

Federal Railroad Administration
Record of Decision
For the
East Side Access Project

September 2012

SUMMARY OF DECISION

This is a Record of Decision (ROD) of the Federal Railroad Administration (FRA), an operating administration of the U.S. Department of Transportation, regarding the East Side Access (ESA) Project. FRA has prepared this ROD in accordance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality's (CEQ) regulations implementing NEPA, and FRA's Procedures for Considering Environmental Impacts.

The Metropolitan Transportation Authority (MTA) filed an application with the FRA for a loan to finance eligible elements of the ESA Project through the Railroad Rehabilitation and Improvement Financing (RRIF) Program. The ESA Project is the MTA's largest system expansion in over 100 years. The ESA Project will expand the Long Island Rail Road (LIRR) services by connecting Queens and Long Island with East Midtown Manhattan. With direct LIRR service to Midtown East, the LIRR will further increase its market share of commuters by saving up to 40 minutes per day in subway/bus/sidewalk travel time for commuters who work on Manhattan's East Side.

The ESA Project was previously considered in an environmental impact statement (EIS) prepared by the Federal Transit Administration (FTA) in May 2001 and subsequent FTA reevaluations and an environmental assessment of changes in the ESA Project. Construction of the ESA Project has been ongoing since 2001. FRA has reviewed the environmental impacts for the ESA Project identified in the FTA March 2001 Final EIS, subsequent FTA Reevaluations, and the 2006 Supplemental EA/FONSI (collectively, the "2001 EIS") for the ESA Project and adopted it pursuant to CEQ regulations (40 CFR 1506.3).

FRA published a notice in the Federal Register for the adoption of the 2001 EIS on July 6, 2012 (77 Fed. Reg. 40144). The Environmental Protection Agency also published notice of the adoption in its weekly receipt of environmental impact statements notice published in the same edition of the Federal Register on July 6, 2012 (77 FR 40036). FRA received no comments on the adoption of the 2001 EIS or the ESA Project.

FRA adopted the 2001 EIS to satisfy FRA's NEPA obligations related to MTA's request for RRIF financing for the ESA Project. FRA's review reaffirms the ESA Project purpose and need, selection of Option 2 in the FEIS as the Preferred Alternative, the environmental impacts, and the mitigation commitments presented in the 2001 EIS.

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ACRONYMS AND ABBREVIATIONS

ACHP	Advisory Council on Historic Preservation
CAAA	Clean Air Act Amendments
CE	Categorical Exclusion
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
COE	Army Corps of Engineers
DEIS	Draft Environmental Impact Statement
DOI	U.S. Department of Interior
DOT	U.S. Department of Transportation
EA	Environmental Assessment
EIS	Environmental Impact Statement
EO	Executive Order
EPA	U.S. Environmental Protection Agency
ESA	East Side Access
FEIS	Final Environmental Impact Statement
FHWA	Federal Highway Administration
FONSI	Finding of No Significant Impact
FR	Federal Register
FRA	Federal Railroad Administration
FTA	Federal Transit Administration
MTA	Metropolitan Transportation Authority
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NOI	Notice of Intent
NRHP	National Register of Historic Places
PA	Programmatic Agreement
ROD	Record of Decision
RRIF	Railroad Rehabilitation and Infrastructure Finance
SAFETEA-LU	Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users
SHPO	State Historic Preservation Officer
USFWS	U.S. Fish and Wildlife Service

INTRODUCTION

In April 2011, the Metropolitan Transportation Authority (MTA) filed an application with the Federal Railroad Administration (FRA) for a \$2.2 billion loan under the Railroad Rehabilitation and Improvement Financing (RRIF) program to finance construction of the East Side Access (ESA) Project and refinancing of approximately \$800 million of existing debt that financed elements of the ESA Project. The ESA Project will provide direct access for Long Island Rail Road (LIRR) riders to Grand Central Terminal (GCT) by connecting to the MTA LIRR Main Line and Port Washington tracks. LIRR provides service to 124 stations on 11 branch lines, within five counties in New York State: New York County, Kings County, Nassau County, Suffolk County, and Queens County. The ESA Project opens a second Manhattan gateway, greatly expanding its LIRR service by connecting Queens and Long Island with East Midtown Manhattan.

The ESA Project was previously considered in an extensive National Environmental Policy Act (NEPA) project development process, documented in an environmental impact statement (EIS), prepared by the Federal Transit Administration (FTA) in May 2001; a Record of Decision (ROD) finding that the review requirements of NEPA were satisfied was issued by the FTA on May 21, 2001. Approval of a loan for the ESA Project requires FRA compliance with the requirements of the NEPA, 42 U.S.C. 4321–4347, the Council on Environmental Quality (CEQ) Regulations implementing NEPA, 42 CFR Parts 1500-1508, Section 4(f) of the Department of Transportation Act, 49 U.S.C. 303(c), FRA’s Environmental Procedures, 64 Fed. Reg. 28545 (May 6, 1999), and 49 CFR 260.35.

FTA and FRA are operating administrations of U.S. Department of Transportation (DOT) and are delegated certain decision-making responsibilities by the DOT Secretary. FTA is primarily responsible for financial and technical assistance, oversight, and safety for public transportation; FRA is primarily responsible for railroad safety regulation and oversight, railroad financial and technical assistance, and intercity passenger rail policy.

FRA conducted a review of the FTA 2001 Final EIS, subsequent FTA Reevaluations, and the 2006 Supplemental EA/FONSI (collectively, “2001 EIS”) for the purpose of adoption pursuant to the CEQ regulation (40 CFR 1506.3) and found that the FRA actions encompassed by the RRIF application are substantially the same as the agency actions covered by the FTA’s Final EIS, that the 2001 EIS adequately assesses the environmental impacts associated with the ESA Project, and the 2001 EIS meets the standards of the CEQ’s regulations for an adequate statement. Accordingly, FRA adopted the 2001 EIS (77 FR 40144, July 6, 2012).

FRA consulted with a number of federal, state, and local agencies during the reviews of environmental, historic and Section 4(f) resources, including FTA, the Advisory Council on Historic Preservation (ACHP), and the New York State Historic Preservation Office (NY SHPO) with respect to various aspects of the ESA Project. FRA independently investigated environmental or historic preservation concerns, as discussed in greater detail in the later sections of this Record of Decision (ROD). FRA was subsequently added to the Programmatic Agreement (PA) implementing Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f, for the ESA Project on August 30, 2012 in accordance with 36 CFR Part 800.

This ROD summarizes the ESA Project history, the purpose and need, project alternatives, significant environmental impacts identified, and an amendment to the Section 106 Programmatic Agreement (PA). The ROD also addresses mitigation commitments in the 2001 EIS.

PROJECT HISTORY

The MTA proposed the ESA Project to provide a needed direct access for LIRR riders to Grand Central Terminal (GCT). Analysis of environmental effects from the ESA Project began in 1995 with the preparation of a Major Investment Study (MIS) for the Long Island Transportation Corridor (LITC) by MTA. The LITC was broadly defined to encompass the majority of origins, destinations, and routes of those traveling between Long Island and New York City, and therefore consists of Manhattan, Queens, Brooklyn, Nassau, and Suffolk Counties.

The MIS evaluated the effectiveness of a wide range of alternative investments and strategies for the LITC. The MIS identified a locally preferred alternative from a full range of alternatives in the MIS. MTA completed the MIS study in April 1998.

FTA circulated a Draft EIS in May 2000, and published notices of the 2000 Draft EIS availability with the public hearing date in the Federal Register on May 26, 2000. MTA held the public hearing on June 15, 2000, and public comments were accepted through December 1, 2000. FTA received over 300 public comments, which FTA addressed in the 2001 Final EIS. FTA published the Record of Decision (ROD) in May 2001.

MTA began construction of the ESA Project in 2001 with the construction of the Highbridge Yard in the Bronx for Metro-North. Highbridge Yard serves as a storage, servicing and maintenance facility replacing Madison Yard in GCT which was turned over to the ESA Project for construction of the new LIRR Concourse. Excavation of the Manhattan Approach Tunnels and Manhattan Structures, using tunnel boring machines (TBMs) to create the running tunnels from the existing 63rd Street Tunnel at Second Avenue to GCT and the station caverns under the terminal is complete. Excavations of the caverns under GCT using controlled drill and blast construction is continuing. The Queens Bored Tunnels, using TBM-tunneling under a complex set of tracks and switches, and Northern Boulevard Crossing requiring the very complex construction tasks of tunneling under existing rights-of-way to connect the existing MTA LIRR right-of-way to the Queens' side of the 63rd Street Tunnel is underway. Construction is continuing and the project is scheduled for completion in 2019.



Manhattan: Tunneling at Mezzanine-Level
Showing a Cross-Passage

PROJECT CHANGES SINCE FTA ROD

As design and construction have progressed, the MTA/ LIRR has modified the design of several project elements. Environmental reviews for each design modification proposed were coordinated with FTA to verify that the scope of the project remained essentially the same and to determine if any additional NEPA review was required. FTA analyzed the proposed design changes provided by MTA to determine if the proposed design changes would result in additional significant impacts not already analyzed in the FEIS and whether the NEPA requirements as outlined in 23 CFR 771.130 were met.

Since the completion of the FEIS for the ESA Project and the issuance of the ROD, FTA has prepared six Reevaluations and one Supplemental Environmental Assessment (EA) with a Finding of No Significant Impact (FONSI). FTA reviewed each modification and determined that the design revisions would not change the transportation project decisions or result in impacts not studied in the FEIS. No further environmental analyses were necessary.

The following table lists the technical memoranda, FTA Reevaluations, and the Supplemental EA/FONSI with approval dates. The table also includes brief descriptions of the design modifications and impact evaluations.

MTA Technical Memoranda	FTA Reevaluation
<p>1. Technical Memorandum Assessing Potential Design Changes, February 26, 2002</p> <p>MTA proposed extending tail tracks south of GCT, a redesign of the 50th Street vent plant and a new truck dock, loop track modifications at Sunnyside Yard, and a new entrance at the Roosevelt Hotel. FTA assessed the modifications and determined that there would be no new adverse impacts resulting from these design changes, but requested additional coordination with NY SHPO regarding the Roosevelt Hotel entrance; ultimately this entrance was removed from the ESA Project.</p>	<p>Aug. 30, 2002</p>
<p>2. Design Changes in Queens Revision 14-4M Environmental Analysis, November 2005</p> <p>MTA proposed revisions to Queens alignment to improve operations and operational flexibility for LIRR; modifications included new yard lead (loop) track in a tunnel, grade-separated routes through Harold Interlocking, sub-station upgrades, and modifications to meet 2003 standards of the National Fire Protection Association (NFPA) for ventilation system design for commuter rail service, including construction of new buildings, emergency exits, and ventilation equipment. FTA assessed the changes in the design and determined that the ESA Project with the changes was essentially the same and would not have substantially different adverse effects.</p>	<p>April 13, 2006</p>

MTA Technical Memoranda	FTA Reevaluation
<p>3. Technical Memorandum Assessing Design Refinement: Tail Tracks Ventilation Plenum and Grate, February 2008</p> <p>MTA proposed design modification placing the ventilation gratings in the sidewalk along the west side of Park Avenue just south of East 37th Street (i.e., between East 36th and East 37th Streets). This modification was a refinement of the extended platform designs noted in the first MTA Technical Memoranda and would not result in any additional adverse environmental effects.</p>	<p>July 18, 2008</p>
<p>4. Technical Memorandum Assessing Design Changes: LIRR Concourse and Street Entrances, July 30, 2009</p> <p>MTA proposed design changes for GCT and the entrance configurations along Madison Avenue, including re-allocations of unassigned space in the Concourse and the elimination of the 270 Park Avenue, 44th Street, and 45th Street entrances. FTA determined these design refinements were would not result in substantial changes from the FEIS or ROD. Documentation was also approved for the Grand Central Terminal Recycling and Waste Management Facility, and an addendum to the 37th Street Ventilation Plan Construction Activities.</p>	<p>Mar. 3, 2010</p>
<p>5. Redundant Elevator for East Side Access Concourse, March 12, 2010</p> <p>MTA proposed a redundant elevator between the GCT LIRR Concourse, which will be built as part of MTA's ESA Project and GCT's 45th Street cross passage, where existing elevators connect to both the Upper and Lower Levels of GCT. This elevator would supplement Americans with Disabilities Act Accessibility Guideline (ADAAG) requirements for the new LIRR concourse, which is designed as an ADA-compliant facility. It also would improve accessibility for LIRR passengers arriving at GCT via East Side Access and facilitate access for Metro-North and NYC Transit customers transferring to LIRR at GCT. FTA determined that installation of the elevator would not change the conclusions found in the FEIS or Technical Memorandum No.4 and that further environmental analysis is not necessary.</p>	<p>Aug. 2, 2010</p>
<p>6. 48th Street Entrance Design, October 6, 2011</p> <p>MTA proposed changing the design analyzed in Technical Memorandum No. 4 by moving the 280 Park Avenue entrance west to 415 Madison Avenue (an adjacent building) to reduce construction and scheduling risks. FTA concluded that this modification would not cause any significant adverse impacts, nor does it have the potential to cause a change in the determination of impacts from what was described in the FEIS or Technical Memorandum No.4.</p>	<p>Nov. 23, 2011</p>

<p>FTA-MTA/LIRR East Side Access 50th Street Facility Project</p> <p>FTA issued a FONSI based on a Supplemental EA to the FEIS that was prepared to address community concerns regarding the new design for the 50th Street ventilation facility, which also included a loading dock and cooling towers.</p>	<p>FTA Approval</p> <p>EA--- April 2006</p> <p>FONSI ---July 2006</p>
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FRA INVOLVEMENT

New York State Department of Transportation (NYSDOT) submitted an application in 2011 to FRA for funding from the High Speed Intercity Passenger Rail (HSIPR) Program for construction work at Harold Interlocking within Sunnyside Yard. Harold Interlocking is an element of the ESA Project that was fully addressed in the 2001 EIS. FRA awarded NYSDOT \$294,781,579 for the project known as the Harold Interlocking – Northeast Corridor Congestion Relief (Harold) Project. FRA considered the potential for environmental impact from the specific improvements to Harold Interlocking included in the funding agreement for the Harold Project and FRA approved a Categorical Exclusion (CE) in August 2011. The Harold Project includes construction of tunnels and tracks for a new westbound bypass, new eastbound reroute, a loop interlocking upgrade, replacement Amtrak car washer, and demolition of two Amtrak buildings. The Harold Project is not included in the FTA’s Full-Funding Grant Agreement for the ESA Project and, for funding purposes, is considered a separate project from the ESA Project.

FRA ACTION

FRA is currently reviewing the MTA’s request for a \$2.2 billion loan and \$800 million refinancing through the RRIF Program for the local share of construction costs of the ESA Project and the Harold Project. FRA is reviewing the application to determine the RRIF eligibility of financing and refinancing elements of the ESA Project and Harold Project. The ESA Project total cost is approximately \$8.24 billion and the Harold Project cost is approximately \$500 million. RRIF program loans require compliance with NEPA and other environmental laws, as well as consistency with the RRIF loan statute, codified at 45 U.S.C. § 822, and regulations, at 49 CFR Part 260.

FRA has reviewed the environmental impacts for the ESA Project and adopted the 2001 EIS, which includes the FTA March 2001 FEIS, subsequent FTA Reevaluations, and the 2006 Supplemental EA/FONSI for the ESA Project. Since the ESA Project is currently in varying stages of design and under construction, FRA determined that it was appropriate and more efficient to review and adopt the entire environmental review of the ESA Project as it is proposed to date rather than just portions of it. If the RRIF loan is approved, FRA would finance and/or provide refinancing for portions of the ESA Project and Harold Project that are determined to be eligible for loans under the RRIF statute and regulations.

PROJECT DESCRIPTION

The ESA Project consists of the design and construction of commuter rail expansion of the MTA LIRR service between Queens and the east side of Midtown Manhattan. The Project will connect the LIRR's existing rail lines to the existing 63rd Street Tunnel under the East River to a new LIRR Terminal at GCT located on the east side of Manhattan. The project includes construction of a 3.5 route mile expansion from Sunnyside Yard in Queens, connecting to the lower level of the existing 63rd Street Tunnel under the East River, and traveling under Park Avenue in Manhattan to GCT. In order to make room for the new tracks, a variety of modifications to the existing track alignments in the Harold Interlocking, a major switch and track hub located in Queens, are needed. The project includes a mid-day storage yard and a maintenance facility. In all, approximately seven miles of new tunnels and more than 50,000 linear feet of track will be constructed.

