

Chapter 9:

Cultural Resources¹

9.1 INTRODUCTION

This chapter presents the analysis of the potential effects of the No Action Alternative and the Preferred Alternative on historic properties.² This chapter describes the identification of historic properties in the area of potential effects (APE)³ for the Preferred Alternative and an assessment of effects of the Preferred Alternative on such properties. The analysis presented in this chapter considers potential temporary effects of the Preferred Alternative on historic properties during construction and potential permanent operational effects on historic properties.

9.2 REGULATORY CONTEXT

FRA has determined that the Preferred Alternative constitutes an undertaking under Section 106 of the NHPA (54 USC § 306108), as amended (Section 106), and the Advisory Council on Historic Preservation's (ACHP) Section 106 implementing regulations at 36 CFR part 800. FRA is the lead Federal agency responsible for compliance with Section 106 for this project and has prepared this analysis in accordance with ACHP's Section 106 implementing regulations.

FRA has coordinated the Section 106 and NEPA compliance processes in accordance with 36 CFR § 800.8 and the ACHP guidance entitled *NHPA: A Handbook for Integrating NEPA and Section 106* (March 2013). There may be historic properties identified during the Section 106 process that are also subject to review under Section 4(f) of the Department of Transportation Act of 1966 (see Chapter 21, "Draft Section 4(f) Evaluation"). The regulatory context is also described in detail in **Appendix B**, "Methodology Report."

¹ Effects considered under NEPA include both cultural and historic. [40 C.F.R. § 1508.8] Per the *NHPA: A Handbook for Integrating NEPA and Section 106*, "the term 'cultural resources' covers a wider range of resources than 'historic properties,' such as sacred sites, archaeological sites not eligible for the National Register of Historic Places, and archaeological collections." All of the resources identified within the APE meet both definitions. Therefore, for the purposes of this chapter, the terms "cultural resource" and "historic property" as defined at 36 CFR § 800.16(l)(1) are used interchangeably.

² 36 CFR § 800.16(l)(1) defines "historic property" as "any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria." Historic properties can include both architectural and archaeological resources.

³ The Area of Potential Effect is defined as "the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character or use of historic properties, if such properties exist" (36 CFR § 800.16[d]). The APE is synonymous with the study area for this resource type.

9.2.1 CONSULTATION

The Section 106 regulations at 36 CFR § 800.2(c) require the lead Federal agency for an undertaking to consult with the appropriate SHPO, in this case NYSHPO; Tribal Historic Preservation Officers (THPOs) or other appropriate tribal representatives from Federally-recognized Indian tribes that might attach religious and cultural significance to historic properties affected by the undertaking; representatives of local governments; applicants for Federal assistance, permits, licenses, and other approvals; and additional consulting parties with a demonstrated interest in the undertaking based on a legal or economic relation to affected properties, or an interest in the undertaking's effects on historic properties. FRA, as the lead Federal agency, in consultation with NYSHPO and consulting parties, must determine whether the undertaking would affect historic properties within the APE and seek ways to avoid, minimize, or mitigate any adverse effects to such properties.

FRA has engaged in consultation regarding the Preferred Alternative and its potential effects on historic properties in accordance with Section 106. The details of that consultation are provided in Chapter 23, "Public Involvement and Agency Coordination." FRA's correspondence with Section 106 consulting parties is summarized in a table provided in **Appendix F1** (see Table F-1).

9.3 ANALYSIS METHODOLOGY

FRA developed an *Effects Assessment Methodology Report* for the Project. The methodology report provides the framework that FRA used in this EIS to evaluate the potential effects of the Preferred Alternative and the No Action Alternative on cultural resources. Please see Analysis Methodology in Chapter 6 of **Appendix B**, for a complete description of the analysis methodology for this resource category.

Identification and analysis of the Preferred Alternative's potential effects to historic properties has been undertaken by FRA in accordance with the four-step decision-making process established in the Section 106 regulations: establish the undertaking; identify and evaluate historic properties; assess effects to historic properties; and resolve any adverse effects.

9.4 AFFECTED ENVIRONMENT

In order to describe the affected environment, FRA identified and evaluated cultural resources, including historic properties, within the APE.

9.4.1 ARCHAEOLOGICAL RESOURCES

Archaeological resources are defined as "the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains," meeting the National Register of Historic Places (NRHP) criteria for evaluation as defined by 36 CFR part 60.⁴ Archaeological resources may date to the prehistoric or historic period and may be located in terrestrial or submerged environments.

