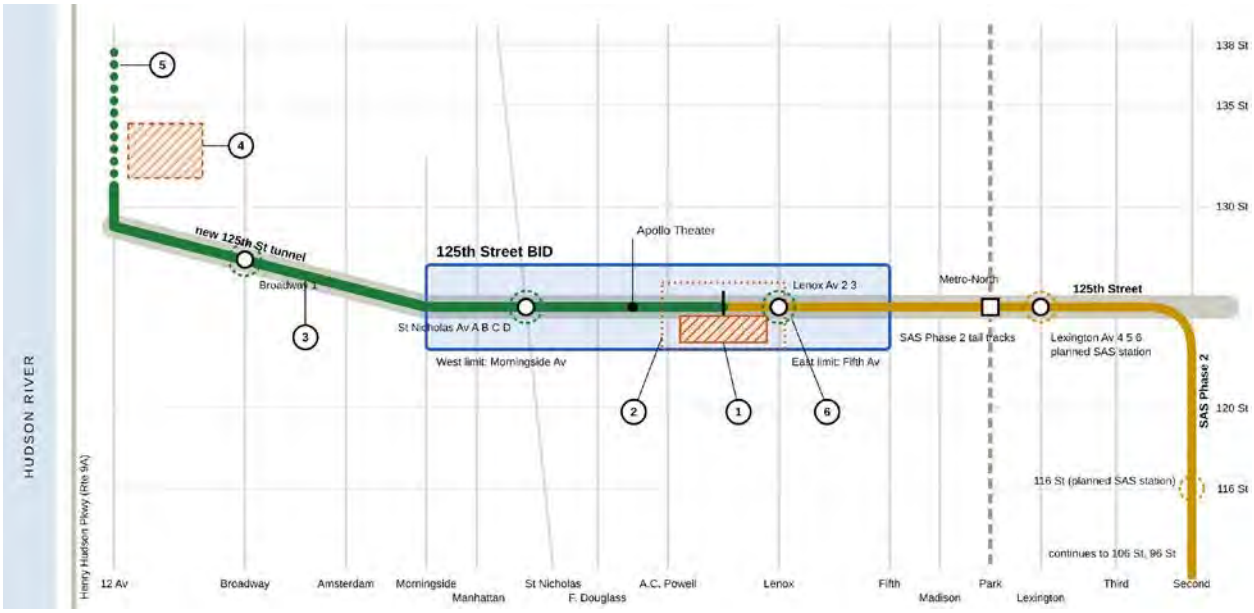


Figure 1. Schematic of the 125th Street BID (blue) relative to the Second Avenue Subway Phase 2 alignment (gold) and the proposed 125th Street tunnel (green). Numbered markers: (1) SAS Phase 2 Ancillary A staging, south side between Lenox Avenue and Adam Clayton Powell Jr. Boulevard, at the end of the line where the tunnel's east staging site will go (Ex. 1, p. 3, ll. 18-21; p. 7, ll. 6-21); (2) required ground improvement zone (Ex. 1, p. 7, ll. 30-31); (3) two intermediate shafts with permanent street-level kiosks, not yet sited (Ex. 1, p. 5, ll. 31-33); (4) one or two west staging sites, not yet sited, placement illustrative (Ex. 1, p. 7, ll. 19-21); (5) the tunnel's northern terminus between about 131st and 138th Streets (Ex. 1, p. 5, ll. 16-19); (6) possible future stations at Lenox, St. Nicholas and Broadway (Ex. 1, p. 3, ll. 26-32). Not to scale. BID limits follow the BID's published service area.

Every block of the district sits above one tunnel or the other. From Fifth Avenue to Lenox Avenue, the Second Avenue Subway Phase 2 tunnel will extend beneath 125th Street "to accommodate tracks for train storage" (Ex. 1, p. 3, ll. 17-18). From that terminus west past Morningside Avenue, the proposed tunnel takes over.

Part III. What the Draft proposes

A tunnel built now, with stations later

> This "tunnel only" project would include the new tunnel, access shafts for egress to and from the tunnel, and ventilation equipment. No other infrastructure or components, such as tracks, stations, power, and other elements required for train operation or passenger service, would be included as part of the 125th Street Subway Tunnel project. Draft, Ex. 1, p. 2, ll. 11-14

The Draft explains that the MTA chose this approach to reuse the Second Avenue Subway's boring machines: "the MTA identified a cost-saving opportunity to advance construction of only a tunnel for the 125th Street Subway at this time" (Ex. 1, p. 3, ll. 39-41). Station and track construction "would be undertaken in a future phase and subject to a separate environmental review" (Ex. 1, p. 2, ll. 20-22). Figure 2 reproduces the MTA's own map of the project.



Figure 2. The MTA's project location map, reproduced from the Draft, Figure 1 (Ex. 1, p. 6). The green line is the proposed 125th Street Subway excavation; the dotted gold line is the SAS Phase 2 excavation beneath 125th Street.

Permanent structures on the street

The tunnel is not invisible. The Draft calls for permanent structures above ground:

> Ventilation shafts with permanent, above-ground ancillary structures for minimum ventilation/air tempering and access at both the eastern and western ends of the tunnel. The specific location and dimensions of these shafts and the structures above grade are currently being developed. Draft, Ex. 1, p. 5, ll. 28-30

> Smaller shafts with permanent, kiosk-type above-ground structures for ventilation, emergency egress, and access at two intermediate points along the tunnel alignment. The specific location and dimensions of these shafts and above-grade structures are also currently being developed. Draft, Ex. 1, p. 5, ll. 31-33

Heavy staging at the east end, on the district's busiest block

The Second Avenue Subway Phase 2 tunnel terminates beneath 125th Street between Lenox Avenue and Adam Clayton Powell Jr. Boulevard. That project's Ancillary A facility, and its staging site, sit on the south side of that block:

> At the western end of the tunnel, a new ancillary facility, Ancillary A, will house ventilation equipment, emergency egress, and mechanical equipment on the south side of 125th Street between Lenox Avenue/Malcolm X Boulevard and Adam Clayton Powell Jr. Boulevard. Draft, Ex. 1, p. 3, ll. 18-21

> SAS Phase 2 will have a construction staging site at the site of that project's Ancillary A, an ancillary building for ventilation and egress functions that will be on the south side of 125th Street between Lenox Avenue/Malcolm X Boulevard and Adam Clayton Powell Jr. Boulevard. Draft, Ex. 1, p. 7, ll. 6-8

The new tunnel begins where the Phase 2 tunnel ends. Its east staging site will carry the heaviest work:

> At the east end of the tunnel alignment, the staging site would be used for worker access, removal of excavated rock and soil, and delivery and storage of materials, including the large precast concrete rings used as part of tunnel construction. A slurry treatment plant would be established at the staging site to process excavated materials. Draft, Ex. 1, p. 7, ll. 13-17

> Depending on the methodology used, this may involve injecting columns of grout into the soil from the surface or inserting a network of pipes for artificially freezing the soil in advance of excavation. . . . Ground improvement would be required at the eastern end of the tunnel alignment between Lenox Avenue/Malcolm X Boulevard and Adam Clayton Powell Jr. Boulevard. Draft, Ex. 1, p. 7, ll. 26-31

> The staging sites at the east and west ends of the tunnel alignment would be in use for heavy construction activities, as well as for arrival and departure of workers and construction trucks removing excavated materials and bringing deliveries. These sites would be in use for the duration of construction, approximately two years. Draft, Ex. 1, p. 7, ll. 46-49

Yet the Draft does not say where these sites will be: "Specific locations for the staging sites at the east and west ends of the alignment are still being developed" (Ex. 1, p. 7, ll. 20-21).

The schedule

> Based on current conceptual design, the MTA anticipates that construction of the Proposed Project would begin with mobilization and site preparation in late 2027 or early 2028, which would last approximately 12 months. Once mobilization and site preparation is completed, tunnel excavation would begin and would last approximately 12 additional months. The overall construction duration would be approximately two years, with the 125th Street Subway Tunnel complete in late 2029 or early 2030. Draft, Ex. 1, p. 8, ll. 1-5

That schedule depends on the Second Avenue Subway, whose tunneling the Draft expects to finish "in late 2028," with "full completion of SAS Phase 2 by the end of 2032" (Ex. 1, p. 3, ll. 22-23). Figure 3 places these periods side by side. Seen from a storefront, the work does not come in a two-year window. It comes in a continuous sequence.

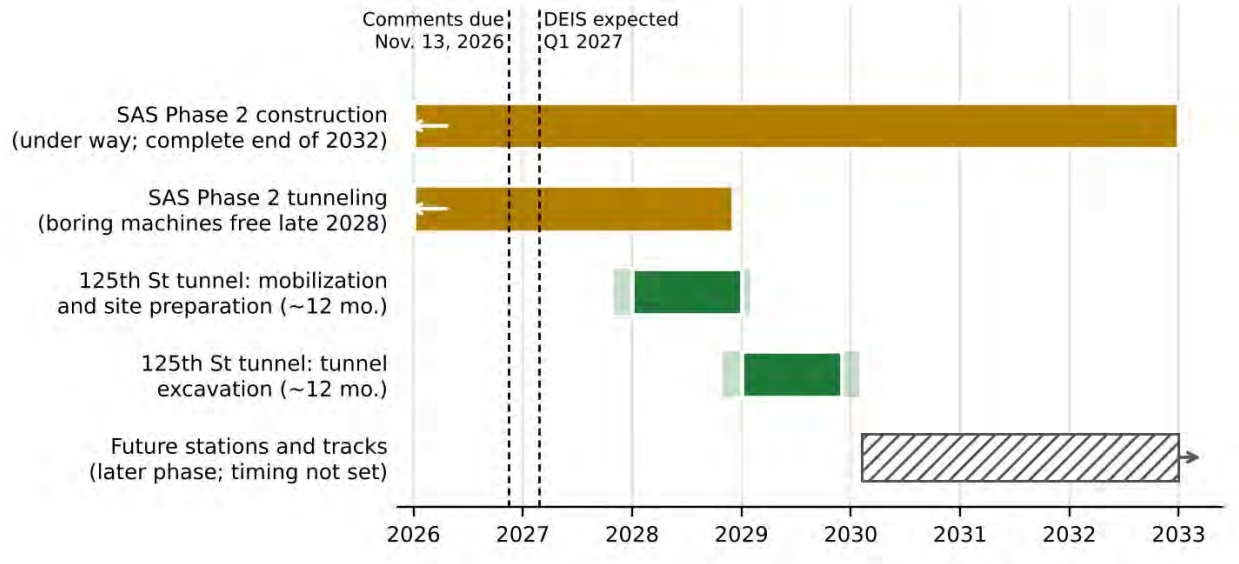


Figure 3. Construction periods described in the Draft. Lighter shading shows the Draft's stated ranges ("late 2027 or early 2028" start; "late 2029 or early 2030" finish). Future stations and tracks have no schedule in the Draft; the hatched bar marks only that they follow in a later phase. Sources: Draft, Ex. 1, p. 2, ll. 20-22; p. 3, ll. 22-23; p. 7, ll. 8-10; p. 8, ll. 1-5. DEIS timing per MTA statements reported in Mass Transit (Oct. 2026) (Ex. 14).

Full service completion estimate

The Draft gives dates only for the tunnel. It gives none for the stations, tracks, power and signals needed to run a train. Those are assigned to "a future phase" with "a separate environmental review" (Ex. 1, p. 2, ll. 20-22), and they have not yet been designed: the project leaves "subway infrastructure (tracks, stations, etc.) to be designed, studied, and advanced at a later date" (Ex. 1, p. 3, ll. 43-44). The MTA's own Feasibility Study, as the Draft summarizes it, recognized that full

service "would require additional design and environmental review, and ultimately, the timing for implementation of new service would depend on how quickly those activities could be completed" (Ex. 1, p. 3, ll. 34-36).

For the businesses on 125th Street, the date that matters is not when the tunnel is finished. It is when construction ends and trains run. Because the MTA has not published that date, the BID has prepared its own estimate from the Draft and the MTA's track record. It is offered as the BID's reading of the public record, not as an engineering schedule, and the BID asks the MTA to replace it with its own most-likely and worst-case dates (Request 3).

How the estimate is built

Step 1: the tunnel. The Draft targets "late 2029 or early 2030" (Ex. 1, p. 8, l. 5), but only if the SAS Phase 2 boring machines come free on schedule in late 2028 (Ex. 1, p. 3, ll. 22-23). The MTA's recent megaprojects have finished late. SAS Phase 1 "was originally scheduled to open in 2013" and opened at the start of 2017; East Side Access is expected to open "roughly 13 years after its initial target completion date" (Ex. 9, Route Fifty, Jan. 2017), and it opened in 2023. The MTA's own 2017 lesson was that "Proposed megaproject costs and schedules are generally overly optimistic" (Ex. 3, p. 25, MTA Lessons presentation). The estimate assumes a tunnel slip of zero, one and a half, and two and a half years, well below the record of either project.

Step 2: approvals and funding for stations. Before station construction can begin, the stations must be designed, pass their own environmental review and be funded in an MTA capital program, followed by procurement. Some of that can overlap with tunneling. The estimate assumes these steps are complete in 2030, 2032 and 2034 in the three scenarios.

Step 3: building three stations. Phase 1 built three new stations, and construction from groundbreaking in 2007 to opening took nearly a decade (Ex. 3, p. 2, MTA Lessons presentation). The 125th Street stations would be deep, would connect to the 2/3, A/B/C/D and 1 lines, and would sit beneath a dense commercial street; the Broadway station must tie into an elevated line. The estimate assumes five, six and a half, and eight years of station construction, plus one to one and a half years of systems installation and testing.

Step 4: the Phase 2 dependency. The new line runs from the Second Avenue Subway, so no service can begin before Phase 2 is complete, "by the end of 2032" (Ex. 1, p. 3, l. 23).

The BID's estimate worksheet is reproduced below. Years are shown as decimals: .0 is the start of a year and .5 is mid-year.