The new LIRR Terminal at GCT will consist of eight tracks and four platforms constructed below the existing lower level tracks serving Metro-North Railroad (MNR). Each of the eight platform tracks will accommodate 12 car trains. Four tail tracks will extend from each platform to 38th Street to provide temporary storage for out-of-service trains. Construction includes the provision of required ventilation, mechanical, electrical and safety equipment. The LIRR Terminal will include a mezzanine located between the upper and lower tracks that will provide access to all platforms. From the mezzanine passengers will proceed up to a new LIRR concourse that will be constructed in the existing GCT Madison Avenue Yard and four tracks previously utilized for MNR service (tracks 114-117). Customers can use existing GCT passageways and new entrances that will be built as part of ESA construction to exit the new LIRR concourse.

A new yard facility located in Highbridge was constructed for MNR to replace facilities that had to be relocated from the GCT Madison Yard. The Highbridge Yard includes a new car appearance facility (CAF), a storage yard with tracks and signals, traction and facility power facilities and an employee station.

Project scope also includes traction power, a train control system, a communications system, real estate acquisition, utility relocations, environmental mitigation, financing, start up and testing of the ESA Project for revenue service, a "before and after" study, and other elements necessary to achieve Project implementation. The ESA Project also includes the purchase of approximately 160 electric rail cars and 5 locomotives to support service to GCT.

In Queens, the two tracks in the lower level of the existing 63rd Street Tunnel will be extended east beyond Northern Boulevard and there fan out into four tunnel tracks. In Sunnyside Yard, Queens, three tracks will rise to the surface and pass through Harold Interlocking and connect to the LIRR Main Line. The fourth track will connect to a new loop track leading to a new storage yard to be located in Yard A and a new LIRR maintenance facility located in Arch Street Yard.

OTHER ESA PROJECT ELEMENTS

- Substations - Eight Traction Power substations and fifteen Facility Power Substations would be connected to local utilities. Each substation would be located in an existing structure and/or underground. The Traction Power Substations would supply electric power to the LIRR trains serving GCT. The Facility Power Substations would supply electric power to GCT and the ventilation/support facilities.
- Ventilation – Ventilation Facilities would provide fresh air to East Side Access's tunnels and underground spaces, including passenger platforms, and would remove smoke in the event of a fire and provide emergency exits to the street. There would be eleven ventilation facilities with a total of thirty-five axial fans located within these facilities. In addition, there would be forty-four jet fans located with the tunnels. Separate HVAC facilities are providing for the GCT Concourse.
- Harold Interlocking Improvements. East Side Access would make modifications to Harold Interlocking that would create added capacity and flexibility and reduce existing operational conflicts between the LIRR, Amtrak, and NJ Transit.

PURPOSE AND NEED FOR THE PROPOSED ACTION

The following statement in the 2001 EIS remains true to date:

“Today, there is a strong need for improved transit service between Long Island and Manhattan- especially east Midtown Manhattan-and this need will be still greater in the future.”

In MTA’s RRIF Application, MTA affirms that the purpose of the ESA Project remains to improve capacity and travel time between Long island and Manhattan. The LIRR is the busiest commuter railroad in North America with an annual ridership estimated in 2010 of 81.6 million. Annual ridership reached as high as 87.3 million rides in 2008, the LIRR’s highest annual ridership since 1949. Prior to the economic downturn in 2008, average weekday ridership was 302,583 rides compared to 259,181 in 2000. LIRR’s average weekday ridership was over 282,358 rides in 2010. Ridership began to rise again beginning in late 2011.

The LIRR provides service to 124 stations on 11 branch lines, serving five counties within New York State: Nassau, Suffolk, Queens, Brooklyn and Manhattan. The LIRR operates 24 hours a day, seven days a week, with service frequency varying by branch. Three out of every four commutes between Long Island and Manhattan are captured by the LIRR.

Currently, LIRR operates into Penn Station on Midtown Manhattan’s West Side. The highly congested Penn Station is America’s busiest passenger transportation facility both in terms of

train volume and customers, accommodating over 600,000 daily passengers (including subway and rail passengers), more than Kennedy, LaGuardia, and Newark Liberty Airports combined.

The ESA Project is critical for the future of the LIRR. Without the project, transportation conditions in the corridor will deteriorate:

- The LIRR will not be able to accommodate demand for service into Manhattan, causing severe overcrowding on peak hour trains.
- Commutes on the LIRR characterized by crowding and delays will continue to be followed by time-consuming trips to East Midtown by many LIRR commuters, causing millions of person-hours of delay each year.
- Inadequate transit service will worsen already serious congestion on the region's roads and highways, as residents of Long Island and eastern Queens choose to drive to avoid the growing inconvenience of mass transit.
- Commuters in aggregate will travel hundreds of thousands of miles in automobiles each day, worsening already poor air quality conditions.

ALTERNATIVES

The alternatives for the ESA Project were identified as part of the Major Investment Study (MIS) and a comprehensive planning process that involved several years of discussions, outreach, scoping meetings, and the evaluation of environmental effects geared toward developing scenarios that would improve transit access to the east side of midtown Manhattan and increase the capacity of the LIRR system. Twenty-three alternatives were initially evaluated for constructability, operational feasibility, and ability to meet the goals and objectives identified for the transportation corridor. Of these 23 alternatives, five were advanced in the MIS for more detailed evaluation aimed at identifying the most appropriate alternative(s) for consideration in the Draft Environmental Impact Statement (DEIS). These evaluations were based on a set of quantitative and qualitative criteria that included consideration of performance; cost, community effects, social equity, and environmental impact.

As a result of the analyses prepared for the MIS, the New York Metropolitan Transportation Council (NYMTC)-which is the Metropolitan Planning Organization (MPO) for the region-adopted a locally preferred alternative on June 25, 1998 (Resolution No. 94A). The Preferred Alternative was included in the DEIS for LIRR service to GCT via the lower level of the 63rd Street Tunnel and two engineering options were developed for the Preferred Alternative and evaluated in the Final EIS with the No Action and Transportation System Management (TSM) Alternatives.

FRA assessed the NEPA process documented in the 2001 EIS, including the amount of time since completion of the 2001 ROD. Progress on the ESA Project, including the construction on the Preferred Alternative, has been continuous. The ESA Project remains part of the current 2009

New York State Long Range Transportation Plans. The overall project need, scope, study area, and impacts associated with the ESA Project have essentially not changed. The comparison of the information used to evaluate the alternatives, if updated, would essentially be the same relative to each alternative. Therefore, the alternative evaluation and resulting decisions for the Preferred Alternative remain applicable. The following alternative evaluation is provided as written in the FTA 2001 ROD:

“... The FEIS contains an assessment of three alternatives - No Action, Transportation Systems Management (TSM), and Preferred Alternative - for providing transit service in the Long Island Transportation Corridor. In addition, the FEIS includes a discussion of the alternatives analysis originally included in the MIS. This description is provided in Chapter 2 of the FEIS, with additional information provided in Appendix A of the FEIS.

No Action Alternative. The No Action Alternative serves as a baseline for the environmental impact evaluation of the other alternatives. It consists of improvements that have been identified in the MTA's 2000-2004 Capital Program and the LIRR's long-range plans, as well as projects sponsored by other transportation agencies that have received a similar level of consideration and will be in place by the FEIS analysis years. The No Action Alternative includes an increase in service to Penn Station from the current 37 trains to 42 trains during the peak hour. It also assumes a new dual mode service will be in place, providing a one-seat ride to Manhattan from diesel territory.

TSM Alternative. The TSM Alternative consists of a number of improvements, not currently planned for construction or operation, to maximize the use of the existing transportation system without major capital expenditures. It includes maximizing LIRR platform lengths to accommodate longer trains, increasing LIRR service to the Hunterspoint and Long Island City stations, increasing ferry service between Long Island City and Manhattan, and extending the existing westbound morning contra-flow lane on the Long Island Expressway between the Queens-Midtown Tunnel toll plaza and Greenpoint Avenue in Queens.

Preferred Alternative. The Preferred Alternative will create new LIRR service to Grand Central Terminal, increasing peak hour service to Manhattan by approximately 45 percent over No Action conditions. During the peak hour, 24 trains will operate to Grand Central Terminal and service to Penn Station will remain at 37, the number of trains currently operating to Manhattan's west side.

Two engineering options were considered in the FEIS for the Manhattan alignment, with different terminals at Grand Central Terminal. Engineering Option 1, which reflects the refinement of the project alignment in the MIS, would bring trains to new platforms on the west side of the existing lower level of the terminal. A new passenger concourse would be created within the existing lower level of Grand Central Terminal. Engineering Option 2 would bring trains to a new level beneath the existing lower level at Grand Central Terminal, and would create a new passenger concourse on the west side of the existing lower level of Grand Central Terminal. The two engineering options for the Manhattan alignment were developed to reduce the construction-

related impacts on nearby tunnel structures and buildings along Park Avenue that were associated with the design presented in the MIS. Option 2 has been selected as the preferred engineering option for East Side Access because it has substantial advantages in terms of cost, constructability, and operations, and significantly fewer impacts on Metro-North and risks during construction. The cost of Option 2 is up to \$400 million less than for Option-1. Option 2 does not require underpinning of structures or buildings along Park Avenue; and significantly reduces the adverse effects to Metro-North operations into Grand Central Terminal that would occur under Option 1. Under Option 1, adverse effects to Metro North operations would include, underpinning right-of-way on Park Avenue and track outages during construction. FTA would find Option 2 of the Preferred Alternative to be environmentally preferable as it minimizes operational and construction-related ground-borne noise and vibrations effects, conflicts with existing utilities, and impacts to Manhattan neighborhoods and traffic during construction. ...”

The selection of Option 2 for the ESA Project minimized the impacts as much as practical and the design and construction methods continue to incorporate measures to minimize and mitigate the impacts. As noted in the 2011 RRIF application, the ESA Project will be the LIRR’s largest system expansion in over 100 years. By opening a second Manhattan gateway, the LIRR will greatly expand its service connecting Queens and Long Island with east Midtown Manhattan. With direct LIRR service to Midtown East, the LIRR will further increase its market share by saving up to 40 minutes per day in subway/bus/sidewalk travel time for commuters who work on Manhattan’s East Side.

SUMMARY OF ENVIRONMENTAL CONSEQUENCES

The 2001 EIS comprises a comprehensive evaluation of the potential impacts of the ESA Project. The evaluation included impacts to both human and natural resources, including safety, transportation, land use, population, employment, geology, soils, water resources, recreation, cultural resources, aesthetics and visibility, noise, and air quality.

The ESA Project impacts and/or requires the protection of numerous existing utilities along the tunnel alignment approach to GCT and in Queens at Northern Boulevard and in Sunnyside Yard. Property acquisitions and relocations of businesses and residences are needed, which requires MTA to follow the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

The ESA Project has adverse localized effects on various transportation elements and services, such as: Lexington Avenue Subway-southbound, peak hour bus traffic to Madison and Lexington Avenues, pedestrian conditions in the vicinity of GCT, traffic at several intersections in Manhattan and Long Island, parking in Long Island, and displacements of the NYAR and MNR yard facilities. At the same time, however, pedestrian, subway, and taxi activity in the Penn Station area would decrease. Within the Penn Station area, there would be less congestion

of passenger movements and vehicle traffic on the street network and less crowding in subway stations and subway lines.

In terms of regional travel, the ESA Project would provide an overall benefit by improving transportation service from Long Island and eastern Queens to Manhattan and Queens. It would provide commuters destined for Manhattan with increased and improved train service. There would be more trains into Manhattan, greater availability of seats, and the flexibility to get directly to the east side of Midtown Manhattan in addition to the west side. The ESA Project would reduce auto commuting into Manhattan as well, by diverting auto trips from eastern Queens and Long Island, to the LIRR.

The ESA Project would cause increases in noise levels along three segments of the LIRR system, ground-borne noise in Manhattan and Queens, and run-off potentially impacting the Newtown Creek and the Hudson River. During construction, there is a lengthy time of substantial disruptions to adjacent neighborhoods in Queens and additional impacts although temporary in nature, to traffic, noise, and run-off around the project area.

The ESA Project also has potential for exposure to contaminated materials. Contaminated soil and groundwater may be present in areas where construction is proposed for the project alternatives. Construction activities were therefore considered with respect to soil and groundwater conditions to assess any potential risks to public health, safety, and the environment. The operation of the ESA Project would not create new contamination at any of the project sites.

The ESA Project will result in certain adverse impacts either during operation or construction that remain unmitigated or partially unmitigated. These include the impact to Lexington Avenue subway at the Grand Central and 42nd Street station, which is only partially mitigated; the noise levels above impact criteria along three segments of the LIRR system will not be mitigated, and the temporary disruptions to surrounding uses from construction activities cannot be fully mitigated. The ESA Project impacts, construction methods, and the associated temporary construction impacts are identified in detail in the 2001 EIS.

The Project was evaluated with respect to its impacts on minority and low-income communities. This analysis determined that anticipated human and environmental effects of the Project will not be disproportionately borne by minority or low-income populations. Therefore, FRA determines that the ESA Project is in accordance with requirements of Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."

The 2001 EIS documents compliance with NEPA and also incorporated the analyses required for compliance with additional environmental statutes, including Section 176(c) of the Clean Air Act (CAA), 42 U.S.C. 7506; the National Historic Preservation Act (NHPA), 16 U.S.C. 470 et seq.; and Section 4(f) of the Department of Transportation Act of 1966 (Section 4(f)), 49 U.S.C. 303. With respect to the CAA, FTA projects must comply with the Transportation Conformity regulations, 40 CFR Part 51 Subpart T and Part 93 Subpart A, and the 2001 EIS contains the requisite analysis. However, FRA projects must comply with the General Conformity regulations

in accordance with 40 CFR 93.154. Generally, if a project meets Transportation Conformity, it will also satisfy General Conformity.

CAA – General Conformity. FRA reviewed the air quality analysis in the 2001 EIS and confirmed with MTA that the project remains within the current State Transportation Plan, which, on January 3, 2012, received Federal approval for its conformity with the State Implementation Plan. The ESA Project has been in continuous progress, is not considered a new action requiring redeterminations, and satisfies General Conformity requirements in accordance with 40 CFR Part 51 Subpart W and Part 93 Subpart B.

NHPA – Section 106. FRA finds that the undertaking under Section 106 of the NHPA is substantially the same as the undertaking addressed by FTA. FTA, MTA, and the NYSHPO developed and executed a Programmatic Agreement to address potential effects on historic properties. Because of new ESA Project elements and modifications, the Programmatic Agreement was amended in June 2006 to update the Areas of Potential Effect to reflect additional archaeological and historic resources not covered in the FEIS. FRA joined the June 2006 Amended Programmatic Agreement (2006 Amended PA) as a signatory for the ESA Project in its entirety. By becoming a signatory, FRA will be able to require MTA to comply with the 2006 Amended PA, as a condition of an FRA RRIF loan, and monitor future design decisions regarding historic resources, should FRA decide to approve a RRIF loan. The 2006 Amended PA and amendments are provided in Appendix B of this ROD.

Section 4(f). In the 2001 EIS, FTA evaluated the use of the historic resources and made a determination that no Section 4(f) issues were identified in the DEIS or FEIS. Section 4(f) (49 U.S.C. 303) requires that projects undertaken by DOT must avoid using parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless there is no feasible and prudent alternative, and the action includes all possible planning to minimize harm to the Section 4(f) resource.

Measures to avoid and minimize harm to the historic resources were incorporated into the ESA Project during its development and design phases of the ESA Project. In addition, the 2006 Amended PA includes additional measures to further minimize harm to these resources. With the ESA Project several years into construction, there is no evidence that any adverse effects to historic resources have occurred. FRA anticipates that FTA's Section 106 process following the 2006 Amended PA will avoid adverse effects to historic resources identified in Exhibits A, B, and C of the 2006 Amended PA.