⁴ National Register Bulletin 36, *Guidelines for Evaluating and Registering Archeological Resources*, prepared by the National Park Service.

NYSHPO and the New York City Landmarks Preservation Commission (LPC) previously reviewed the two components of the Preferred Alternative (the Platform and the Tunnel Encasement), and the Western Rail Yard site has been determined not to be an archaeologically sensitive area. The Platform and the Overbuild were reviewed in accordance with Section 14.09 during the SEQRA and CEQR process undertaken by the MTA and the New York City Planning Commission (CPC) for the Western Rail Yard Project in the 2009 *Western Rail Yard Project Final Environmental Impact Statement* (2009 SEQRA/CEQR FEIS). For identification of archaeological resources, the 2009 SEQRA/CEQR FEIS relied on the assessment of potential archaeological sensitivity prepared by MTA and CPC as joint lead agencies for the 2004 *No. 7 Subway Extension-Hudson Yards Rezoning and Development Program FGEIS* (2004 FGEIS), which concluded that the Western Rail Yard was not sensitive for archaeological resources. The Tunnel Encasement is the third and westernmost segment of the right-of-way preservation concrete casing undertaking that previously underwent environmental reviews led by FRA, which included reviews in accordance with Section 106. In a letter to FRA dated August 3, 2020, NYSHPO noted that it has no archaeological concerns with that undertaking (see Historic Architectural Resources Background Study [HARBS]/EA report in **Appendix F2**). The historical maps of the Study Area referenced in the cultural analyses conducted for the 2009 SEQRA/CEQR FEIS, the 2004 FGEIS, and the 2013 *Environmental Assessment for Construction of a Concrete Casing in the Hudson Yards, New York, New York* (2013 Concrete Casing EA), show that the shoreline prior to approximately 1850 was further east than the location of the present Project Site. Furthermore, the Project Site and APE have previously been subject to extensive ground disturbance from the original construction and 1986 reconstruction of the Western Rail Yard. Therefore, no further work to identify archaeological resources was performed for this project.

9.4.2 HISTORIC ARCHITECTURAL RESOURCES

A *Historic Architectural Resources Study and Effects Assessment* (HARBS/EA report) was prepared for the Preferred Alternative. The goals of the HARBS/EA report were to identify historic properties in the APE, assess the Preferred Alternative's potential effects on historic properties, and provide recommendations with respect to avoiding, minimizing, and/or mitigating any identified adverse effects on historic properties. This report is included as **Appendix F2**. FRA provided the HARBS/EA report to NYSHPO, Federally recognized Indian tribes, and consulting parties on October 15, 2020. The HARBS/EA was provided to the New York City Department of Parks and Recreation (NYC Parks) on March 4, 2021.

Five historic architectural properties were identified in the APE, which NYSHPO previously determined were eligible for listing on the NRHP (NRHP-Eligible). These are listed in **Table 9-1** and described in detail in the HARBS/EA report (see **Appendix F2**). In a letter dated November 13, 2020, NYSHPO concurred with FRA's efforts to identify historic properties. Copies of correspondence between FRA and NYSHPO are included in Appendix F3.

Table 9-1
Historic Properties in the Area of Potential Effects (APE)

Ref. No. ¹	Name	Address	NRHP-Eligible	NYCL
1	New York Improvements and Tunnel Extension of the Pennsylvania Railroad (NRT)	Spanning between Weehawken, New Jersey and Long Island City, New York	NYSHPO Opinion 3/21/2011 ²	
2	High Line	Along 30th St. between Tenth and Twelfth Aves., and Twelfth Ave. between 30th St. and 34th St.	NYSHPO Opinion 2/20/2004	
3	Hudson River Bulkhead	Spanning between Battery Pl. and West 59th St.	NYSHPO Opinion 3/31/1997	
4	Former W & J Sloane Warehouse and Garage	541-561 W. 29th St. and 306-310 Eleventh Ave.	NYSHPO Opinion 10/30/2003	
5	West Chelsea Historic District	Roughly bounded by West 28th St., Twelfth Ave., West 26th St., and Tenth Ave.	NYSHPO Opinion 3/19/2009 ³	Designated 7/15/2008

Notes:

¹ Corresponds to **Figure 9-1**.

