

**RECORD OF DECISION**  
**Port Authority of New York and New Jersey**  
**Permanent World Trade Center (WTC) PATH Terminal**  
**New York, New York**

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**A. DECISION**

The Federal Transit Administration (FTA) has decided that the requirements of the National Environmental Policy Act (NEPA) of 1969 have been satisfied for the Permanent World Trade Center (WTC) Port Authority Trans-Hudson (PATH) Terminal, proposed by the Port Authority of New York and New Jersey (PANYNJ). This FTA Record of Decision (ROD) applies to the Preferred Alternative ("the Project"), as further described in the *Permanent WTC PATH Terminal Final Environmental Impact Statement and Section 4(f) Evaluation*, issued on May 13, 2005.

**B. BACKGROUND AND PROJECT DESCRIPTION**

The Permanent WTC PATH Terminal is one of the identified priority transit projects to address the need for comprehensive transit improvements in lower Manhattan in response to the events of September 11, 2001. This priority project was formally identified by New York Governor George Pataki as a Lower Manhattan Transportation Recovery Project through a coordinated process conducted in late 2002 and early 2003 by the Transportation Working Group, a group of local decision-makers including the State of New York (NYS), the City of New York (NYC), the Metropolitan Transportation Authority (MTA) New York City Transit (NYCT), PANYNJ, and the Lower Manhattan Development Corporation (LMDC).

The Project will result in a new Permanent PATH Terminal on the WTC site. The Project combines an above-grade terminal building and sub-level pedestrian concourses on the eastern portion of the WTC site with additional pedestrian concourses, tracks, platforms, and a mezzanine on the western portion of the site. The Permanent WTC PATH Terminal will have five levels—platform, mezzanine, two concourse levels, and a street-level terminal building.

The platform level will be located immediately west of NYCT's 1 line (formerly the 1 and 9 line and referenced as such in the environmental documentation) and atop the concrete slab at the base of the WTC "Bathtub." It will have four platforms (Platforms A through D) and 5 tracks (Tracks 1 through 5). The four platforms would be long enough to accommodate 10-car trains in accordance with PATH's long-range goal to increase the operational capacity of its system to meet projected ridership growth. Each of the four platforms will have multiple vertical circulation elements to move passengers between the platform and mezzanine levels. All platforms will be constructed in accordance with the Americans with Disabilities Act. Platforms will also contain a combination of stairways and escalators.

The mezzanine level will have a north-south orientation and will be located directly above the platform level. This level will house fare equipment, vertical circulation to the platforms and a concourse level, and may have up to 5,000 square feet of retail services, such as newsstands and food stalls within the fare zone to serve PATH riders. The mezzanine level will have two entrances/exits to the levels above. An east entrance/exit will direct passengers beneath NYCT's 1 line to the concourse level within the eastern portion of the WTC site. A west entrance/exit will

direct passengers beneath Route 9A toward Battery Park City, the World Financial Center, and ferry terminals.

The concourse will consist of two levels, a main lower concourse and a balcony upper concourse. The concourse's main level will connect to the mezzanine's east and west entrances/exits via escalators and elevators and will provide connections to offices and retail on the WTC site and NYCT's Fulton Street Transit Center Dey Street Underpass to be built as part of an independent project, and a corridor beneath Route 9A will allow for access to the World Financial Center, Battery Park City, and ferry terminals. The concourse's balcony level will provide connections to NYCT's Cortlandt Street (1), Cortlandt Street (R and W), and WTC (E) subway stations.

The terminal building will be constructed on the eastern portion of the WTC site along Church Street near its intersections with Dey and Fulton Streets. It will provide access from Church Street and proposed elements of the WTC Memorial and Redevelopment Plan, including Greenwich Street and a public plaza. The building will also provide for natural light to the concourse.

PANYNJ will construct two, 40-foot ventilation structures. These ventilation structures will serve the combined purpose of piston relief, smoke evacuation, and emergency egress, as the original ventilation structures did prior to September 11, 2001. PANYNJ will construct a north ventilation structure within the Route 9A median above PATH's existing west bound tunnel connection to New Jersey, Tunnel E. The south ventilation structure will also be located within the median of Route 9A above PATH's existing east bound tunnel connection from New Jersey, Tunnel F.

In addition to the emergency egress that will be co-located in the vent structures, PANYNJ will construct emergency egress from the Terminal's track/platform and mezzanine levels. Emergency egress stairways will be located near the north and south ends of the Terminal and will provide emergency access to street level. The Permanent WTC PATH Terminal may share its emergency egress with the emergency egress for other facilities on the WTC site. PANYNJ plans to collocate one of these stairways within the proposed Performing Arts Center on the site's northwest quadrant and the other on the southwest quadrant within a museum or building that will be part of the WTC Memorial Center and/or museum.

PANYNJ will harden the roof of the Terminal's east-west pedestrian concourse. The roof of the Terminal's east-west concourse could also serve as a road bed so as not to preclude a proposed future extension of Fulton Street between Route 9A and Greenwich Street. The reinforced roof will consist of hardened, reinforced concrete to enhance the security of the east-west concourse below. The actual paving, landscaping, and opening of Fulton Street will be a separate action with an independent NEPA review, if Federal funding is provided.

The Project includes the reinforcement of the basement walls, which form the "bathtub" within the western portion of the WTC site. This work is necessary to ensure the structural integrity of the walls and to support future redevelopment of the WTC site, including the Permanent WTC PATH Terminal. As part of the Permanent WTC PATH Terminal's construction, PANYNJ would reinforce the entire west bathtub wall except for portions that will remain visible as part of the WTC Memorial. PANYNJ will also reinforce portions of the east bathtub wall abutting NYCT's 1 line.

Construction of the Terminal will also require the demolition and excavation of certain remaining structures within the eastern portion of the WTC site including all portions of the H&M Terminal, except for the Vesey Street access stairs. Along with this excavation, the associated foundation walls between NYCT's 1 line and Church, Vesey, and Liberty Streets will be constructed. This

work is needed to construct and support the Project and would also support the future development of the site by others.

The Project will incorporate the sustainable/"green" design guidelines. These measures will include the use of natural lighting, "green" construction materials specifications, energy-efficient design, and renewable energy sources for heating and cooling. In addition, a river water cooling system is planned to be reestablished as part of the overall redevelopment of the WTC site, and it will be used to cool the Permanent WTC PATH Terminal's heating, ventilation, and air conditioning (HVAC) system when operational. However, it may not be functional before components of the Permanent WTC PATH Terminal are opened. Therefore, PANYNJ will maintain open-air cooling of the Permanent WTC PATH Terminal's HVAC systems in the interim, and permanently if the river water cooling system is not reestablished.

### **C. BASIS FOR DECISION**

FTA's decision is based on information contained in the Permanent WTC PATH Terminal Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS), which constitute the detailed statement on environmental impacts required by NEPA and the applicable Federal transit statutes. The statement identifies a Preferred Alternative and includes review of the Purpose and Need for the Permanent WTC PATH Terminal, its goals and objectives, consideration of alternatives, environmental impacts, and measures to minimize harm.