The only improvement in the vicinity of historic resources that remains part of the ESA Project is the concourse access proposed at the GCT dining area. Based on field review, coordination with qualified architectural historians, and further coordination with NY SHPO regarding potential affects, FRA has determined that the Preferred Alternative will not alter the integrity of the characteristics that make the GCT historic and that the ESA Project is consistent with the transportation use of GCT. Therefore, no use of Section 4(f) resources is anticipated, and compliance with Section 4(f) of the Department of Transportation Act of 1966 has been met. If the ESA Project changes in the future, FTA and FRA will review the modifications and reevaluate the ESA Project at that time.

COMMITMENTS AND MITIGATION

MTA incorporated measures to minimize unavoidable impacts where feasible and has committed to designing and building all mitigation measures described in the 2001 EIS into the ESA Project. These measures include the stipulations in the 2006 Amended PA. FRA, through the adoption of the 2001 EIS, would require the mitigation measures be implemented as a condition of the RRIF Application, if approved. FTA will remain the lead agency for monitoring. However, MTA would be required to submit copies of the Construction Management Reports to both FTA and FRA to report on its progress in implementing the mitigation commitments. The measures to mitigate unavoidable adverse environmental impacts and minimize harm are fully described in the 2001 EIS and are summarized in Appendix C of this ROD.

COMMENTS

FRA published a formal Notice of Adoption in the Federal Register on July 6, 2012 and filed a notice of availability for the 2001 FEIS with EPA. EPA also published notice of the adoption in its weekly receipt of environmental impact statements notice published in the same edition of the Federal Register on July 6, 2012 (77 FR 40036). The 30-day comment period ended August 6, 2012. FRA did not receive any comments regarding the 2001 EIS Adoption, the amendment to the 2006 PA, or the ESA Project.

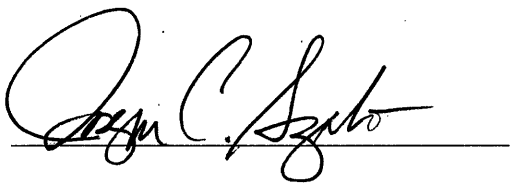
DECISION

After review, FRA adopted the 2001 EIS prepared by FTA, including the selection of the Preferred Alternative and subsequent design modifications, pursuant to 40 CFR 1506.3 and FRA's NEPA implementing procedures, Procedures for Considering Environmental Impacts, 64 Fed. Reg. 28545(May 26, 1999). FRA adopted the 2001 EIS in reliance upon the CEQ Regulations authorizing an agency to adopt an EIS prepared by another agency when the agency activities involved are substantially the same. As recited earlier, FRA carefully evaluated whether FRA's proposed activities are substantially the same as the FTA's activities and has concluded that they are. FRA selects the preferred alternative as described in the 2001 EIS which will create new LIRR service to Grand Central Station, increasing peak hour service to Manhattan by approximately 45 percent over the No Action conditions. FRA also selects Option 2 of the Preferred Alternative for East Side Access to GCT. As identified in the 2001 EIS and the FTA ROD, the preferred alternative, including Option 2, is the environmentally preferable alternative as it minimizes impacts while best achieving the Project purpose and need. If FRA makes the proposed RRIF loan, FRA and FTA acting within its jurisdiction, would be enabling MTA to construct and operate the same ESA Project as described in this ROD.

In reaching the Decision, FRA evaluated whether the data in the 2001 EIS are so old as to require collection of and reliance upon new data. FRA has concluded that the data used in the 2001 EIS remains reliable, for the reasons identified in this ROD. In addition, FRA carefully considered the current status of the ESA Project construction and coordinated with NY SHPO

regarding the historic resources for the ESA Project. FRA became a signatory to the 2006 Amended PA, which supports the same stipulations. The addition of FRA to the 2006 Amended PA was approved by FTA, NY SHPO, and MTA on August 30, 2012.

FRA considered the impacts and benefits associated with the ESA Project. In accordance with CEQ regulations, FRA published a notice in the Federal Register adopting the FTA EIS on July 6, 2012 (77 FR 40144). EPA also published a companion notice in the Federal on the same date. FRA received no comments on the adoption or the ESA Project. The ESA Project will greatly expand the LIRR service connecting Queens and Long Island with East Midtown Manhattan. With direct LIRR service to Midtown East, the LIRR will further increase its market share of commuters by saving up to 40 minutes per day in subway/bus/sidewalk travel time for commuters who work on Manhattan's East Side. FRA's basis for decision on the ESA Project included consideration of the adverse impacts in light of the local and regional environmental and transportation benefits it will provide.

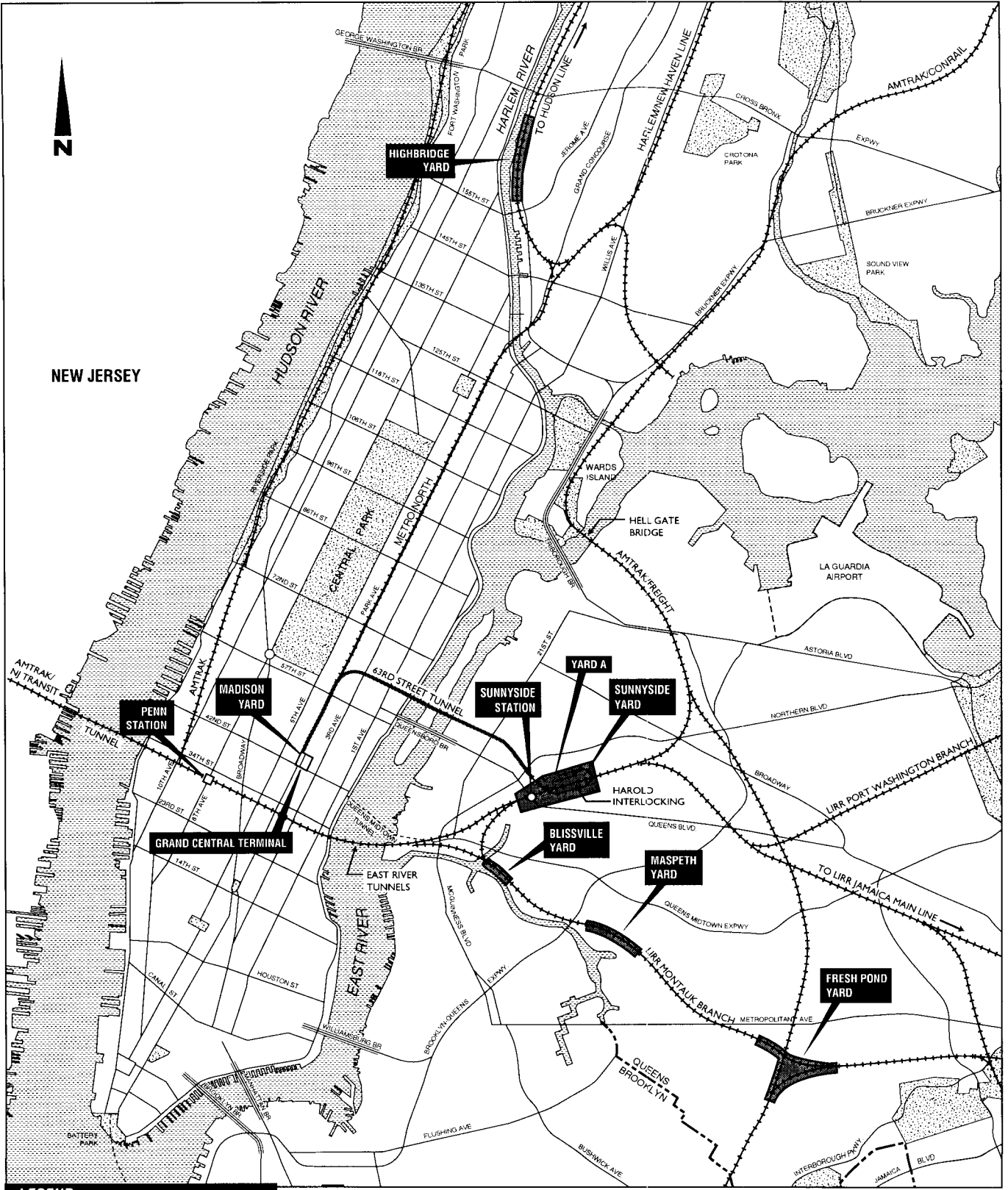


Joseph C. Szabo
Administrator

Date: 9/24/12

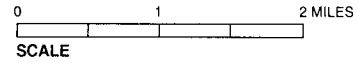
APPENDIX A
Figure S-1
Figure S-2

Federal Railroad Administration
Record of Decision
For the
East Side Access Project
September 2012



LEGEND

- Proposed New Service Route
- - - Existing Rail Routes



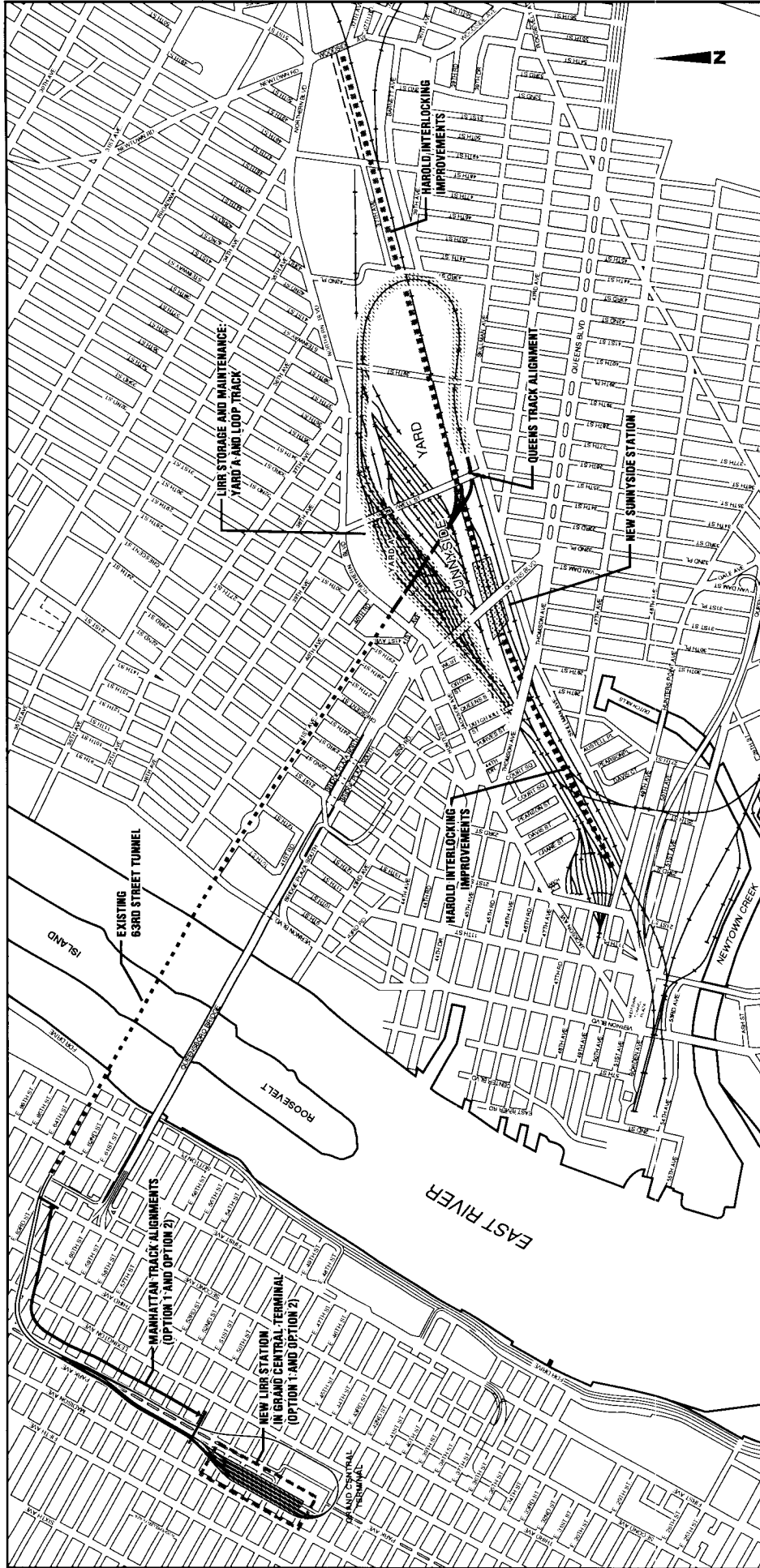


Figure S-2

Project Elements in Manhattan and Queens

APPENDIX B
2006 Amended Programmatic Agreement
Amendment 1
Amendment 2
Amendment 3

Federal Railroad Administration
Record of Decision
For the
East Side Access Project
September 2012

**AMENDED PROGRAMMATIC AGREEMENT
AMONG THE
FEDERAL TRANSIT ADMINISTRATION,
METROPOLITAN TRANSPORTATION AUTHORITY,
AND
THE NEW YORK STATE HISTORIC PRESERVATION OFFICER
REGARDING IMPLEMENTATION OF THE
MTA/LIRR EAST SIDE ACCESS PROJECT**

WHEREAS, the Federal Transit Administration (“FTA”) has identified through an Final Environmental Impact Statement (“FEIS”) prepared in 2001 under the National Environmental Policy Act (“NEPA”) that the MTA/LIRR East Side Access Project would have an effect on properties included in or eligible for inclusion in the National Register of Historic Places; and

WHEREAS, the FTA has consulted with the Advisory Council on Historic Preservation (“the Council”) and the New York State Historic Preservation Officer (“SHPO”) pursuant to Section 800.13 of the regulations (36 CFR Part 800) implementing Section 106 of the National Historic Preservation Act; (16 USC 470f), and Section 110(f) of the same Act (16 USC 470h-2(f)); and

WHEREAS, following consultation with the Council in 2000, FTA, MTA/LIRR, and SHPO entered into a Programmatic Agreement in 2001 (“2001 Programmatic Agreement”); and

WHEREAS, subsequent to the issuance of the FEIS and Record of Decision for the MTA/LIRR East Side Access Project in 2001, new project elements and modifications have been identified through the 50th Street Revised Supplemental Environmental Assessment to the FEIS, dated April 2006 (“EA”), through Queens Revision 14-4M Environmental Analysis, dated November 2005 (“Queens Revision”), and through the Technical Memorandum Assessing Potential Design Changes, dated February 2002 (“2002 Tech Memo”) prepared under NEPA; and

WHEREAS, the revised MTA/LIRR East Side Access Project may have an effect on additional historic and archaeological resources not identified in the FEIS; and

WHEREAS, the Metropolitan Transportation Authority (“MTA”) has participated in the consultation and has been invited to execute this Amended Programmatic Agreement; and

WHEREAS, the New York City Landmarks Preservation Commission (“LPC”) has been included in the consultation as a consulting party; and

WHEREAS, pursuant to 36 CFR Section 800.8(c), FTA is utilizing the process under the NEPA to comply with its requirements under Section 106 of the National Historic Preservation Act; and

WHEREAS, the 2001 Programmatic Agreement pertained to potential project effects on archaeological and historic properties/structures in Areas of Potential Effect (APEs) that were evaluated in the FEIS; and

WHEREAS, the APEs were further defined through development of a construction protection plan; and

WHEREAS, the MTA has progressed project engineering subsequent to the FEIS and has identified additional archaeological and historic properties/structures in areas not covered by the former APEs in the Manhattan and Queens alignment of the MTA/LIRR ESA project; and

WHEREAS, the parties have determined that it is appropriate to enter into an Amended Programmatic Agreement to identify the APEs of the current project alignment as specified in the FEIS and through subsequent engineering identified in the EA, Queens Revision, and 2002 Tech Memo; and

WHEREAS, Exhibit A provides a list of areas of archaeological sensitivity within the redefined APE, and Exhibit B depicts the approximate locations of these areas; and

WHEREAS, Exhibit C provides a list of known historic properties/structures within the redefined APE, and Exhibit D depicts the approximate locations of these properties/structures; and

WHEREAS, Exhibit B depicts the redefined APE for Archaeological resources and Exhibit D depicts the redefined APE for Historic resources; and

WHEREAS, the APEs depicted in Exhibits A, B, C, and D reflect the APEs of the current project alignment; and

WHEREAS, this Amended Programmatic Agreement replaces the 2001 Programmatic Agreement;

NOW, THEREFORE, FTA, MTA, and SHPO agree that the MTA/LIRR East Side Access Project (the "East Side Access Project") shall be administered in accordance with the following stipulations to ensure that potential effects on historic and archaeological resources are taken into account and to satisfy FTA's Section 106 responsibility for all aspects of the MTA/LIRR East Side Access project.