² OPRHP, Kathy Howe, Resource Evaluation, New York Improvement & Tunnel Extension of the Pennsylvania Railroad from NJ to Manhattan to LIC Queens, USN: 06101.018103, March 11, 2011.

³ The West Chelsea Historic District was additionally certified by the Secretary of the Interior for purposes of the Tax Reform Act of 1986 as substantially meeting the requirements for listing on the NR HP on September 5, 2013.

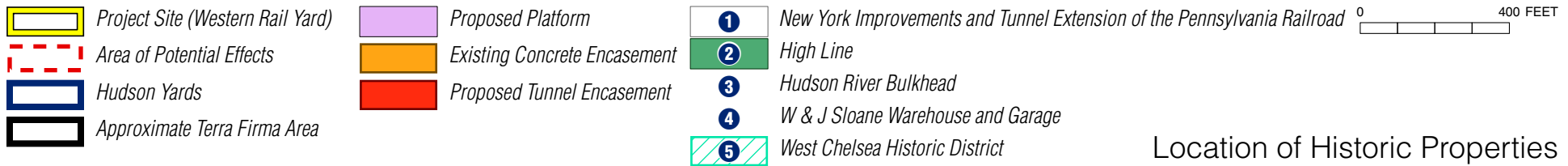
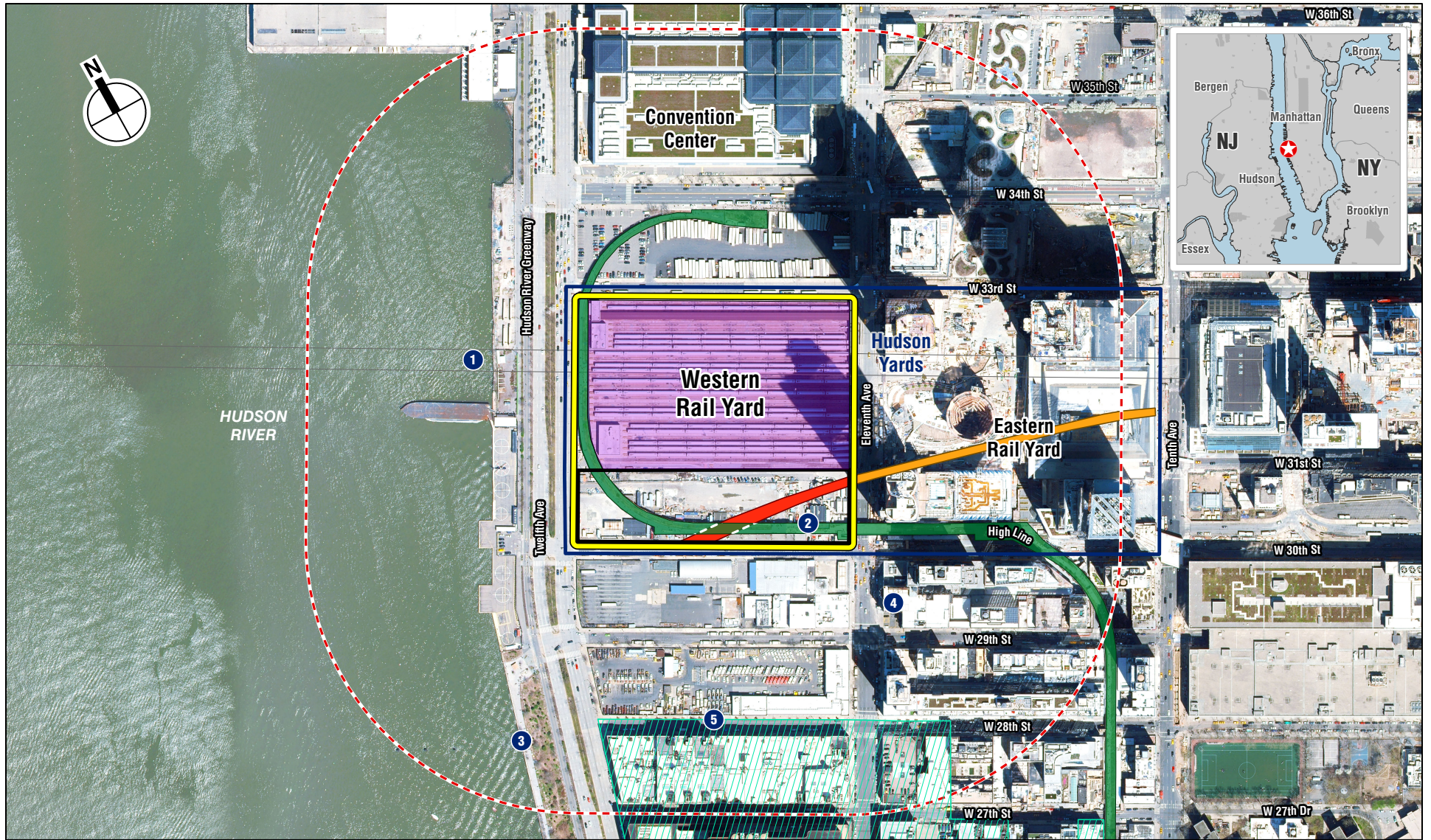
NYCL: New York City Landmark.