Table A. Full service completion estimate worksheet

Item	Best case (Draft schedule holds)	Most likely	Conservative	Basis
Assumptions				
Draft tunnel completion	2030.0	2030.0	2030.0	Draft, Ex. 1, p. 8, ll. 1-5: "late 2029 or early 2030"
Tunnel schedule slip (years)	0.0	1.5	2.5	MTA track record (Table B); MTA Lessons presentation, Ex. 3, p. 25: schedules "generally overly optimistic"
Station design, separate review, funding and procurement complete	2030.0	2032.0	2034.0	Stations not yet designed or funded; separate review (Draft, Ex. 1, p. 2, ll. 20-22; p. 3, ll. 43-44)
Station construction (years)	5.0	6.5	8.0	Phase 1 built three stations over nearly a decade of construction (MTA Lessons presentation, Ex. 3, p. 2); 125th St stations are deep and tie into existing lines
Systems installation and testing (years)	1.0	1.0	1.5	BID estimate
SAS Phase 2 completion, required for service	2033.0	2033.0	2033.0	Draft, Ex. 1, p. 3, l. 23: "by the end of 2032"
Corridor construction measured from	2026	2026	2026	SAS Phase 2 construction under way
Results				

Tunnel complete	2030.0	2031.5	2032.5	Draft completion plus slip
Item	**Best case (Draft schedule holds)**	**Most likely**	**Conservative**	**Basis**
Station construction starts	2030.0	2032.0	2034.0	Later of tunnel completion and approvals/funding
Full service opens	2036.0	2039.5	2043.5	Station start plus construction plus testing, no earlier than Phase 2 completion
Full service opens (approximate year)	2036	2040	2044	Rounded
Years of subway construction on the corridor	10.0	13.5	17.5	From 2026 to full service
Delay versus best case (years)	0.0	3.5	7.5	Relative to the best case

Table B. MTA megaproject schedule track record

Project	**Original target**	**Actual opening**	**Slip (years)**	**Source**
Second Avenue Subway Phase 1	2013	2017	4	"originally scheduled to open in 2013" (Route Fifty, Jan. 2017, Ex. 9); revenue service Dec. 31, 2016 (MTA Lessons presentation, Ex. 3, p. 2)

East Side Access	about 2010	2023	about 13	opening expected "roughly 13 years after its initial target completion date" (Route Fifty, Jan. 2017, Ex. 9); opened 2023

The tunnel slips assumed in Table A, zero to two and a half years, are well below the slip on either project in Table B. The BID has deliberately chosen conservative inputs so that the estimate cannot fairly be called pessimistic.

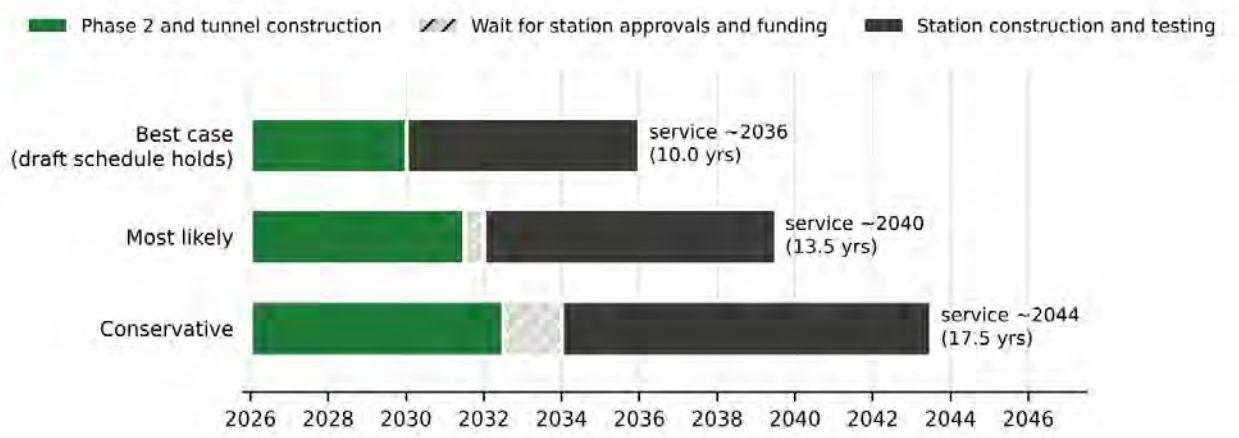


Figure 4. The BID's estimate of how long 125th Street will host subway construction, by scenario, from SAS Phase 2 work under way in 2026 to full revenue service. Assumptions and sources are set out in the text and table above. This is the BID's estimate from the public record, not an MTA schedule.

What the estimate means for the corridor

The Draft describes construction of "approximately two years" (Ex. 1, p. 8, l. 4). Under the most likely scenario, the businesses of 125th Street face something closer to fourteen: Phase 2 staging now, then the tunnel's staging and ground improvement, then station construction at Lenox Avenue, St. Nicholas Avenue and Broadway, with full service around 2040. The station phase is likely the most disruptive, because stations are built from the street, and it falls entirely outside this review. Even the best case leaves the corridor under construction for a decade.

This is why the BID asks the MTA to analyze the tunnel's construction as long-term construction, to present a single corridor timeline, to treat the stations as reasonably foreseeable in its cumulative analysis, and to publish its own most-likely and worst-case dates for full service (Requests 3 and 4). It is also why the business protections in Part VII must be designed to last, not for two years, but for as long as 125th Street is a construction zone.

What the Draft does not yet say

For the businesses that will live beside this work, the most important facts are still open. The Draft does not identify:

- the location or footprint of any staging site, shaft or permanent above-ground structure;
- whether the east staging site will occupy, adjoin or follow the SAS Phase 2 Ancillary A staging site;
- where ground improvement will be done from the street or sidewalk surface;
- truck volumes, haul routes, delivery hours or nighttime work;
- which parcels, if any, will be acquired (Ex. 1, p. 11, ll. 15-16); or
- how the future stations at Lenox Avenue, St. Nicholas Avenue and Broadway will be built.

The BID's requests ask the MTA to answer these questions in the final scope, or to commit that the DEIS will answer them before any site is chosen.

Part IV. What subway construction has already done to small businesses in this city

The BID does not have to speculate about how subway construction affects a commercial corridor. Two phases of the Second Avenue Subway have produced a public record. The accounts below come from a government survey and from published reporting.

Phase 1, Upper East Side: the Public Advocate's survey

In 2009, two years into Phase 1 construction, the Office of the New York City Public Advocate surveyed independent businesses in the construction corridor and published the results in *The Subway Shaft: How Second Avenue Subway Construction Hurts Businesses in its Path* (December 2009) (Ex. 4). The survey received 59 completed responses from 104 active non-chain storefronts, a 58 percent response rate. Its findings, in the report's own words:

> 52 of the 58 respondents (90 percent) report that their business has been negatively affected by the construction.
>
> On average, net sales for businesses in the SACC have declined by nearly one-third (32 percent) since the construction began.
>
> 26 of 57 respondents (46 percent) have been forced to eliminate positions . . . 19 of 57 respondents (33 percent) have been forced to cut wages for employees. . . . 17 of 57 respondents (30 percent) have been forced to cut services and/or products. . . . 16 of 57 respondents (28 percent) have been forced to cut store hours.

58 of 59 respondents (98 percent) report that they have not received any type of financial support from the MTA.

40 of 58 respondents (69 percent) report that the public information campaign launched by the MTA to promote Second Avenue businesses in January 2008 has failed to improve business.

The report concluded that "The majority of businesses in the Second Ave Subway Construction Corridor are in danger of closing," and its first recommendation was to "Establish a Second Avenue Subway Construction Mitigation Fund to provide emergency grants to failing businesses located in the construction zone" (Executive Summary). Figure 5 summarizes the findings.

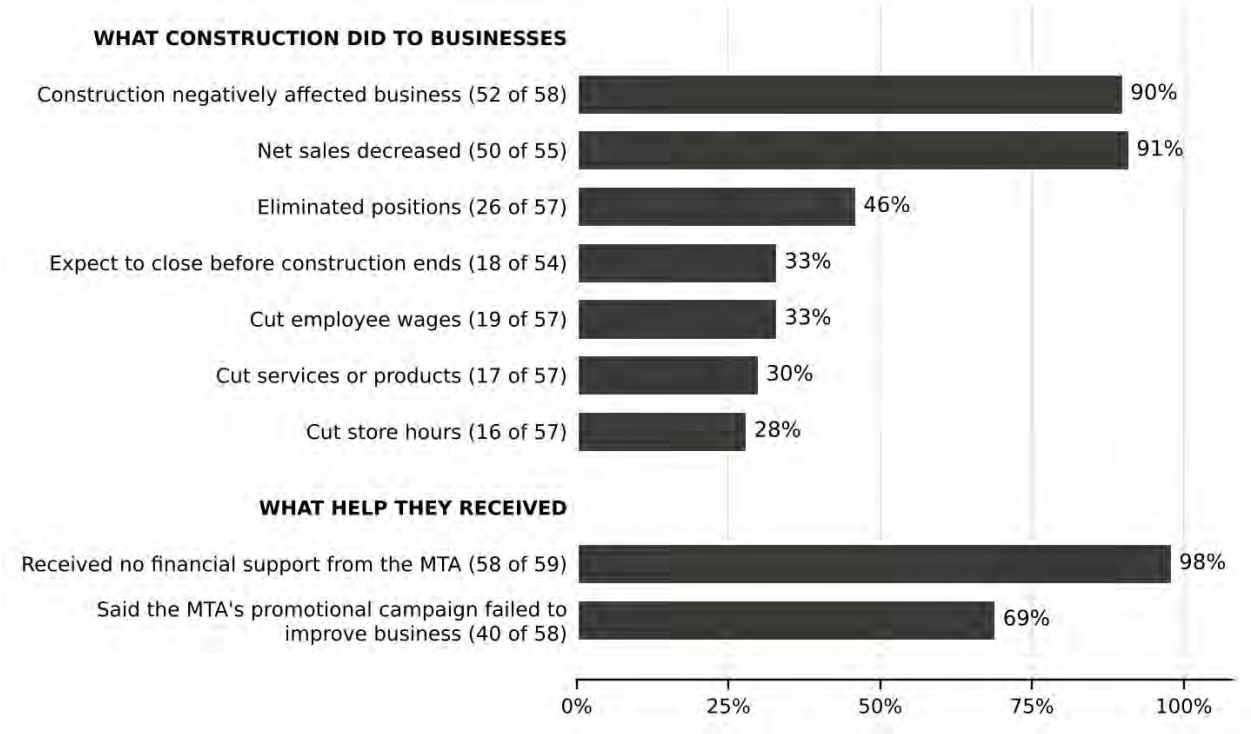


Figure 5. Findings of the 2009 Public Advocate survey of independent businesses in the Phase 1 construction corridor (59 responses; 58 percent response rate). Average decline in net sales: 32 percent. A further 19 percent of respondents were unsure whether their business would survive construction. Source: Ex. 4, NYC Public Advocate, The Subway Shaft (Dec. 2009).

Phase 1: what happened next

Later reporting confirmed the toll. In 2015, Gotham Gazette reported (Ex. 8) Manhattan Chamber of Commerce figures showing that almost half of the businesses on the Phase 1 stretch "have moved or closed within the last 5 years due to declining revenues." Council Member Ben Kallos told the publication “Many small businesses have closed, and those that have stayed open have seen up to a 30 percent decline in revenues.”

The manager of Dorrian's Red Hand, on Second Avenue at 84th Street, reported "about a 50% loss overall, possibly even more in daytime business during construction hours," and said of the MTA: "They haven't done anything to help us out."

The MTA did respond, but four years into construction and one block at a time. In February 2011, DNAinfo reported (Ex. 7) that "The MTA teamed up with the Manhattan Chamber of Commerce" on a "Shop Second Avenue" campaign, and that the MTA showed off "$150,000 worth of changes it made to its 'model block' between East 92nd and East 93rd streets." On that block, "a new fence has been installed to expand the 7-foot sidewalk by 2 feet" and "clearer shop signage has been created" (Amy Zimmer, DNAinfo, Feb. 11, 2011, Ex. 7). The same article reported that by then about 30 businesses along the route had already been lost, and that the owner of Delizia Pizza on East 92nd Street, in business for 25 years, had seen foot traffic fall by half (Ex. 7).

Phase 2, East Harlem: happening now

In East Harlem, Phase 2 construction is producing the same pattern a few blocks from the BID. Black Enterprise reported on September 30, 2026 (Ex. 12, Selena Hill, Black Enterprise), citing ABC7 New York, that sales at Go Donut, a Black-owned shop near East 118th Street, have fallen 60 to 70 percent since construction began in April. Its owner, Solomon Fresh, said “Once they put that up, it just started tanking after that.” . . . “Sometimes I have to pay people late, and I lost employees over that too.”

The same report describes how "construction also left his shop without running water on Thursday nights into Fridays for months," and, citing the New York Post, that the owner of Casa Ricardo's Steakhouse said "his restaurant's sales have declined about 40% this year" and that Eagle Tile's owner said "construction barriers have severely reduced access for his contractor customers."

The MTA's response again came after the fact. Its spokesperson told Black Enterprise (Ex. 12): "Our outreach team has been in regular contact with Go Donuts and worked with the owner to move a generator," to "add noise blankets to nearby construction fencing," and to provide a "custom fence wrap to help customers spot Go Donuts during construction."

Businesses on the blocks the MTA is acquiring for Phase 2 describe relocation help that lags behind displacement. The New York Post reported (Ex. 10) that "The MTA claimed eminent domain on the properties in August" (Ex. 10, Georgett Roberts and Alex Oliveira, New York Post, Nov. 16, 2025). Eagle Tile's owner, Lu Nicaj, who reported spending $100,000 to move inventory, told the Post: “They didn't promise me anything. They said they'll see what they can do.” . . . “It's the whole David and Goliath thing.”

A deli owner evicted three years into a ten-year lease told the Post, "All my money is tied up in there. I spent a lot of money. I invested $350,000." The owner of the Touba African Store said of the MTA's relocation contacts: "They said they will call back, but they haven't." To PIX11 (Ex. 11), Mr. Nicaj put it more simply: "If I can't have this lot, then I'm out of business." The MTA told

PIX11 that "Our team has exceeded federal requirements for relocation support services" (PIX11, 2026, Ex. 11).

On October 5, 2026, the BID hosted MTA Chair and CEO Janno Lieber and Harlem leaders at the Studio Museum in Harlem. amNY reported (Ex. 13) that Council Members Shanel Thomas-Henry and Elsie Encarnacion had recently written about "a florist telling them that on some days they are making just 1% of their pre-construction average daily sales," and had called on the MTA to establish a "mitigation fund" for small businesses (Ex. 13, Ethan Stark-Miller, amNY, Oct. 5, 2026). Manhattan Community Board 10 Chair Marquis Harrison said that engaging with the MTA "can sometimes feel like we're being told what is going to happen rather than being asked what should happen." Mr. Lieber responded that there is "always room for improvement," and that in East Harlem "we're putting up signage to identify every business, so people will know they're still open for business."

Signage alone is not adequate mitigation for the severe economic disruption this project will bring to businesses in the BID, and it is nothing new. Shops behind sidewalk sheds and scaffolding already hang "Open for Business" signs to counter the heavy economic toll of long-standing sheds. Directional and "Open for Business" signs are necessary baseline tools to preserve visibility and guide pedestrians, but this project requires more. The BID's president, Barbara Askins, stressed the importance of working with the community and urged the MTA to "come up with a different model that works to keep the businesses going" (Ex. 13).

The MTA's own lessons from Phase 1

The most authoritative account of what Phase 1 taught comes from the MTA itself. On April 6, 2017, three months after Phase 1 opened, Dr. Michael Horodniceanu, then President of MTA Capital Construction, presented *Lessons from the Second Avenue Subway and other Megaprojects* at a CityLaw Breakfast (Ex. 3). Its lessons read as a checklist for the scope of this project.