STIPULATIONS

FTA, MTA, AND SHPO AGREE THAT THE FOLLOWING STEPS HAVE BEEN UNDERTAKEN IN CONNECTION WITH THE EAST SIDE ACCESS PROJECT AND THAT FTA INCLUDED THE OBLIGATIONS SET FORTH IN THIS AGREEMENT AS PART OF ITS RECORD OF DECISION AND AS A CONDITION OF FTA'S APPROVAL OF A GRANT(S) ISSUED FOR THE PROJECT, AND WILL MANDATE THAT THESE REQUIREMENTS BE MET AS PART OF OTHER ENVIRONMENTAL REVIEWS TO ENSURE THAT THESE MEASURES ARE IMPLEMENTED AS PART OF THE COMPLIANCE WITH THE SECTION 106 PROCESS AND THE SUBSEQUENT PLANNING, DESIGN, AND CONSTRUCTION OF THE EAST SIDE ACCESS PROJECT .

I. ARCHAEOLOGICAL RESOURCES

The FEIS, EA, Queens Revision, and 2002 Tech Memo prepared under NEPA identify several areas that may be archaeologically sensitive within areas of potential effect ("APEs") for the project. The following measures will be carried out in connection with implementation of the East Side Access Project for all areas within those APEs that MTA in consultation with SHPO identified as potentially archaeologically sensitive and in which construction activities will occur. Those areas are listed in Exhibit A and depicted in Exhibit B.

A. Soil Borings

At all sites where the potential for archaeological sensitivity was identified through Stage 1A evaluation and where soil borings were determined to be appropriate, MTA in consultation with SHPO will develop and implement a soil boring program to better delineate the filling and grading that have occurred and determine archaeological sensitivity. At all sites where borings confirm the potential for archaeological resources to exist, MTA will conduct further subsurface testing, in consultation with SHPO, in accordance with Paragraph I.B, below.

B. Field Testing

At all sites where the potential for archaeological resources to exist is confirmed by soil borings conducted under Paragraph I.A above, MTA, in consultation with SHPO, will perform further subsurface testing and/or field monitoring to identify the presence or absence of archaeological resources. The field evaluation and testing program has been developed by MTA in consultation with SHPO and at a level sufficient to determine if sites meet the criteria for listing in the National Register. In consultation with FTA and SHPO, MTA will apply the National Register criteria and reach one of the following conclusions:

1. The site does not meet the National Register criteria; no further action is required.
2. The site does meet the National Register criteria, in which case the site will be treated in accordance with Paragraph I.C below.
3. A dispute exists regarding whether the criteria are met, in which case the opinion of the Keeper of the National Register of Historic Places at the National Park Service ("the Keeper") will be sought to resolve disagreements, and the site treated in accordance with the Keeper's findings.

MTA will notify SHPO and FTA of conclusions regarding evaluation of all sites for National Register eligibility.

C. Mitigation and Data Recovery

MTA, in consultation with SHPO, will consider measures for avoidance of archaeological sites, such as design modification, rather than data recovery. For those sites determined to be eligible for inclusion in the National Register where MTA determines, in consultation with FTA and SHPO, that avoidance is not practicable, MTA, in consultation with SHPO, shall develop and implement a data recovery plan that is consistent with the Secretary of the Interior's *Standards for the Treatment of Historic Properties* and *Standards and Guidelines for Archeological Documentation* and the Council's *Treatment of Archeological Properties* and subsequent amendments.

The plan will be designed to recover data sufficient to address significant research issues and test assumptions and thus substantially preserve the archaeological value of National Register eligible or listed sites; allow for addressing unanticipated resources or site conditions; include a process for consultation with SHPO; and include a schedule of proposed data recovery efforts.

D. Professional Standards

MTA shall ensure that all archaeological research, testing, and analysis conducted pursuant to this Agreement are carried out by or under the direct supervision of a person or persons meeting the Secretary of Interior's Professional Qualifications Standards and certified by the Register of Professional Archeologists. FTA shall ensure that all final archaeological reports are responsive to the New York Archaeological Council's Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State and to the Department of the Interior's *Format Standards for Final Reports of Data Recovery Program*.

E. Curation

MTA shall develop, in consultation with SHPO, and in accordance with 36 CFR Part 79, a plan for the analysis and curation of material and records from any archaeological excavations. MTA shall be responsible for the implementation of such a plan.

F. Phasing of Construction Activities and Archaeological Field Work

MTA will ensure that all steps practical to ensure that archaeological field analysis and data recovery, if required, will be completed prior to construction activities in the vicinity of affected resources. The MTA, in consultation with FTA and SHPO, will develop a plan to appropriately phase the archaeological field analysis and data recovery with construction activities.

II. HISTORIC PROPERTIES/STRUCTURES

The FEIS, EA, Queens Revision, and 2002 Tech Memo prepared under NEPA identify known historic properties in the redefined APE (see Exhibits C and D). In consultation with SHPO, the physical and contextual impacts on the historic properties/structures of the current project alignment were assessed and potential adverse effects identified. It was determined that the East Side Access Project would have the potential for impacts on all resources listed in Exhibit C. A comprehensive program for treatment of historic properties/structures will be developed and implemented by MTA in the manner set forth below.

A. Construction Protection Plan

The MTA, in consultation with SHPO, has developed and is implementing a construction protection plan to ensure the protection of known historic resources located within the redefined APE from damage due to the construction of the East Side Access Project. The MTA shall ensure that any construction conducted within the redefined APE of an identified historic resource will be included in the construction protection plan.

B. Design Specifications

The MTA, in consultation with SHPO, has developed design specifications to ensure that new elements constructed as part of the East Side Access Project inside Grand Central Terminal are compatible with the terminal's historic and architectural qualities. The MTA, in consultation with SHPO, will also develop design specifications to ensure that new above-ground structures constructed as part of the East Side Access Project (such as the proposed 44th Street Vent Plant (adjacent to the Yale Club) and 50th Street Vent Plant (across from the Villard Houses) within the contextual APE (i.e., within visual range of a resource) are compatible with the historic and architectural qualities of those resources and any other historic resources listed on or eligible for the National Register or New York City Landmarks. The design and specifications for those elements of the East Side Access Project will be developed in consultation with the SHPO and submitted to the SHPO for approval.

III. REPORTING

MTA shall ensure that all final archaeological reports and all final historic resources reports resulting from the actions pursuant to this Agreement shall be provided to SHPO.

Annual reports about archaeological resources and historic structures will be completed and provided by MTA to FTA and the SHPO one year from the date this Agreement is fully executed and every year thereafter until project completion. The signatories to this Agreement will review implementation of the Agreement and determine whether revisions are needed at the time the reports are submitted. If revisions are needed, the parties to this Agreement will consult to make such revisions.

IV. DISPUTE RESOLUTION

Should the SHPO object within 30 days to any action proposed pursuant to this agreement, FTA shall consult with the objecting party to resolve the objection. If FTA determines that the objection cannot be resolved, FTA shall forward all documentation relevant to the dispute to the Council. Within 30 days after receipt of all pertinent documentation, the Council will provide FTA with recommendations or comments, which FTA will take into account in reaching a final decision regarding the dispute.

Any recommendation or comment provided by the Council will be understood to pertain only to the subject of the dispute; FTA's responsibility to carry out all actions under this agreement that are not the subject of the dispute will remain unchanged.

V. OTHER

The SHPO and FTA may monitor activities carried out pursuant to this Programmatic Agreement, and will review such activities if so requested. MTA will cooperate with the FTA and SHPO in carrying out their monitoring and review responsibilities.

Any party to this Programmatic Agreement may request that it be amended, whereupon the parties will consult to consider such amendment.

If the East Side Access Project does not proceed, this Agreement shall be terminated.

VI. PROJECT STATUS

To date, no archaeological resources have been physically identified and therefore, no mitigation measures have been implemented.

Archaeologists have reviewed geotechnical borings taken in the areas of archaeological sensitivity. This review has yielded information about the soil and fill layers that will, or have been, used to prepare the testing protocols to be included in the contract documents as they become available. This information has also been used to identify the archaeologically sensitive areas and screen out areas of prior disturbance that would have no potential for intact remains.

At Highbridge Yard, the project archaeologists completed a Topic Intensive Study related to a roundhouse and other historic railroad elements at the site. The study concluded and SHPO concurred that these artifacts are not eligible for listing on the register.

For historic architectural resources, the designs of the 44th Street Ventilation Building (adjacent to the historic Yale Club), concourse plans affecting the GCT Dining Concourse, and the 50th Street Facility (across the street from the historic Villard Houses) have been reviewed with SHPO at the conceptual or later level of design. As each of these designs progress toward 60 percent completion and a greater amount of architectural detail is defined, a second review by SHPO will be solicited.

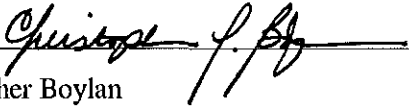
EXECUTION AND IMPLEMENTATION OF THIS PROGRAMMATIC AGREEMENT EVIDENCES THAT FTA HAS SATISFIED ITS SECTION 106 RESPONSIBILITIES FOR ALL INDIVIDUAL UNDERTAKINGS OF THE PROGRAM.

FEDERAL TRANSIT ADMINISTRATION

By: *Letitia Thompson* Date: 07/27/06

Letitia Thompson
Regional Administrator, Region II

METROPOLITAN TRANSPORTATION AUTHORITY

By:  Date: 6/27/06
Christopher Boylan
Deputy Executive Director, Corporate and Community Affairs

NEW YORK STATE HISTORIC PRESERVATION OFFICER

By:  Date: 7/19/06
Bernadette Castro
Commissioner

**AMENDMENT TO THE PROGRAMMATIC AGREEMENT
EXHIBIT A**

AMENDMENT TO THE PROGRAMMATIC AGREEMENT

EXHIBIT A

**MTA/LIRR East Side Access Project
Queens Alignment-
Areas of Archaeological Sensitivity and Potential Project Effects**

Map Ref. ¹	Area of Sensitivity	Potential Resource Type	Approximate Elevation Resource May be Encountered ²	Proposed Construction
1	Area between Northern Blvd. & Yard A (Block 239, Lots 35 & 48)	Precontact Resources	Below approximately 4-20 feet of fill. Resources potentially at elevations of 300-288 feet (based on soil boring profiles prepared for Contract CQ028)	Cut and cover tunnel excavation. Construction of Yard Services Building/Vent Structure.
		Historic period resources: mid 19th century Payntar Homestead	In the lowest levels and beneath approximately 4 to 20 feet of fill. The top of the sensitive area ranges from elevations of 310-305 feet at Northern Blvd to 299-297 feet near Yard A	
2	Northern edge of Yard A	Precontact resources	Below approximately 4 to 8 feet of fill. Resources potentially at elevations of 307-293 feet	Construction in Yard A for new storage yard facility and construction of new yard systems including lighting and power
3	Northern edge of Yard A	Precontact resources	Below approx. 4-8 feet of fill between Thomson Ave & Queens Blvd. near 41st Ave. Resources potentially at elevations of 307-293 feet	Yard A storage yard facility
4, 5	Area in Yard A extending southwest from old LIRR trackbed to proposed tunnel alignment	Precontact resources	Below approximately 8-13 feet of fill. Resources in Area 4 potentially at elevations of 303-288 feet. Resources in Area 5 potentially at elevations of 306-289 feet in Yard A and 306 to 296 in the area of Amtrak bldgs 3 & 4	Cut and cover tunnel excavation. Construction in Yard A.
6a ³		Precontact resources	Below approximately 0-12.75 feet of fill. The top of the sensitive area would be at and below an elevation of approx. 320 feet, declining to below 307.75 feet from east to west.	None.
		Historic period resources:	In the lowest levels and beneath approximately 0-10.25 feet of fill. The top of the sensitive area would be between elevations of approximately 312.75-to 327 feet, declining from east to west.	

MTA/LIRR East Side Access Project (cont'd)
Queens Alignment-

Areas of Archaeological Sensitivity and Potential Project Effects

Map Ref.¹	Area of Sensitivity	Potential Resource Type	Approximate Elevation Resource May be Encountered²	Proposed Construction
6b	Area near Queens Boulevard	Precontact resources	Below approximately 2-17.5 feet of fill. Resources potentially at elevations of 317-307 feet on the rail embankments and 313-303 feet in Yard A.	Harold Interlocking Reconfiguration. New Sunnyside Station.
		Historic period resources: 19th-early 20th century residential lot features (e.g., shafts from privies, cisterns, and wells)	In the lowest levels and beneath approximately 2-17.5 feet of fill. The top of the sensitive area ranges from an elevation of 317 feet on the rail embankments to one of 313 feet in Yard A	
6c ³	Area near Queens Boulevard at Skillman Avenue	Precontact Resources	Below approximately 2 feet of fill. Resources potentially at elevations of 335-302.75 feet, increasing from east to west	Proposed new storm sewer.
7	Triangular area of tracks bounded by north edge of Yard A, Dutch Kills St. and Thomson Ave. Bridge	Historic period resources: late 19th-early 20th cent. Residential lot features (e.g., shafts from privies, cisterns, and wells)	In the lowest levels and below approximately 3.5 feet of fill. The top of the sensitive area is approximated at an elevation of 308 feet	Yard A excavation, including for new utilities
8	Area adjacent to and east of Dutch Kills St. and the Thomson Ave Bridge	Historic period resources: late 19th-early 20th cent. residential lot features (e.g., shafts from privies, cisterns, and wells)	In the lowest levels and below approximately 3.5 feet of fill. The top of the sensitive area is approximated at an elevation of 308 feet	Yard A excavation including for new utilities. Harold Interlocking Reconfiguration.
9	Subsequent to the FEIS, a review of boring logs and re-analysis of sensitivity has resulted in the removal of this sensitive area, which was located along the LIRR Main Line between the 39th Street Bridge and 43rd Street.			
10	Northern edge of Yard A	Precontact Resources	Below approx. 11-17 feet of fill. Resources potentially at approximately at elevations of 297-288 feet	Cut and cover tunnel excavation. Yard A storage yard facility.
		Historic period resources: ca.1650 grist mill between 41 st Ave. and 40 th Road	In the lowest levels and beneath approx. 11-17 feet of fill. The top of the sensitive area is approximated at an elevation of 297 feet	
11	L-shaped area adjacent to western end of loop track	Historic period resources: British & Hessian Revolutionary War troop occupation	In and below fill. Some areas may have up to 6.75' of surface removed, others up to 14' of fill added. The top of the sensitive area is approximated at an elevation of 346 feet	Harold Interlocking Reconfiguration
12	Portions of the area bounded by 43rd and 46th Sts, and 37th and Barnett Avenues	Historic period resources: British & Hessian Revolutionary War troop occupation	In the lowest levels and below approximately 10 -20 feet of fill. The top of the sensitive area is approximated at an elevation of 340 feet	Harold Interlocking Reconfiguration, including filling and construction of retaining walls
13	Northern edge of Yard A between former Crane Street and former Nott Avenue (44th Drive)	Precontact Resources	Below approximately 5-10 feet of fill. Resources potentially at elevations of 293-303 feet near Crane Street and at elevations of 298-308 feet near former Nott Avenue.	Excavation in Yard A, including for new utilities.

**MTA/LIRR East Side Access Project (cont'd)
Queens Alignment-**

Areas of Archaeological Sensitivity and Potential Project Effects

Map Ref. ¹	Area of Sensitivity	Potential Resource Type	Approximate Elevation Resource May be Encountered ²	Proposed Construction
14 ^{3,4}	Area 0-50 feet west of the 39th St Bridge and 0-278 feet north of the LIRR Main Line	Historic period resources: British & Hessian Revolutionary War troop occupation	In the lowest levels and below approximately 0-15 feet of fill. The top of the sensitive area is approximated at an elevation of 345 feet.	New sewer to be built parallel to the 39 th Street Bridge. Present engineering indicates that sewer will be excavated outside the area of potential sensitivity.
15 ³	Area north of the LIRR Main Line between the Honeywell Street and 39 th Street Bridges	Historic period resources: late 19 th – early 20 th cent. Residential lot features ((e.g., shafts from privies, cisterns, and wells)	Just beneath the surface to the lowest levels of, and beneath approximately 9 feet of fill. The top of the sensitive area is approximated at elevations of between 342 and 347.75 feet.	Proposed new sanitary sewer.
16 ³	Area north of LIRR Main Line east of Area No. 15	Historic period resources: late 19 th – early 20 th cent. Residential lot features ((e.g., shafts from privies, cisterns, and wells)	Just beneath the surface to the lowest levels of, and beneath approximately 10 feet of fill. The top of the sensitive area is approximated at elevations of between 342 and 347.75 feet.	Proposed new sanitary sewer, Central Instrument Location (CIL) Building, and storm and seepage basin.
17 ^{3,4}	Woodside Interlocking: rear lots of former Lots 57/58, 59, and 60 of Block 1342	Historic period resources: 19 th century residential shaft features (e.g., privies)	Anticipated just beneath the surface	Excavation for signal hut and retaining wall. Present engineering indicates that excavation will occur approximately 10 feet away from sensitive area.