#### **PURPOSE, NEED, AND GOALS**

The purpose of the Permanent WTC PATH Terminal is to reconstruct a permanent terminal station at the WTC site in Lower Manhattan for the PATH system. The Permanent WTC PATH Terminal will be a full service, regional transportation hub that is coordinated with the existing and future transportation infrastructure, WTC site redevelopment, and the surrounding area. The Project is needed to re-establish and enhance transportation facilities and infrastructure that existed at the WTC site prior to September 11, 2001 and to ensure the long-term accessibility and economic vitality of Lower Manhattan. Four goals were identified for the Permanent WTC PATH Terminal as follows:

- Effectively restore long-term PATH service between New Jersey and Lower Manhattan
- Establish an intermodal transportation facility in Lower Manhattan
- Plan and construct a terminal that would support the redevelopment of Lower Manhattan
- Minimize adverse impacts to the environment

#### **CONSIDERATION OF ALTERNATIVES**

Several alternatives were developed and evaluated for the Permanent WTC PATH Terminal. This process was initiated in late 2001 concurrent with the planning of a temporary WTC PATH station on the WTC site.

The PATH system operated between New Jersey and Lower Manhattan for almost 100 years prior to the September 11, 2001 terrorist attacks. Thus, a substantial infrastructure had been built to support this high-capacity, heavy-rail service. Although the attacks and their resultant damage severely hindered operations, PATH was able to maintain service at all but two of its stations (Exchange Place and WTC). In addition, PATH's Hudson River tunnels between Exchange Place

and Lower Manhattan were damaged by flooding but were determined to be structurally sound. In planning for long-term transit service between New Jersey and Lower Manhattan, PANYNJ made an early decision not to preclude operations on portions of the PATH and NYCT systems that remained intact in support of the Project's purpose and need. Given these objectives, the only reasonable alternatives would be alternative locations for a Lower Manhattan PATH terminal.

PANYNJ identified four sites of an appropriate size and configuration for a permanent PATH terminal.

- **Location 1, WTC "Bathtub":** The WTC "Bathtub" option would restore service in the location of the pre-September 11, 2001 WTC Terminal by building the tracks, platforms, and mezzanine in the same location as the temporary PATH station. The platform level would have a north-south configuration with a loop track arrangement. There would be five tracks and three 10-car platforms. A terminal building would be constructed at street level, directly above the platforms and mezzanine, with access from Greenwich Street. Pedestrian concourses would allow for all-weather access to the World Financial Center, future buildings on the WTC site, NYCT's Fulton Street Transit Center, and NYCT's WTC and Cortlandt Street subway stations.
- **Location 2, Church Street:** The Church Street option would be a new facility in the approximate location of the original Hudson and Manhattan (H&M) Terminal, along the west side of Church Street between approximately Fulton and Cortlandt Streets. It would be a loop station and would have a north-south orientation on the eastern portion of the WTC site between Church and Greenwich Streets. The proposed plan would be for five tracks and five 10-car platforms. Four of the five platforms would accommodate separate boarding and alighting operations. A terminal building would be constructed above the platforms and mezzanine and would have street-level access from Church Street. This location would also provide for pedestrian concourses with all-weather access to the World Financial Center, future buildings on the WTC site, NYCT's Fulton Street Transit Center, and NYCT's WTC and Cortlandt Street subway stations.
- **Location 3, Broadway-Nassau:** The Broadway-Nassau option would be a new facility located east of the WTC site under Dey Street and beneath NYCT's Fulton Street Transit Center. It would be a stub-end station, requiring conductors and engineers to change positions within the train to continue service in the reverse direction. The terminal would have five tracks and five 10-car platforms. It would be integrated with the Fulton Street Transit Center and would have street-level access from Broadway, Fulton Street, and John Street. Convenient, below-grade access to NYCT's 2, 3, 4, 5, A, C, J, M, and Z trains would be provided. Connections to NYCT's R and W trains would be via a newly constructed concourse under Dey Street. There would also be all-weather connections to the World Financial Center or the future buildings on the WTC site.
- **Location 4, Vesey Street:** The Vesey Street option would be located in the WTC "Bathtub" along Vesey Street. It would have an east-west orientation and would form a loop with the Hudson River tunnels. It would have five tracks and five 10-car platforms. A terminal building would be constructed immediately above the platforms and mezzanines at street level with pedestrian access from Vesey and Fulton Streets. Pedestrian concourses would allow for all-weather access to the World Financial Center, future buildings on the WTC site, and NYCT's 1, 2, 3, 9, A, C, E, R and W subway lines with a possible connection to the Fulton Street Transit Center.

Locations 3 and 4 were considered flawed since both would preclude the operation of the temporary WTC PATH station while the permanent terminal was constructed. Location 3 also required property acquisition and would have greater environmental impacts on Lower Manhattan than would a location within the WTC site. Locations 1 and 2 were both considered viable; thus, they were carried forward for further evaluation and engineering.

The evaluation revealed that Location 1 would be less expensive, would have a shorter construction duration, and would provide for greater flexibility in the overall redevelopment of the WTC site. However, Location 2 would be more proximate to Lower Manhattan's commercial core and would have superior operations. Upon further review, PANYNJ concluded that "hybrid" location could be designed. This "hybrid" alternative combined the subgrade levels of Location 1 with the above-grade levels of Location 2 and would provide for the advantages of both locations. The a "hybrid" alternative was evaluated in the DEIS with two alternative pedestrian connection options: the Terminal with a Liberty Plaza Connection Alternative and the Terminal without a Liberty Plaza Connection.

During the scoping process for the DEIS, public officials recommended an evaluation of a Permanent WTC PATH Terminal both with and without a Liberty Plaza Connection. The Liberty Plaza Connection was a proposed extension of the Terminal's concourse level beneath Church Street to a headhouse within Liberty Plaza Park. Upon further environmental review and based on public comments on the DEIS, FTA and PANYNJ determined that the Permanent WTC PATH Terminal without a Liberty Plaza Connection was the Preferred Alternative for the Project. The impacts associated with this Preferred Alternative were fully evaluated in the FEIS.

During the scoping process for the DEIS, public interest groups and local elected officials suggested an alternative that would connect the PATH system with NYCT's 6 subway line. Their proposal would have extended the PATH tracks through the WTC site to a new station beneath Fulton Street between Greenwich Street and Broadway. Beyond Broadway, a new track would be constructed beneath Park Place to merge with the 6 line, which currently terminates at NYCT's Brooklyn Bridge-City Hall Station. PANYNJ, in consultation with MTA/NYCT, considered their proposal, including subsequent variations, and determined that a number of critical construction and operational issues would need to be resolved to make this alternative feasible. These considerations would likely delay the completion of the Permanent WTC PATH Terminal and may have also resulted in substantial alterations to existing and planned transportation infrastructure. Given these considerations and other engineering and environmental constraints, this alternative was not considered reasonable and was not carried forward for further consideration.

#### **ENVIRONMENTALLY PREFERRED ALTERNATIVE AND PROJECT BENEFITS**

Based upon the analysis contained in the Permanent WTC PATH Terminal DEIS and FEIS, and public comment, the Terminal without a Liberty Plaza Connection was selected as the Preferred Alternative ("the Project"), as presented in the FEIS.

The Preferred Alternative will meet the Project's Purpose and Need and will realize its goals as follows:

***Effectively restore long-term PATH service between New Jersey and Lower Manhattan:*** The Project will provide five tracks and four platforms long enough to accommodate 10-car PATH trains. The four, 10-car platforms will improve the capacity of the WTC terminal as compared to pre-September 11, 2001 conditions and will enable PATH to accommodate its projected ridership

during and beyond the 20-year planning horizon. Furthermore, the Terminal will be constructed without disruption to existing, weekday, peak-hour PATH service.

***Establish an intermodal transportation facility in Lower Manhattan:*** The Project will provide connections between PATH and 1) NYCT's Fulton Street Transit Center; 2) NYCT's Cortlandt Street station (1 line); 3) NYCT's Cortlandt Street station (R and W lines); 4) NYCT's World Trade Center (E line); and the Trans-Hudson ferry terminal at Battery Park City. Furthermore, the Terminal would not preclude a future connection to a Lower Manhattan Terminal for the Long Island Rail Road or direct John F. Kennedy International Airport train service, if such a terminal is constructed.