> Lessons Learned: Be A Good Neighbor. Address a Broad Range of Quality of Life Issues . . . Fence Wrap . . . Retail Signage . . . Sidewalk Width . . . Pedestrian Safety . . . Lighting Issues



Figure 6. The MTA's own Phase 1 lesson, with its example of fence wrap and retail signage at Second Avenue and 71st Street. Reproduced from MTA Capital Construction, *Lessons from the Second Avenue Subway and other Megaprojects* (Ex. 3, p. 17, CityLaw Breakfast, Apr. 6, 2017).

On construction impacts, the MTA's lessons were to "Consider community impact," "Encapsulate environmental impacts," "Use muck house enclosures to limit noise, dust and odor" and plan "Spoils removal and delivery for minimized truck street traffic" (Ex. 3, p. 12). On buildings, Phase 1 surveyed 225 buildings and required "Remediation on 52 buildings (~25%)" (Ex. 3, p. 8), and the lesson was to "Identify fragile buildings and their condition prior to the building process" (Ex. 3, p. 10). On schedules, the MTA's conclusion was blunt:

> Proposed megaproject costs and schedules are generally overly optimistic . . . Do not use an "Everything Goes According to Plan" approach . . . Utilize the "Most Likely Scenario" as the cure . . . Determine worst-case scenario by analyzing negative conditions. Ex. 3, p. 25

The same presentation lists, among the rewards of megaprojects, the need to "Establish relationship between accessibility and economic activity" (Ex. 3, p. 25), and closes with the principle "Deliver on Promises Made" (Ex. 3, p. 16). The BID asks the MTA to apply its own lessons to 125th Street at the scoping stage, where they cost least and protect most.

What the record shows

Four conclusions follow, and each shapes the BID's requests.

First, the harm is real, measurable and concentrated on small businesses and the people they employ. The Public Advocate measured it in 2009 (Ex. 4). East Harlem owners are describing it in 2026.

Second, the MTA knows how to mitigate it. It has run marketing campaigns, widened sidewalks, installed clearer signage, moved generators, added noise blankets, made custom fence wraps and committed to signage identifying every business. Its own 2017 lessons list fence wrap, retail signage, sidewalk width, muck house enclosures and advance building surveys as things to do. Those measures are, by definition, practicable. Under 6 NYCRR 617.11(d)(5) (Ex. 2), practicable mitigation measures belong in the findings. But the MTA's mitigation should not be cookie-cutter. 125th Street has four distinct districts, each with its own offerings, problems and needs, and the tunnel project crosses two of them, Central and West. The MTA should tailor the mitigation plan to each.

Third, every one of those measures came after the damage began, one business at a time, and none compensated an owner for lost sales. The Public Advocate called for a construction mitigation fund in 2009 (Ex. 4). East Harlem's elected officials are still asking for one.

Fourth, scoping is when the pattern can change. The scope decides what the DEIS will measure, and the DEIS decides what the findings must address. If construction-period business harm is not in the scope, it will not be in the findings.

Part V. The legal framework for the scope

The Draft states the governing standard correctly:

> SEQRA requires the lead agency to take a hard look at the environmental impacts of a proposed action, consider alternatives, and, to the maximum extent practicable, avoid or mitigate potentially significant adverse impacts on the environment, in light of social, economic, and other essential considerations. Draft, Ex. 1, p. 9, ll. 25-27

Scoping

Scoping must include public participation (6 NYCRR 617.8(d), Ex. 2). The final scope must identify the potentially significant adverse impacts and the affected environmental settings, the information and methods needed to analyze them, an initial identification of mitigation measures, the reasonable alternatives to be considered, and the prominent issues found not relevant or not significant, with the reasons they were excluded (6 NYCRR 617.8(e), Ex. 2). The MTA has already determined "that the Proposed Project has the potential to result in significant adverse environmental impacts" (Ex. 1, p. 9, ll. 9-11).

The hard look

The Court of Appeals has explained what a reviewing court asks:

> [W]e may review the record to determine whether the agency identified the relevant areas of environmental concern, took a "hard look" at them, and made a "reasoned elaboration" of the basis for its determination. *Matter of Jackson v New York State Urban Dev. Corp.*, 67 N.Y.2d 400, 417 (1986) (Ex. 15)
>
> [W]hile a court is not free to substitute its judgment for that of the agency on substantive matters, the court must ensure that, in light of the circumstances of a particular case, the agency has given due consideration to pertinent environmental factors. *Akpan v Koch*, 75 N.Y.2d 561, 571 (1990) (Ex. 16)

The first step, identifying the relevant areas of concern, happens here, in scoping.

Displacement and neighborhood character are environmental effects

SEQRA defines the environment to include "existing patterns of population concentration, distribution, or growth, and existing community or neighborhood character" (ECL 8-0105(6)). Construing New York City's environmental review rules, which define the environment in the same terms, the Court of Appeals held:

> [T]he potential displacement of local residents and businesses is an effect on population patterns and neighborhood character which must be considered in determining whether the requirement for an EIS is triggered. *Matter of Chinese Staff & Workers Assn. v City of New York*, 68 N.Y.2d 359, 366-367 (1986) (Ex. 17)
>
> The fact that the actual construction on the proposed site will not cause the displacement of any residents or businesses is not dispositive for displacement can occur in the community surrounding a project as well as on the site of a project. Ex. 17, at 367

In *Akpan v Koch, 75 N.Y.2d 561, 570-571 (1990) (Ex. 16)*, the Court applied the hard look standard to the secondary displacement of residents around a Brooklyn redevelopment project. The Draft recognizes that the MTA is not bound by the City's rules but has chosen to use the methods of the CEQR Technical Manual (Ex. 5) (Ex. 1, p. 10, ll. 3-7). Its own socioeconomic chapter acknowledges that socioeconomic changes are disclosed "if they would affect land use patterns, low-income populations, the availability of goods and services, or economic investment in a way that changes the socioeconomic character of the area" (Ex. 1, p. 11, ll. 2-4). The displacement of small businesses by years of construction is exactly that kind of change.

Related projects must be studied together

Where projects are related, their cumulative effects must be considered. In *Save the Pine Bush v City of Albany*, 70 N.Y.2d 193, 205-206 (1987) (Ex. 18), the Court of Appeals held that the projects before it "are not separate, but related, and, thus, are subjects for mandatory study." *In Village of Westbury v Department of Transp.*, 75 N.Y.2d 62, 71 (1989) (Ex. 19), the Department of Transportation planned a highway interchange in reliance on a future parkway widening. The

Court held that the agency's reliance on the widening "establishes that the widening is, in the words of the regulations, a 'subsequent action' 'included in any long-range plan', 'likely to be undertaken as a result' of the interchange construction or 'dependent' on it," and that the agency "may not avoid consideration of their combined environmental effects simply by moving the limit line of the construction further west" (Ex. 19, at 71).

The BID recognizes that the FY 2026-27 State Budget authorizes a separate environmental review for station and track construction (Ex. 1, p. 2, ll. 20-22; p. 8, section 4). That authorization addresses the sequence of review. It does not erase the requirement to analyze reasonably related cumulative impacts (6 NYCRR 617.9(b)(5)(iii)(a), Ex. 2), and the Draft itself commits to discuss cumulative construction effects with other planned projects, "including SAS Phase 2" (Ex. 1, p. 9, l. 47 to p. 10, l. 2).

Alternatives and findings

An EIS must evaluate "the range of reasonable alternatives" that are feasible, which may include alternative sites, technology, scale, design and timing (6 NYCRR 617.9(b)(5)(v), Ex. 2). The MTA's findings must certify that adverse environmental impacts will be avoided or minimized to the maximum extent practicable "by incorporating as conditions to the decision those mitigative measures that were identified as practicable" (6 NYCRR 617.11(d)(5), Ex. 2).

The Environmental Justice Siting Law

The Environmental Justice Siting Law (L. 2022, ch. 840, as amended by L. 2023, ch. 49) (Ex. 23) took effect on December 30, 2024. It changed SEQRA itself, not just DEC's regulations. Every EIS must now address the "effects of any proposed action on disadvantaged communities, including whether the action may cause or increase a disproportionate pollution burden on a disadvantaged community" (Ex. 23, ECL 8-0109(2)(k)). In deciding whether an action requires an EIS, the lead agency "shall consider whether such action may cause or increase a disproportionate pollution burden on a disadvantaged community that is directly or significantly indirectly affected by such action" (Ex. 23, ECL 8-0109(4)). DEC's significance criteria must now include "whether it may cause or increase a disproportionate pollution burden on a disadvantaged community" (Ex. 23, ECL 8-0113(2)(b)). A disadvantaged community is defined by reference to the Climate Leadership and Community Protection Act (Ex. 23, ECL 8-0105(9); ECL 75-0101(5)).

DEC adopted amendments to Part 617 implementing the law on April 24, 2026, effective June 12, 2026 (Ex. 2), and the Draft acknowledges both (Ex. 1, p. 14, ll. 40-46; p. 15, ll. 1-3). The Draft also concedes the threshold fact: "Most of the area within a half-mile of the alignment for the Proposed Project falls within areas designated as DACs in NYSDEC mapping" (Ex. 1, p. 15, ll. 10-11). The disadvantaged communities analysis is therefore mandatory, and it applies to the corridor the BID serves.

The Draft promises that analysis but defers its substance. The assessment "will be informed by the results of other technical analyses in the DEIS" (Ex. 1, p. 15, ll. 13-14), and the air quality analysis

on which it will most depend is qualitative only (Ex. 1, p. 14, ll. 1-2). A statute that asks whether a project will "cause or increase" an existing burden calls for a measured answer. A disproportionate burden cannot be found or ruled out without numbers for the existing burden and for the project's contribution, over the real length of construction.

The law also reaches DEC permits. ECL 70-0118 (Ex. 23) provides that "the department shall not issue an applicable permit for a new project" if it finds the project will add more than a de minimis amount of pollution to a disproportionate burden on a disadvantaged community (ECL 70-0118(3)(b)). Applicable permits include individual permits under ECL article 17 (water) and article 19 (air), but not general permits (ECL 70-0118(1)(b)). The Draft lists DEC as an involved agency only for a "Potential State Pollutant Discharge Elimination System (SPDES) permit related to stormwater discharges during construction" (Ex. 1, p. 8, Table 1). It does not say whether that coverage will be individual or general, or whether tunnel dewatering, the slurry treatment plant or other construction equipment will need individual DEC permits. The DEIS should answer those questions so the public knows whether section 70-0118 applies.

Why commitments must come now

New York law offers businesses little recourse for construction-period losses after the fact. The Court of Appeals struck an award for lost rental value caused by temporary railroad tracks laid in the street during a public project, explaining:

> In each case the alleged wrong consisted of a deprivation of some part of the access to a street or road with resulting inconvenience to the owner. In each decision the distinction was carefully made between such consequential damage and recoverable damage for the actual taking of physical property or the direct impairment of easements. *Coffey v State of New York*, 291 N.Y. 494, 499 (1944) (Ex. 20)

The Appellate Division reached the same result where construction materials restricted access to a commercial building: "Any inconvenience and depreciation in value suffered as a result of the impaired ingress and egress was incidental to a permissible exercise of the police powers and is damnum absque injuria" (Matter of O'Brien v City of Syracuse, 54 A.D.2d 186, 189 (4th Dept 1976) (Ex. 21)). More recently, a trial court applied the same rule to deny lost rents from a three-year street reconstruction (Mishgy, LLC v City of New York, 2007 NY Slip Op 52239(U) (Sup Ct, Kings County 2007) (Ex. 22)). The protection that matters to 125th Street's businesses is the protection written into the scope, the DEIS and the findings.

Part VI. Comments and requests, section by section

A. Disclose and study the staging, shaft and vent sites

What the Draft says

Permanent ventilation structures at both ends of the tunnel and kiosk-type structures at two intermediate shafts are "currently being developed" (Ex. 1, p. 5, ll. 28-33). The staging sites are "still being developed" (Ex. 1, p. 7, ll. 20-21). The DEIS will describe the project "based on the conceptual engineering available when the DEIS is prepared" (Ex. 1, p. 10, ll. 24-25).

Why it matters to the corridor

A staging yard, a shaft or a permanent vent building placed in front of a storefront can end a business. A kiosk on a narrow sidewalk can permanently reduce foot traffic. The final scope is meant to identify the affected environmental settings (6 NYCRR 617.8(e), Ex. 2). If sites are chosen after the scope closes, the analysis will be built around decisions already made, and the public will have lost its best chance to influence them.

> **Request 1.** The BID requests that the final scope identify all candidate locations for the east and west staging sites, the end-of-alignment ventilation structures and the two intermediate shaft kiosks; state the criteria the MTA will use to choose among them; and commit that the DEIS will analyze each candidate's construction-period and permanent effects on adjacent businesses. Siting criteria should give priority to MTA-owned or other public property, side streets and parcels without 125th Street ground-floor retail frontage. The MTA should provide public notice and an opportunity to comment before selecting any site, and should supplement the scope if a selected site falls outside what the DEIS studied.

B. The block between Lenox Avenue and Adam Clayton Powell Jr. Boulevard

What the Draft says

The SAS Phase 2 staging site at Ancillary A occupies the south side of this block (Ex. 1, p. 3, ll. 18-21; p. 7, ll. 6-8). The tunnel's east staging site, with worker access, spoil removal, ring deliveries and a slurry treatment plant, goes at this end of the alignment (Ex. 1, p. 7, ll. 13-17), and ground improvement "would be required" on this block, potentially "from the surface" (Ex. 1, p. 7, ll. 26-31). The Draft does not say whether the two projects' staging will overlap, adjoin or follow one another.

Why it matters to the corridor

This is the commercial heart of the district, home to the Studio Museum in Harlem, the National Urban League's Urban Civil Rights Museum and the Adam Clayton Powell Jr. State Office Building, one block east of the Apollo Theater. A slurry treatment plant is industrial equipment. Precast tunnel rings arrive on heavy trucks. Ground improvement from the surface means drilling

rigs and freeze pipes in the roadbed or sidewalk. Read together, the Draft points to a single block carrying Phase 2 staging and then this project's staging, without a break, from today into 2029 or 2030. In East Harlem, a fence and generators were enough to cut a shop's sales by more than half (Part IV).

The MTA's own Phase 1 lessons point to the answer. On the Upper East Side the MTA concluded that spoil handling should be enclosed and truck traffic minimized (Ex. 3, Figure 7). It also learned that ground conditions can change the plan: "Post bid it was determined rock quality was poor (fragmented) over a 150' section of the east tunnel," and "A process to freeze the ground in that area was undertaken to allow TBM mining to continue," leading to the lesson: "Perform more extensive geotechnical investigation prior to groundbreaking" (MTA Lessons presentation, Ex. 3, pp. 13-14). Ground freezing is one of the methods the Draft contemplates for this block (Ex. 1, p. 7, ll. 26-29).



