

Chapter 1:

Introduction

1.1 INTRODUCTION

WRY Tenant LLC (an affiliate of The Related Companies, LP) and the National Railroad Passenger Corporation (Amtrak) are partnering in a joint venture (the Project Sponsor) to seek Federal financial assistance through a loan program or an available grant program administered by the U.S. Department of Transportation (USDOT) for the Western Rail Yard Infrastructure Project (Proposed Action). The Federal Railroad Administration (FRA) is conducting the environmental analysis in compliance with the National Environmental Policy Act of 1969 (NEPA), (42 USC 4321 et seq.) and other applicable environmental laws. This EIS may be used by FRA, the USDOT, another USDOT operating administration, or another Federal agency to satisfy those entities' obligations to comply with NEPA, should they take action with regard to this Proposed Action.

The Proposed Action put forth by the Project Sponsor includes the construction and operation of the following: (1) a structural Platform (Platform); and (2) a railroad right-of-way preservation Tunnel Encasement (Tunnel Encasement). The Proposed Action would be located on the 13-acre Western Rail Yard site, located on the western half of the Metropolitan Transportation Authority (MTA) Long Island Rail Road (LIRR) John D. Caemmerer Yard (aka "Hudson Yards").

The Western Rail Yard site includes two parcels (Block 676, Lot 1 and Lot 5) in New York County (Manhattan), New York (see **Figure 1-1**). MTA LIRR is the owner of both parcels (comprising the entire 13-acre Western Rail Yard site) and has a lease agreement for both parcels with WRY Tenant LLC¹. The Platform would allow for privately funded mixed-use development and public open space over the existing rail yard. The mixed-use development planned for the site (Overbuild) has been approved by the New York City Planning Commission (CPC), and adopted by the New York City Council into the New York City Zoning Resolution, for redevelopment of the Western Rail Yard site (see current C6-4 zoning designation for the Project Site shown on **Figure 1-2**). The Tunnel Encasement would preserve the right-of-way for new rail infrastructure under the Western Rail Yard site to maintain a functional, resilient, and improved trans-Hudson passenger rail crossing into New York Penn Station (Penn Station).

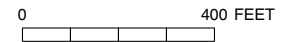
The rail yard is located between West 33rd Street to the north, Eleventh Avenue to the east (beyond which is the new private mixed-use development above the Eastern Rail Yard); 30th Street to the south; and Twelfth Avenue to the west. The rail yard is operated by LIRR and is used as a commuter railroad storage yard and maintenance facility (see **Figure 1-3**). The yard contains storage tracks for 12-car trains, a car-cleaning platform, and other maintenance and staff facilities for LIRR's commuter rail service into Penn Station.

¹ WRY Tenant LLC is the Overbuild Developer.