Notes:

- 1 Areas 1-17 correspond to Exhibit B, "Area of Potential Effect and Archaeologically Sensitive Areas."
- 2 Except for the contract for the cut and cover tunnel excavation, which affects Areas 1, 4, 5, and 10, the estimated depth of potential archaeological sensitivity is based on geotechnical information contained in early design submittal packages (pre-50% design completion), and is expected to be refined as engineering proceeds and additional geotechnical information is compiled. Since much of the potentially affected area was formerly an alluvial area (a marsh), the area of potential precontact sensitivity has been approximated to extend for a depth of 10 feet (except Areas 1 and 10 where current geotechnical profiles based on boring logs taken in preparation for contract for the cut and cover tunnel were reviewed). The East Side Access Project is using a datum of 0=300.
- 3 Areas 6a, 6c, 14, 15, 16, and 17 have not yet been reviewed by the New York State Historic Preservation Office (SHPO).
- 4 Areas 6a, 14, and 17 are conservatively included in the event that the locations of the proposed work need to be adjusted and these sensitive areas are taken into account.

AMENDMENT TO THE PROGRAMMATIC AGREEMENT

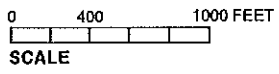
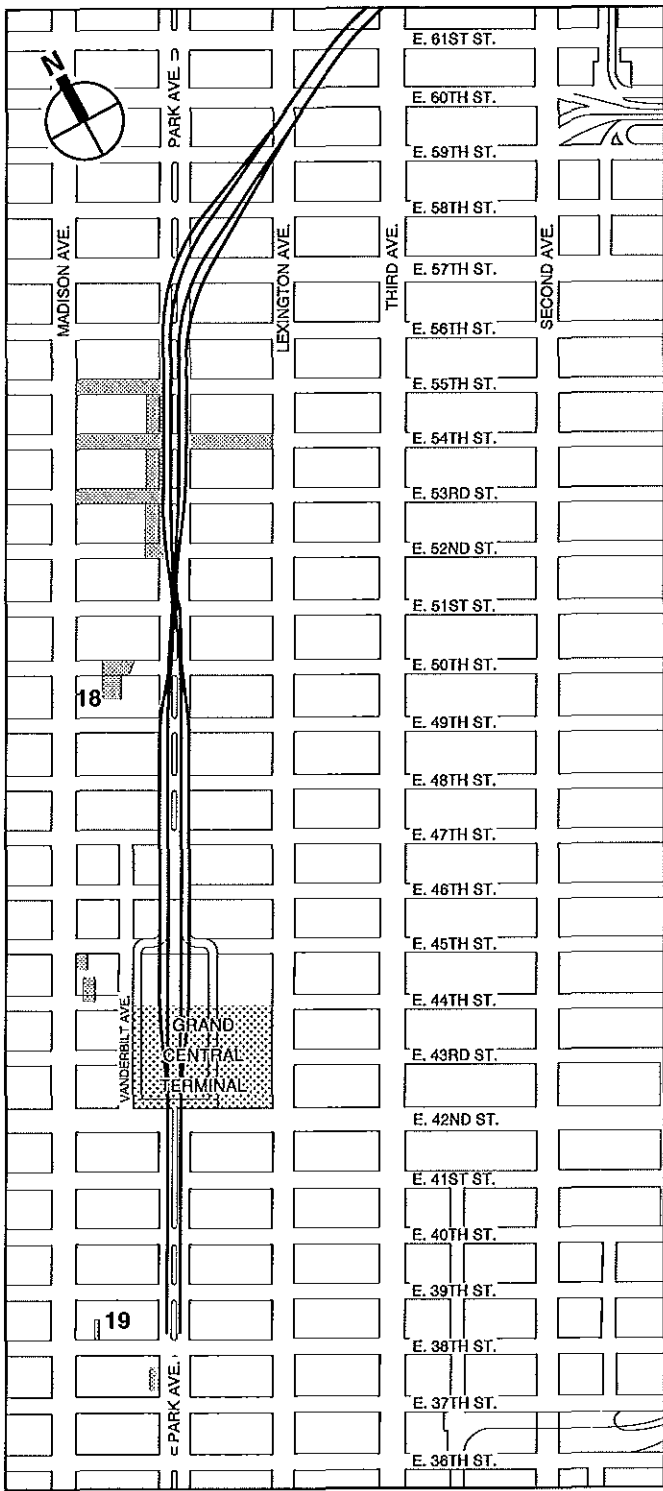
EXHIBIT A (CONTINUED)

**MTA/LIRR East Side Access Project
Manhattan Alignment-
Areas of Archaeological Sensitivity and Potential Project Effects**

Map Ref.	Area of Sensitivity	Potential Resource Type	Approximate Elevation Resource May be Encountered¹	Proposed Construction
18	South side of East 50 th Street between Park and Madison Avenues (rear portions of Lots 43, 45, and 46 of Block 1285)	Historic period resources: subsurface shaft features associated with the early to mid-19 th century Institute for the Deaf and Dumb	Unknown	Excavation associated with construction of the East 50 th Street Facility
19	North side of East 38 th Street between Park and Madison Avenues (rear portion of Block 868, Lot 53)	Historic period resources: Subsurface shaft features associated with 19 th century homelot deposits	Unknown	Excavation associated with construction of the East 38 th Street Vent Plant in prior design
Note: Corresponds to Exhibit B, "Area of Potential Effect and Archaeologically Sensitive Areas"				

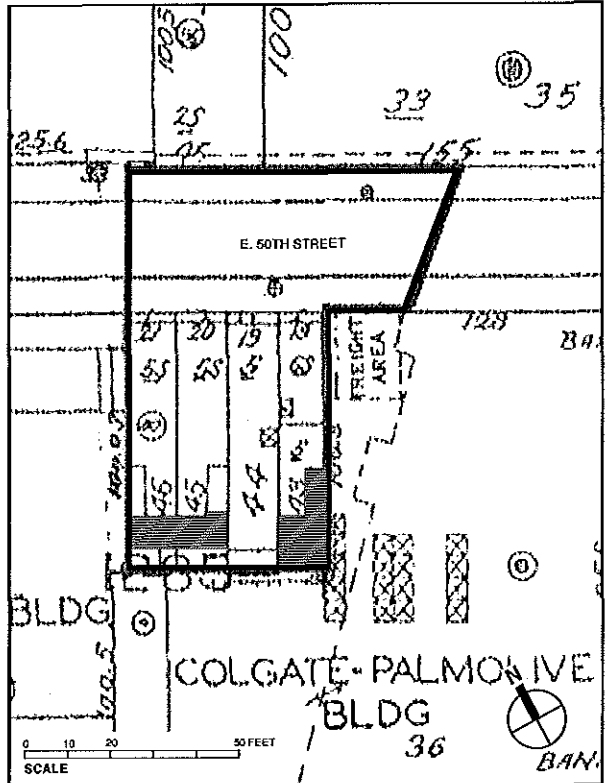
**AMENDMENT TO THE PROGRAMMATIC AGREEMENT
EXHIBIT B**

3.23.06

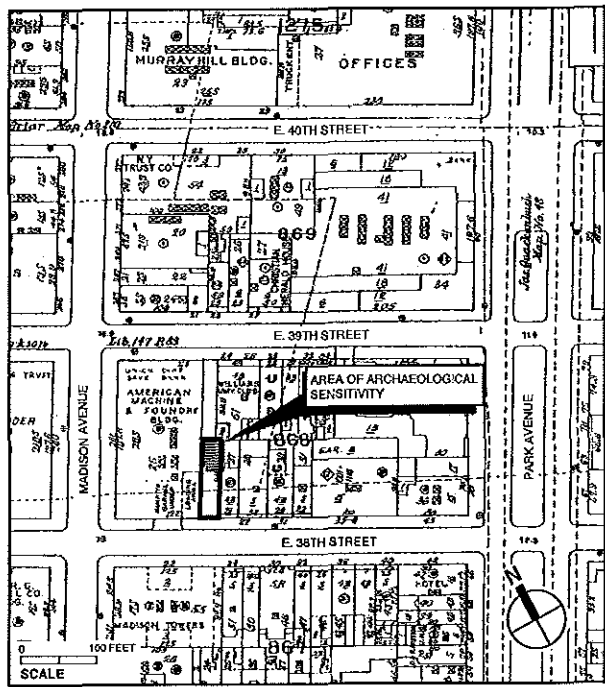


LEGEND

- Area of Potential Effect (APE)
- Potentially Sensitive Area Reviewed and Accepted by SHPO

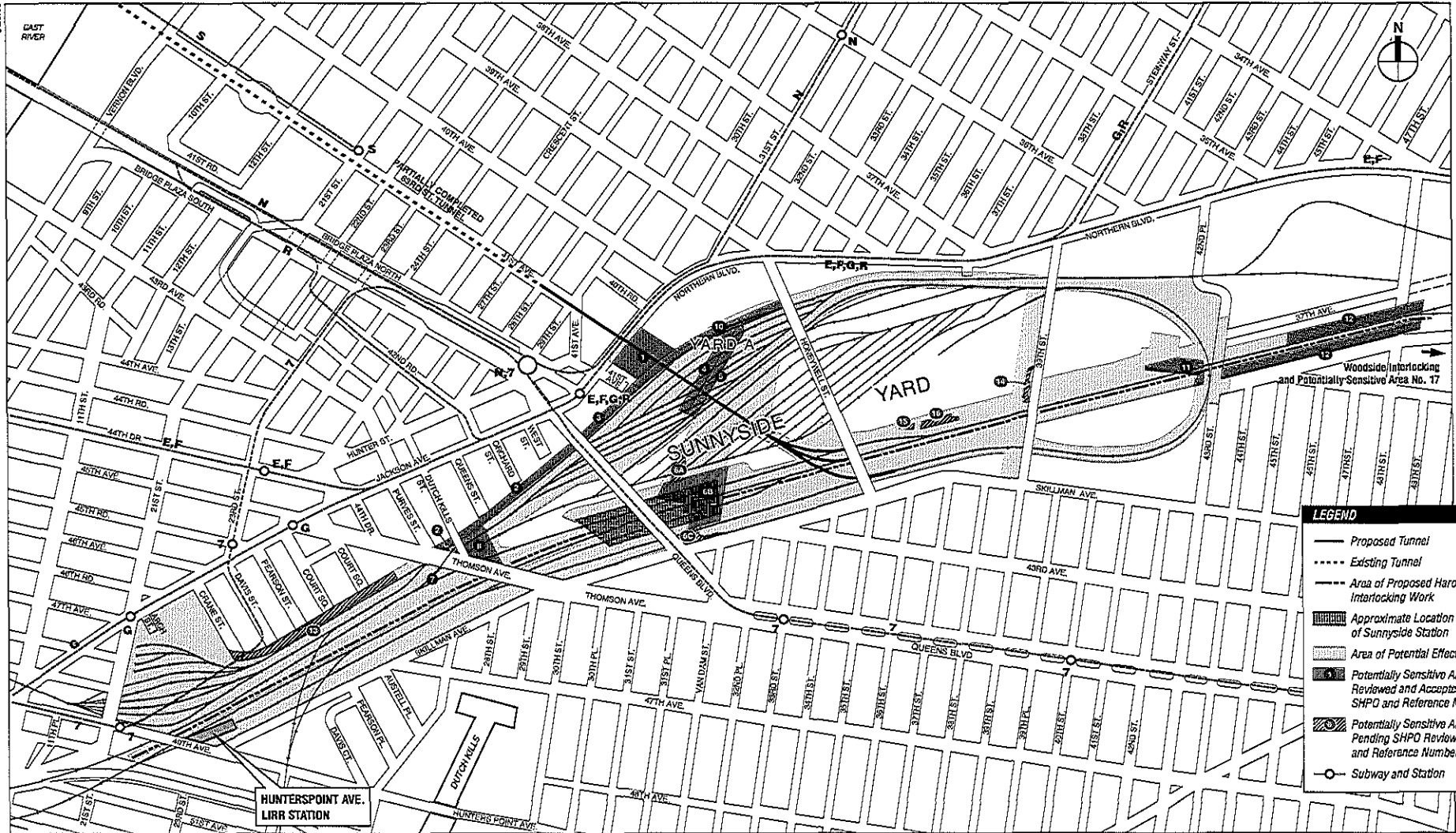


18
AREA OF ARCHAEOLOGICAL SENSITIVITY – EAST 50TH STREET VENT PLANT
 (Areas of potential historic archaeological sensitivity are located at the back of lots 43, 45 and 46 and are shown in black)



19
AREA OF ARCHAEOLOGICAL SENSITIVITY – EAST 38th STREET VENT PLANT IN PRIOR DESIGN

Area of Potential Effect and Archaeologically Sensitive Areas - Manhattan Alignment
 Exhibit B






LEGEND

- Proposed Tunnel
- Existing Tunnel
- - - Area of Proposed Harold Interlocking Work
- Approximate Location of Sunnyside Station
- Area of Potential Effect (APE)
- Potentially Sensitive Area Reviewed and Accepted by SHPO and Reference Number
- Potentially Sensitive Area Pending SHPO Review and Reference Number
- Subway and Station