Figure 7. The MTA's Phase 1 lesson on physical mitigation, showing a muck house enclosure at 69th Street and spoils removal. Reproduced from MTA Capital Construction, *Lessons from the Second Avenue Subway and other Megaprojects* (CityLaw Breakfast, Apr. 6, 2017), Ex. 3, p. 12.

> **Request 2.** The BID requests that the DEIS disclose whether the east staging site will occupy, adjoin or expand the SAS Phase 2 Ancillary A staging site, and analyze the combined and continuous occupancy of this block by both projects. The DEIS should provide a staging site plan; quantify truck trips by hour and by day; identify haul routes and delivery hours; analyze the noise, dust and emissions of the slurry treatment plant; disclose whether ground improvement will occur from the street or sidewalk surface; and evaluate locating spoil handling and slurry processing away from 125th Street's retail blocks. The BID further asks the MTA to commit that the combined staging footprint will not exceed the SAS Phase 2 footprint, that the slurry plant and spoil handling will be enclosed in the manner of the muck house enclosures the MTA used on Phase 1, and that storefront access and visibility will be maintained throughout. The DEIS should also disclose the geotechnical investigation for this block, completed before groundbreaking, and the ground improvement methods and surface work it will require.

C. Construction duration and cumulative effects

What the Draft says

Construction would last "approximately two years" (Ex. 1, p. 8, ll. 1-5), beginning only when the SAS Phase 2 boring machines become available in late 2028 (Ex. 1, p. 3, ll. 22-23; p. 7, ll. 8-10). Phase 2 itself runs to "the end of 2032" (Ex. 1, p. 3, l. 23). Stations follow "in a future phase" (Ex. 1, p. 2, ll. 20-22). Cumulative effects with other projects will be discussed "Where relevant" (Ex. 1, p. 9, l. 47).

Why it matters to the corridor

The Draft adopts the CEQR Technical Manual's methods (Ex. 1, p. 10, ll. 3-7). That manual (Ex. 5) generally treats construction of less than two years as short-term, which typically draws less analysis, and treats long-duration construction that could affect business access and viability as a reason for socioeconomic review. The proposed duration sits right at that line and depends on another megaproject finishing on time. For a merchant, the relevant duration is cumulative: Phase 2 work, then this tunnel, then station construction. The MTA has warned against exactly this kind of reliance: its own Phase 1 lessons were that "Proposed megaproject costs and schedules are generally overly optimistic," that agencies should "Utilize the 'Most Likely Scenario' as the cure," and that they should "Determine worst-case scenario by analyzing negative conditions" (MTA Lessons presentation, Ex. 3, p. 25). Utility work adds to the sequence: Table 1 anticipates "Potential utility relocations and connections" (Ex. 1, p. 8), and the MTA's Phase 1 lesson was to "Relocate all utilities under separate contract before other construction starts" (MTA Lessons presentation, Ex. 3, p. 6). As for the stations, the Draft itself says the tunnel exists to make them possible (Ex. 1, p. 3, ll. 33-44). Under *Westbury* (Ex. 19), a project planned in reliance on a later one cannot be reviewed as if the later one did not exist.

Request 3. The BID requests that the DEIS evaluate the Proposed Project's construction as long-term construction under the CEQR Technical Manual (Ex. 5); present a block-by-block construction timeline for 125th Street combining SAS Phase 2, any advance utility relocation, the Proposed Project and the reasonably foreseeable station work; and, consistent with the MTA's own "Most Likely Scenario" lesson, analyze most-likely and delayed-schedule scenarios, including one in which the boring machines become available six and twelve months later than planned. The BID further requests that the DEIS state the MTA's most-likely and worst-case dates for full revenue service on 125th Street, including station and track construction, so that the public and the BID's members can plan for the full duration of construction on the corridor (see Part III, Full service completion estimate).

Request 4. The BID requests that the DEIS treat the future stations identified in the MTA's 2025 Feasibility Study, at Malcolm X Boulevard (Lenox Avenue), St. Nicholas Avenue and Broadway (Ex. 1, p. 3, ll. 26-32), as reasonably foreseeable actions in its cumulative analysis; describe their likely construction methods, surface footprints and durations; disclose any tunnel design decisions, including the location of crossovers (Ex. 1, p. 5, ll. 24-26) and shafts, that would constrain future station locations or construction methods; share any preliminary station designs prepared to date; and state where station entrances are contemplated, including whether entrances will be built on the side streets north and south of 125th Street.

D. Socioeconomic conditions: construction-period effects on businesses

What the Draft says

The socioeconomic chapter will screen the CEQR Technical Manual's six issues of concern: "(1) direct residential displacement; (2) direct business displacement; (3) indirect residential displacement; (4) indirect business displacement due to increased rents; (5) indirect business displacement due to retail market saturation; and (6) adverse effects on a specific industry" (Ex. 1, p. 11, ll. 7-9). Detailed analysis follows only if a screen or preliminary assessment cannot rule out significant impacts (Ex. 1, p. 11, ll. 9-15).

Why it matters to the corridor

Those six issues were designed for projects that add people or remove buildings. A tunnel removes few buildings and adds no residents, so the screen can conclude there is no impact while businesses lose access, visibility and customers for years. Arts and cultural institutions along 125th Street have unique vulnerabilities and face significant operational, structural, and financial risks during the MTA's 125th Street Subway Tunnel project**.** Major institutions like the Studio Museum in Harlem, the Apollo Theater, the National Black Theatre, and the National Urban League's Urban Civil Rights Museum sit directly along this critical corridor. Construction threatens their foot traffic, street visibility and structural stability.

125th Street also has a dense concentration of social service providers. At least 14 social service providers, centers and government offices are located directly on 124th, 125th and 126th Streets between Morningside Avenue and Fifth Avenue. Their clients, many of them elderly, disabled or

in crisis, will face environmental disruption, physical access barriers and, over time, changes in the community's demographics.

124th Street

- Harlem United (Willis Green Jr. Adult Healthcare Center): Located at 123-125 W 124th St, providing healthcare, housing assistance, and supportive social services.
- Children's Aid: Located at 117 W 124th St (5th Floor), offering family support, youth programs, and community services.
- Jewish Board of Family and Children's Services (JBFCS) - 124th Street SRO: Located at 108 W 124th St, offering supportive housing, mental health, and social work counseling.
- Harlem United (Foundation House West): Located at 150 W 124th St, authorized to deliver licensed master social work and mental health counseling.

125th Street

- NYC Human Resources Administration (HRA) Facilities: A major government service hub operates at 132 W 125th St, housing multiple critical social services:
    - St. Nicholas Job Center: Administers employment and cash assistance services.
    - Manhattan Food Stamp Center: Processes Supplemental Nutrition Assistance Program (SNAP) benefits.
    - HRA Social Services Office: Provides general casework and benefits coordination.
- NYC Administration for Children's Services (ACS): Located at 55 W 125th St, managing child protection, family support, and community juvenile justice programs.
- Youth Justice Network: Located at 63 W 125th St (4th Floor), providing advocacy, housing aid, and academic advancement for system-involved youth.
- Upper Manhattan Workforce1 Career Center: Located at 215 W 125th St (6th Floor), offering employment training, job placement, and career services.
- Safe Horizon Streetwork Project: Located at 209 W 125th St (2nd Floor), serving homeless and runaway youth with drop-in resources and shelter counseling.
- Harlem Commonwealth Council: Located at 361 W 125th St, functioning as an economic development corporation providing supportive socioeconomic programs.
- Central Harlem Meals On Wheels: Located at 163 W 125th St (#13), coordinating senior nutritional programs and food deliveries.

126th Street

- U.S. Social Security Administration: Located at 302 W 126th St (4th Floor), handling federal retirement, survivor, and disability benefits.
- Palladia, Inc. (126th Street Shelter): Located at 35 W 126th St, operating emergency housing and transition services in conjunction with the Department of Homeless Services.
- WARM (We All Really Matter): Located at 8 W 126th St, specializing in crisis intervention, domestic violence resources, and active social work support.

The DEIS should identify these facilities in its community facilities and socioeconomic analyses, and the construction plans should keep their entrances open, accessible and safe.

The multi-year tunneling and construction phase also threatens daily campus operations for Touro College, the CUNY Graduate School of Public Health and Health Policy and nearby schools such as the Eagle Academy. Harlem Children's Zone has a significant footprint along the corridor, alongside educational spaces such as BMCC's CUNY Language Immersion Program.

The Draft never mentions construction-period access, visibility, deliveries or customer volumes. The Public Advocate's survey (Ex. 4) shows what that blind spot cost Phase 1 businesses: an average 32 percent decline in net sales, with nearly half cutting jobs. For a business like Go Donut, the question is not whether its building comes down. It is whether it survives. The MTA itself has identified the need to "Establish relationship between accessibility and economic activity" (MTA Lessons presentation, Ex. 3, p. 25). A construction-period business impact analysis does exactly that.

> **Request 5.** The BID requests that the socioeconomic chapter include a construction-period business impact analysis covering all ground-floor businesses within 400 feet of the alignment, the study area the Draft already uses for land use (Ex. 1, p. 10, ll. 37-39), and all businesses on any block fronting a staging or shaft site. The analysis should establish a pre-construction baseline of storefront occupancy, pedestrian volumes and business activity before mobilization; assess effects on access, visibility, deliveries and customer volumes over the full construction period; draw on the experience of the Second Avenue Subway corridor, including the Public Advocate's 2009 survey (Ex. 4); and identify businesses at heightened risk of closure, including legacy and independent businesses. The BID will make its corridor data available to the MTA for this purpose. Because e-commerce already squeezes corridor retailers, the analysis should assess the combined risk of closure from construction-period losses and existing market pressure, not physical displacement alone.

E. Property acquisition and relocation

What the Draft says

> This chapter of the DEIS will also consider potential property acquisitions needed for above-ground Project elements (e.g., shaft sites). Draft, Ex. 1, p. 11, ll. 15-16

Why it matters to the corridor

No parcels are identified. In East Harlem, businesses on parcels taken for Phase 2 report heavy losses and slow relocation help even though that project is federally funded (Part IV). The Draft lists the Federal Transit Administration only as an interested agency coordinating on the federally funded SAS Phase 2 (Ex. 1, p. 8, Table 1). It is therefore not clear that federal relocation assistance under the Uniform Relocation Act (42 U.S.C. 4601 et seq.) would reach businesses displaced by this project. A commercial tenant's lease may also send any condemnation award to the landlord.

> **Request 6.** The BID requests that the final scope identify each parcel that may be acquired in fee, by temporary easement or by subsurface easement; that the DEIS analyze direct business displacement for each such parcel; that the MTA notify owners and commercial tenants of potentially affected parcels directly and in advance of the DEIS hearing; and that the MTA commit to provide relocation and reestablishment assistance no less than that available under the Uniform Relocation Act, regardless of the project's funding source.

F. Transportation, curb access and traffic plans

What the Draft says

The MTA "would require its contractors to implement Maintenance and Protection of Traffic (MPT) Plans developed in coordination with the New York City Department of Transportation (NYCDOT) to minimize adverse impacts on traffic flows and pedestrian activities" (Ex. 1, p. 7, ll. 49-51). The transportation analysis applies peak-hour thresholds (Ex. 1, p. 13, ll. 4-9, 16-19) and will consider:

> the vehicle trips associated with construction workers and deliveries, as well as any changes in travel lanes, on-street parking lanes, sidewalks, and off-street parking, and effects on other transportation services (such as local bus service and Select Bus Service (SBS) on 125th Street). Draft, Ex. 1, p. 13, ll. 12-15

Why it matters to the corridor

Peak-hour thresholds measure congestion. They do not capture a loading zone lost for the morning, a bus stop moved a block away, or a curb lane occupied all day by trucks that never exceed 50 trips in a single hour. Each of those is a business that cannot receive its delivery, a client who cannot be dropped at the door, or a shopper who goes elsewhere. The traffic plans themselves are to be written later, by contractors, with no stated standards for business access and no review by

the businesses affected. Yet the MTA's own Phase 1 lessons name the standards that matter: "Fence Wrap," "Retail Signage," "Sidewalk Width," "Pedestrian Safety" and "Lighting Issues" (MTA Lessons presentation, Ex. 3, p. 17). Figure 8 illustrates the standards the BID asks the MTA to adopt.

The street starts from a deficit. The BID's own traffic proposal describes its blocks as carrying buses, cyclists, delivery vehicles, tour buses, emergency vehicles and pedestrian traffic "that include elderly and disabled," and reports that "Traffic congestion compounded with double and triple illegal parking has severely impacted smooth traffic flow along the 125th Street thoroughfare." As a result, "Not only are businesses suffering from the lack of customers, but residents are inconvenienced in their daily lives, and emergency services have also been hindered" (Ex. 37, 125th Street BID, Street Proposal). Staging yards, truck trips and lane closures will be layered onto that condition. A screen that asks only whether the project adds 50 vehicle trips in a peak hour will not see it, and older and disabled pedestrians have the most to lose when sidewalks narrow and crossings move.

Sidewalk closures will also move the corridor's street vendors. When a fence takes a stretch of sidewalk, the vendors who worked it will crowd onto the blocks that remain open, narrowing the clear path in front of storefronts that are still operating and setting vendors against each other for space. The DEIS should account for that displacement, and the MTA should settle a vending plan with the City agencies that license and enforce street vending before the first closure.

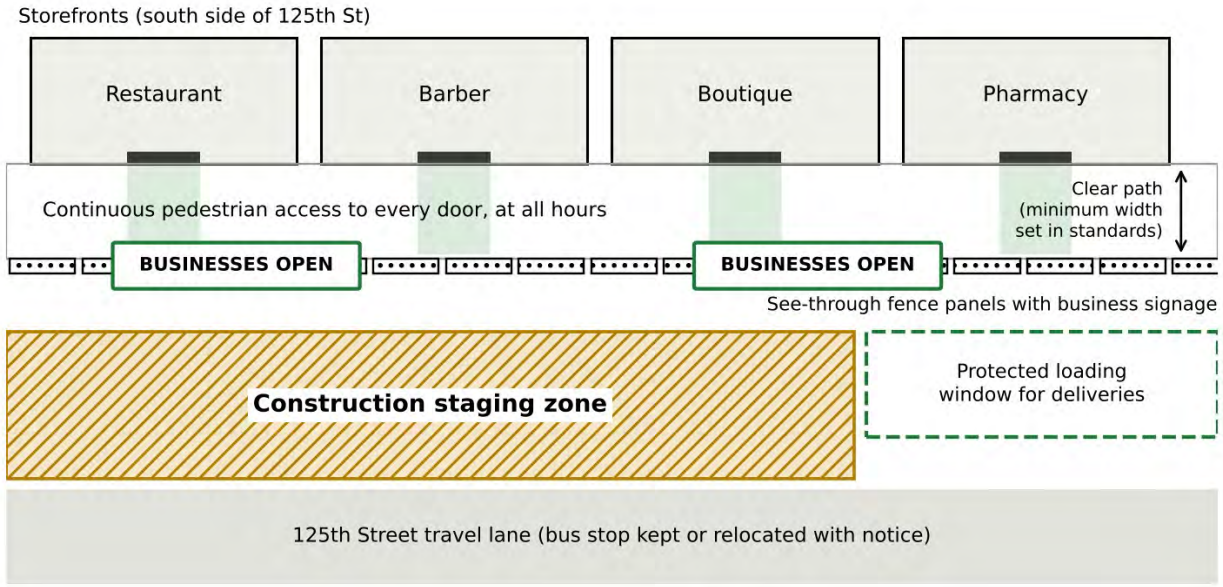


Figure 8. Illustrative only; not to scale and not an MTA plan. The business access standards requested in Request 7: a continuous clear path to every storefront door at all hours, see-through fence panels with business signage, a protected loading window for deliveries, and bus stops kept

or relocated only with notice. The minimum clear width would be set in the standards; on Phase 1's model block, the MTA widened a 7-foot sidewalk by 2 feet (DNAinfo, Feb. 11, 2011, Ex. 7).