9.5 ENVIRONMENTAL CONSEQUENCES

The reports and recommendations described above were used to assess effects to historic properties, from the Preferred Alternative.

9.5.1 NO ACTION ALTERNATIVE

For purposes of analysis in this EIS, it was assumed that with the No Action Alternative, the Platform and Tunnel Encasement would not be built. The No Action Alternative would have no effect on cultural resources. The No Action Alternative would have no effect on archaeological resources, as the APE is not sensitive for the presence of archaeological resources. The No Action Alternative would also not adversely affect the historic architectural properties identified in the APE. As described in Chapter 3, "Alternatives," the No Action Alternative would not meet the Preferred Alternative's purpose and need (described in detail in Chapter 2, "Purpose and Need").



WESTERN RAIL YARD INFRASTRUCTURE PROJECT

Location of Historic Properties

Figure 9-1

9.5.2 OPERATIONAL IMPACTS OF THE PREFERRED ALTERNATIVE

MTA and CPC evaluated the potential effects of the Platform on historic properties in the 2009 SEQRA/CEQR FEIS, which was prepared and reviewed in accordance with CEQR, SEQRA, and Section 14.09 of the New York State Historic Preservation Act. As noted above in **Table 9-1**, the High Line is an historic property that has been determined NRHP-eligible; the section of the High Line located on the Western Rail Yard site would be integrated into the overall site plan for the Overbuild. Since the final design of the Overbuild had not been determined at the time of the 2009 SEQRA/CEQR FEIS, and the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP) had expressed concerns regarding the relationship of the High Line to the Overbuild, the MTA, CPC, and the Overbuild Developer executed a Letter of Resolution (LOR) with OPRHP to address the potential for adverse effects to the High Line. The LOR requires continued consultation under Section 14.09 regarding aspects of the development's design that could affect the High Line (specifically, review of preliminary and pre-final design plans), as well as preparation of a Construction Environmental Protection Plan (CEPP) to protect the High Line during adjacent project construction. That LOR remains in effect. The requirement for a Construction Protection Plan (CPP) to protect the High Line during adjacent project construction was also incorporated into the RD for the 2009 Western Rail Yard project.⁵ The Overbuild and its potential effects are considered potential indirect and cumulative impacts of the Preferred Alternative and are considered in Chapter 20, "Indirect, Cumulative, and Other Impacts."

Subsequently, in 2013–2014, FRA and NYSHPO consulted regarding the potential of the Tunnel Encasement to have adverse effects on historic properties in accordance with Section 106. In a letter dated July 22, 2014, OPRHP, acting in its capacity as the NYSHPO, concurred with FRA's determination that the Tunnel Encasement would have no adverse effects on historic properties, provided that construction monitoring of the High Line would occur per the New York City Department of Building's (NYCDOB's) *Technical Policy and Procedure Notice (TPPN) #10/88* (see Section 9.5.3 below).