***Plan and construct a terminal that would support the redevelopment of Lower Manhattan:*** The Project's design has been closely coordinated with the master planning for the WTC site. Furthermore, where feasible, infrastructure to support the Terminal is co-located with infrastructure to support other uses on the WTC site. When operational, the Terminal will provide direct access to offices, retail, and cultural facilities on the WTC site.

***Minimize adverse impacts to the environment:*** The Project incorporates environmental performance commitments, sustainable/"green" design guidelines, and other mitigation to reduce its impacts on the environment both during construction and when operational.

## POTENTIAL SIGNIFICANT ADVERSE IMPACTS OF THE PROJECT

This section presents a summary of the significant adverse environmental impacts that will occur as a result of construction and operation of the Project. More detailed information on these impacts is contained in the FEIS. A summary of mitigation measures is included in Attachment A to this ROD, and the FEIS provides a complete description of all mitigation applicable to the Project. The Project will result in unavoidable disruptions during construction that, cumulatively with other foreseeable construction projects in the vicinity of the Permanent WTC PATH Terminal, will result in significant short-term adverse impacts on the environment. The categories included in this section in which significant short or long-term impacts either will or are likely to occur are: cultural resources; transportation; air quality; noise and vibration; infrastructure; hazardous materials; and natural resources.

### *CULTURAL RESOURCES*

Construction of the east-west concourse beneath Route 9A would have an adverse impact to the Hudson River Bulkhead, which is located under the west side of Route 9A. The Project may also disturb potential archaeological resources on the eastern portion of the WTC site.

Construction and operation of the Project would directly disturb or alter remaining remnants and structures on the National Register-eligible WTC site. FTA and PANYNJ have executed a Memorandum of Agreement (MOA) pursuant to Section 106 of the National Historic Preservation Act. Per the stipulations of the MOA (in Attachment B), the Terminal would include design measures, including architectural treatments, and other measures to minimize and/or mitigate the Project's use of remaining remnants and structures on the WTC site.

Construction-period vibrations created by the Project may adversely affect 5 historic buildings in the area of potential effect as follows:

- Former East River Savings Bank, 26 Cortlandt Street;
- Barclay-Vesey Building, 140 West Street;

- Beard Building, 125 Cedar Street;
- 114-118 Liberty Street; and
- St. Paul's Chapel and Graveyard.

The MOA establishes a process for addressing vibrations during construction.

#### *TRANSPORTATION*

The Project-generated construction period vehicle trips would result in an adverse impact at the intersection of Route 9A and Liberty Street during the PM peak hour.

In the 2025 design year, the Project would result in a significant adverse pedestrian impact at the intersection of Church and Liberty Streets. The Project would add approximately 4,490 and 2,010 new pedestrian trips at this location in the AM and PM peak hours, respectively. These trips would be added to a pre-September 11, 2001 baseline of 8,420 and 7,050 trips in the AM and PM peak hours, respectively, and would represent more than a 50 percent increase in volumes. This increase in trips would result in level of service (LOS) F conditions for the north and west crosswalks as well as the northwest corner reservoir. This adverse impact will be considered in the design of the crosswalks and corner reservoir; however, the LOS F condition cannot be eliminated.

#### *AIR QUALITY*

The Project's construction would result in increased concentrations of carbon monoxide (CO), particulate matter (PM<sub>2.5</sub>, PM<sub>10</sub>), and nitrogen dioxide (NO<sub>2</sub>) at receptor sites in close proximity to the construction zone. However, the increased concentrations in CO, PM<sub>10</sub>, and NO<sub>2</sub> would not exceed National Ambient Air Quality Standards (NAAQS) and, therefore, would not result in adverse impacts. Without mitigation, the maximum 24-hour PM<sub>2.5</sub> concentration of 68.9 µg/m<sup>3</sup> would exceed the NAAQS at one location. With the mitigation required by this ROD (in Attachment A and the FEIS), the 24-hour NAAQS for PM<sub>2.5</sub> will not be exceeded. The existing background PM<sub>2.5</sub> concentration already exceeds the new NAAQS for annual average PM<sub>2.5</sub> concentrations. The mitigation required by this ROD, including the use of ultra low sulfur diesel fuel and electric powered equipment, and particulate matter reduction devices on construction equipment, will minimize the increase in annual average PM<sub>2.5</sub> concentrations. If a State Implementation Plan to address construction emissions of PM<sub>2.5</sub> is developed prior to the completion of construction of the Project, its relevant requirements will also be followed.

#### *NOISE AND VIBRATION*

The Project's construction noise levels would exceed FTA's recommended 8-hour threshold for residential uses at the Hilton Millennium Hotel and 114 Liberty Street, and 8-hour and 30-day commercial land use thresholds at the World Financial Center by up to three decibels as perceived by humans (dBA). With the mitigation required by this ROD, that is, pavement breaker mufflers, low noise emission impact wrenches, and acoustical enclosures on grout drills, a reduction of one to four dBA for the time periods and uses noted above would be achieved, and these thresholds would not be exceeded. In addition, as described above, vibration created by the Project construction may adversely impact the five historic buildings within 90 feet of the construction zone and the executed Section 106 MOA establishes a process for addressing vibration during construction.

The Project would not result in any operational vibration impacts for uses planned on the WTC site. However, this alternative would exceed the FTA criteria for ground-borne noise, for the most sensitive uses categorized by FTA—buildings with interior spaces where quiet is important. This category was conservatively used to assess potential impacts at the WTC Memorial site, the only planned use on the Project site that could potentially be adversely impacted by ground-borne noise generated by PATH operations. However, the planning and design of the WTC Memorial and the Project are being fully coordinated to ensure that ground-borne noise from PATH operations would not adversely impact the WTC Memorial.

#### *INFRASTRUCTURE AND ENERGY*

The Project's construction has the potential for conflicts with existing utility lines along Church Street. Where utility lines would interfere with permanent elements of the Project, they would be permanently relocated. Where construction activities have a high potential to disrupt utility lines, shoring or temporary relocation may be undertaken.

#### *HAZARDOUS MATERIALS*

The Project's platform, mezzanine, and portions of its concourse would be within the portion of the WTC site that was fully cleared of contaminants as part of the post-September 11, 2001 recovery efforts. Portions of the WTC site east of the 1 line have the potential for residual contamination since debris and structures remain in this area. Excavation and tunneling activities beneath Route 9A has the potential to encounter fill materials with elevated levels of polycyclic aromatic hydrocarbons (PAHs) and metals. PANYNJ will require appropriate construction protection plans to be implemented to address these potential contaminants. PANYNJ will also reinforce damaged portions of the WTC basement wall, which would prevent the invasion of ground water through the wall into the WTC site.

#### *NATURAL RESOURCES*

The use of glass as the primary material for the street-level terminal has the potential to result in bird strikes. During final design, measures to reduce bird strikes will be explored.

The river water cooling system includes two existing intakes located on the eastern shore of the Hudson River near the World Financial Center. While some level of impact to aquatic organisms due to entrainment of fish eggs (and much smaller numbers of larvae) is unavoidable, overall aquatic impacts would be materially reduced from pre-September 11, 2001 conditions with the design of the Project, WTC Memorial and Redevelopment Plan, and of the new river water cooling system. By excluding life stages of entrainable organisms with higher natural survival rates, the selected design minimizes the adverse environmental impact of the cooling water intake structures.