> **Request 7.** The BID requests that the DEIS analyze curb occupancy, commercial loading, bus stop relocations and pedestrian access over the full construction day, not only the peak hour. The BID further requests that the MTA adopt enforceable business access standards, incorporated into its construction contracts and traffic plans, guaranteeing continuous pedestrian access to every storefront, a minimum clear sidewalk width, no simultaneous closures on both sides of a block, protected delivery windows, adequate lighting along fenced frontages, accessible detours and crossings for older and disabled pedestrians and a holiday season moratorium on new lane or sidewalk closures; that draft traffic plans be provided to the BID for review before implementation; and that the MTA, with the City agencies that license and enforce street vending, adopt a street vendor plan before any sidewalk closure, addressing where displaced vendors may operate and how the clear path in front of open storefronts will be kept.

G. Noise and vibration

What the Draft says

> The analysis of noise will include an estimate of daytime and nighttime noise levels at nearby sensitive areas (receptors) resulting from worst-case construction conditions. Draft, Ex. 1, p. 13, ll. 28-29
>
> If necessary, based on the results of the construction noise analysis, the feasibility, practicability, and effectiveness of implementing measures to mitigate any significant construction noise impacts will be examined. Draft, Ex. 1, p. 13, ll. 32-34

The DEIS will estimate vibration from shaft construction but will only "qualitatively discuss the potential vibration resulting from operation of the TBMs" (Ex. 1, p. 13, ll. 36-38).

Why it matters to the corridor

Under the FTA Manual (Ex. 6) the Draft relies on (Ex. 1, p. 13, ll. 24-30), commercial uses are held to less protective construction noise criteria than residences. In a detailed assessment the limit is 85 dBA Leq (8hr) for commercial uses, day and night, against 80 dBA by day and 70 dBA at night for residences (Ex. 6, § 7.1, Table 7-3, p. 179). The general assessment screening criteria show the same gap: 100 dBA for commercial uses around the clock, against 90 dBA by day and 80 dBA at night for residences (Ex. 6, Table 7-2, p. 179). Restaurants and ground-floor retail can therefore absorb heavy construction noise without registering an impact. The Apollo Theater sits directly on the alignment. For a restaurant with sidewalk seating, a salon mid-appointment or a performer on stage, noise and vibration decide whether a customer stays or comes back.

> **Request 8.** The BID requests that the noise and vibration analysis treat ground-floor commercial uses, restaurants, hotels and performance venues as receptors; analyze nighttime work; evaluate the Apollo Theater under the FTA Manual's vibration criteria for special buildings (Ex. 6); and quantify boring machine vibration along the entire alignment. The BID further requests that the MTA commit to pre-construction condition surveys of buildings near shafts, staging sites and the alignment; real-time vibration monitoring with published limits and stop-work thresholds; an expedited claims process for affected owners and tenants; and baseline noise controls as contract specifications rather than measures triggered only by a finding of significant impact.

H. Air quality and disadvantaged communities (Environmental Justice Siting Law)

What the Draft says

> The DEIS will qualitatively describe the potential temporary effects on air quality resulting from construction of the Proposed Project. Draft, Ex. 1, p. 14, ll. 1-2

Why it matters to the corridor

Diesel equipment, haul trucks and a slurry plant will operate in an area the State has already designated as disadvantaged (Ex. 1, p. 15, ll. 10-11), beside outdoor dining and sidewalk retail. The Environmental Justice Siting Law requires the EIS to decide whether that work will "cause or increase a disproportionate pollution burden" on that community (ECL 8-0109(2)(k), Ex. 23). Corridor merchants and their employees spend ten or twelve hours a day at street level beside the work sites. They carry that burden as much as any resident. The Draft's analysis of disadvantaged communities will be "informed by the results of other technical analyses" (Ex. 1, p. 15, ll. 13-14). A qualitative air chapter gives that analysis little to work with.

> **Request 9.** The BID requests that the DEIS quantify construction-period air emissions, including particulate matter and diesel emissions, at the staging sites and along haul routes, and that the MTA commit to Tier 4 or electric construction equipment, enforcement of anti-idling limits, an electrified slurry treatment plant, dust controls and real-time air monitoring with publicly available data. The BID further requests that the disadvantaged communities analysis required by ECL 8-0109(2)(k) (Ex. 23) quantify the existing pollution burden in the half-mile study area and the project's added contribution from construction-period emissions, truck traffic and noise, measured over the full corridor construction period described in Part III; that it count street-level businesses and their workers among those affected; and that the DEIS identify every DEC permit the project requires and state whether each is an applicable permit under ECL 70-0118 (Ex. 23).

I. Urban design and visual resources

What the Draft says

> Specifically, because the Proposed Project would consist of an underground tunnel with limited above-ground structures and no new permanent workers or other permanent activities, detailed analyses of urban design and visual resources, water and sewer infrastructure, and solid waste and sanitation services are not required. Draft, Ex. 1, p. 10, ll. 11-15

Why it matters to the corridor

The same Draft commits to permanent above-ground ventilation structures and street-level kiosks (Ex. 1, p. 5, ll. 28-33), screens them for shadows (Ex. 1, p. 11, ll. 32-35) and considers their visual effects on historic resources (Ex. 1, p. 12, ll. 37-38). A structure large enough to cast a shadow is large enough to change a commercial streetscape for decades.

The MTA has already learned how to do this well. Its Phase 1 lessons were to "Consider designing ancillaries with setbacks and landscaping to soften the visual effect at street level" (MTA Lessons presentation, Ex. 3, p. 20), to "Integrate retail opportunities at street level to create active streetscape" (Ex. 3, p. 22, Figure 9), and to "Support Overbuilding" (Ex. 3, p. 23). At East Side Access, the MTA "Constructed an above ground ventilation and concourse service facility with integrated public open space" on 50th Street (Ex. 3, p. 21). Those principles cannot be applied if the DEIS never studies the structures' design.



Figure 9. The MTA's Phase 1 lesson on ancillary structures: retail at street level, shown in renderings of the ancillaries at 93rd and 69th Streets on Second Avenue. Reproduced from MTA

Capital Construction, *Lessons from the Second Avenue Subway and other Megaprojects* (CityLaw Breakfast, Apr. 6, 2017), Ex. 3, p. 22.

Request 10. The BID requests that the DEIS assess the urban design and visual effects of all permanent above-ground structures, and that the MTA commit to the design principles of its own Phase 1 lessons: setbacks and landscaping, street-level retail to create an active streetscape, integrated public space and support for overbuilding. The MTA should consult with the BID and the affected community boards on the design of every permanent structure.

J. Historic resources and building protection

What the Draft says

The study area for direct effects on historic architectural resources is "the area within approximately 90 feet of the limits of the Proposed Project's construction activities" (Ex. 1, p. 12, ll. 23-24), and avoidance and mitigation measures will be developed with OPRHP and LPC (Ex. 1, p. 12, ll. 37-40).

Why it matters to the corridor

The corridor's most important historic resource sits beside the alignment. The Apollo Theater at 253 West 125th Street, built in 1913-14, was designated a New York City landmark on June 28, 1983 (Ex. 32, Landmarks Preservation Commission, LP-1299), and was listed on the National Register of Historic Places the same year (Ex. 33, National Park Service). Request 8 asks that it be evaluated under the FTA Manual's vibration criteria for special buildings. The construction protection plans in Request 11 should name it.

The Hotel Theresa

The Hotel Theresa, the "Waldorf of Harlem," stands at 2082-2096 Adam Clayton Powell Jr. Boulevard, at 125th Street. It was designated a New York City landmark on July 13, 1993 (Ex. 42, Landmarks Preservation Commission, LP-1843) and listed on the National Register of Historic Places in 2005 (Ex. 43, National Park Service). It houses active storefronts and offices, and tunneling beside its historic masonry carries real architectural and commercial risk.

The BID requests ultra-low vibration thresholds tailored to historic masonry for the Hotel Theresa, continuous real-time vibration monitoring during tunneling, and a comprehensive pre-construction structural and photographic survey documenting existing cracks and foundation conditions. The DEIS should evaluate how tunneling and ground improvement interact with the hotel's historic foundations. Traffic plans should keep its sidewalks passable, lit and clean; heavy staging equipment, slurry plants and tall barriers should be kept away from its commercial facade; its tenants should receive high-visibility business signage; and any nearby shaft or staging site should be enclosed to control noise.

Older commercial buildings along 125th Street that are not designated or eligible receive no tailored protection, and their owners have no role in the consultation. During Phase 1, the Manhattan Chamber of Commerce credited the MTA with "inspecting buildings to prevent risks to above-ground structures" (Gotham Gazette, Feb. 23, 2015, Ex. 8). The MTA's own lessons go further. Phase 1 surveyed 225 buildings and required "Remediation on 52 buildings (~25%)" (MTA Lessons presentation, Ex. 3, p. 8). The lessons that followed were to "Identify fragile buildings and their condition prior to the building process," "Complete advance survey and monitoring program during design phase" and "Deploy instrumentation to monitor building movement before construction" (Ex. 3, p. 10). The same protection should be committed here from the start.

> **Request 11.** The BID requests that the MTA prepare construction protection plans for historic resources along the alignment, including the Apollo Theater and the Hotel Theresa, with vibration limits suited to historic masonry; complete a fragile building survey and monitoring program during design, as the MTA's own lessons direct, covering older buildings near shafts, staging sites and the alignment whether or not designated; install building movement instrumentation before construction begins; and include the BID as an interested party in its consultation with OPRHP and LPC under Section 14.09 of the Parks, Recreation and Historic Preservation Law.

K. Alternatives

What the Draft says

> The DEIS for the Proposed Project will include evaluation of the No Action Alternative, in which no 125th Street Subway Tunnel is constructed. It will also include consideration of alternative methodologies for construction of the new tunnel. Draft, Ex. 1, p. 15, ll. 34-36

Why it matters to the corridor

SEQRA contemplates alternative sites, designs and timing (6 NYCRR 617.9(b)(5)(v), Ex. 2). The provision allowing site alternatives to be limited to parcels a sponsor controls applies to private sponsors, not to a public authority. The project's goals also rank "Avoiding or minimizing any potential for delays to planned completion of SAS Phase 2" (Ex. 1, p. 5, l. 9) ahead of the goal to "Minimize environmental and community impacts associated with the Proposed Project to the extent practicable" (Ex. 1, p. 5, ll. 10-11). Those goals should not be read so narrowly that they foreclose alternatives that reduce harm to the corridor.

> **Request 12.** The BID requests that the DEIS evaluate alternative staging and shaft locations; alternative construction sequencing that avoids overlapping closures with SAS Phase 2 on the same blocks; and relocation of spoil handling and slurry processing away from 125th Street's retail blocks, including to the west end of the alignment.

L. Mitigation and enforceable commitments

What the Draft says

> For any significant adverse impacts identified for the Proposed Project, the DEIS will identify measures to mitigate those impacts. . . . Where impacts cannot be practicably mitigated, they will be disclosed as unavoidable adverse impacts. Draft, Ex. 1, p. 15, ll. 27-30

Why it matters to the corridor

If business disruption is never deemed significant, nothing will be owed. Part IV shows that the MTA has used business mitigation measures on Second Avenue, and Part V shows that businesses have almost no remedy once construction begins. Measures that were practicable in East Harlem and on the Upper East Side are practicable on 125th Street, and they belong in the findings as conditions (6 NYCRR 617.11(d)(5), Ex. 2). Part VII sets out the program the BID proposes.

> **Request 13.** The BID requests that the DEIS include a construction mitigation section addressing business access, visibility and customer volumes whether or not those effects are deemed significant, and that the MTA's findings incorporate as conditions the corridor business protection program described in Part VII, including the business access standards in Request 7, a dedicated MTA construction liaison for 125th Street, a corridor business support program funded as a project cost, and a local business participation program that sets contracting goals for businesses in the ZIP codes along the corridor, with the BID as a partner in marketing those opportunities to its members.

M. Agency coordination and community participation

What the Draft says

Table 1 identifies the agencies involved in the review: the MTA, NYCDOT, NYC Parks, NYCDEP, the Department of City Planning, OPRHP, DEC, LPC, the Mayor's Office of Environmental Coordination and the Federal Transit Administration (Ex. 1, p. 8).

Why it matters to the corridor

Table 1 also leaves out the City agencies that deal with the street every day:

- New York City Department of Small Business Services
- New York City Department of Sanitation
- New York City Police Department
- New York City Department of Health and Mental Hygiene
- Department of Homeless Services

- Department of Consumer and Worker Protection
- New York City Fire Department
- Mayor's Office of Community Mental Health

These agencies handle the unresolved problems that shape daily life on 125th Street: homelessness, mental illness, drug sales and use, illegal dumping and illegal street vending.

None of the agencies in Table 1 has a mission focused on small business, and the table gives no role to the BID or the affected community boards.

At the BID's October 5 Annual Meeting, local leaders noted that formal outreach to the community did not begin until after the project framework was shaped, and they publicly asked for a more proactive planning role to address construction disruption to businesses and the community (Ex. 13).

Community Board 10's chair asked the MTA for "a formal, meaningful, and continuing role in shaping the planning, design, construction" of the project (amNY, Oct. 5, 2026, Ex. 13). The BID's president stressed to the MTA's Chair that a new model for community engagement is needed (Ex. 13).

The MTA's own Phase 1 outreach model included "Ongoing Construction Advisory Committee Meetings and Quarterly Public Workshops," "Community outreach liaisons, email notifications and monthly newsletters," a "Community Information Center" and "Community Tours for residents and business owners" (MTA Lessons presentation, Ex. 3, p. 18). 125th Street deserves no less, and it needs more hyper-local engagement.

Because the MTA's community engagement during planning has not included those directly affected by the project, the BID took the initiative. Seeking meaningful, structured engagement, it invited the MTA's Chair to its Annual Meeting and sent him 35 questions in advance, so he would know what was on everyone's mind (Ex. 45). The BID also nominated the MTA to serve on the BID's Board in Class A (property owners), and the membership elected the MTA's designee at that meeting. The Chair attended but answered none of the questions, saying it was too early. The next day, the MTA met with elected officials and gave a presentation that answered many of them; the BID was not invited. A day later, the MTA released the Draft through the press, and the comment period began. That sequence is not a real effort to explain planning and structural engineering concepts to local businesses, the BID, community boards or residents.