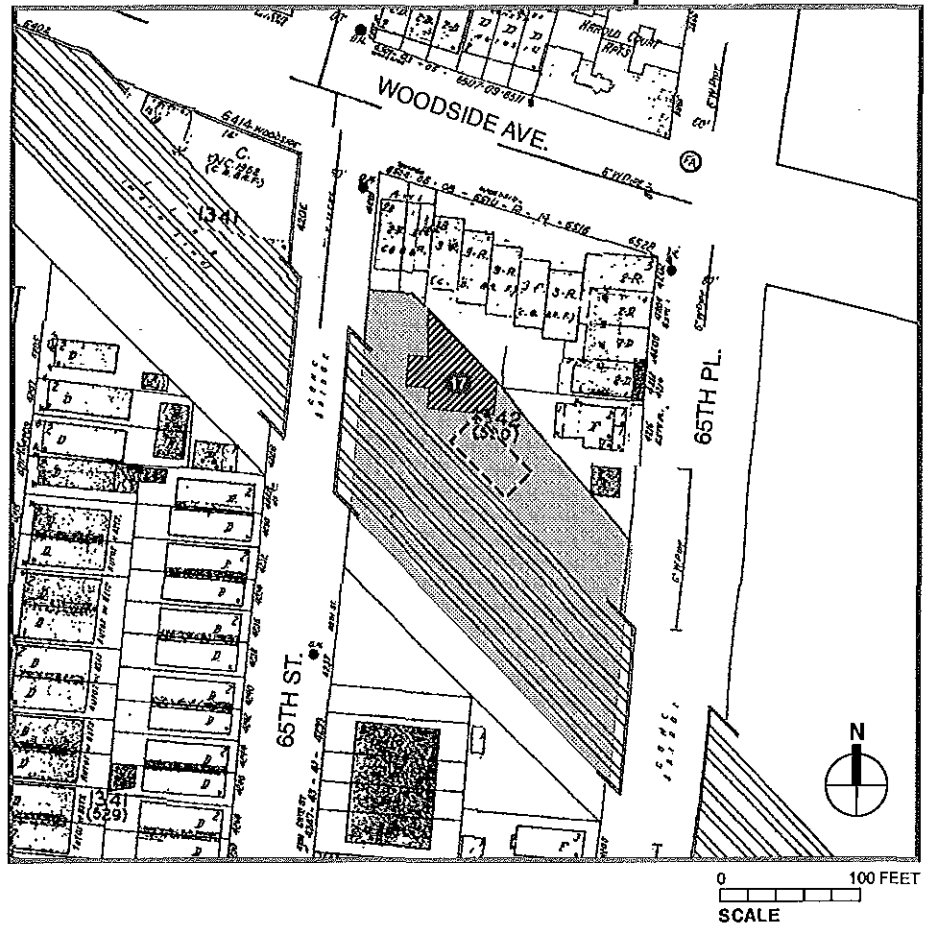
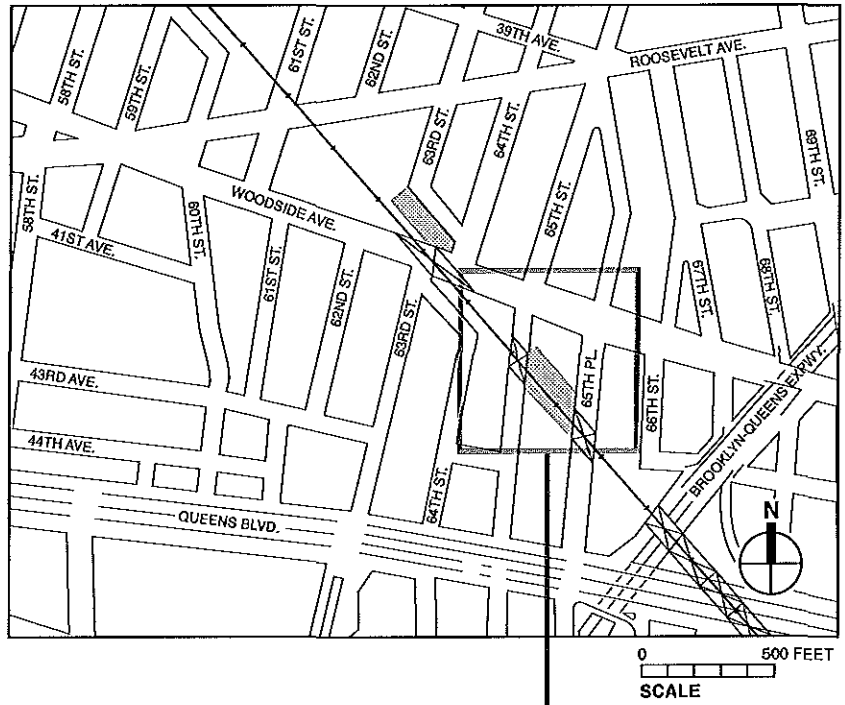
Area of Potential Effect and Archaeologically Sensitive Areas - Sunnyside Rail Yard
Exhibit B

EAST SIDE ACCESS

LEGEND

-  Area of Potential Effect
-  Limits of Excavation, Proposed Signal Hut
-  Potentially Sensitive Area Pending SHPO Review and Reference Number

Note: The location of the signal hut, shown here at approximately 10 feet from the potentially sensitive area, has been moved to avoid disturbance. The location of the proposed excavation is now 30 feet away.



Area of Potential Effect and Archaeologically Sensitive Areas - Woodside Interlocking
 Exhibit B

**AMENDMENT TO THE PROGRAMMATIC AGREEMENT
EXHIBIT C**

**AMENDMENT TO THE PROGRAMMATIC AGREEMENT
EXHIBIT C**

**MTA/LIRR East Side Access Project
Known Historic Resources/Structures in Queens**

Resource No.	Name	Address	NHL	S/NR	S/NR Eligible	NYCL	Pending NYCL
1	Switch Tower Q (formerly Signal Cabin Q, Yardmaster's Office)	East of Queens Boulevard Viaduct			X		
2	Office (formerly Signal Cabin F)	West of Thomson Avenue			X		
3	Sunnyside Gardens Historic District	Approximately 16 blocks located east of 43 rd Street and south of Barnett Avenue		X			

Notes:

- Corresponds to Exhibit D, "Area of Potential Effect and Locations of Historic Resources/Structures"

NHL: National Historic Landmark.

SR: New York State Register of Historic Places.

NR: National Register of Historic Places.

S/NR Eligible: Site has been found eligible for listing on the New York State and National Registers of Historic Places.

NYCL: New York City Landmark.

Pending NYCL: Site has been calendared for a public hearing or heard for designation by the New York City Landmarks Preservation Commission.

**AMENDMENT TO THE PROGRAMMATIC AGREEMENT
EXHIBIT C (CONTINUED)**

**MTA/LIRR East Side Access Project
Known Historic Resources/Structures in Manhattan**

Ref. No.*	Name	Address	NHL	S/NR	S/NR Eligible	NYCL	Pending NYCL	Within APE (see Notes)
4	Treadwell Farm Historic District	East 61st and 62nd Streets between Second and Third Avenues		X		X		A,B
5	Bloomingdale's	743-765 Lexington Avenue, between 59th and 60th Streets			X			A,C
6	New York Genealogical and Biographical Society	122-126 East 58th Street, between Park and Lexington Avenues			X			A,C
7	Ritz Tower Apartment Hotel	465 Park Avenue (between 57th and 58th Streets)				X		A,C
8	East 54th-East 55th Streets Historic District	North side of East 54th and south side of East 55th Street, between Park and Lexington Avenues			X			A, G
9 ¹	Lever House	390 Park Avenue		X		X		E
10 ¹	Racquet & Tennis Club	370 Park Avenue		X		X		E
11 ¹	Seagram Building	375 Park Avenue		X		X		E
12 ¹	Four Seasons Restaurant (Interior)	99 East 52nd Street		X		X		E
13 ¹	St. Bartholomew's Church & Community House	Park Avenue at East 50th Street		X		X		E
14 ¹	Waldorf-Astoria Hotel	301 Park Avenue			X	X		E
15 ¹	Hotel Intercontinental (formerly Barclay Hotel)	111 East 48th Street			X			E
16 ¹	Postum Building	250 Park Avenue			X			E
17 ¹	New York Central (Helmsley) Building	230 Park Avenue			X	X		E
18 ¹	Roosevelt Hotel	45 East 45th Street			X			E
19 ¹	Vanderbilt Concourse Building	52 Vanderbilt Avenue			X			E
20 ¹	Yale Club	50 Vanderbilt Avenue			X			E
21 ¹	Vanderbilt Avenue Building	51 East 42nd Street			X			E
22 ¹	Park Avenue Viaduct	Park Avenue between East 40th and 42nd Streets		X		X		E
23 ¹	Grand Central Terminal	East 42nd Street at Park Avenue	X	X		X		E
24 ¹	Graybar Building	420 Lexington Avenue			X			E

**MTA/LIRR East Side Access Project
Known Historic Resources/Structures in Manhattan**

Ref. No.*	Name	Address	NHL	S/NR	S/NR Eligible	NYCL	Pending NYCL	Within APE (see Notes)
25 ¹	Grand Central Terminal Post Office	Southwest corner of Lexington Avenue and East 45th Street			X			E
26	43-story Office Building	273-277 Madison Avenue			X			D
27 ²	Murray Hill Historic District (LPC and SHPO boundaries differ)	Roughly bounded by Park & Lexington Avenues and 39th and 35th Streets		X		X		D, H
28	Williams Club	24 East 39th Street			X			D
29	Rowhouse	31 East 38th Street			X			D
30 ³	Rowhouse	40 East 38th Street			X			D
31 ³	Rowhouse	38 East 38th Street			X			D
32 ³	Rowhouse	36 East 38th Street			X			D
33 ³	Rowhouse	34 East 38th Street			X			D
34 ³	Rowhouse	32 East 38th Street			X			D
35 ⁴	Church of our Savior	59 Park Avenue		X				D
36 ⁴	Adelaide L.T. Douglas House	57 Park Avenue		X		X		D
37 ⁴	15-story Apartment House	55 Park Avenue		X				D
38	Former Fraternity Clubs Building (now Jolly Hotel Madison Towers)	241-245 Madison Avenue			X			D
39	Former Duane Hotel (now Morgans Hotel)	237-239 Madison Avenue			X			D
40 ⁵	Rowhouse	29 East 37th Street			X			D
41 ⁵	Four Rowhouses	21-27 East 37th Street			X			D
42 ⁵	Rowhouse	19 East 37th Street			X			D
43 ⁴	James F.D. and Harriet Lanier House	123 East 35th Street		X		X		D
44	Villard Houses	Madison Avenue between East 50th and 51st Streets		X		X		F
45	13-story Apartment House	417 Park Avenue			X			G
46	Office Building	18-20 East 50th Street			X			F
47	Townhouse	39 East 51st Street			X			F
48	Former Institute of Physics	57 East 55th Street			X			A
49	Former Drake Apartment Hotel	434-442 Park Avenue			X			A
50	Townhouse	142 East 62nd Street			X			A
51	Lexington United Methodist Church	148-150 East 62nd Street			X			A
52	Rowhouse	171 East 62nd Street			X			A
53	Lincoln Building	60 East 42nd Street			X			H

**MTA/LIRR East Side Access Project
Known Historic Resources/Structures in Manhattan**

Ref. No.*	Name	Address	NHL	S/NR	S/NR Eligible	NYCL	Pending NYCL	Within APE (see Notes)
54	Former Pershing Square Building	125 Park Avenue			X			H
55	Former Chemists' Club	50-54 East 41st Street			X			H
56	Bowery Savings Bank Building	110 East 42nd Street				X		

Notes:

NHL: National Historic Landmark.

SR: New York State Register of Historic Places.

NR: National Register of Historic Places.

S/NR Eligible: Site has been found eligible for listing on the New York State and National Registers of Historic Places.

NYCL: New York City Landmark.

Pending NYCL: Site has been calendared for a public hearing or heard for designation by the New York City Landmarks Preservation Commission.

* Corresponds to Exhibit D, "Area of Potential Effect and Locations of Historic Resources/Structures"

¹ Included in March 2001 FEIS

² The boundaries for the New York City Historic District fall within those for the S/NR. Only the S/NR boundaries are mapped.

³ Included in the NR-eligible "32-40 East 38th Street Historic District".

⁴ Included in the NR-listed "Murray Hill Historic District". However, SHPO has indicated that the Church of Our Savior is not a contributing resource due to its age (1956-59).

⁵ Included in NR-eligible "Rowhouses at 19-29 East 37th Street Historic District".

Within Area of Potential Effect (APE):

A: 63rd Street Curve (200-foot APE)

B: East 63rd Street Blasting Area (200-foot APE)

C: Lexington Avenue Blasting Area (200-foot APE)

D: East 38th Street Blasting Area (200-foot APE)

E: FEIS analysis areas (50-100-foot APEs)

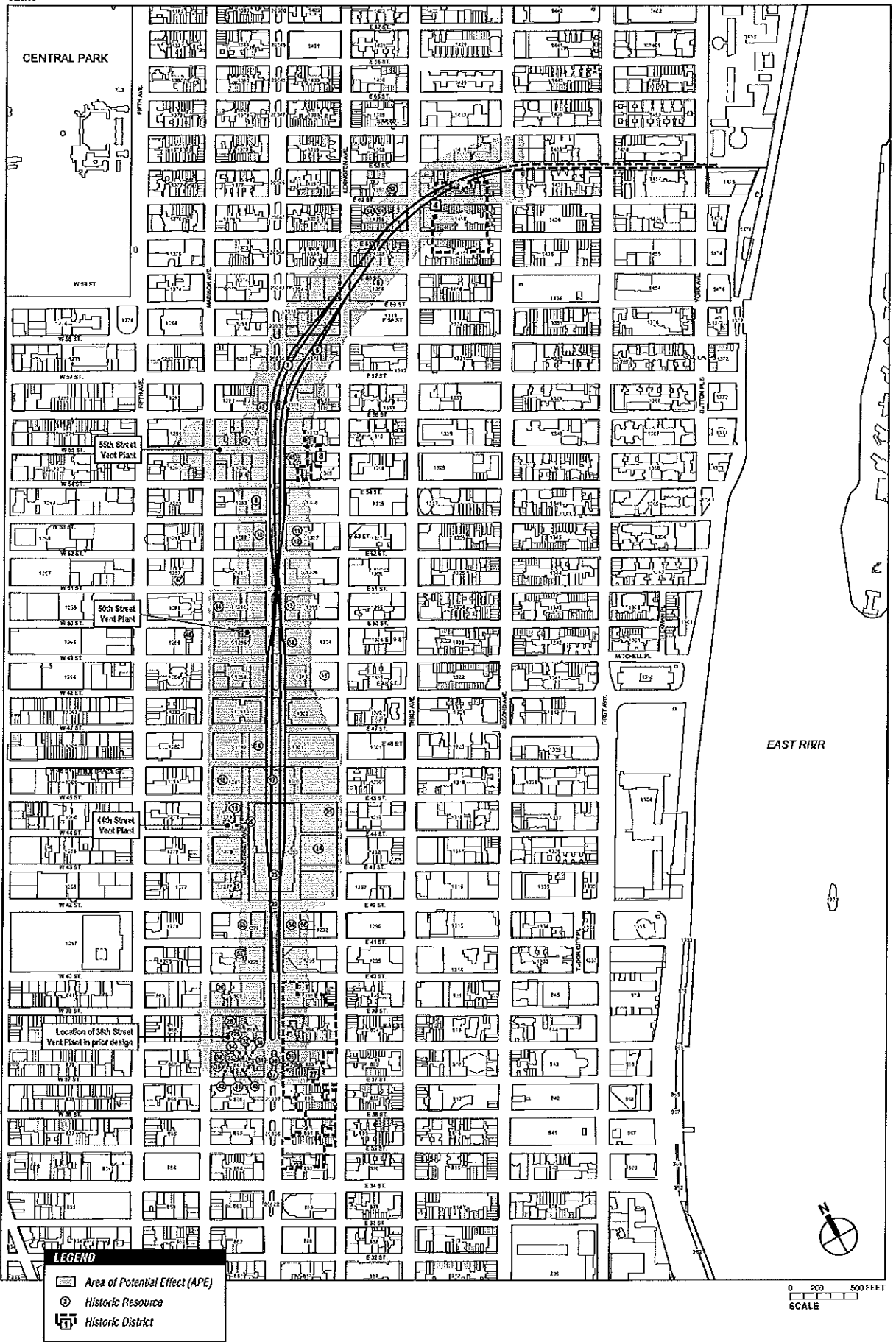
F: East 50th Street Vent Plant (200-foot APE)

G: Park Avenue Tunnel (200-foot APE)