Data source: NYS ITS GIS Program Office; Nearmap, 2020 imagery

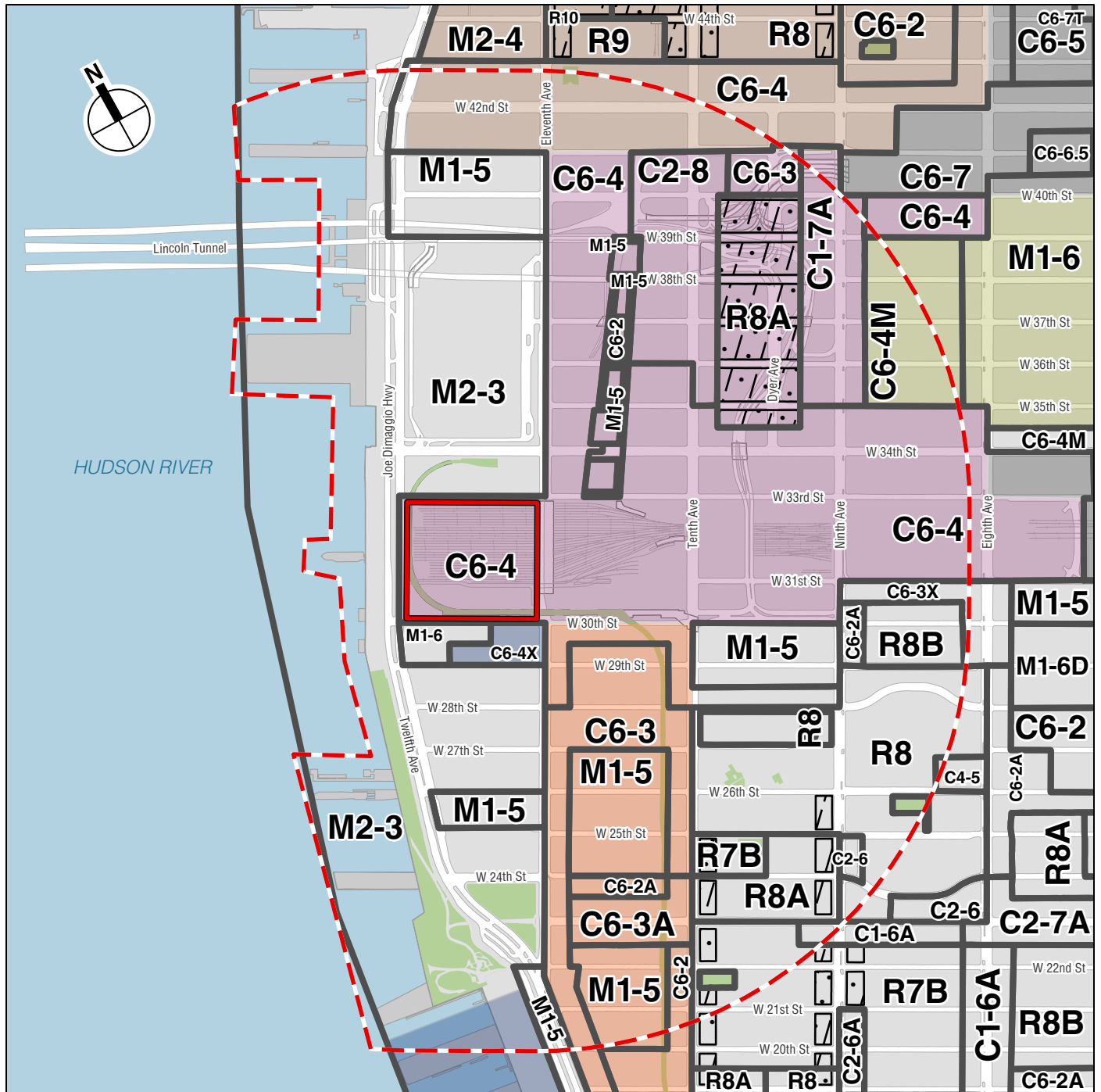


- Project Site (Western Rail Yard)
- Hudson Yards
- Approximate Terra Firma Area
- Proposed Platform
- Existing Concrete Encasement
- Proposed Tunnel Encasement
- Existing High Line Park (Remains Unaltered)