The BID recognizes that the MTA must hold public hearings and scoping sessions under state and federal law before moving forward with major infrastructure projects. Those legal minimums should not define the public engagement program. A new model would meet the law, as the MTA has done, and go further: a multi-tiered education and communication framework that is proactive,

accessible and continuous, so that community input is maximized and the process is transparent. As of this filing, the BID has not received a response to its 35 questions.

Co-governance and operational coordination. The MTA's designee now sits on the BID's Board. The BID asks the MTA to build on that by forming a permanent co-governance committee with the BID, with sign-off authority over street closures, staging sites and utility work schedules on 125th Street and a defined escalation path when the two disagree. The BID also asks for a street-level Project Information and Grievance Office on 125th Street, where business owners and residents can get real-time construction updates and file claims for property or operational impacts immediately.

The BID takes an interagency approach to complex street-level problems: homelessness, mental illness, sanitation, public safety, drug use and sales, illegal street vending, sticker and flyer posting and graffiti. Construction will make each of them harder.

Graffiti is one example. This project will bring extensive street-level construction infrastructure, including fences, scaffolding, sidewalk sheds and jersey barriers, that becomes a prime target for graffiti, vandalism and tagging if left unmonitored.

The BID requests that the DEIS assess how construction staging, street closures and future station entrances may displace or concentrate vulnerable populations, and how construction interacts with Harlem's existing concentration of social service providers, outpatient clinics and street homelessness. Each of those affects storefront access, foot traffic and the corridor's economic viability.

The BID requests that the design of all station entrances, vents, air shafts and plazas follow Crime Prevention Through Environmental Design (CPTED) principles, so that none creates a dark, isolated alcove that attracts encampments or unsafe conditions.

The BID requests a formal framework, coordinated by the MTA with the Department of Homeless Services, the Department of Health and Mental Hygiene, NYC Health + Hospitals, the Mayor's Office of Community Mental Health, the NYPD, the BID and community social service providers, to deploy outreach workers and crisis response teams throughout the construction years, including for people with mental illness who may be affected by prolonged noise, vibration and dust.

The BID requests that graffiti on project surfaces and equipment be removed within 24 to 48 hours by a dedicated rapid-response crew; that anti-graffiti coatings or non-porous materials be used on all street-level construction surfaces; and that fences use designs that deter vandalism, such as mesh panels or green walls, instead of blank plywood.

The BID offers its "Where Business Meets Culture" arts program, already used on freight doors along the corridor, to cover construction fencing with work by local artists highlighting the neighborhood's cultural institutions, businesses and history. Art by local artists and cultural organizations also discourages tagging.

Request 14. The BID requests that the NYC Department of Small Business Services, Empire State Development, the Department of Sanitation, the NYPD, the Department of Health and Mental Hygiene, the Department of Homeless Services, the Department of Consumer and Worker Protection, the Fire Department and the Mayor's Office of Community Mental Health be added to Table 1 as interested agencies; that the MTA establish a construction advisory committee including the BID and the affected community boards, meeting at least monthly from mobilization through final restoration; that the MTA form a permanent co-governance committee with the BID with sign-off authority over street closures, staging sites and utility work schedules on 125th Street; that the MTA provide community outreach liaisons, regular construction notices and a community information and grievance office on 125th Street where business owners and residents can file claims, as it did on Second Avenue; and that the BID be placed on the distribution list for all notices, documents and hearings in this review.

N. Sanitation, rodent control and public safety at the work sites

What the Draft says

The Draft excludes "solid waste and sanitation services" from detailed analysis because the tunnel would have "no new permanent workers or other permanent activities" (Ex. 1, p. 10, ll. 12-14). It will assess direct effects on community facilities, including "police and fire protection services," but anticipates no indirect effects "because the Proposed Project is not anticipated to result in population changes" (Ex. 1, p. 11, ll. 22-24). A public health assessment follows only if the DEIS finds an unmitigated significant adverse impact in air quality, water quality, hazardous materials or noise (Ex. 1, p. 14, ll. 35-39).

Why it matters to the corridor

Every reason the Draft gives for skipping these topics looks at the finished tunnel. None looks at the years of construction. During construction, 125th Street will carry staging yards, a slurry plant, spoil removal, ring deliveries and fenced frontages (Part III). Those conditions add no residents. They do add litter, dust and mud, displaced trash receptacles, and fence lines that trap windblown debris and block mechanized sweepers, as well as snow and ice. They also create shadowed, fenced frontages that are harder to patrol and harder to see into.

Contractors should keep their own work areas clean. Their obligations end at the fence. The sidewalk, curb and tree pits just outside each enclosure, where litter collects and trucks track mud and slurry, are left to the BID's crews for as long as the enclosure stands. Unless the contracts say otherwise, the BID absorbs that cost every day of construction. Dust and debris also blow onto and under trash receptacles, which will need power washing at least every two weeks and protective coatings. Contractors should not leave their debris on the sidewalk for later pickup, as they did during the MTA's subway improvement project at 125th Street and St. Nicholas Avenue. The City now requires trash to be set out in containers rather than bags on the sidewalk, and the DEIS should state specifically how contractor waste will be removed.

On 125th Street, the BID meets much of that burden. State law authorizes business improvement districts to provide "enhanced sanitation services," "decorations and lighting for seasonal and holiday purposes" and "services to enhance the security of persons and property within the district" (Ex. 24, GML 980-c(c)(1), (4), (5)). The BID's sanitation crews and public safety staff work the same sidewalks the fences will narrow, and the corridor's property owners pay for that work through the district charge (Ex. 24, GML 980(c)). If the DEIS treats sanitation and safety as unaffected, the cost of keeping the corridor clean and safe during construction shifts to the BID and to business and property owners without ever being disclosed. Nor should the BID bear liability for conditions the project creates. The MTA should require its contractors to defend, indemnify and hold harmless the BID, and to name it as an additional insured, for claims arising from construction activity, temporary walkways, fencing and relocated street furniture, and should confirm that the BID takes on no responsibility for conditions within or created by the work zones.

The Draft's community facilities analysis looks only for direct effects on facilities such as "public schools and libraries, publicly funded early childhood programs, police and fire protection services, and health care facilities" (Ex. 1, p. 11, ll. 22-23). Several facilities that serve young people sit on the alignment itself: the Harlem campus of the Touro College of Osteopathic Medicine at 230 West 125th Street (Ex. 34); the Department of Education's Manhattan suspension hearing office at 209 West 125th Street (Ex. 35); and, in the same building, Safe Horizon's Streetwork drop-in center for youth experiencing homelessness (Ex. 36). Other organizations on the corridor that serve young people include the Apollo Theater, the Studio Museum in Harlem, The Sledge Group, Figure Skating in Harlem, the Harlem Commonwealth Council, Haven Family Enrichment Center, the Youth Justice Network, the Harlem Independent Living Center, houses of worship, Pillars, NYPD youth programs and community-led violence intervention programs. Students and young people walk to these doors every day. The DEIS should identify them, and the construction plans should keep their entrances open, lit and safe.

Rats are the sharpest example. Harlem has been a Rat Mitigation Zone since January 2023 (Ex. 26, NYC Department of Health and Mental Hygiene, Rat Mitigation Zones). When the City announced the zones in April 2023, it said it "would combine Harlem's three community districts" into one zone, and the Manhattan zone "includes a large swath of Harlem, stretching from the Hudson to the East River" (Ex. 27, Kay Bontempo, Our Town, Apr. 5, 2023). Excavation, utility relocation and open staging yards in that zone can drive rodents out of the ground and toward the restaurants, grocers and food vendors beside the work. The CEQR Technical Manual, whose methods the Draft adopts, treats pests, including "rodents such as rats," as a public health concern (Ex. 5, ch. 20, § 321, p. 20-7). The Draft's public health trigger never reaches the issue, because it waits for an impact in air, water, hazardous materials or noise.

In 2025, the BID conducted a rodent walk-through of 125th Street with the Department of Health and Mental Hygiene. It showed the need for a concentrated, collaborative effort among the Department of Sanitation, the Department of Buildings, the Department of Transportation, the Department of Environmental Protection, the Parks Department and the BID. The walk found rat-active tree pits, garbage around litter baskets, illegal dumping, grease stains from food businesses, infestations inside and outside vacant storefronts, infested catch basins and pigeon feeding. The

BID has since installed the required Citibin containers and new rodent-resistant trash receptacles to address some of these findings. The tunnel project will make the problem worse.

The MTA learned this on Second Avenue. Its Phase 1 lesson was to "Address a Broad Range of Quality of Life Issues," including "Enforcement of Construction Site Upkeep and Maintenance," "Pedestrian Safety" and "Lighting Issues" (Ex. 3, p. 17). Those commitments belong in the scope and in the construction contracts, not in a complaint log.

The BID also requests a mandatory 30-day baiting and trapping period around every shaft, ventilation and staging site before any excavation begins; a study of how tunneling and shaft vibrations will push rat colonies into adjacent commercial properties; daily removal of construction workers' trash in heavy-duty, rodent-proof containers at every staging zone; immediate sealing of broken utility lines, old vaults and exposed foundations uncovered during excavation; a rodent mitigation grant program to help businesses fortify basements, install door sweeps and pay for extra extermination; and a rapid-response pest hotline run jointly by the MTA, the Department of Health and Mental Hygiene and the BID.

Request 16. The BID requests that the DEIS analyze the Proposed Project's construction period effects on sanitation, pest control and public safety along the corridor, including the added demand on the BID's supplemental sanitation and public safety services, rather than excluding those topics on the basis of the completed tunnel; that the DEIS state the expected duration of each street-level closure and enclosure; that the public health chapter include a construction-period pest analysis; and that the community facilities analysis identify the facilities serving young people along the corridor, including those at 209 and 230 West 125th Street, and assess construction-period access to them. The BID further requests that the MTA commit, through its construction contracts, to: (a) a rodent control program, including the measures described above, at every staging, shaft and utility work site, beginning before mobilization and continuing through restoration, coordinated with the Department of Health and Mental Hygiene's Rat Mitigation Zone program; (b) daily cleaning and periodic power washing of sidewalks, curbs and tree pits around every enclosure, along fenced frontages and along haul routes, as an express contract obligation that extends beyond the contractor's work zone, with contractor waste removed directly from each site rather than left on the sidewalk; (c) relocation of BID trash receptacles and other street furniture at MTA expense, in consultation with the BID; (d) fence designs that do not trap litter and that leave room for mechanized sweeping and snow and ice removal; (e) continuous lighting along fence lines and at every staging and shaft site, at all hours; (f) coordination with the NYPD, the Department of Sanitation and the BID's public safety staff on camera sightlines, patrol routes and site security; (g) removal of graffiti from project surfaces and equipment within 24 to 48 hours, with anti-graffiti coatings or non-porous materials on street-level construction surfaces (Part VI.M); (h) a contribution plan reimbursing the BID's documented added sanitation and public safety costs as part of the corridor business protection program in Part VII; and (i) contractor defense, indemnification and additional-insured coverage for the BID for claims arising from construction activity, temporary walkways, fencing and relocated street furniture.

O. The BID's assessment base and its district plan as public policy

What the Draft says

The land use chapter will "discuss the area's zoning and other relevant public policies and evaluate whether the Proposed Project is compatible with those conditions and policies or whether it may affect them" (Ex. 1, p. 10, ll. 35-37). It will also consider the project's "potential to affect uses or development trends" (Ex. 1, p. 10, l. 33). The socioeconomic chapter will disclose changes that "affect land use patterns, low-income populations, the availability of goods and services, or economic investment in a way that changes the socioeconomic character of the area" (Ex. 1, p. 11, ll. 2-4).

Why it matters to the corridor

The CEQR Technical Manual lists "Business Improvement Districts" among the officially adopted public policies a land use analysis considers, alongside urban renewal plans and the Landmarks Law (Ex. 5, ch. 4, § 120, p. 4-6). The BID's district plan is that kind of policy. The City adopted it to fund supplemental services on 125th Street, and it is paid for by a "district charge," which the statute defines as "a levy imposed on behalf of the district as provided in the district plan" (Ex. 24, GML 980(c)). The Draft's commitment to evaluate compatibility with public policy should reach the BID by name.

The district plan works only if the corridor's properties stay leased and productive. The CEQR Technical Manual recognizes that construction "could affect the access to and therefore viability of a number of businesses" (Ex. 5, ch. 22, § 310, p. 22-7). On 125th Street the effect does not stop at the storefront. When ground-floor tenants close and rents fall, the owners who pay the district charge carry it on less income. The BID's room to raise what the corridor needs during construction shrinks at the moment demand on its sanitation, safety and marketing services peaks (Part VI.N). Lost leasing also slows the private investment the Special 125th Street District was created to draw (Part VI.P).

Acquisitions raise a second question. Parcels the MTA acquires for shafts, vent buildings or other above-ground elements (Ex. 1, p. 11, ll. 15-16) become public property and, if used only for public purposes, leave the BID's assessment roll. The assessment those parcels paid then shifts to everyone else: to keep the BID's budget whole, each remaining owner's assessment rises pro rata, and if it does not, the budget for sanitation, public safety, marketing and streetscape maintenance falls.

The BID's 98 assessed properties pay under a formula: half is based on each property's share of the district's total front footage and half on its share of the district's total assessed value, and the result is multiplied by the BID budget.

Properties exempt because of their use pay no BID assessment, and their share is picked up by those who do pay. The 125th Street BID is overrun by tax-exempt property. The BID's current total assessed value is $401,208,717, and the total tax-exempt assessed value is $130,196,563,

according to the BID's assessment records. The exempt properties include city, state and federal property, museums, churches and not-for-profits. Adding more tax-exempt property would leave the BID unable to function, and unable to manage the increase in pedestrian traffic the project is expected to bring.

The BID asks that the DEIS calculate and disclose this long-term financial injury: a line-item estimate of the annual assessment revenue lost to full or partial acquisition, separating temporary easements (a temporary loss) from permanent acquisitions (a permanent one), and an assessment of how removing key commercial properties affects neighboring foot traffic, property values and the assessment pool. State law exempts MTA property from "fees, taxes or assessments, whether state or local" (Public Authorities Law § 1275). Exemption from the charge is not exemption from the harm. Where the MTA builds above-ground structures, acquires lots, or acquires buildings and collects rent from their tenants, the BID asks the MTA to enter into a payment-in-lieu-of-assessment agreement, or to include a lump-sum or recurring payment to the BID in its acquisition program, to offset the lost assessment. The loss is not an accounting problem. A smaller budget means fewer supplemental sanitation hours, fewer public safety ambassadors and fewer holiday lighting and marketing programs, at the moment businesses need them most.