### **D. MEASURES TO MINIMIZE HARM**

All practical means to avoid or minimize environmental harm from the Project have been adopted. PANYNJ will incorporate into design, construction, and operation of the Project all mitigation measures identified in the FEIS and in the ROD and per the consultation and coordination conducted pursuant to this ROD. These measures constitute all practicable mitigation measures and will address the Project-related impacts to the fullest extent practicable. FTA will require in any grant documents and the Construction Agreement for the Permanent

WTC PATH Terminal that all committed mitigation be implemented in accordance with the FEIS and this ROD. FTA will require PANYNJ to submit written reports on its progress in implementing the mitigation commitments quarterly. FTA will monitor this progress through quarterly review of final engineering and design, and construction of the Project. The measures to minimize harm are fully described in the FEIS and are summarized in Attachment A to this ROD.

The environmental approach for the Project incorporates and is consistent with the Environmental Analysis Framework for the Lower Manhattan Federal Transportation Recovery Projects (Framework). The Framework was developed by FTA and other interested Federal agencies and the following group of governmental entities involved with the September 11, 2001 disaster recovery in lower Manhattan: MTA, PANYNJ, New York State Department of Transportation (NYSDOT), and LMDC. The Framework provides for a coordinated approach to cumulative impact analysis for the environmental review of proposed Federal projects in lower Manhattan. The Framework, included in its entirety in Appendix I of the FEIS, has been used in the planning and project development and consists of the following components:

- Green Design, Green Construction, and Sustainability Principles;
- Construction Environmental Protection Plan;
- Public Involvement and Governmental Entities Coordination Plan; and
- Baseline Assessment of Resources and Coordinated Cumulative Effects Analysis Approach.

The Lower Manhattan Recovery Project sponsors also adopted common Environmental Performance Commitments (EPCs) to address the resource areas of concern for cumulative adverse impacts to be incorporated into project planning, design and construction documents and contracts. EPCs are measures to lower the potential of each project to have adverse environmental impacts, and thus lessen the potential for each project to contribute to overall adverse cumulative effects in Lower Manhattan. This approach recognizes that improvement of access to lower Manhattan in support of economic recovery and resumed growth may cause short-term impacts before all potential benefits of improved transportation on the Lower Manhattan environment and economy are realized. The Permanent WTC PATH Terminal includes the incorporation of these EPCs (in Attachment A) and the FEIS analysis is consistent with the Framework.

#### **PERMITS AND APPROVALS**

PANYNJ will obtain all required permits and approvals and comply with all applicable laws and policies in implementing the Project.

#### **RE-EVALUATION**

Pursuant to 23 CFR Section 771.129, a written evaluation of the validity of the FEIS for the Project will be required before further approvals may be granted if it becomes necessary to make substantial changes to the scope of the Project, or if major steps to advance the Project have not been taken within three years.

#### **SUPPLEMENTAL ENVIRONMENTAL REVIEW**

PANYNJ and FTA shall initiate a supplemental environmental review of the Project, as outlined in 23 CFR Section 771.130, whenever FTA determines that: 1) Substantial changes to the Project would result in significant environmental impacts that were not evaluated in the FEIS; 2) New information or circumstances relevant to environmental concerns and bearing on the Project or its

impacts would result in significant environmental impacts not evaluated in the FEIS; or 3) Where the significance of new impacts is uncertain. A supplemental environmental review will not be necessary where the changes to the Project, new information, or new circumstances result in a lessening of adverse environmental impacts evaluated in the FEIS without causing other environmental impacts that are significant and were not evaluated in the FEIS. If a supplement is developed, then the NEPA process for this supplement will conclude with a separate NEPA determination.

## **E. PUBLIC OPPORTUNITY TO COMMENT**

The NEPA process for the Project has included a public outreach program, initiated during the scoping phase and continuing through the DEIS and FEIS phases. Public opportunity to comment has included numerous meetings with community boards; Business Improvement Districts; residents of the study area and other concerned citizens; victims' family groups; survivors' groups; public and private institutions; private professional, technical, and business groups; civic organizations and transit advocates; historic preservation organizations; public and private utilities; the Permanent WTC PATH Terminal Technical Advisory Committee; elected officials; and interested governmental agencies. Public involvement included public meetings and presentations to local civic groups, community groups, and stakeholders. These meetings and presentations provided the public and stakeholders information about the Project and allowed for an opportunity to provide their opinions and to contribute to the ongoing decision-making process. Attendance was encouraged through mailings, advertising, and press releases. A Permanent WTC PATH Terminal mailing list was established for scoping and has been amended to include additional stakeholders and interested parties as they were identified. Community involvement will continue through the design and construction of the Permanent WTC PATH Terminal through the outreach efforts of PANYNJ.

## **NOTICE OF INTENT AND SCOPING PROCESS**

The environmental review process for the Permanent WTC PATH Terminal was formally initiated on September 26, 2003, when FTA published a Notice of Intent (NOI) to prepare an EIS in the Federal Register. The NOI, which was published in 12 local papers, invited the public to participate in the scoping process, including attendance at two Scoping Meetings. The NOI also indicated the availability of a Draft Scoping Document that provided an overview of the Terminal project and its scoping process, as well as FTA and PANYNJ contact persons. The public and interest groups were also invited to participate in the scoping process via a variety of advertising and outreach mechanisms, including newspaper notices and the Terminal project's web site. Federal, state, regional, and local agencies were invited by letter to participate in the scoping process and provided a Draft Scoping Document.

Two formal Scoping Meetings were held on October 8, 2003 and October 9, 2003. The Scoping Meeting included a formal presentation by PANYNJ, followed by an opportunity for the public to provide comments on the scope of the issues to be addressed in the DEIS. An informal session staffed by PANYNJ personnel, including poster boards providing project information, was held concurrently at the same locations. A total of 150 members of the public, public officials and agency staff signed the attendance sheet at the Scoping Meetings.

The public was encouraged to submit comments at the Scoping Meetings or by mail, phone, fax, and e-mail. The close of the public comment period was Wednesday October 29, 2003. A total of 71 people submitted comments during scoping. The key issues raised by the public during

scoping were: 1) the project's role in the revitalization of Lower Manhattan; 2) coordination with LMDC and other Lower Manhattan recovery projects; 3) preservation of the footprints of the former twin towers; 4) air quality, noise, and traffic and pedestrian circulation during construction; and 5) secondary and cumulative effects during construction. Members of the public also commented specifically on the Draft Scoping Document and the project alternatives that were presented at the Scoping Meetings. Comments received during the scoping process were addressed within the DEIS. Appendix H of the FEIS includes the list of comments and responses from the public scoping process.

Comments from public interest groups and the New York City Department of City Planning proposed two additional alternatives. The first requested the consideration of routing a new track connection between the Downtown PATH under Fulton Street and constructing a new PATH/NYCT 6 line subway station. As described in the DEIS and FEIS, this alternative was considered but was eliminated due to engineering and other constraints. The second alternative recommended that the Terminal not include a connection to Liberty Plaza. As described in the FEIS, this alternative became the Preferred Alternative for the Permanent WTC PATH Terminal.

#### **DEIS PUBLIC COMMENT PERIOD**

Following the publication of the Notice of Availability (NOA) of the DEIS in the Federal Register on June 4, 2004, two Public Hearings were held on June 23, 2004 and June 24, 2004. The Public Hearings included a formal presentation and an informal poster session staffed by PANYNJ personnel. A total of 90 members of the public, public officials and agency staff signed the attendance sheets at the Public Hearings. Written comments on the DEIS were formally accepted until July 21, 2004, more than 45 days after the release of the document. However, additional letters were received afterward and comments contained therewith were considered in the preparation of the FEIS.