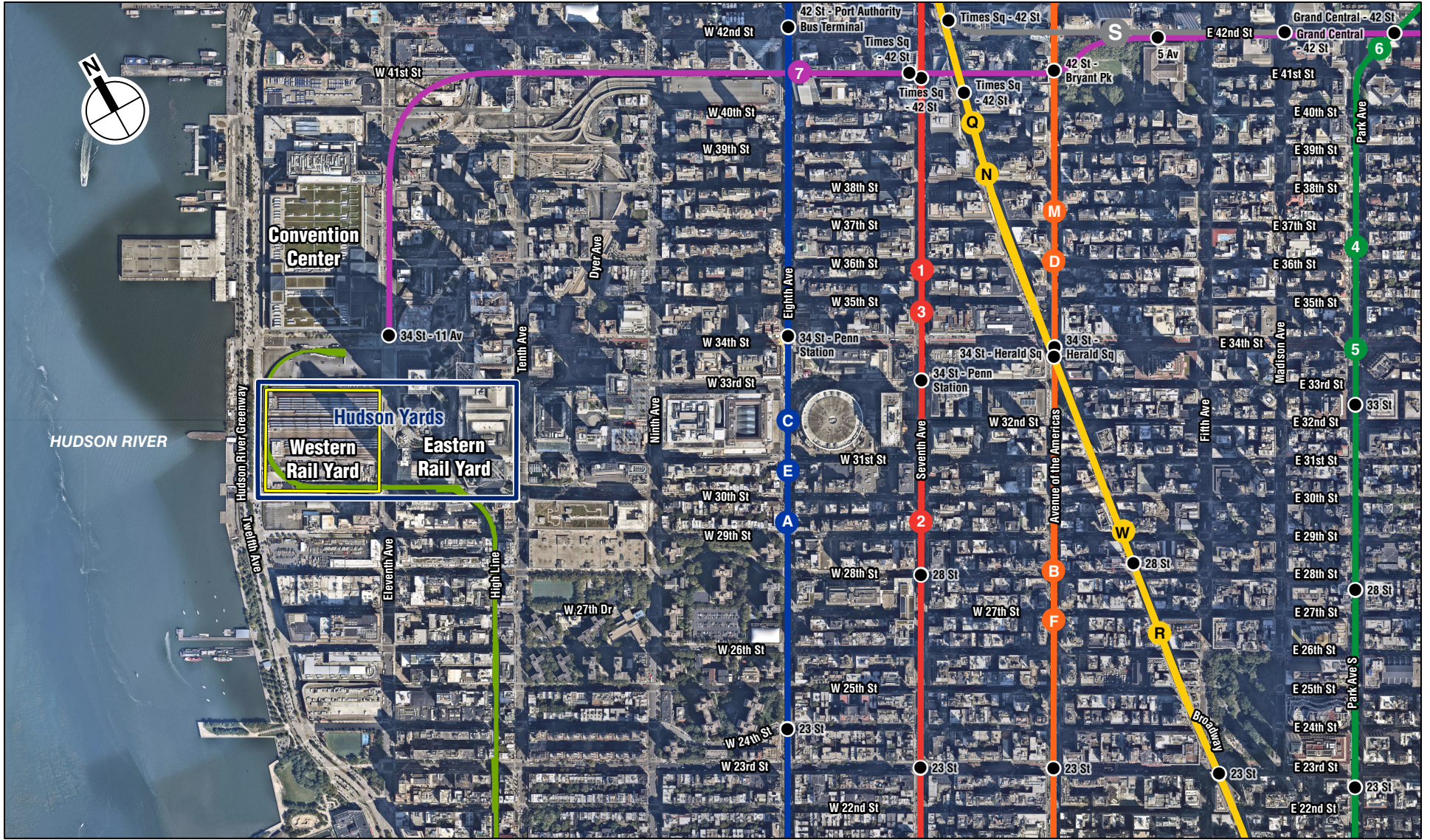
WESTERN RAIL YARD INFRASTRUCTURE PROJECT

Project Location
Figure 1-1



Existing Zoning in Study Area
Figure 1-2

Data source: NYS ITS GIS Program Office; Nearmap, 2020 imagery



Project Site (Western Rail Yard)

Hudson Yards

Subway Station

Subway Line

1-2-3

4-5-6

7

A-C-E

B-D-F-M

N-Q-R-W

S

0 1,000 FEET



WESTERN RAIL YARD INFRASTRUCTURE PROJECT

Project Site
Figure 1-3

The Platform as designed would be a 9.8-acre steel and concrete structure (see **Figure 1-4**). Construction would include building foundations and reconstruction and upgrades to railroad staff facilities and other LIRR support services including existing emergency electrical equipment, rail car cleaning services, and a new approximately 20,000 square foot electrical substation building. The Platform would house critical life safety and mechanical, electrical, and plumbing support services for the yard, including new lighting, sprinklers, and an extensive platform ventilation system. Once complete, the entire yard would contain comprehensive state-of-the-art life safety systems, securing this critical infrastructure and protecting both the workers and the railroad equipment in the yard.