Consistent with these prior determinations, FRA has found that the Preferred Alternative would not result in any permanent, operational adverse effects on the context or setting of nearby historic properties. The Tunnel Encasement would be buried below ground, and the Platform would be minimally visible above-grade separate from the Overbuild, which would be constructed above it. Specifically, the Platform may be minimally visible from the Twelfth Avenue sidewalk adjacent to the Project Site, between the top of the existing concrete wall to remain and the bottom of the Overbuild. The Platform would be set back from the edge of the High Line by approximately five feet, and thus may also be minimally visible in elevated views from adjacent portions of the High Line. However, the Hudson Yards neighborhood is experiencing a wave of development of new tall and modern skyscraper buildings, and the historic properties in the APE already exist in a mixed built context of smaller, older and masonry clad buildings and these taller buildings of recent construction with metal and glass curtain walls. The High Line runs adjacent to and sometimes through large buildings constructed both recently and contemporary to the High Line. The W & J Sloane Warehouse and Garage is flanked by new 31-, 33-, and 34-story developments directly to the north and south, and the West Chelsea Historic District buildings within the APE are across Eleventh Avenue and West 28th Street from the same 34-story development. Twelfth Avenue and the Hudson River Greenway provide visual separation between the Hudson River Bulkhead and the Project Site and surrounding new development. The New York Improvements and Tunnel Extension of the Pennsylvania Railroad, as a subsurface feature, would have no visual relationship with the Platform.

⁵ The "Construction Protection Plan" (as referenced in the LOR) is part of the "Construction Environmental Protection Plan" (as referenced in the RD).

Therefore, FRA has determined, and NYSHPO concurred in a letter dated February 11, 2021, that the operation of the Preferred Alternative would not result in any adverse effects to historic properties. Potential indirect and cumulative impacts to historic properties, including those of the Overbuild, are considered in Chapter 20. Copies of correspondence between FRA and NYSHPO are included in **Appendix F3**.

9.5.3 CONSTRUCTION IMPACTS OF THE PREFERRED ALTERNATIVE

As detailed in Chapter 3, the Project Sponsor is planning for construction staging for the Preferred Alternative to occur on the Project Site, extending into some adjacent sidewalks and parking lanes during certain phases of construction. The Project Sponsor is not planning any off-site construction staging. Temporary underpinning of the High Line would be required where the Tunnel Encasement would cross beneath a portion of the High Line that runs along West 30th Street between Eleventh and Twelfth Avenues. The westernmost 80 feet of underpinning on 30th Street would re-support columns of the High Line that would require re-support for the Hudson Tunnel mining approach. Construction of the Platform would require deep footings, reinforced building foundations, and a concrete slab to transfer building loads to the bedrock below. Approximately four hundred (400) caissons (i.e., watertight columns) would be drilled on either side of the NRT, through the water table and soil and into the bedrock that is up to 120 feet below the surface in certain locations, to support the Platform and Overbuild. The Platform's support columns would be threaded between the existing railroad tracks and associated infrastructure in the Western Rail Yard. When MTA redeveloped the Hudson Yards in 1986, the tracks and other facilities were reconfigured, and laid out to accommodate the columns that future development would require; as a result, no existing storage tracks would be displaced, and train service would be maintained during the construction of the Platform.

Construction of the Platform would also require demolition of a cleaning platform and three non-historic LIRR service buildings on the western edge of the Western Rail Yard (including the LIRR Emergency Services Building); new LIRR North and South Block End service buildings would be reconstructed in approximately the same footprint once construction of the Platform is complete. Construction of the Tunnel Encasement also would require excavation of soil and rock. The Tunnel Encasement would be constructed through a terra firma portion of the Western Rail Yard that would not be covered by the new Platform.

MTA and CPC evaluated the potential effects of the Platform construction on historic properties in the 2009 SEQRA/CEQR FEIS, which was prepared and reviewed in accordance with Section 14.09 of the New York State Historic Preservation Act. As detailed above, the LOR executed by MTA, CPC, and the Overbuild Developer for the Western Rail Yard project requires preparation of a CPP to protect the High Line during adjacent project construction. That LOR remains in effect. The requirement for a CEPP to protect the High Line during adjacent project construction was also incorporated into the RD for the Western Rail Yard project.

Subsequently, in 2013–2014, FRA and NYSHPO consulted regarding the potential effects of the Tunnel Encasement construction on historic properties in accordance with Section 106. FRA concluded that while construction activities and equipment for the concrete casing that would be visible from street level could result in temporary visual obstructions and could result in temporary loss of context for nearby architectural resources, any such impacts would be temporary and indirect, and only last the duration of the construction period. In a letter dated July 22, 2014, OPRHP, acting in its capacity as the NYSHPO, concurred with FRA's determination that construction of the Tunnel Encasement would have no adverse effects on historic properties, provided that construction monitoring of the High Line would occur per the NYCDOB's *TPPN #10/88*.