A total of 15 persons spoke at the Public Hearings, and two members of the audience submitted written comments at the hearings. An additional 26 parties sent letters, e-mails, or faxes during the DEIS comment period. Comments addressed the alternatives considered for the project; methods of fare collection; integration of transit systems; air quality impacts and mitigation; preservation of historic resources; and overall project benefits. Comments made during the DEIS comment period are summarized in Chapter 19, "Public Comments on the DEIS and Responses" of the FEIS. The written transcript of the hearings as well as the letters, e-mails, and faxes sent during the DEIS comment period are shown in Appendix H of the FEIS.

#### **SECTION 106 PROCESS**

The National Historic Preservation Act (NHPA, 16 USC §470) of 1966, as amended, requires Federal agencies to take into account the effects of their undertakings on properties either listed on or determined eligible for listing on the National Register of Historic Places. The Section 106 review process for the Permanent WTC PATH Terminal began concurrent with its public scoping in September 2003. In order to facilitate the process for three Federally-funded Lower Manhattan Recovery Projects at the WTC site, FTA entered into a coordinated Section 106 review process with the Federal Highway Administration (FHWA) (lead agency for the Route 9A Project) and LMDC (as delegated lead agency for the U.S. Department of Housing and Urban Development for the WTC Memorial and Redevelopment Plan) in December 2003. The three federal agencies jointly notified the New York State Historic Preservation Officer (SHPO) and Advisory Council on Historic Preservation (ACHP) concerning these three Lower Manhattan undertakings and

identified potential consulting parties to the Section 106 process. In January and February 2004, FTA, FHWA and LMDC hosted two meetings with consulting parties to discuss the projects and in particular the evaluation of the WTC site for eligibility for inclusion on the National Register of Historic Places. Consulting parties were also offered opportunities to comment on draft versions of the Coordinated Determination of Eligibility for the WTC site, which was issued in final form on March 31, 2004. At that time, the coordinated process effectively ended, leaving each lead agency to meet the remainder of its Section 106 responsibilities separately, as appropriate to its respective undertaking.

Subsequently, FTA determined that the Permanent WTC PATH Terminal would have adverse effects on historic and archaeological resources, and PANYNJ and FTA prepared a draft Permanent WTC PATH Terminal Finding of Effects pursuant to Section 106 of the NHPA, which was published as part of the DEIS. The Project's Section 106 consulting parties ("consulting parties") and the public had the opportunity to comment on this draft Finding of Effects concurrent with the public comment period for the DEIS. FTA and PANYNJ hosted two consulting party meetings, one on June 14, 2004, and one on July 20, 2004 during the DEIS comment period. FTA and PANYNJ provided information at these meetings to further clarify the project's effects on historic resources. The consulting parties commented on the Finding of Effects and provided discussion on measures to avoid, minimize, or mitigate these effects. Following the close of the public comment period on the DEIS, FTA and PANYNJ began development of a draft Memorandum of Agreement (MOA) to address the minimization and mitigation of adverse effects that would not be avoided. FTA and PANYNJ also continued coordination with ACHP, SHPO, and the consulting parties to further develop measures to minimize or mitigate adverse effects on the historic resources. One consulting party meeting was held on August 19, 2004, one on November 4, 2004, and one on November 15, 2004 to solicit comments on drafts of the MOA. Another draft version of the MOA was distributed to the consulting parties on December 16, 2004, and the consulting parties were invited to comment in writing. The consulting parties provided input on the draft MOA both at the meetings and in writing. A total of 69 organizations participated in this process as consulting parties. The "List of Agencies and Organizations" section of the FEIS identifies the specific groups and individuals that have been consulting parties for this project. The full transcripts of the meetings and the written comment letters submitted by consulting parties appear in Appendix H of the FEIS.

The MOA among the FTA, ACHP, SHPO, PANYNJ, and concurring consulting parties was executed in April 2005, and its full text is included in Attachment B of this ROD.

#### **FEIS PUBLIC REVIEW PERIOD**

The FEIS responded to comments received on the DEIS and identified a Preferred Alternative and mitigation measures that will be implemented to avoid and minimize adverse impacts. It also identified and assessed the refinements to the design that have been made as a result of public comments on the DEIS, community outreach, and ongoing engineering.

The NOA of the FEIS was published in the Federal Register on May 13, 2005. The formal review period for the FEIS ended on June 13, 2005. Seven written comments and one verbal comment were received on the Permanent WTC PATH Terminal FEIS following its publication. The verbal comment is noted in the Section 4(f) heading below and the seven written comments and responses are shown below.

FEIS Comment One: The New York City Landmarks Preservation Commission (LPC)

Comment: LPC expressed in its memo dated June 3, 2005 that their concerns regarding archaeology did not apply to the Preferred Alternative selected. They also indicated that the historic architectural resources text is appropriate.

Response: Comment supports FTA position on these issues.

FEIS Comment Two: U.S. Environmental Protection Agency (EPA)

Comment: EPA expressed in their letter dated June 10, 2005 that the FEIS adequately addressed their concerns. EPA also reiterated their support of the Environmental Performance Commitments (EPCs) and Construction Environmental Protection Plan (CEPP) and recommended that these commitments appear in the ROD. EPA noted that "all of these efforts will minimize the impacts to air quality and other resources of concern and provide sufficient protection to human health and the environment of Lower Manhattan." EPA encouraged the continued exploration of emulsified fuels and electrification of construction equipment for their feasibility and use in the Project.

Response: The EPCs and CEPP are firm commitments, included in the FEIS and this ROD. Provisions are made to continue to explore additional mitigation, including electrification and emulsified fuels.

FEIS Comment Three: The City of New York Department of Sanitation (DSNY)

Comment: DSNY recommended that PANYNJ use the guidance in the Solid Waste and Sanitation Services chapter of the 2001 City Environmental Quality Review Technical Manual in the future. They also noted a correction to the current New York City recycling law that requires certain tonnage threshold mandates not percentages, however the proposed Solid Waste Management Plan (SWMP) does include a 25% diversion rate goal for recycling. DSNY agrees with the utilization of the "Green Design" principles including a recycling program and stated that it is consistent with the current and proposed SWMP.

Response: As noted by DSNY, the Project incorporates recycling program goals and they will be further refined in the Project's design. PANYNJ will comply with applicable city laws.

FEIS Comment Four: Coalition of 9/11 Families (Coalition)

Comment: The Coalition expressed concerns that their comments on the DEIS had not been fully addressed.

Response: FTA considers the responses to the Coalition's DEIS comments in FEIS Chapter 19, "Public Comments on the DEIS and Responses," to fully address those comments. The Project's effects have been considered in the Section 106 and NEPA processes and associated documentation, agreements, and determinations. These determinations include a Section 4(f) determination that there is no feasible and prudent alternative to the Project's use of Section 4(f) resources, and that the Project includes all possible planning to minimize harm to those Section 4(f) resources.

Comment: "The Coalition of 9/11 Families continues to be concerned with the FTA and PANYNJ's proposed construction of Platform D. Under Section 4(f) of the US Department of Transportation Act, before affecting a historic property (in this case, the remains of the twin tower footprints at bedrock...), it must be demonstrated that there are no 'prudent and feasible' alternatives to the proposed federal undertaking. The Port Authority's own analysis suggests that

acceptable alternatives to the construction of Platform D are feasible, and thus, if employed would prevent the additional infrastructure encroachment on the remains of the twin tower footprints on bedrock. The Port Authority and FTA only focused on discounting 'mega alternatives' and did not consider other options that were much more feasible and that would have minimized their project's adverse effects on historic resources."