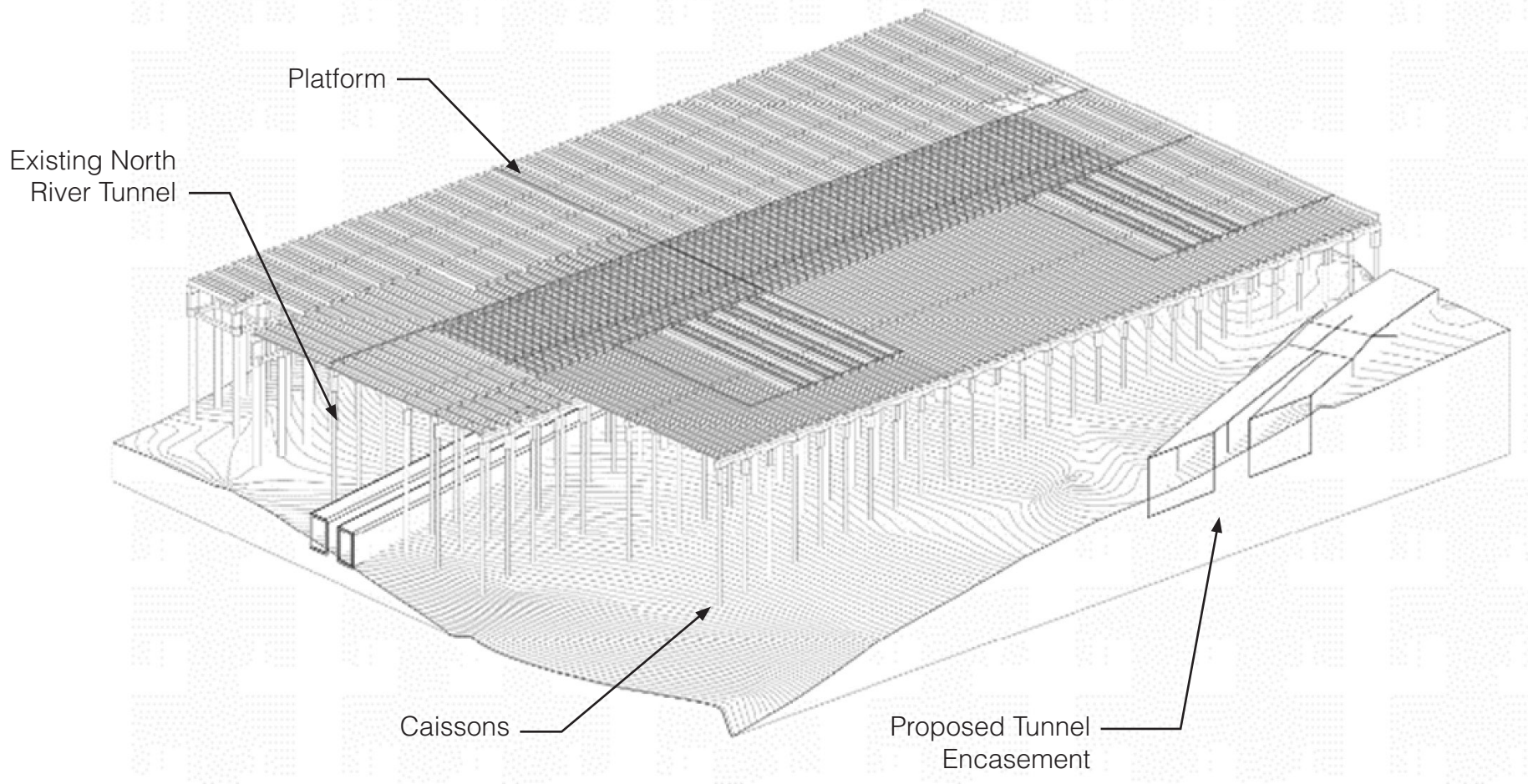
The Tunnel Encasement would be 605 feet long, between 50 and 65 feet wide and between 27 and 38 feet high under the Western Rail Yard (see **Figure 1-5**). It would extend underground from the recently completed encasement under the Eastern Rail Yard and Eleventh Avenue. Collectively, the encasement below both rail yards (Western Rail Yard and Eastern Rail Yard) would preserve a total right-of-way (ROW) of approximately 1,400 feet. No permanent operational components, such as tracks, lighting, ventilation, or electrical system, would be constructed within the Tunnel Encasement as part of the Proposed Action.