Consistent with these prior determinations, FRA does not expect the Preferred Alternative would result in any construction-related effects to the Hudson River Bulkhead, the former W & J Sloane Warehouse & Garage, or the West Chelsea Historic District. Construction activities and equipment for the project that would be visible from street level could result in temporary visual obstructions; however, there are multiple construction projects currently underway within the APE, and thus construction activities and equipment associated with the project would be difficult to distinguish from these other activities. Furthermore, as discussed above, Twelfth Avenue and the Hudson River Greenway would provide visual separation between the Hudson River Bulkhead and the construction activities at the Project Site. The New York Improvements and Tunnel Extension of the Pennsylvania Railroad, as a subsurface feature, would have no visual relationship with construction of the Platform or the Tunnel Encasement.

No historic properties are located within 90 feet of construction for the Preferred Alternative, with the exception of the NRT and the High Line. To avoid the potential for damage to the NRT from vibration produced by caisson drilling, the caissons will be located outside of Amtrak's influence line exclusion zone. Furthermore, FRA would include a condition as part of its environmental decision regarding the project, i.e., in the ROD for the EIS in accordance with NEPA, to ensure that potential vibration-related effects to the NRT are not adverse. The condition in the ROD would require the Project Sponsor to develop a CPP for protecting the NRT and the High Line during the construction of the Preferred Alternative.

The CPP for the protection of the NRT and the High Line would be incorporated into the overarching CEPP that would be developed for the Preferred Alternative (see Chapter 22). The CPP would be required to meet the guidelines set forth in NYCDOB's *TPPN #10/88*, the *Protection Programs for Landmarked Buildings* guidance document of the LPC, and the National Park Service's *Preservation Tech Notes, Temporary Protection #3: Protecting a Historic Structure during Adjacent Construction*. The CPP would set forth the specific protection and monitoring measures that would be implemented during construction to avoid inadvertent damage to these historic properties and would be implemented in coordination with NYSHPO and LPC.

Therefore, FRA determined, and NYSHPO concurred in a letter dated February 11, 2021, that construction of the Preferred Alternative would not result in adverse effects to historic properties provided the Project Sponsor follows certain conditions. Specifically, the Project Sponsor would be required to develop a CEPP for the construction of the Preferred Alternative, in order to avoid the potential for construction-related effects (including vibration effects) on the High Line and the NRT. The CEPP for the Preferred Alternative would include a CPP for the protection of the NRT and High Line that sets forth the specific protection and monitoring measures that would be implemented during construction to avoid inadvertent damage to these historic properties and would be implemented in coordination with the NYSHPO and LPC. Potential indirect and cumulative impacts to historic properties, including those of the Overbuild, are considered in Chapter 20. Copies of correspondence between FRA and NYSHPO are included in Appendix F3.

9.6 AVOIDANCE, MINIMIZATION, AND MITIGATION MEASURES

The construction of the Preferred Alternative has the potential to cause effects to the NRT and/or High Line during construction of the Platform and Tunnel Encasement. FRA would include a condition as part of its environmental decision regarding the Preferred Alternative, i.e., in the ROD for the EIS in accordance with NEPA, to ensure that these potential effects to historic properties are not adverse. This condition would require the Project Sponsor to develop a CPP for protection of the NRT and High Line during the construction of the Preferred Alternative. The CPP would be required to meet the guidelines set forth in NYCDOB's *TPPN #10/88*, the *Protection for Landmarked Buildings* guidance document of the LPC, and the National Park Service's *Preservation Tech Notes, Temporary Protection #3: Protecting a Historic Structure during Adjacent Construction*. The CPP would set forth the specific protection and monitoring measures that would be implemented during construction to avoid inadvertent damage to these historic properties and would be implemented in coordination with NYSHPO and LPC. A CEPP would be prepared for the Preferred Alternative (that includes multiple control measures for air quality and noise, among others); the CPP for the High Line and the NRT would be included in that overall protection plan for the Preferred Alternative (see Chapter 22).

The LOR requires continued consultation under Section 14.09 regarding aspects of the design that could affect the High Line (specifically, review of preliminary and pre-final design plans). As part of the Federal consultation process, SHPO would require the Project Sponsor to meet all requirements set forth in the SEQRA process including compliance with the LOR. *