Response: As noted in the FEIS and the Project's Section 106 Memorandum of Agreement (MOA), the entire 16-acre WTC site is considered eligible for listing on the National Register of Historic Places. The WTC site includes the remaining remnants and structures of the WTC site. The Section 4(f) Evaluation considers alternatives to the use of the WTC site, which is defined as the Section 4(f) property. As stated in the Draft Section 4(f) Evaluation, there are no prudent and feasible alternatives to the use of this property to meet the transportation purpose and need and the U.S. Department of Interior has agreed that there is no feasible and prudent alternative. Therefore, measures to minimize harm to the resource were developed.

Alternate locations for the terminal within the WTC site that may avoid or minimize the use of the Tower footprint areas were also considered. Given the constraints of the PATH tunnel projections entering the site and the track alignment needed for a loop terminal station to meet PATH operational requirements and needs for transit service, the only areas of the WTC site where the terminal could potentially avoid the footprint areas are in the far north or east of the WTC site. These two locations, although feasible, were determined not to be prudent: the Vesey Street and Church Street locations. The Vesey Street location would require suspension of the current PATH service at the WTC site in order to construct the Permanent WTC PATH Terminal. As the temporary WTC PATH station was built expeditiously to serve a critical interim transportation need in Lower Manhattan, suspension of temporary service to construct the permanent terminal would defeat a goal of both the temporary station and permanent terminal projects to restore and maintain transit service in Lower Manhattan. The Church Street location would cause sub-optimal PATH passenger circulation by requiring most passengers to enter and exit the Terminal via the same vertical paths from the platform to street level, increasing the likelihood for pedestrian congestion and delay, and raising safety concerns. The Preferred Alternative selected for the Project allows for most passengers to enter and exit from the platform, mezzanine, and concourse levels in a more disperse circulation path, avoiding pedestrian congestion and delay, and improving passenger safety.

As described in Chapter 8, Section A, "PATH," and Appendix C-2 of the FEIS, several alternatives were explored for the configuration of PATH's track and platform level to minimize harm to the Section 4(f) resource. The Project is being planned to support the PATH's system-wide improvements, operating requirements, and projected future ridership demand given the WTC site physical constraints, including the east slurry wall that bisects the WTC Site. Each of these factors results in specific requirements for the design of the Terminal's platforms and tracks and the only alternative that meets these minimum capacity and operating design requirements is a 5-track, 4-platform Terminal station.

Based on this finding, FTA and PANYNJ, in consultation with the Project's Section 106 consulting parties, developed measures to minimize and mitigate the adverse impacts of the Terminal to remnants and structures on the WTC site, including the twin tower footprint areas. As described in the executed MOA, there will be a viewing area along the northwest portion of PATH's Platform D in the area where the platform would cover the footprint of the former North Tower of the WTC. In addition, symbolic treatments will be incorporated on all platforms in the areas where they would cover the footprint of the former WTC North and South Tower. Measures

to protect the Tower perimeter column bases both during and after construction of the Permanent WTC PATH Terminal will be implemented.

The FTA believes, and the U.S. Department of Interior, which oversees that National Register of Historic Places, concurs, that the documentation presented in the FEIS and Final Section 4(f) Evaluation and the measures included in the executed MOA have addressed the requirements of Section 4(f) of the U.S. Department of Transportation Act.

Comment: "The FTA and PANYNJ have never fully investigated and analyzed the cumulative effects of LMDC and other agency projects on the World Trade Center site. Due to this lack of analysis, the MOA clause dealing with cumulative effects is not specific enough to either protect historic resources nor is it in compliance with laws and regulations."

Response: The Permanent WTC PATH Terminal FEIS considers other known project undertakings with potential effects on the WTC site over which FTA has no authority, particularly the commitments set forth in the Programmatic Agreement and Section 106 process for the WTC Memorial and Redevelopment Plan, and establishes a process for its continued consideration during the Permanent WTC PATH Terminal's implementation in the MOA. PANYNJ has committed to measures to preserve and protect resources that may be directly impacted by the construction of the Permanent WTC PATH Terminal and to minimize and mitigate its operational impacts to resources. The executed MOA provides for a process to follow, which was concurred on by LMDC, NYSDOT, and MTA/NYCT, to assess cumulative effects as the Project design advances. This cumulative effects assessment process will include the solicitation of input from the State Historic Preservation Officer and preservation groups. If this assessment determines a cumulative adverse effect not envisioned in the FEIS, the assessment documentation and any proposed measures to minimize or mitigate cumulative adverse effects will be provided to all Section 106 consulting parties for review and comment. In the event that an unforeseen cumulative adverse effect will occur, PANYNJ and FTA will consider and respond to all these comments in reaching a resolution on measures to be included in the Permanent WTC PATH Terminal.

#### FEIS Comment Five: Historic Districts Council (HDC)

Comment: HDC expressed continuing concern regarding potential cumulative effects on the WTC site and concern that projects on the site are evaluated as separate, independent, project undertakings: "It appears that the division of the historic review into two separate components (PATH Terminal and Redevelopment/Memorial) was contrived to maximize the allowable destruction of historic resources of the site while appearing on paper to satisfy Section 106, because nowhere have all of the adverse effects been identified and evaluated in one presentation. It also appears intended to shield LMDC from 4(f) requirements even though the entire property is the PANYNJ complex and the PATH system is integrated with all of the LMDC zones."

Response: FTA has determined that the LMDC WTC Memorial and Redevelopment Plan and the Permanent WTC PATH Terminal are separate projects with independent purposes and utility, primarily for the following three reasons: 1) The projects have independent utility and separate sponsors. Whereas the Permanent WTC PATH Terminal sponsored by PANYNJ has a transportation purpose and need, the WTC Memorial and Redevelopment Plan sponsored by LMDC has a separate and independent purpose and need. 2) FTA has no responsibility under NEPA, Section 106, or Section 4(f) for a project over which it has no control. LMDC does not require any FTA approval or funding for the WTC Memorial and Redevelopment Plan project, thus FTA has no "Federal action" with respect to the LMDC project and no authority over the

LMDC project. 3) The Permanent WTC PATH Terminal can be constructed regardless of the status of the WTC Memorial plans or plans for further development at the WTC site. The Permanent WTC PATH Terminal was planned with separate utility infrastructure and substructure to ensure the separate projects could proceed according to their own schedules. Though ultimately certain infrastructure may be shared if the separate project design plans and schedules allow, the projects are separate and independent and neither one forecloses the consideration of alternatives for the other.

In accordance with NEPA regulations, the Permanent WTC PATH Terminal FEIS presents and considers the cumulative impact on the human and natural environment which results from the incremental impact of the Project when added to other present and reasonably foreseeable future actions of other entities, such as LMDC. The Section 106 Memorandum of Agreement for the Project establishes a process for continued assessment and consideration of the cumulative impacts of projects potentially affecting the same resource during the final design and construction of the Permanent WTC PATH Terminal. This ROD also requires continued coordination of PANYNJ activities with other project sponsors to minimize cumulative construction impacts on Lower Manhattan. FTA is fulfilling its NEPA responsibility to evaluate fully the Project over which it has authority and to consider the cumulative impacts of other reasonably foreseeable actions over which FTA does not have control.

FEIS Comment Six: Benjamin Hemric

Comment: "Nowhere does the FEIS appear to address the possibility that Mr. Calatrava's design may be highly inappropriate for the built environmental of Lower Manhattan...or, in particular, for a site that is across the street from historic St. Paul's Chapel and its graveyard."