1.2 REGULATORY FRAMEWORK

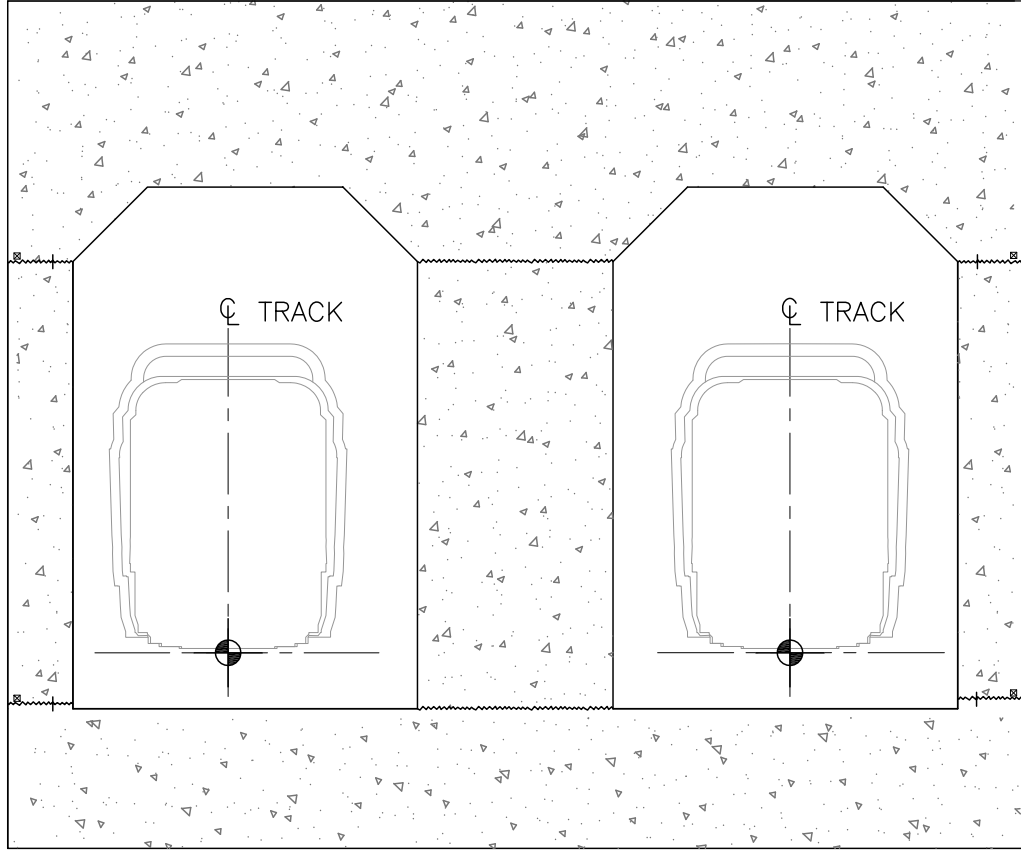
FRA, as the lead Federal agency, prepared this Environmental Impact Statement (EIS) and Section 4(f) Evaluation in compliance with NEPA (23 CFR part 771; 23 U.S.C. 139), and in accordance with the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500–1508).² The EIS documents compliance with other applicable Federal, New York State, and local environmental laws and regulations, including Section 106 of the National Historic Preservation Act (NHPA) of 1966 (54 U.S.C. § 306108); the Clean Air Act of 1970 and its associated the Conformity requirements (42 U.S.C. § 7401 et seq.); the Clean Water Act of 1972 (33 U.S.C. §§ 1251-138); Section 4(f) of the Department of Transportation Act of 1966 (Section 4(f) 49 U.S.C. § 303) and FRA's implementing regulations at 23 CFR part 774; the Endangered Species Act of 1973 (16 U.S.C. § 1531); Executive Order 11988 and USDOT Order 5650.2 on Floodplain Management; Executive Order 11990 on Protection of Wetlands; the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451 et seq.); and Executive Order 12898 on Environmental Justice.