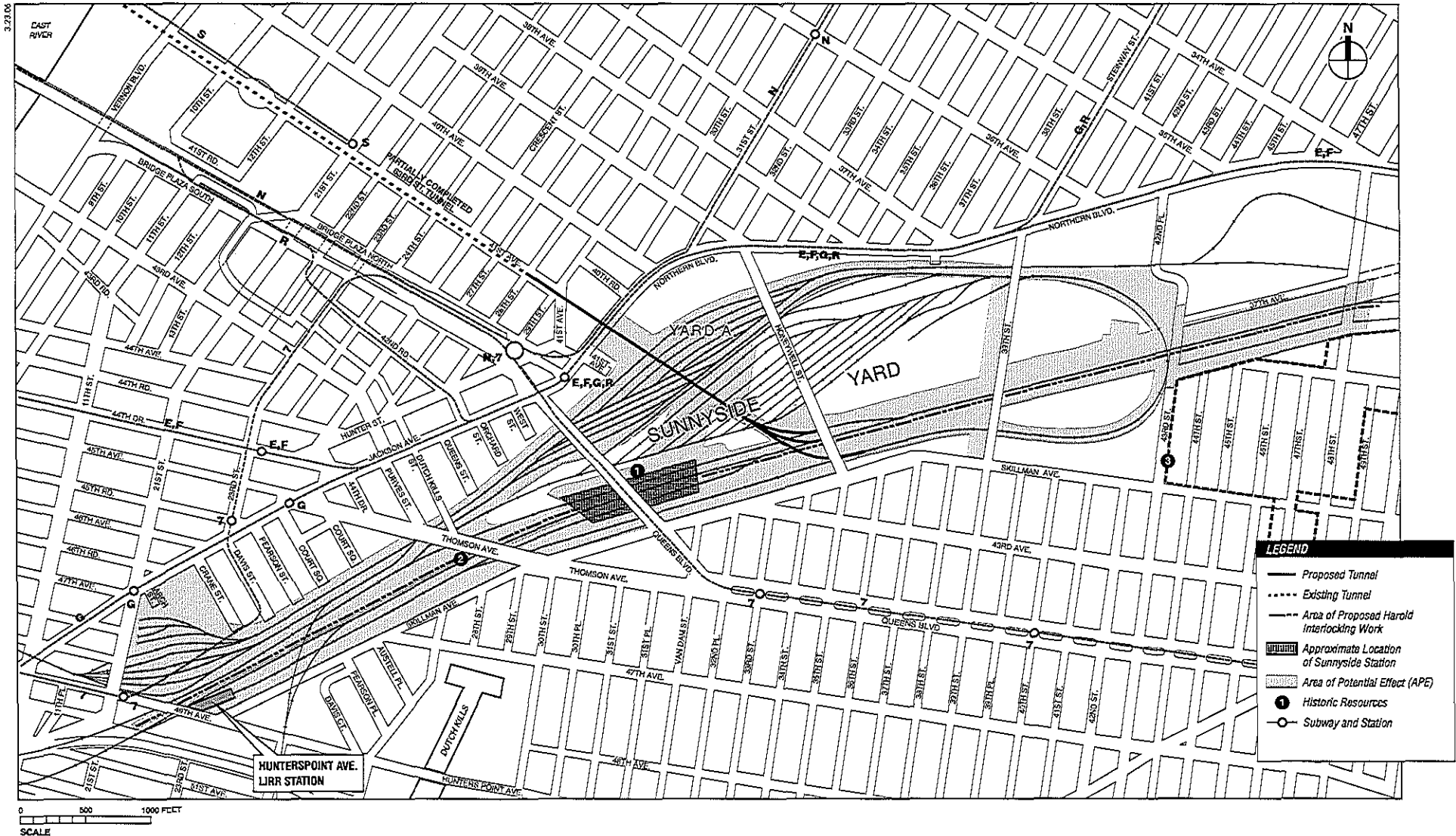
H: Grand Central Terminal Tail Tracks (200-foot APE)

* No historic resources were identified in the East 55th Street Vent Plant APE (200-foot APE)

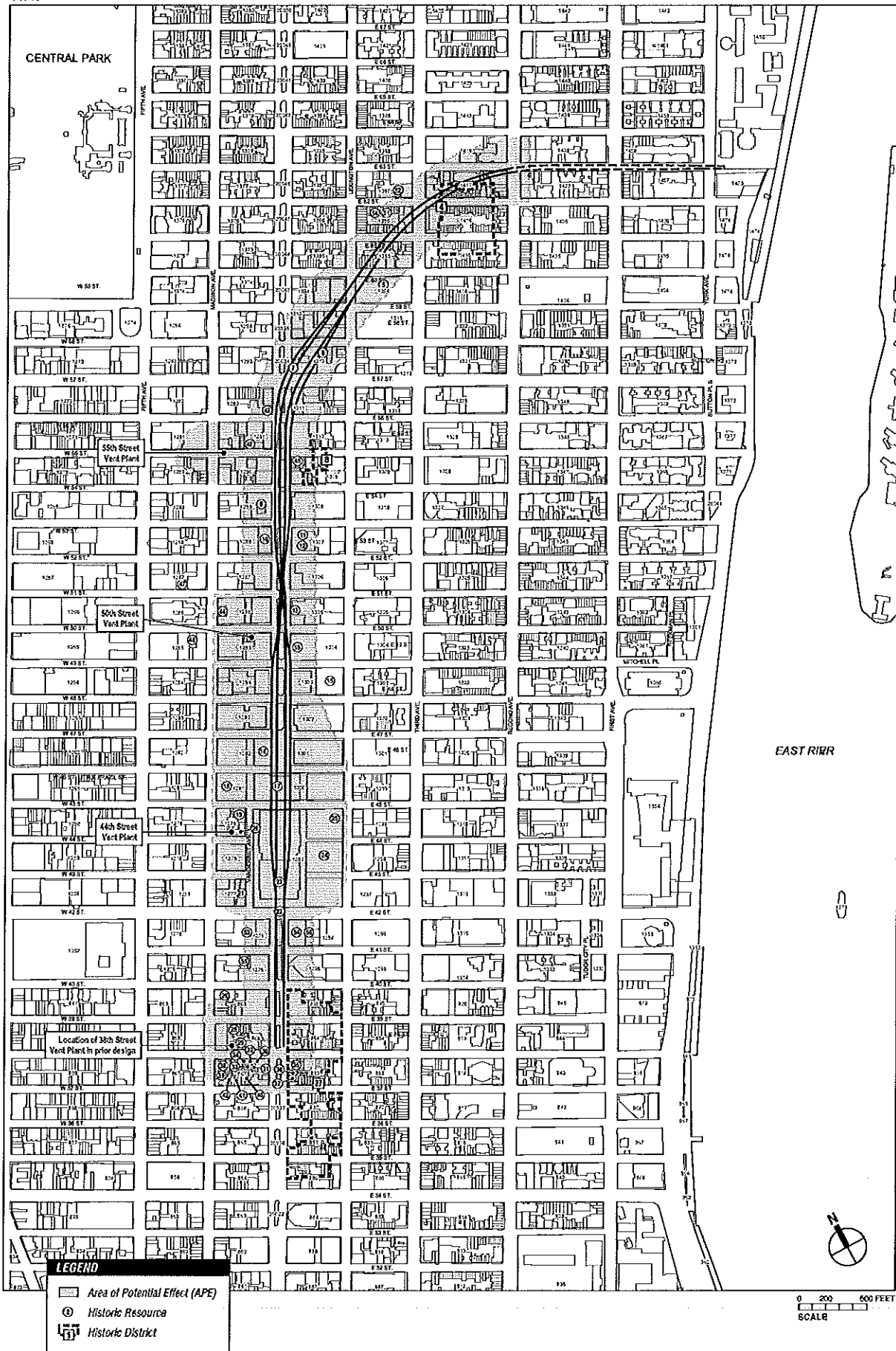
**AMENDMENT TO THE PROGRAMMATIC AGREEMENT
EXHIBIT D**



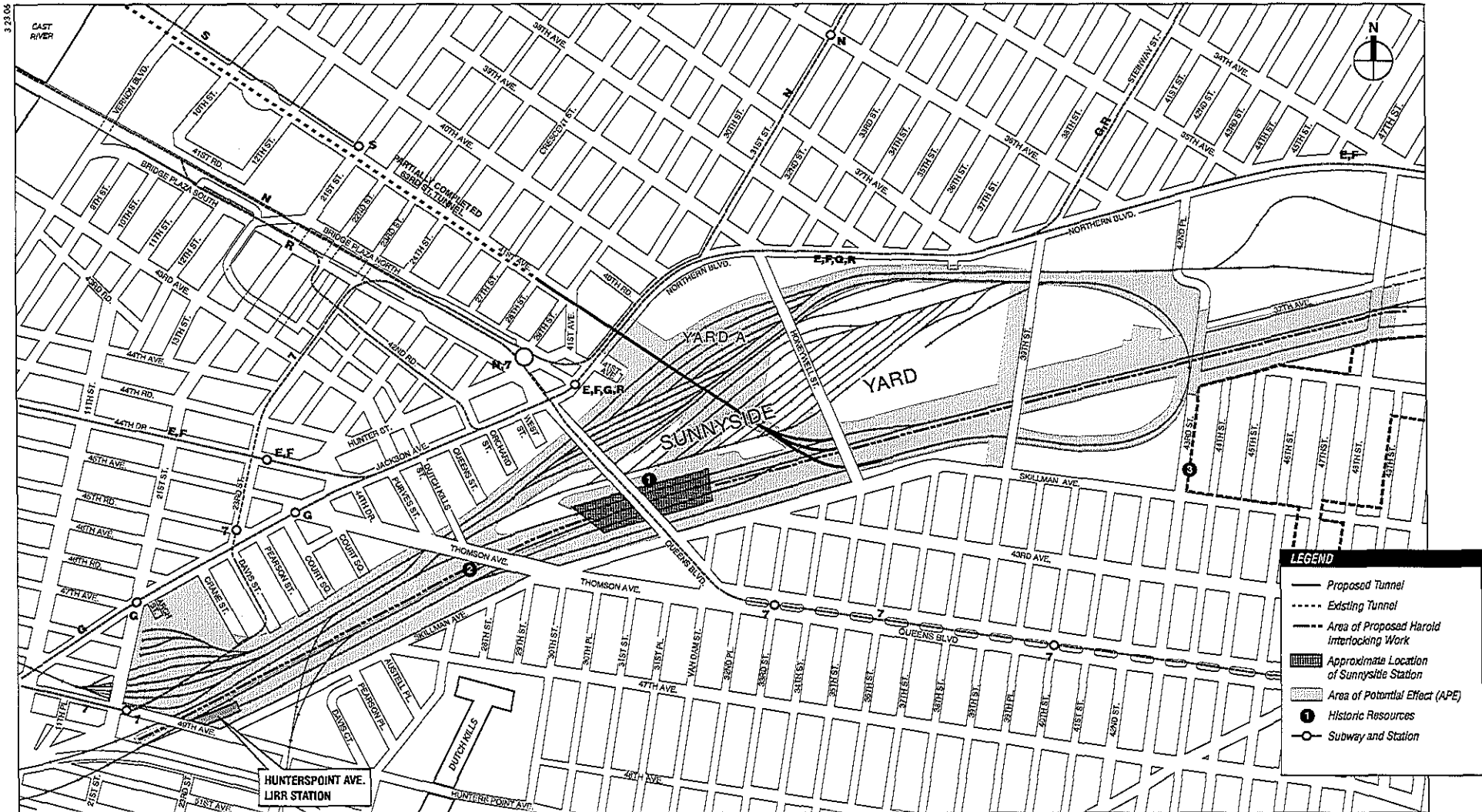
Area of Potential Effect and Locations of Historic Resources/Structures - Manhattan Exhibit D



Area of Potential Effect and Locations of Historic Resources/ Structures
Sunnyside Rail Yard



Area of Potential Effect and Locations of Historic Resources/Structures - Manhattan Exhibit D



Area of Potential Effect and Locations of Historic Resources/ Structures
Sunnyside Rail Yard

Exhibit D

EAST SIDE ACCESS

Amendment to the Amended Programmatic Agreement

**among the Federal Transit Administration, Metropolitan Transportation Authority, and
the New York State Historic Preservation Officer**

regarding the Implementation of the MTA/LIRR East Side Access Project

WHEREAS, pursuant to Section 106 regulations, the Federal Transit Administration ("FTA"), the Metropolitan Transportation Authority ("MTA") and the New York State Historic Preservation Officer ("SHPO") executed an Amended Programmatic Agreement in June 2006 ("2006 Amended PA") for the MTA/Long Island Railroad East Side Access Project ("East Side Access Project") to ensure that potential effects on historic and archaeological resources are taken into account and to satisfy FTA's Section 106 responsibility for all aspects of the East Side Access Project;

WHEREAS, the FTA and MTA and SHPO agreed that East Side Access Project shall be implemented in accordance with the stipulations executed in the 2006 Amended PA;

WHEREAS, the 2006 Amended PA identified historic and archaeological resources and Area of Potential Effects (APEs) of the East Side Access Project alignment at the time;

WHEREAS, pursuant to Section 800.6(c)(6), the signatories of the 2006 Amended PA agree it is appropriate to include a provision to deal with subsequent discovery or identification of additional historic and archaeological resources, not referenced in the 2006 Amended PA;

WHEREAS, the MTA will continue to consult with SHPO and FTA on any future modifications to the APEs as part of the completion of the environmental review process, pursuant to the National Environmental Policy Act (NEPA);

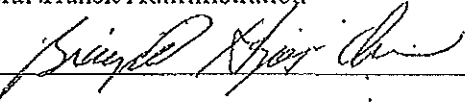
WHEREAS, the MTA will continue to consult with SHPO and FTA on any subsequent discovery or identification of additional historic and archaeological resources;

WHEREAS, the stipulations set forth in the 2006 Amended PA are appropriate for any newly identified historic and archaeological resource identified within a modified APE that results from a design change to the East Side Access Project that has undergone NEPA analysis and approval;

WHEREAS, the parties have determined that it is appropriate to execute an Amendment to the 2006 Amended PA;

NOW, THEREFORE, FTA, MTA, and SHPO agree that if additional historic and archaeological resources that could potentially be affected are identified within APEs that are modified in accordance with NEPA, then those resources will be identified by addendum to the 2006 Amended PA and the stipulations of the 2006 Amended PA will apply.

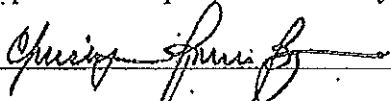
Federal Transit Administration

By: 

Date: 3/3/10

Brigid Hynes-Cherin, Regional Administrator, Region II

Metropolitan Transportation Authority

By: 

Date: 12/11/09

Christopher Boylan, Deputy Executive Director, Corporate and Community Affairs

New York State Historic Preservation Officer

By: 

Date: 1/20/10

Ruth Pierpont, Commissioner *DBHPO*

Amendment No. 2 to the Amended Programmatic Agreement

**among the Federal Transit Administration, Metropolitan Transportation Authority,
and the New York State Historic Preservation Officer**

regarding the Implementation of the MTA/LIRR East Side Access Project

WHEREAS, pursuant to Section 106 regulations of the National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, the Federal Transit Administration (FTA), the Metropolitan Transportation Authority (MTA), and the New York State Historic Preservation Officer (SHPO) executed an Amended Programmatic Agreement in June 2006 (2006 Amended PA) for the MTA/Long Island Railroad East Side Access Project (East Side Access Project) to ensure that potential effects on historic and archaeological resources are taken into account and to satisfy FTA's Section 106 responsibility for all aspects of the East Side Access Project; and

WHEREAS, in 2010 FTA, MTA, and SHPO agreed to execute an amendment to the 2006 Amended PA (Amendment No. 1) to include additional historic and archaeological resources potentially affected by changes to the Area of Potential Effect (APE) when modified in accordance with National Environmental Policy Act (NEPA); and

WHEREAS, the Federal Railroad Administration (FRA) is partially funding construction of East Side Access Project elements at the Harold Interlocking complex, including the Westbound Bypass and the Eastbound Reroute; and

WHEREAS, the portion of the Harold Interlocking Project (which includes the Westbound Bypass and Eastbound Reroute) that has a potential to impact historic resources is within the APE, as defined in the 2006 Amended PA; and

WHEREAS, in order to provide financial assistance for the Harold Interlocking Project, the FRA will adopt the provisions of the 2006 Amended PA (as amended in 2010) by becoming an additional signatory, limited to its funding action of the Harold Interlocking Project including construction of the Westbound Bypass and the Eastbound Reroute; and

WHEREAS, Stipulation No. 5 of the 2006 Amended PA (as amended in 2010) allows any party to the 2006 Amended PA to request that it be amended, whereupon the parties will consult to consider such an amendment; and

WHEREAS, FTA consulted with MTA and SHPO to consider an amendment to the 2006 Amended PA to add FRA as a signatory; and

WHEREAS, for tracking purposes this amendment shall be known as Amendment No. 2, and the amendment made in 2010 shall be referred to as Amendment No. 1, and all future amendments will be numbered sequentially; and

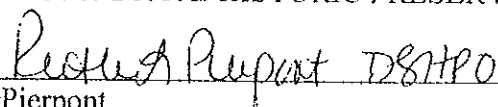
NOW THEREFORE, the FTA, MTA, SHPO, and FRA hereby agree to the addition of the FRA as a signatory to the 2006 Amended PA (as amended in 2010).