The future stations raise a related question. If the MTA plans or is considering retail space in the station concourses or at street-level entrances, the DEIS should say so now. Station retail would compete for the same customers as the merchants above it, and the Draft's own socioeconomic screen lists "indirect business displacement due to retail market saturation" among the issues it will examine (Ex. 1, p. 11, ll. 8-9). The MTA's permanent facilities and any station retail will also draw on the clean, safe street the BID maintains. The BID demands that the MTA commit, by agreement with the BID, to contribute to the cost of those services.

Over the longer term, the stations this tunnel is built to serve will reshape land values and development around Malcolm X Boulevard, St. Nicholas Avenue and Broadway. The Draft already commits to consider "development trends." The DEIS should describe the trends the future stations can reasonably be expected to bring, so that the City, the BID and property owners can plan for them now.

> **Request 17.** The BID requests that the land use, zoning and public policy chapter identify the 125th Street Business Improvement District and its district plan as a public policy, consistent with the CEQR Technical Manual (Ex. 5, ch. 4, § 120), and assess the Proposed Project's compatibility with it, including construction-period effects on the BID's supplemental services; that the construction-period business impact analysis in Request 5 report ground-floor vacancy and commercial rent trends in the district before, during and after construction; that the DEIS disclose, for each parcel the MTA may acquire, whether it would leave the BID's assessment roll, with a line-item estimate of the annual assessment revenue lost, separating temporary easements from permanent acquisitions; and that the DEIS describe the development trends reasonably expected near the future station locations, including whether retail space is planned or under consideration in the future stations or at their entrances. The BID further requests that the MTA commit to maintain, or contract with the BID to maintain, the sidewalks and frontage around each permanent structure, to enter into a payment-in-lieu-of-assessment agreement, or another agreement, under which the MTA's acquired parcels, permanent facilities and any station retail contribute to the cost of the BID's services; and to fund the BID's added construction-period costs as part of the program in Part VII.

P. Arts, culture and the Special 125th Street District

What the Draft says

The Draft states that "the MTA is not subject to New York City zoning," but commits that the land use chapter "will also discuss the area's zoning" and evaluate the project's compatibility with it (Ex. 1, p. 10, ll. 35-37). It defines historic and cultural resources as "districts, buildings, structures, sites, and objects of historical, aesthetic, cultural, and archaeological importance" (Ex. 1, p. 11, ll. 37-38). Neither section names the Special 125th Street District, the corridor's cultural institutions or its public events.

Why it matters to the corridor

In 2008, the City of New York created the Special 125th Street District (Ex. 25, ZR art. IX, ch. 7; Ex. 31, NYC Department of City Planning, Apr. 30, 2008). The district "is designed to promote and protect the public health, safety, general welfare and amenity." Its general goals include, among others, the following specific purposes:

(a) to preserve, protect and promote the special character of 125th Street as Harlem's "Main Street" and the role of 125th Street as Upper Manhattan's premier mixed use corridor;

(b) to guide development on the 125th Street corridor;

(c) to expand the retail and commercial character of 125th Street;

(d) to provide incentives for the creation of visual and performing arts space and enhance the area's role as a major arts, entertainment and cultural destination in the City;

Ex. 25, ZR 97-00(a)-(d)

The district's purposes also include "to enhance the pedestrian environment through appropriate ground floor uses and regulations" (Ex. 25, ZR 97-00(g)). In the Core Subdistrict, large developments fronting 125th Street must devote "a minimum of five percent of the floor area" to designated arts and entertainment uses (Ex. 25, ZR 97-12). The district also created a Bonused Space Local Arts Advisory Council whose members "shall be members of the Harlem performing or visual arts, non-profit, or business communities" (Ex. 25, ZR 97-05). A staging yard or vent building on a Core Subdistrict frontage works against each of those purposes. So does a multi-year fence in front of the arts space the zoning was written to attract.

The institutions that anchor the district sit on or beside the work. The Apollo Theater is on the alignment (Part VI.G). The Studio Museum in Harlem reopened on November 15, 2025, at 144 West 125th Street (Ex. 28, AIA New York, Oculus, Fall 2025), in an 82,000-square-foot building that cost $160 million (Ex. 29, Museums Association, Nov. 2025). It stands on the block between Lenox Avenue and Adam Clayton Powell Jr. Boulevard, where the SAS Phase 2 Ancillary A staging site sits and where this project's east staging site will go (Ex. 1, p. 3, ll. 18-21; p. 7, ll. 6-17). A museum's collections are sensitive to vibration and dust. Request 8 asks that the Apollo be evaluated as a special building. The National Urban League's Urban Civil Rights Museum, opening this month at 117 West 125th Street, is on the same block (Ex. 41, Time Out New York, Feb. 2, 2026).

The National Black Theatre is building a $185 million home at Fifth Avenue and 125th Street, with new theaters, housing, community space and retail (Ex. 40, The Real Deal, June 7, 2021).

These institutions deserve the same protection.

The BID's own cultural programming depends on an open street. Harlem Holiday Lights "has taken place for more than 30 years"; in November 2025, the BID's parade sent "more than 20 lit-up floats" through the neighborhood, starting at 125th Street and Broadway (Ex. 30, NY1, Nov. 19, 2025). Request 7's holiday-season moratorium on new closures protects the shopping season. It does not keep the street open for the parade itself. The BID's banners, wayfinding and murals face the same risk from fences, staging and utility work.

The MTA knows how to turn a construction fence into an asset. On Phase 1 it used "Fence Wrap" and "Retail Signage" (Ex. 3, p. 17). On 125th Street, the fences can carry the work of Harlem artists, chosen with the people who live and work here.

The Special 125th Street District has guided planning on the corridor since 2008, and the tunnel should not undo its community-driven goals. The BID asks that the Special District's policies be built into all planning and implementation of the project. Intermediate shafts, ventilation structures and utility rooms must not conflict with its active ground-floor requirements. Although this phase is tunnel-only, the EIS should map future station entrances so they fit within existing building envelopes or wide sidewalks and preserve premier retail frontage.

Request 18. The BID requests that the land use, zoning and public policy chapter assess the compatibility of every staging, shaft and permanent structure site with the purposes, arts and entertainment use requirement and ground-floor provisions of the Special 125th Street District (Ex. 25, ZR 97-00, 97-12, 97-21, 97-22), and that the siting criteria in Request 1 avoid Core Subdistrict frontage on 125th Street wherever an alternative exists; that the historic and cultural resources and noise and vibration analyses treat the Studio Museum in Harlem, the Urban Civil Rights Museum and the National Black Theatre, like the Apollo Theater, as sensitive receptors, with baseline monitoring before mobilization and vibration and dust limits protective of their collections; and that the DEIS inventory the BID's banners, wayfinding, murals and other public realm assets within the study area. The BID further requests that the MTA commit to protect, relocate or restore those assets at its own expense; to keep 125th Street clear and fully lit for Harlem Holiday Lights and other BID events on dates set each year with the BID; to commission temporary fence art from Harlem artists, selected with the BID, the affected community boards and the Bonused Space Local Arts Advisory Council; and to give the BID and the community boards an advisory role in public art for the future stations.

Part VII. A corridor business protection program for the MTA's findings

The BID proposes that the MTA's findings incorporate the following program as conditions of approval, and that the MTA and the BID memorialize its terms in a written agreement before construction begins. Each element has a precedent in the MTA's own practice on the Second Avenue Subway, in the lessons the MTA itself drew from Phase 1, or in recommendations already made to it. The difference the BID asks for is timing: in place before the first fence goes up, not years after.

Element	What it means on 125th Street	Precedent
Business access standards	Continuous pedestrian access to every door; minimum clear sidewalk; no simultaneous closures on both sides of a block; protected delivery windows; holiday-season moratorium on new closures. Written into contracts and traffic plans.	Phase 1 model block: "a new fence has been installed to expand the 7-foot sidewalk by 2 feet" (DNAinfo, 2011, Ex. 7); "Sidewalk Width" and "Pedestrian Safety" (MTA Lessons, Ex. 3, p. 17).

Visibility and signage	See-through fence panels, business identification signage and custom fence wraps at every staging and shaft site from day one.	"Fence Wrap" and "Retail Signage" (MTA Lessons, Ex. 3, p. 17); "clearer shop signage has been created" (DNAinfo, 2011, Ex. 7); "custom fence wrap" for Go Donut (Black Enterprise, 2026, Ex. 12); "signage to identify every business" (Lieber, amNY, 2026, Ex. 13).
Construction liaison	A named MTA liaison for 125th Street and a 24-hour hotline with a response time standard; advance notice to the BID of changes in work, monthly three-month look-ahead schedules.	"Community outreach liaisons, email notifications and monthly newsletters" (MTA Lessons, Ex. 3, p. 18); "Our outreach team has been in regular contact" (MTA, Black Enterprise, 2026, Ex. 12); Askins's request for prompt notice of changes (amNY, 2026, Ex. 13).
Marketing and wayfinding	A corridor campaign developed with the BID, launched at mobilization rather than after sales fall.	"Shop Second Avenue" campaign with the Manhattan Chamber of Commerce (DNAinfo, 2011, Ex. 7); 69 percent said the late campaign failed (Public Advocate, Ex. 4).
Business support fund	Funded as a project cost and administered with the BID: grants, technical assistance and support for businesses fronting staging or shaft sites.	Public Advocate's recommended mitigation fund (Ex. 4); council members' call for a "mitigation fund" (amNY, 2026, Ex. 13).

Local procurement	Priority for buying goods and services from corridor businesses during construction. Contracting goals for businesses in the ZIP codes along the corridor, with opportunities marketed through the BID's platforms.	"we are also prioritizing buying goods and services from folks in the community" (Lieber, amNY, 2026, Ex. 13).
Building protection	Pre-construction condition surveys, real-time vibration monitoring with published limits, and an expedited claims process.	"Deploy instrumentation to monitor building movement before construction" (MTA Lessons, Ex. 3, p. 10); "inspecting buildings to prevent risks to above-ground structures" (Gotham Gazette, 2015, Ex. 8).
Relocation assistance	Assistance no less than Uniform Relocation Act levels for any displaced owner or tenant, regardless of funding source.	MTA: "Our team has exceeded federal requirements for relocation support services" (PIX11, 2026, Ex. 11).
Permanent structure design	Setbacks, landscaping, street-level retail and integrated public space for every vent building and kiosk.	"Integrate retail opportunities at street level to create active streetscape" (MTA Lessons, Ex. 3, p. 22); 50th Street ventilation facility with public open space (Ex. 3, p. 21).
Clean construction	Tier 4 or electric equipment, anti-idling enforcement, electrified and enclosed slurry plant and spoil handling, dust controls, public air monitoring.	"Use muck house enclosures to limit noise, dust and odor" (MTA Lessons, Ex. 3, p. 12); required analysis of disproportionate pollution burden under the 2026 SEQRA amendments.

Advisory committee	Monthly meetings with the BID and community boards from mobilization through restoration; an escalation path to MTA leadership.	"Ongoing Construction Advisory Committee Meetings and Quarterly Public Workshops" (MTA Lessons, Ex. 3, p. 18); CB10's request for "a formal, meaningful, and continuing role" (amNY, 2026, Ex. 13).
Corridor upkeep and safety	Rodent control before mobilization; daily cleaning and power washing along fences and haul routes; snow and ice removal; continuous site lighting; reimbursement of the BID's added sanitation and safety costs.	"Enforcement of Construction Site Upkeep and Maintenance" and "Lighting Issues" (Ex. 3, p. 17); Harlem Rat Mitigation Zone (Ex. 26).
Cultural program protection	Parade route kept clear and lit for Harlem Holiday Lights; banners, wayfinding and murals protected or restored; fence art by Harlem artists.	"Fence Wrap" and "Retail Signage" (Ex. 3, p. 17); Special 125th Street District purposes (Ex. 25, ZR 97-00).

Part VIII. How the 125th Street subway tunnel project will impact BID operations

Construction-period impacts on the BID's operations and on the surrounding commercial corridor are socioeconomic impacts of the 125th Street Subway Tunnel Project. The Draft's socioeconomic chapter will disclose changes that affect "the availability of goods and services" (Ex. 1, p. 11, ll. 2-4), and the BID's supplemental services are among the services the corridor depends on (Part VI.N and VI.O). This Part sets out how the BID proposes to protect those operations, and the tools it already has to help the MTA do it.

A. BID operations and public realm maintenance

The MTA's past mitigation measures came too late and did too little (Part IV). Technology can close much of the gap that traditional quality-of-life measures, such as fence wraps and basic signage, leave open. Traditional signage cannot adapt to sudden closures, and traditional monitoring acts after damage occurs.

The National Science Foundation Engineering Research Center for Smart Streetscapes (CS3), led by Columbia Engineering, is uniquely positioned to help. It uses Harlem as its primary urban testbed to develop street-level sensing and AI technology with the community. Barbara Askins, the BID's President and CEO, serves as a Senior Advisor and Co-Chair of Community Partners in

Residence at CS3, so the working relationship already exists. The BID proposes a formal partnership among the MTA, the BID and CS3 built on four measures:

Predictive foot-traffic routing. Expand the BID's digital Harlem Main Street Passport into a real-time wayfinding tool that alerts shoppers to closures and routes them to affected storefronts, supported by privacy-preserving sensors that measure pedestrian volumes so businesses can plan staffing, inventory and hours.

Smart sanitation, loading and access. Automated sidewalk cameras that detect trash buildup and blocked paths and dispatch crews before garbage drives customers away, and a real-time curbside management system that lets businesses reserve delivery windows so construction vehicles do not block their inventory. CS3 is already developing these tools.

Environmental and structural sensors. Sensors outside shop doors that track noise, vibration and fine particulate matter (PM2.5) against published thresholds, with automatic alerts so contractors adjust equipment immediately, and continuous monitoring of historic storefronts for structural movement before damage forces a closure. CS3 can provide these sensors as well.

A construction data feed. A daily open data feed from the MTA's tunneling teams of construction schedules, delays and utility shut-offs, which the BID and CS3 can turn into advance alerts so business owners can plan around the work.

Together, these tools let construction teams and the BID manage the street in real time and anticipate pedestrian flows and building access before construction begins. The BID also asks the MTA to help expand its #HarlemNeatStreetsChallenge community cleanup program during the construction years, when litter, scaffolding debris and a worn streetscape most threaten to drive shoppers away.

> **Request 19.** The BID requests that the MTA, the BID and CS3 enter into a formal partnership for the construction period, and that the scope and the MTA's construction contracts include real-time foot-traffic routing and wayfinding built on the BID's Harlem Main Street Passport; privacy-preserving pedestrian sensors; automated detection and dispatch for trash buildup and blocked paths; a real-time curbside loading reservation system; sensors for noise, vibration and fine particulate matter outside shop doors, tied to published thresholds and automatic alerts to contractors; continuous structural monitoring of historic storefronts; and a daily open data feed of construction schedules, delays and utility shut-offs. The BID further requests that the MTA support expanding the #HarlemNeatStreetsChallenge during construction.