Response: As described in FEIS Chapter 7, "Urban Design and Visual Resources," the Terminal building would be located on a site that contained modern structures prior to September 11, 2001 and modern structures are proposed to be constructed on the WTC site as part of the WTC Memorial and Redevelopment Plan. While FEIS Chapter 6, "Cultural Resources," identified historic structures in the vicinity of the WTC site, the area has a mix of both older and modern structures.

Comment: "Neither does the FEIS address the issue of whether a modern, 'iconic' structure is appropriate for Lower Manhattan in general. It appears to incorrectly assume that Lower Manhattan is currently bereft of such structures..."

Response: The FEIS identifies many of the historic and modern iconic structures within Lower Manhattan as well as those proposed on the WTC site. As noted in FEIS Chapter 19, "Public Comments on the DEIS and Responses," the "density and patterns of development in New York City has resulted in adjacent iconic structures for some time....The location of an "iconic" Terminal building in Lower Manhattan is in keeping with New York's history and patterns of development."

Comment: "The Calatrava design does not reinforce the street walls of Lower Manhattan, and the issue has not been addressed in the FEIS."

Response: As noted in FEIS Chapter 19, "Church Street does not have a contiguous street wall in the vicinity of the World Trade Center site since newer structures are set back with exterior plazas. Thus, the shape and position of the Terminal will not adversely affect the urban design of the area."

Comment: "The FEIS does not address the issue of how a structure that is essentially a block-sized entrance kiosk—without, for instance, exterior street level retail—will negatively affect the urban environment."

Response: As noted in FEIS Chapter 19, "Although the Terminal will have access to the street-level retail being planned as part of the WTC Memorial and Redevelopment Plan, street-level commercial space will not exist within the Terminal building itself. However, street-level retail will be located within the buildings immediately north and south of the Terminal. The area surrounding the Terminal building will be open space with amenities to serve the public. It is envisioned that the combination of street-level retail to the north and south of the Terminal and the plaza that will surround the Terminal building will create an active street life with functions that serve more than just retail."

Comment: Hemric expressed concern that the FEIS did not address the "fact that an entire block of the WTC redevelopment site is being devoted to essentially a free standing kiosk (instead of a terminal located within, for example, an office building..."

Response: The programming of the WTC site has been closely coordinated among PANYNJ, LMDC, MTA/NYCT, NYSDOT, and the sites' lease holders. This process has included public outreach and substantial input, resulting in a coordinated master plan. While the individual components of the site continue to be modified to address specific site issues, the overall programming of spaces has not changed. One goal of the Permanent WTC PATH Terminal is to "create a world-class transportation facility in Lower Manhattan" to "be integrated with existing and proposed transportation infrastructure and other uses but...also have a significant presence in Lower Manhattan." This goal was intended to address the pre-September 11, 2001 terminal's deficient public visibility and navigation. A terminal that would be integrated within another structure would not meet this goal to the level of the proposed Terminal building.

Comment: "In terms of those using the terminal, the FEIS also does not seem to have addressed how visually effective [regarding light and glare] such a space will be around the clock and year round—especially when one considers New York's climate..."

Response: The Terminal will provide for both natural and artificial illumination. Natural illumination will maximize energy savings on days when light will penetrate the glass within the Terminal building. However, on days or at times when natural illumination is not sufficient, the terminal will have artificial illumination to provide for appropriate way finding, security, and comfort of Terminal users.

Comment: Hemric expressed concern that the FEIS does not address the passenger comfort or costs of climate control of a Terminal building with large sections of glass.

Response: As part of its commitment to provide for a sustainable design, PANYNJ is developing measures to enhance the indoor environment of the Terminal. In addition, the sustainable design commitments for energy that were identified in FEIS Chapter 11, "Infrastructure and Energy," will reduce the Terminal's overall demand for electricity.

Comment: "The FEIS also seems to have failed to consider the vulnerability to terrorism of a building with so much glass."

Response: As noted in FEIS Chapter 17, "Safety and Security," security has been a principle consideration in the planning and design of the Permanent WTC PATH Terminal. With respect to the Terminal's architecture, security measures will include the specification of façade and exterior glazing systems responsive to exceptional natural events, as well as additional design

loads that could be created by explosive events delivered by vehicles and/or persons. The Terminal's design will also respond to emergency evacuation and crowd management protocols based on historical experiences, governing codes, and security master plan guidelines that acknowledge the need for anticipating the failure of normally available systems and human management intervention, and incorporating protective design considerations. Design considerations include the implementation of carefully planned emergency egress, including areas of refuge, increased stair and exit path sizing, exiting route locational diversity and redundancy, airborne contaminant compartmentalization and purging, way finding clarified through sight lines and destination recognition, signage, graphics, and other architectural design features.

Comment: "Neither has the Port Authority appeared to consider how much it will cost to clean all that glass..."

Response: As described in FEIS Chapter 11, PANYNJ will incorporate sustainable design principles that would limit the operating and maintenance costs for the Terminal. Among these principles are strategies to reduce demand for electrical grid power and to reuse stormwater for cleaning and landscaping. PANYNJ has not yet determined its operating and maintenance budget for the Permanent WTC PATH Terminal, but is confident that costs would be similar to those incurred before September 11, 2001.

Comment: The "FEIS has not addressed the issue of the depth of the proposed pedestrian tunnel beneath West Street (Route 9A)...an automobile tunnel is no longer planned beneath West St., why should the Port Authority still be planning a pedestrian tunnel at such an inconvenient deep depth?"

Response: PANYNJ has modified the design of the Permanent WTC PATH Terminal's concourse in response to the NYSDOT proposal for the Route 9A Project and it is further described in the FEIS. The design of this concourse considers three major issues. The first is its compatibility with the PATH's concourse levels within the WTC site that are at a depth under Route 9A to form a seamless connection with PATH's east-west concourse within the WTC site. Second, the tunnel is being designed to minimize impacts to traffic on Route 9A, and since the tunnel at the proposed depth could be mined rather than cut-and-cover, its construction will result in minimal disruption to surface traffic on Route 9A. Finally, the design of the tunnel considers the numerous utility lines located beneath Route 9A, and the proposed depth of this concourse would not require the relocation of these utilities, which will minimize the impacts to the community of constructing the pedestrian connection.

#### FEIS Comment Seven: World Trade Center Restoration Movement

Comment: "Since whatever is built above is built on top of what is built below [on the WTC site], a more holistic approach to the site is needed. Prejudgment of the outcome of above-ground development leads to inappropriate constraints being imposed both on and by the PATH terminal."

Response: The design of the Permanent WTC PATH Terminal has been closely coordinated with the design of other proposed structures on the WTC site based on a master plan, which was approved on September 15, 2003. The site plan allocates spaces for various uses proposed for the WTC site, including the Permanent WTC PATH Terminal. PANYNJ will continue to coordinate with LMDC, NYSDOT, MTA/NYCT, and other parties involved in the WTC redevelopment as plans for their projects advance.

Comment: "The Liberty Plaza connection is discarded in order to cooperate with the obsession of certain interests with destroying the distinctive nature of the neighborhood—namely its constituting an exception to Manhattan's innumerable 24-hour communities. Shoppers and merchants alike prefer retail traffic to be underground..."

Response: During and after the public comment period on the DEIS, PANYNJ considered local government and community concerns that the Liberty Plaza connection would detract from the street life and retail vitality of Lower Manhattan. In addition, the Terminal with a Liberty Plaza Connection would result in higher or more intense air quality, noise, and vibration impacts during the construction period than the Preferred Alternative. Although additional pedestrian mitigation will be required with the Preferred Alternative, it has been determined to have greater short-term benefits to the community than the Terminal with a Liberty Plaza Connection Alternative.