Since the Proposed Action is located in New York City, FRA is conducting the EIS analyses in consideration of the 2014 *City Environmental Quality Review (CEQR) Technical Manual*, to the extent practicable. **Appendix A** includes information on where the analyses normally provided in a CEQR analysis can be found in this NEPA EIS. As appropriate, the EIS analysis will provide the environmental documentation needed by any state or local agencies from which permits or approvals for the construction of the Platform and/or Tunnel Encasement would be sought, if any.

² CEQ issued revised NEPA regulations that became effective September 14, 2020 at 40 CFR parts 1500-1508. Because FRA issued the Notice of Intent (NOI) for this project prior to the effective date of the revised regulations, on June 15, 2020, FRA permissibly prepared this EIS in accordance with the CEQ NEPA regulations that were effective at the time of the issuance of the NOI. All citations to CEQ regulations (40 CFR parts 1500-1508) in this EIS are to the previous version of the regulations.



Source: WRY Tenant LLC



Source: Amtrak

FRA is coordinating compliance with Section 106 of the NHPA with the NEPA process pursuant to 36 CFR 800.8(a) and has engaged in consultation with the New York State Historic Preservation Officer (NYSHPO), Federally recognized Native American tribes, and other consulting parties regarding the Preferred Alternative and its potential effects on historic properties pursuant to Section 106 of the NHPA. The details of that consultation are provided in Chapter 23, “Public Involvement and Agency Coordination,” and Chapter 9, “Cultural Resources.” FRA has determined, and NYSHPO has concurred in a letter dated February 11, 2021, that the operation of the Preferred Alternative would not result in any adverse effects to historic properties, and construction of the Preferred Alternative would not result in adverse effects to historic properties provided the Project Sponsor follows certain conditions. Circulation of this EIS for public review/comment helps satisfy FRA’s public involvement obligations under Section 106.

1.3 NEPA PROCESS

CEQ’s NEPA regulations require Federal agencies to consider the direct and indirect environmental effects and cumulative impacts of their actions. The NEPA process involves: examination of a reasonable range of alternatives; analysis of impacts to environmental resources; coordination with Federal, state, and local agencies, the public, and other stakeholders; and identification of measures to avoid, minimize or mitigation potential impacts. FRA must also re-evaluate any previously approved aspect of an action in accordance with 23 CFR § 771. Consistent with those regulations, this EIS considers reasonable alternatives and identifies the potential impacts the Proposed Action would have on the human and natural environment, including social, economic, and environmental conditions, and identifies measures to avoid, minimize, or mitigate adverse impacts.

1.3.1 ROLES AND RESPONSIBILITIES

FRA is the lead Federal agency for the NEPA review, including preparation of this EIS. If the USDOT ultimately provides financial assistance for the Proposed Action, such as through a loan or grant, FRA would be responsible for ensuring that the Project Sponsor meets the commitments identified in a Record of Decision (ROD) and any agreement developed for the Proposed Action. FRA is responsible for ensuring that the NEPA process is conducted properly and in accordance with all applicable environmental regulations.

As part of the NEPA review of the Proposed Action, FRA reviewed the design of the Proposed Action to ensure a reasonable set of design criteria was applied to the Proposed Action. As the lead Federal agency, FRA coordinated with other federal, state and local agencies pursuant to 23 USC 139. Chapter 24, “Public Involvement and Agency Coordination,” provides a description and role of participating agencies for this project. FRA has prepared this EIS to be used by other federal agencies to satisfy those entities’ obligations to comply with NEPA, as necessary.

The Project Sponsor is a joint venture of WRY Tenant LLC and Amtrak, and is the entity that is pursuing financial assistance from USDOT for the Proposed Action. They are responsible for development and implementation (i.e., design, construction, financing, and operation) of the Proposed Action, and for meeting the commitments identified in the ROD.

The Project Contractor is the party or parties that will build the project under the direction of the Project Sponsor. The Project Contractor will be selected by the Project Sponsor through a procurement process.