Signatories:


FEDERAL TRANSIT ADMINISTRATION

By:  Date: 8/18/11
Brigid Hynes-Cherin
Regional Administrator, Region 2

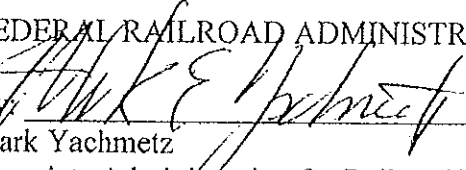
NEW YORK STATE HISTORIC PRESERVATION OFFICER

By:  DSHPO Date: 8/15/11
Ruth Pierpont
Director

METROPOLITAN TRANSPORTATION AUTHORITY

By:  Date: 8/17/11
David P. Garten
Director, Federal Affairs

FEDERAL RAILROAD ADMINISTRATION

By:  Date: 8/18/11
Mark Yachmetz
Associate Administration for Railroad Policy and Development

Amendment No. 3 to the Amended Programmatic Agreement
among the Federal Transit Administration, Federal Railroad Administration,
Metropolitan Transportation Authority, and the New York State Historic
Preservation Officer
regarding the Implementation of the MTA/LIRR East Side Access Project

WHEREAS, Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, requires Federal agencies to take into account the effects of their undertakings on historic properties included in or eligible for inclusion in the National Register of Historic Places prior to the approval of the undertaking; and

WHEREAS, the Federal Transit Administration (FTA), the Metropolitan Transportation Authority (MTA), and the New York State Historic Preservation Officer (SHPO) executed an Amended Programmatic Agreement in June 2006 (2006 Amended PA), which superseded the 2001 Programmatic Agreement, for the MTA/Long Island Railroad East Side Access Project (East Side Access Project) to ensure that FTA takes into account the potential effects of the East Side Access Project on historic and archaeological resources and to satisfy FTA's Section 106 responsibility for all aspects of the East Side Access Project; and

WHEREAS, in 2010 FTA, MTA, and SHPO agreed to execute an amendment to the 2006 Amended PA (Amendment No. 1) to include additional historic and archaeological resources potentially affected by changes to the Areas of Potential Effect (APEs) when modified in accordance with National Environmental Policy Act (NEPA); and

WHEREAS, in 2011 the Federal Railroad Administration (FRA), FTA, MTA, and SHPO executed an amendment to the 2006 Amended PA (Amendment No. 2) to add FRA as a signatory to the 2006 Amended PA, limited to its funding action of the Harold Interlocking Project. FRA funded construction of East Side Access Project elements at the Harold Interlocking complex (including the Westbound Bypass and the Eastbound Reroute), which have the potential to impact historic and archaeological resources within the APEs, as defined by the 2006 Amended PA; and

WHEREAS, FRA is considering an application from MTA for financial assistance for the East Side Access Project through the Railroad Rehabilitation and Improvement Financing (RRIF) Program for the East Side Access Project; and

WHEREAS, the East Side Access Project has the potential to impact the historic properties within the APEs described in Exhibits A, B, and C in the 2006 Amended PA; and

WHEREAS, in order to comply with its Section 106 obligations should FRA decide to provide financial assistance for the East Side Access Project, FRA wishes to adopt the

provisions of the 2006 Amended PA, as amended, by becoming a signatory to the 2006 Amended PA; and

WHEREAS, Stipulation No. 5 of the 2006 Amended PA allows any party to the 2006 Amended PA to request that it be amended, whereupon the parties will consult to consider such an amendment; and

WHEREAS, FTA consulted with MTA and SHPO to consider an amendment to the 2006 Amended PA to add FRA as a signatory; and

WHEREAS, for tracking purposes this amendment shall be known as Amendment No. 3, and all future amendments will be numbered sequentially;

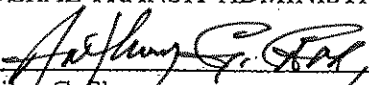
NOW THEREFORE, FTA, MTA, and SHPO hereby agree to the addition of FRA as a signatory to the 2006 Amended PA, as amended with the following stipulations:

Stipulations:

1. FRA will participate with FTA in carrying out the stipulations in the 2006 Amended PA, as amended, in order to satisfy FRA's Section 106 responsibility to ensure that potential effects on historic and archaeological resources are considered in implementing the East Side Access Project.
2. The stipulations listed in the 2006 Amended PA defining mitigation, monitoring construction plans, and responsible agencies are still applicable and remain with these agencies, except that FRA is an additional responsible agency wherever FTA is referenced.
3. In accordance with 36 CFR 800.2(a)(2), FTA will maintain Lead Agency responsibilities.
4. No adverse effects to historic or archaeological resources have occurred to date and are not anticipated through the end of construction. If MTA proposes changes to the East Side Access Project that may result in adverse effects, the MTA will provide FTA and FRA with a description of the project modifications and sufficient information to assess potential effects to the Section 106 resources. FTA and FRA will coordinate with SHPO to determine the appropriate avoidance, minimization, or mitigation measures in accordance with 36 CFR 800.6.

Signatories:

FEDERAL TRANSIT ADMINISTRATION

By: 
Marilyn G. Shazor
Regional Administrator, Region 2

Date: 8/29/12

NEW YORK STATE HISTORIC PRESERVATION OFFICER

By: Ruth Pierpont DSHP Date: 8/29/12
Ruth Pierpont
New York Historic Preservation Office

METROPOLITAN TRANSPORTATION AUTHORITY

By: David P. Garten Date: 8/29/12
David P. Garten
Director, Federal Affairs

FEDERAL RAILROAD ADMINISTRATION

By: Cory Hill on behalf of Paul Nissenbaum Date: 8/13/12
Paul Nissenbaum
Associate Administrator for Railroad Policy and Development

cc: Advisory Council on Historic Preservation

APPENDIX C
Mitigation Measures Matrix

Federal Railroad Administration
Record of Decision
For the
East Side Access Project
September 2012

East Side Access – Status of Mitigation Measure Implementation

Mit. Number	Impact/Mitigation ¹	Implementation and Monitoring	Responsible Party	Timing	Status	Contract #
<i>ACQUISITIONS AND DISPLACEMENT</i>						
AD 1.	The project will permanently displace some businesses, and require full and partial permanent property acquisitions as well as temporary easements.	Comply with the federal regulations of the Uniform Act, which covers the appraisal and acquisition of real property, relocation services, moving payments, etc.	MTA Real Estate and ESA ROW Coordinator	Design & Construction	MTA is developing an easement acquisition agreement with owners of 415 Madison	Complete with the exception of CM015 – 48th Street Entrance
<i>HISTORIC AND ARCHAEOLOGICAL RESOURCES</i>						
HA 1.	In accordance with the Programmatic Agreement developed with the SHPO, MTA will implement a soil boring program in Sunnyside Yard, Mid-Day Storage Yard and on Roosevelt Island to better delineate fill conditions to determine archaeological sensitivity. If the potential for archaeological resources is confirmed by soil borings, further subsurface testing may be conducted in consultation with the SHPO.	Review geotech data reports prepared for each contract package by Registered Professional Archaeologist.	CM/GEC	Design and construction	Ongoing. SHPO approved the Advanced Field Testing Plan (AFTP) and Project-Wide Construction Protection Plan (CPP). Sensitive areas identified. Monitoring of Manhattan sensitive areas completed in 2010. Monitoring in Queens is ongoing when needed.	Completed contracts: CQ028, CM013, CM019 Ongoing and future: CQ031, CH053, CH054, CH057, CH058
HA 2.	The SHPO and NYC Landmarks Preservation Commission will review the design of those project elements that have the potential to impact historic resources.	Hold design review meetings at milestones in design.	MTA	Design	Complete	All
HA 3.	Construction Protection Plans will be developed and submitted to the SHPO for review and approval prior to the start of construction for all work within 100 feet of a historic resource.	Include as a contractor requirement in bid documents for most contracts; for Manhattan tunneling, CM to prepare.	CM/Contractor	Pre-construction	SHPO approved the Sep 2007 Project-Wide Construction Protection Plan (CPP). Contract specifications complete. Field monitoring required.	All (including CM014)
HA 4.	Annual Progress Reports	Prepare reports based on stipulations in the Programmatic Agreement (PA).	MTA CC Environmental	Design and Construction	Annual PA reports submitted to SHPO. Latest report submitted on Feb 7, 2011.	n/a
<i>TRANSIT</i>						
TN 1.	A number of improvements will be made to the elements of the NYCT Lexington Avenue line subway at 42 nd Street/Grand Central to mitigate congestion on stairwells, platforms and the line-haul capacity.	Coordinate and evaluate needs with 2 nd Avenue Subway program.	MTA NYCT	Construction	Ongoing	CM014, CM015
TN 2.	Pedestrian flows will be affected at the escalator bank leading to the NY Transit Museum store on the west side of the Main Concourse.	Redirect escalators to operate in the peak direction, if warranted.	MTA Metro-North	Post-construction	Post-construction implementation	n/a
TN 3.	Significant impacts will occur on some sidewalks and crosswalks due to increased pedestrian activity in the GCT area.	Widen crosswalks, or remove sidewalk vendors and/or street furniture.	MTA to coordinate with NYCDOT	Post-construction	Post-construction implementation	n/a

<i>TRAFFIC</i>						
TR 1.	Increased taxi trips near GCT will result in significant impacts at up to 12 intersections during peak hours.	Implement signal timing changes, parking regulation changes, or provide turning lanes.	MTA to work with NYCDOT to facilitate mitigation measures.	Post-construction	Post-construction implementation	n/a
TR 2.	Increased traffic in the vicinity of some LIRR stations on Long Island will result in significant impacts.	Install traffic signals at unsignalized intersections, or implement signal timing changes, lane re-striping, or more restrictive parking regulations.	MTA to work with the local jurisdictions affected.	Post-construction	Post-construction implementation	n/a
<i>PARKING</i>						
PK 1.	Parking shortfalls at LIRR stations on Long Island will increase with project implementation.	Develop mitigation on a station-by-station basis via the LIRR's Parking Program.	LIRR and local jurisdictions that own, operate, and maintain parking facilities at LIRR stations.	Design & Construction	Ongoing. Since 1998, LIRR's parking expansion and rehabilitation program has added almost 4,000 new parking spaces to LIRR train stations throughout Long Island, and rehabilitated or replaced another 11,000.	
<i>AIR QUALITY</i>						
AQ 1.	One significant air quality impact was identified at the intersection of East 48 th Street and Madison Avenue in Manhattan.	Implement standard traffic mitigation measures, as identified in TR 1 above.	MTA to work with NYCDOT to facilitate mitigation measures	Post-construction	Post-construction implementation	n/a
<i>NOISE AND VIBRATION</i>						
NV 1.	Trackwork will be designed to mitigate adverse ground-borne noise and vibration impacts in accordance with FTA criteria.	Complete studies to determined need for resilient ties, pads and fasteners. Procure and install required mitigation.	GEC and PMT	Design	Complete. Trackwork incorporates mitigation measures.. Study completed in Jan 2004.	
<i>NATURAL RESOURCES</i>						
NR 1.	A Stormwater Pollution Prevention Plan will be prepared and implemented to comply with requirements of the SPDES permit. The project will demonstrate that work performed in floodplains (Highbridge, Arch Street maintenance facilities) will meet NYSDEC floodplain criteria. The design of the new maintenance facilities will incorporate USEPA recommendations for pollution source reduction.	Incorporate into contract specifications and field monitor.	PMT/CM	Design and construction.	Complete	All Queens contracts including CQ033, CH053, CH054, CH057, CH058,

<i>CONTAMINATED MATERIALS</i>						
CM 1.	In accordance with regulations governing Inactive Hazardous Waste Disposal Sites (e.g. Sunnyside Yard), the project will be constructed so as not to interfere significantly with any proposed or ongoing program to remediate conditions in Sunnyside Yard. All soil disposal from Sunnyside Yard will be coordinated with Amtrak. Ensure that no migration of contaminated groundwater enter the Project area.	Coordinate design and construction methods with NYSDEC and Amtrak. Construct the tunnels in Queens so that groundwater levels will not be significantly affected. Develop comprehensive monitoring program with NYSDEC to verify that groundwater conditions remain unaffected throughout construction.	PMT and NYSDEC	Design and construction	Coordination is ongoing	Completed Contracts: CQ028, CM004, CM013 Ongoing and Future Contracts: CQ031, CH053, CH054, CH057, CH058, CH059, CH060, CQ033
CM 2.	The project will comply with all applicable permit requirements.	Hold pre-application permitting meetings with appropriate agencies. Identify permit requirements in each contract package. Regularly field verify that permit special conditions are adhered to.	CM	Design and construction	Ongoing	All
CM 3.	Prepare site-specific construction containment management plans based on findings of on-site sampling and analysis, and quantification of contamination found.	Incorporate into contract specifications.	GEC	Design	Ongoing	All
<i>CONSTRUCTION IMPACTS</i>						
CI 1.	Maintain access to all land uses adjacent to construction sites.	Incorporate into contract specifications and field monitor.	PMT/CM	Design and construction.	Ongoing	All
CI 2.	Develop and implement Maintenance and Protection of Traffic Plans (MPTs) to minimize potential traffic impacts.	Incorporate into contract specifications and field monitor.	PMT/CM	Design and construction	Ongoing	All
CI 3.	Minimize construction affecting Northern Blvd and Queens Blvd to nighttime or off-peak hours.	Incorporate into contract specifications and field monitor.	PMT/CM	Design and construction	Ongoing	Completed Contract: CQ028 Ongoing and Future: CM009, CM012, CQ031, CQ039
CI 4.	Encourage the use of rail for disposal of excavated materials from the tunnels, as opposed to truck.	Identify options for disposal by rail. Incorporate restrictions on trucks in contract specifications.	PMT	Design	Options for rail disposal have been identified and contract specifications are complete.	Completed Contract: CQ028 Ongoing and Future: CM009, CM012, CQ031, CQ039, CH053, CH054, CH057, CH058
CI 5.	Coordinate construction-staging plans with all affected rail providers.	Hold monthly railroad coordination meetings to address issues.	PMT	Design	Ongoing	All

CI 6.	Include best management practices to control dust during earthmoving activities.	Incorporate into contract specifications and field monitor.	PMT/CM	Design and construction.	Contract specifications have been developed. Environmental inspectors are monitoring active contracts.	All
CI 7.	Minimize noise impacts during construction.	Incorporate measures into contract specifications and field monitor.	PMT/CM	Design and construction	Contract specifications have been developed. Environmental inspectors are monitoring active contracts.	All
CI 8.	MTA will work with the representatives from Newcomers High School to minimize disruptions to the school.	Develop noise mitigation plan and address problems throughout the construction period as they arise.	PMT/CM	Design and construction.	CQ026 complete. An MOU was developed between MTA and school representatives. Air conditioning units were purchased and a noise wall constructed around the Kinney lot.	CM009, CM012
CI 9.	Design project to meet applicable requirements related to drill-and-blasting (NYC Buildings Dept, Fire Dept and SHPO recommendations) and implement vibration control measures during construction.	Incorporate measures into specifications and monitor during construction.	PMT/CM	Design and construction.	Contract specifications have been developed. Contractor vibration control plans are complete for all active contracts and monitored by field inspectors.	Completed Contracts: CQ028 Ongoing and future: CM004, CM009, CM012, CM013, CQ031
CI 10.	Protect utilities in areas of construction and maintain service without interruption.	Conduct field survey and prepare utility relocation report.	GEC/Contractor	Design and Construction	Ongoing	All
CI 11.	Prepare project-wide Environmental Health and Safety Plan to delineate requirements for railroad safety, construction safety, environmental safety and industrial hygiene. Require contractors to develop site-specific plans.	Develop comprehensive safety program and field monitor.	PMT/CM	Design and construction	Project-wide plan has been prepared. Safety program is being implemented on active contracts.	All
C12.	Settlement will be monitored and corrective measures will be specified for immediate implementation if specified levels are being approached or exceeded.	Develop detailed specifications and instrumentation monitoring program.	CM/GEC	Design	Complete for Manhattan Tunnels.	Completed for: CM009 Ongoing and future: CQ031, CH053, CH057, CM012, CM013, CM015
C 13.	Maintain access to Amtrak's S&I facility and from 42 nd Place, upgrade their car wash facility to support reversing of operations, upgrade switch at Sub4, coordinate soil disposal from Sunnyside Yard with Amtrak.	Incorporate into contract specifications	PMT	Design	Ongoing	CQ031, CH053

SECTION 4(F) - None Required

WETLAND IMPACTS – None Required

FLOODPLAIN IMPACTS – None Required

ENVIRONMENTAL JUSTICE – None Required

LAND USE, ZONING & PUBLIC POLICY – None Required

SOCIOECONOMIC IMPACTS – None Required

Acronyms

CM – Construction Manager

DB – Design-Build

EPA – U.S. Environmental Protection Agency

NYSDEC – New York State Department of Environmental Conservation

PMT – Program Management Team

GEC – General Engineering Consultant

SHPO – New York State Historic Preservation Officer