B. Accessibility for people with disabilities

The Harlem Independent Living Center, a BID member in below-grade space on the corridor, is a non-profit, disability-focused organization that provides free independent living services to people with physical or mental disabilities across all five boroughs, with a special focus on low-income and minority communities in Harlem. Its clients will face severe street-level barriers during construction, even though the finished project should improve accessibility: sidewalk and street

work; noise, dust and vibration that can cause severe sensory distress for neurodivergent people and those with sensory sensitivities; and bus rerouting and stop relocations that can disorient visitors who rely on surface transit to reach the center.

Request 20. The BID requests that the DEIS study technology and design measures that keep the corridor passable for people with disabilities, older people and parents with strollers during construction, including audio-guided navigation around temporary hazards and temporary modular walkways that are slip-resistant, lit and compliant with the Americans with Disabilities Act; that the MTA consult the Harlem Independent Living Center and other disability organizations on its detour and bus stop plans; and that the future stations be fully accessible, as federal law requires for new construction.

The Harlem Independent Living Center has fought for subway access before. It was a class representative in Center for Independence of the Disabled, New York v. MTA and De La Rosa v. MTA, the state and federal class actions challenging the lack of stair-free access across the subway system. Under the 2022 settlement, which received final court approval in 2023, the MTA committed to make at least 95 percent of its inaccessible stations stair-free by 2055, backed by dedicated funding in its capital plans (Ex. 44, Disability Rights Advocates). The future 125th Street stations must be accessible from the start, and the people who won that settlement should be consulted before construction begins, not after.

C. Corridor data, outreach and marketing

Understanding who shops on 125th Street, and why, will be critical to keeping customers during construction. Turnstile counts show commuters. They do not show the people who come for arts, culture, dining, local services and wellness. 125th Street's culture is its economy, and it cannot be measured in decibels alone. Data-driven mitigation is better than reactive guesswork, and it is the best defense against the cycle of lost customers, closures and vacancies that construction can set off. The BID's own data proves the point.

In October 2026, the BID commissioned a Vibe Report from Vibemap, the place data platform behind the interactive directory and events calendar on the BID's website, to document the current state of the corridor (Ex. 47). The report combines a full year of daily counts from the BID's ten pedestrian sensors with MTA hourly subway entries, the City's pedestrian counts and storefront registry, and the BID's directory of 248 businesses and institutions. Its findings show that the sidewalk, not just the stations, is the corridor's main asset:

- The sidewalk carries far more traffic than the stations. The counters record five to six passes for every subway entry at the BID's stations, and more on weekends.

- The street keeps its own calendar. Friday is the busiest day on the sidewalk, 8 percent above the midweek average, and eight of the year's ten busiest days were Fridays. Subway entries do not rise on Fridays. In August, sidewalk traffic ran 9 percent above its annual average while subway entries ran 6 percent below theirs.

- Holidays and events make the biggest days. Christmas Eve ran 1.42 times a typical day, the tree lighting 1.33 times, the African American Day Parade 1.24 times and Harlem Holiday Lights 1.23 times.

- Culture anchors the street. Sixteen cultural institutions make up 6.5 percent of the directory's listings and draw 26 percent of its reviews.

- The corridor has little cushion. Owner-reported storefront vacancy was 17 percent in 2025, against 11.5 percent across Manhattan, and subway entries at the BID's stations are at 72 percent of their 2019 level.

A pass is not a unique visitor. A person who walks past more than one sensor is counted more than once, and eight of the ten sensors sit at one intersection. The pattern holds all the same: the people who keep 125th Street alive arrive on foot, on Fridays, in summer and at the holidays, and a baseline built on turnstile counts will miss much of that traffic.

The same platform can show how neighborhood residents use 125th Street compared with destination visitors drawn to the Apollo Theater, the Studio Museum, the Victoria Theater and its hotel, the Urban Civil Rights Museum, the National Black Theatre and the corridor's restaurants; how construction phases could cut off parts of the corridor if walkability is not preserved; and how patrons route around active work zones rather than avoid the corridor. It can also carry street-level construction updates, such as tunnel boring machine locations, shaft schedules and pedestrian detours, directly to people exploring the district, and lets the BID redirect foot traffic and run hyper-local campaigns that keep affected businesses discoverable. The BID intends to continue this work with Vibemap through construction. Measured the same way before, during and after the work, the data will show where impacts land and whether mitigation is working, so it can be adjusted as construction proceeds.

Request 21. The BID requests that the socioeconomic analysis consider the Vibe Report (Ex. 47) and the BID's pedestrian counter data (Ex. 46) in setting a pre-construction baseline with the BID before construction begins in 2027, supplementing turnstile counts with sidewalk counts; distinguish neighborhood residents from destination visitors; evaluate how closures and staging affect foot traffic among the 1, 2/3, A/B/C/D and 4/5/6 stations; and model how patrons route around active work zones. The BID further requests that the MTA (a) measure sidewalk activity and business health at regular intervals before, during and after construction, publish the results and adjust mitigation when counts fall; (b) account for the corridor's Friday, summer and holiday-season peaks in scheduling street-level closures; (c) use the data in siting station entrances and designing the station-area streetscape and ground-floor uses, so that the new stations strengthen the street rather than detract from it; and (d) coordinate with and support the BID's ongoing work with Vibemap, including use of the BID's Vibemap directory as an additional channel for construction alerts, detours and corridor marketing.

Part IX. Corrections to the Draft

Request 15. The BID requests that the final scope (Ex. 1) correct the following:

- Ex. 1, p. 10, l. 11: "therefore does require detailed analysis" should read "does not require." As written, the sentence states the opposite of the exclusion it supports.
- Table of contents: section 5.2.7 is listed as Historic and Cultural Resources, but the body inserts 5.2.7 Shadows (p. 11, l. 32), shifting every later section and adding a section 5.2.21 that the table omits.
- Page 2 is dated September 2026; every other page is dated October 2026.
- Ex. 1, p. 12, l. 48: "potential effects on the Proposed Project on those natural resources" should read "of the Proposed Project."
- Ex. 1, p. 13, l. 46: "would not result in an new vehicle trips" should read "any new vehicle trips."

Part X. Reservation and conclusion

These comments are based on the conceptual information in the Draft. Because the staging, shaft and vent sites, the construction sequence and the parcels to be acquired have not been identified, the BID reserves the right to supplement these comments as that information becomes available, and will do so consistent with 6 NYCRR 617.8(f) (Ex. 2).

Harlem's merchants have carried 125th Street through decades of change. Most are not large companies with reserves to wait out years of disruption; they are owners who know their customers by name and employ their neighbors. In 2009, the city's Public Advocate documented (Ex. 4) what happened to businesses like theirs on Second Avenue. In 2026, East Harlem's businesses are living it again. In 2017, the MTA itself distilled the lessons of that experience and resolved to "Deliver on Promises Made" and "Build Trust" (MTA Lessons presentation, Ex. 3, p. 16). The BID asks the MTA to make 125th Street the place where those lessons are applied from the start and the pattern ends: a crosstown subway delivered with the corridor's businesses, their workers and their customers still here to celebrate it.

Respectfully submitted,

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Mukaram Taheraly, BID Chairman

Barbara Askins, BID President & CEO

EXHIBIT INDEX

Ex.	Description
1	MTA, *125th Street Subway Tunnel Draft Scoping Document for Environmental Impact Statement* (Oct. 2026)
2	6 NYCRR Part 617 (SEQRA regulations), as amended effective June 12, 2026
3	MTA Capital Construction, *Lessons from the Second Avenue Subway and other Megaprojects*, CityLaw Breakfast presentation (Apr. 6, 2017)
4	Office of the New York City Public Advocate, *The Subway Shaft: How Second Avenue Subway Construction Hurts Businesses in its Path* (Dec. 2009), nyc.gov/html/records/pdf/govpub/moved/pubadvocate/SecondAveReportFinalWeb.pdf
5	NYC Mayor's Office of Environmental Coordination, *CEQR Technical Manual* (2025), relevant chapters, including ch. 4, Land Use, Zoning and Public Policy; ch. 20, Public Health; and ch. 22, Construction, nyc.gov/assets/oec/technicalmanual/22_Construction_2025.pdf
6	Federal Transit Administration, *Transit Noise and Vibration Impact Assessment Manual*, FTA Report No. 0123 (2018), relevant excerpts
7	Amy Zimmer, "MTA Steps Up Efforts to Help Struggling Second Avenue Shops," *DNAinfo* (Feb. 11, 2011), dnainfo.com/new-york/20110211/manhattan/mta-steps-up-efforts-help-struggling-second-avenue-shops
8	Shannon Ho, "Throughout 2nd Avenue Subway Build, Local Businesses See Fewer Customers, No Aid," *Gotham Gazette* (Feb. 23, 2015), gothamgazette.com/government/5585
9	"New York's Other Costly and Long-Delayed Transportation Megaproject," *Route Fifty* (Jan. 2017), route-fifty.com/infrastructure/2017/01/east-side-access-new-york-mta/134312/

10	Georgett Roberts and Alex Oliveira, "Longtime NYC businesses being displaced by 2nd Ave. Subway rip MTA for dragging on promised help: 'David and Goliath'," *New York Post* (Nov. 16, 2025)
11	"2nd Avenue subway expansion threatens local businesses and residents," *PIX11* (2026)
12	Selena Hill, "East Harlem Businesses Take A Hit As 2nd Avenue Subway Construction Disrupts Sales," *Black Enterprise* (Sept. 30, 2026), blackenterprise.com/east-harlem-businesses-second-avenue-subway/
13	Ethan Stark-Miller, "Harlem business leaders urge MTA chair to include them in possible Second Avenue Subway westward expansion," *amNY* (Oct. 5, 2026), amny.com/nyc-transit/harlem-leaders-mta-second-avenue-subway-expansion/
14	"MTA begins 125 Street Subway Extension environmental review," *Mass Transit* (Oct. 2026), masstransitmag.com
15	Jackson v. New York State Urban Dev. Corp., 67 N.Y.2d 400, 494 N.E.2d 429, 503 N.Y.S.2d 298, 1986 N.Y. LEXIS 18615, 17 ELR 20362
16	Akpan v. Koch, 75 N.Y.2d 561, 554 N.E.2d 53, 555 N.Y.S.2d 16, 1990 N.Y. LEXIS 756
17	Chinese Staff & Workers Ass'n v. New York, 68 N.Y.2d 359, 502 N.E.2d 176, 509 N.Y.S.2d 499, 1986 N.Y. LEXIS 20850
18	Save the Pine Bush, Inc. v. Albany, 70 N.Y.2d 193, 512 N.E.2d 526, 518 N.Y.S.2d 943, 1987 N.Y. LEXIS 17997
19	Westbury v. Department of Transp., 75 N.Y.2d 62, 549 N.E.2d 1175, 550 N.Y.S.2d 604, 1989 N.Y. LEXIS 4416
20	Coffey v. State, 291 N.Y. 494, 53 N.E.2d 362, 1944 N.Y. LEXIS 1414
21	O'Brien v. Syracuse, 54 A.D.2d 186, 388 N.Y.S.2d 866, 1976 N.Y. App. Div. LEXIS 13750

22	Mishgy, LLC v. City of New York, 17 Misc. 3d 1132(A), 851 N.Y.S.2d 71, 2007 N.Y. Misc. LEXIS 7728, 2007 NY Slip Op 52239(U), 239 N.Y.L.J. 1
23	Environmental Justice Siting Law, L. 2022, ch. 840 (S. 8830/A. 2103-D), as amended by L. 2023, ch. 49, with the current text of ECL 8-0105(9), 8-0109, 8-0113 and 70-0118 as codified (effective Dec. 30, 2024), nysenate.gov/legislation/laws/ENV/8-0109
24	N.Y. General Municipal Law article 19-A, Business Improvement Districts, §§ 980 and 980-c, nysenate.gov/legislation/laws/GMU/980-C
25	NYC Zoning Resolution, art. IX, ch. 7, Special 125th Street District, §§ 97-00, 97-05, 97-12, 97-21 and 97-22, zoningresolution.planning.nyc.gov
26	NYC Department of Health and Mental Hygiene, Environment and Health Data Portal, "Rat Mitigation Zones," a816-dohbesp.nyc.gov/IndicatorPublic/data-features/rat-mitigation-zones
27	Kay Bontempo, "Harlem Designated for Rat Mitigation Program," *Our Town* (Apr. 5, 2023)
28	"Beyond the Center: Studio Museum in Harlem," *Oculus*, AIA New York (Fall 2025)
29	"Studio Museum in Harlem reopens after seven-year redevelopment," *Museums Journal*, Museums Association (Nov. 2025)
30	"Holiday season kicks off with Harlem Holiday Lights parade," *NY1* (Nov. 19, 2025)
31	NYC Department of City Planning, press release, "Mayor Bloomberg and Harlem Council Members Hail Adoption of 125th Street Rezoning Plan" (Apr. 30, 2008), nyc.gov/assets/planning/download/pdf/about/press-releases/pr043008.pdf
32	NYC Landmarks Preservation Commission, Apollo Theater Designation Report, LP1299 (June 28, 1983), s-media.nyc.gov/agencies/lpc/lp/1299.pdf
33	National Park Service, "Apollo Theater," National Register of Historic Places reference no. 83004059, nps.gov/places/apollo-theater.htm

34	American Association of Colleges of Osteopathic Medicine, "Touro College of Osteopathic Medicine" (campus listing, Harlem, 230 West 125th Street), aacom.org
35	NYU School of Law, Suspension Representation Project, "Suspension Hearing Offices," law.nyu.edu
36	Safe Horizon, "Streetwork Project," safehorizon.org/streetwork
37	125th Street Business Improvement District, "125th BID's Street Proposal to address traffic congestion and double parking problems" (c. 2023)
38	"Apollo Theater breaks ground on much-needed renovations," Amsterdam News (July 3, 2025)
39	"2 NYC destinations ranked among World's Greatest Places 2026," Patch (2026)
40	"Harlem's National Black Theater revives $185M project," The Real Deal (June 7, 2021)
41	"A civil rights museum is opening in Harlem this year," Time Out New York (Feb. 2, 2026)
42	NYC Landmarks Preservation Commission, Hotel Theresa Designation Report, LP1843 (July 13, 1993), s-media.nyc.gov/agencies/lpc/lp/1843.pdf
43	National Park Service, "Hotel Theresa," National Register of Historic Places reference no. 05000618, nps.gov/places/hotel-theresa.htm
44	Disability Rights Advocates, "Center for Independence of the Disabled New York (CIDNY) v. MTA (State case)," dralegal.org/case/cidny-v-mta-state-court
45	125th Street Business Improvement District, 35 questions submitted to the MTA Chair before the October 5, 2026 Annual Meeting
46	125th Street Business Improvement District, pedestrian counter dashboard, "Annual Performance," quarterly counts at all ten sensors, 2025 and 2026 (screenshot, Nov. 9, 2026)

47	Vibemap, "Harlem's Main Street," Vibe Profile for the 125th Street Business Improvement District (Oct. 19, 2026) (excerpt, pp. 1, 6-9, 18-19)