Pursuant to 40 CFR 1506.5(c), FRA selected, and WRY Tenant LLC agreed to engage, at WRY Tenant LLC's expense, AKRF, Inc. as the Independent Third Party Consultant to assist FRA in conducting the environmental review³ and preparing the environmental documentation⁴ related to the Proposed Action.⁵ This EIS has been prepared under the direct supervision, direction, and control of the FRA.

1.3.2 ENVIRONMENTAL REVIEW PROCESS

Following FRA's publication of the Notice of Intent (NOI) on June 15, 2020, the scoping period ran from July 1 to July 31, 2020. During the scoping period, the public and agencies had an opportunity to review and comment on the scope of the EIS. FRA prepared *the Western Rail Yard Infrastructure Project Scoping Summary Report* after the conclusion of the scoping process.⁶

The analysis in this EIS and the Draft Section 4(f) Evaluation informed FRA's consideration and decision-making regarding alternatives, including the identification of a Preferred Alternative (see Chapter 3, "Alternatives"). FRA will provide the public and other agencies the opportunity to provide comments on this EIS via written communication during a 45-day public comment period. FRA will hold project meetings virtually, including Section 106 Consulting Party meetings, and encourages submission of comments for the project and other documents electronically.

FRA plans to issue a combined document consisting of the Final Environmental Impact Statement (FEIS), Final Section 4(f) Evaluation, and ROD that considers all comments from the comment period, unless statutory criteria or practicability considerations preclude issuing a combined document, in accordance with 23 USC 139(n)(2).

1.3.3 PRIOR ENVIRONMENTAL REVIEWS

The Project Site and individual elements of the Proposed Action have been the subject of prior environmental reviews. The sections below describe the previous environmental reviews to provide additional background and context for the Proposed Action that FRA is evaluating in this EIS. FRA has used information and analysis contained in the prior project-related environmental reviews to support the corresponding impact analysis for the project in the preparation of this EIS, to the maximum extent applicable and practicable. In addition, FRA has incorporated findings and analyses from these documents in this EIS, where appropriate. This included using information such as estimates of construction worker and trucking activity, equipment and logistical information, and operational characteristics of the project elements, accounting for any updates needed.

³ The term "environmental review" includes environmental and alternative study methodologies, evaluation of alternatives, analysis of potential impacts, outreach, public involvement, and consultation conducted in compliance with NEPA, Section 106, Section 4(f), and other applicable environmental laws.

⁴ The terms "environmental documentation" and "environmental document(s)" embrace draft, supplemental, and final environmental assessments, environmental impact statements, and any other reports, studies, surveys, or related documents under or in support of NEPA, including documents prepared pursuant to Section 106, Section 4(f), and other applicable environmental laws.

⁵ The FRA has adopted procedures for the use of third party contractors, which are found at 23 CFR.771.109.

⁶ FRA, September 2020, *Western Rail Yard Infrastructure Project Scoping Summary Report*, found at <http://westernrailyardinfrastructure.com/library.html> or at www.regulations.gov (using Docket Number FRA-2020-0039).

1.3.3.1 PLATFORM

The Platform and Overbuild were the subject of an FEIS prepared under the New York State Environmental Quality Review Act (SEQRA) and New York CEQR, which was published on October 9, 2009 (2009 SEQRA/CEQR FEIS). The CPC and the MTA acted as co-lead agencies for the environmental review and issued environmental findings under CEQR and SEQRA. Subsequent zoning actions associated with the Overbuild development were approved by the CPC and adopted by the New York City Council as zoning text and map amendments to the New York City Zoning Resolution (see **Figure 1-2**). The Overbuild development is now as-of-right development, since it would be built in accordance with the New York City Zoning Resolution's existing zoning controls, which regulate type of use, building envelopes, publicly accessible open space areas, street wall controls, retail continuity, and maximum floor area ratio (i.e., the ratio of floor area to lot size).

The Proposed Actions evaluated in the 2009 SEQRA/CEQR FEIS pertaining to the Western Rail Yard site specifically were: (1) the lease of, with option to purchase, the air space over the Western Rail Yard and related property interests by MTA to the developer; (2) zoning map and text amendments and accessory parking special permits by the City of New York pursuant to the Uniform Land Use Review Procedure (ULURP); (3) the establishment of new legal grades on West 33rd Street between Eleventh and Twelfth Avenues; and (4) the site selection by the New York City School Construction Authority (SCA) for an elementary/intermediate public school ("PS/IS school") on the Western Rail Yard site. For more information about the MTA and CPC's past environmental review of the Western Rail Yard project, please refer to the following website: <https://www1.nyc.gov/site/planning/applicants/env-review/western-rail-yard.page>.

Following the completion of the 2009 SEQRA/CEQR FEIS,⁷ the Project Sponsor entered into a Restrictive Declaration (RD) with New York City, which incorporates commitments associated with the design and construction of the Platform and Overbuild. Chapter 22, "Mitigation Measures and Project Commitments," includes a summary of the RD's design and construction commitments. These commitments, which are still in force, include environmental controls during construction, noise attenuation, restrictions on fuel use and location of air intakes for ventilation systems, procedures for addressing hazardous materials on site, and commitments to sustainable development.

1.3.3.2 TUNNEL ENCASEMENT

FRA conducted an environmental assessment (EA) in accordance with NEPA for the construction of a concrete casing in the Hudson Yards, and issued Findings of No Significant Impact (FONSI) in 2013 for the concrete casing project's EA, and in 2014 for the concrete casing project's Supplemental EA (SEA). The purpose of the project was to preserve underground right-of-way in Hudson Yards to maintain opportunities to expand rail services, meet future demand, and improve intercity and commuter rail system safety and reliability. The preservation of the right-of-way is necessary to ensure that any development at the yard would not eliminate the possibility of future rail development and expansion into New York Penn Station.

⁷ The 2009 CEQR/SEQRA FEIS was accompanied by a Findings Statement, issued April 30, 2010 by the MTA Board pursuant to SEQRA and 6 NYCRR §§ 617.11 and 617.12(b)(1). <https://a002-ceqraccess.nyc.gov/Handlers/ProjectFile.ashx?file=MjAwOVwwOURDUDAwN01cZmluZGluZ3NcMDIEQ1AwMDdNX1N0YXRlbnVudF9PZi9GaW5kaW5nc18wNTA2MjAxMC5wZGY1&signature=82107f9edb9366e8339468304e35c89d4dc8a543>, accessed February 19, 2021.

Amtrak's previous engineering analyses confirmed that construction of the Tunnel Encasement (aka concrete casing) would need to start prior to construction of the Overbuild foundations for the buildings proposed on this portion of the Project Site.⁸ If the Tunnel Encasement were not constructed before or at the same time as those Overbuild foundations, the ROW for the Tunnel Encasement would be permanently lost as a potential alignment for the future expansion of rail service between New York and New Jersey via a rail tunnel under the Hudson River. FRA's consideration of this factor in the planning and design of the Tunnel Encasement component supports the purpose and need statement to preserve a ROW through the Western Rail Yard to support the future construction of a trans-Hudson passenger rail crossing into New York Penn Station.

Since FRA's issuance of the 2013 and 2014 FONSIs, Amtrak has constructed the portion of concrete casing extending beneath the Eastern Rail Yard and under Eleventh Avenue. The final section is the Tunnel Encasement that the Project Sponsor would construct as a part of the Proposed Action would extend on a diagonal alignment from the western edge of Eleventh Avenue to the northern edge of 30th Street underneath the Western Rail Yard. Amtrak has advanced the design of the Tunnel Encasement to 100 percent Final Design. Final Design includes design of temporary works, construction phasing, structural details and all Tunnel Encasement details including interim facilities, any necessary demolition, and utility relocation work. For more information about FRA's past environmental review of the concrete casing and Tunnel Encasement, please see <https://www.fra.dot.gov/Page/P0666>. *

⁸ Tutor Perini Corporation and Parsons Brinckerhoff. Amtrak Gateway Project – Hudson Yards Study Final Report, 2012 (*2012 Hudson Yards Study Final Report*).