Comment: "[T]he complete destruction of what is left of the historic Hudson Terminal is considered a matter of indifference...it is not clear if any opening is left for trains to be able to proceed beyond the current terminal in future evolutions of the mass transit system. A strategy for eastward trackage should be offered for potential future constructions."

Response: As described in FEIS Chapter 2, "Project Alternatives," two alternatives were evaluated to extend PATH eastward beyond the WTC site. Both of these alternatives were considered to have excessive fiscal and environmental costs without a substantial benefit to transit riders. Therefore, an eastward track connection was not considered to meet the purpose and need goals and objectives of the Permanent WTC PATH Terminal project.

Comment: "The plan's commitment to accepting the highly problematic introduction of streets into the WTC superblock is the greatest security risk the terminal faces..."

Response: As further described in FEIS Chapter 17, "Safety and Security," security has been a principle consideration in the planning and design of the Permanent WTC PATH Terminal. Safety and security considerations will be incorporated into the Project design. Approaches to the Terminal will be controlled by an urban sensitive designed streetscape surrounding the Terminal.

Comment: "My organization remains committed to forcing the abandonment of the Libeskind site plan...and procuring the construction of...a new World Trade Center, dominated by towers of heroic scale whose foundations we would not wish to see disrupt the PATH operations but which the PATH construction must not make harder to build."

Response: The scope of this environmental review process does not include the programming of streets and buildings within the WTC site other than the Permanent WTC PATH Terminal. Prior to the environmental review for the Permanent WTC PATH Terminal, there were numerous public workshops and meetings to provide input on the proposed WTC site plan. Comments from these meetings were considered prior to the selection of a WTC site plan on September 15, 2003.

## **F. DETERMINATIONS AND FINDINGS**

### **ENVIRONMENTAL PROTECTION (49 U.S.C. SECTIONS 5301(e) AND 5324(b))**

The environmental record for the Permanent WTC PATH Terminal Project includes the previously referenced DEIS issued in June 2004 and the FEIS issued in May 2005. These documents represent FTA's detailed statement required by NEPA and Federal transit law, 49 U.S.C. 5324(b), regarding the following: the environmental impacts of the Project; adverse environmental effects which cannot be avoided should the Project be implemented; alternatives to

the Project; impacts on the environment; and the irreversible and irretrievable commitment of resources that would occur should the Project be implemented.

On the basis of the evaluation of social, economic, and environmental impacts as presented in the FEIS, the environmental impacts and mitigation measures proposed in the FEIS, and the written and oral comments offered by the public and public agencies, the FTA determined in accordance with 49 U.S.C. 5324(b) that:

- An adequate opportunity to present views was given to all parties with a significant economic, social, or environmental interest;
- Consideration was given to the preservation and enhancement of the environment in the interest of the community in which the Project is located; and,
- All reasonable steps have been taken to minimize adverse environmental effects of the Project, and where adverse environmental effects remain, no feasible and prudent alternative to the effect exists.

#### **CONFORMITY WITH AIR QUALITY PLANS**

The Clean Air Act, as amended, requires that projects conform to the purposes of the State Implementation Plan (SIP) to receive Federal financial assistance. Those purposes are to eliminate or reduce the severity and number of violations of the NAAQS and achieve expeditious attainment of such Standards. The U.S. EPA's final transportation conformity rule (40 CFR 51 and 93) requires metropolitan planning organizations (MPOs), FHWA, and FTA to make conformity determinations on metropolitan long-range transportation plans (LRTPs), transportation improvement programs (TIPS), and transportation projects with respect to the SIP before they are adopted or approved. The LRTP is the official intermodal metropolitan transportation plan for an area and has at least a 20-year planning horizon. The TIP is a staged, multi-year, intermodal program of transportation projects that is consistent with the LRTP.

As a result of the events of September 11, 2001, the conformity requirements of the New York City Metropolitan Region have been temporarily waived until September 30, 2005, pursuant to Public Law 107-230 enacted October 1, 2002. Following enactment of the waiver, the New York Interagency Consultation Group (ICG) was tasked with tracking the air pollution emission effects of transportation projects in the Downstate New York region, including Lower Manhattan.

As a result of this law, the regulatory project conformity analysis has been replaced by the ICG's Enhanced Consultation Procedures During the Conformity Waiver Period, which were established to ensure consistency with the region's air quality goals. FTA initiated consultation with the ICG in February 2004, indicating that the Permanent WTC PATH Terminal Project is intended to reconstruct and renovate transit buildings and structures, and according to the provisions of 40 CFR 93.126 would be exempt from transportation conformity analysis. The ICG subsequently concurred with the analysis that the Project is appropriately classified "exempt" for the purposes of transportation conformity, based on the exempt category "Repair of damage caused by natural disasters, civil unrest, or terrorist acts, except projects involving substantial functional, locational, or capacity changes" under 40 CFR Section 93.126.

#### **SECTION 4(f)**

Section 4(f) of the Department of Transportation Act (49 U.S.C. 303) affords special protection to parks, recreation areas, wildlife and waterfowl refuges, and historic sites, including

archaeological sites. A Section 4(f) evaluation was prepared on the following historic and archaeological resources for the Project:

- The Project would be within the boundaries of the approximately 16-acre WTC site (National Register-eligible) and would therefore permanently use this historic resource.
- The Project would require the permanent use of a portion of the Hudson River Bulkhead (National Register-eligible).
- The Project's construction may result in ground-borne vibration impacts that may constitute constructive use of the Barclay-Vesey Building; St. Paul's Chapel and Graveyard; the Former East River Savings Bank; the Beard Building; and 114-118 Liberty Street historic buildings (National Register listed and National Register-eligible) within 90 feet of the Project's construction zone. Measures to protect these structures have been incorporated into the Project's MOA.
- The Project may require alteration or removal of archaeological resources within the eastern portion of the WTC site. Permanent use of historic archaeological resources may occur as a result of the Project if such resources are found during ground disturbance, are determined to be National-Register eligible, and are valuable for preservation in-place and cannot be preserved in-place due to the Project's implementation.

The evaluation of alternatives that would avoid the use or potential use of these resources included in the FEIS found that none of the alternatives are prudent and feasible. As presented in the Section 4(f) Evaluation in the FEIS, avoidance alternatives to the permanent use of the WTC site were determined to not meet the Project's purpose and need goals or would have costs and other impacts of extraordinary magnitude. Likewise, avoidance alternatives to the use of the Hudson River Bulkhead were considered and determined to not fully meet the Project's purpose and need goals, as does the Preferred Alternative.

The FTA, PANYNJ, the New York State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) have executed a Memorandum of Agreement (MOA) regarding the treatment of historic and archaeological resources that either are or may be adversely affected by the Project (in Attachment B to this ROD). The provisions of the MOA constitute measures to minimize harm associated with the use of Section 4(f) resources. The Department of the Interior (DOI), in a letter dated July, 30, 2004, concurred that there were no prudent and feasible alternatives to the Project and indicated that they would reserve comment on the measures to minimize harm until the Section 106 MOA had been executed. After receiving the FEIS (including the executed MOA), DOI indicated verbally that they had no further comments and would not be providing written comments on June 14, 2005. All measures to minimize harm have been included consistent with the terms of the signed MOA in the FEIS. FTA finds that there is no prudent and feasible alternative to the use of the Section 4(f) resources identified above, and that the Project includes all possible planning to minimize harm to those Section 4(f) resources.

#### **ENVIRONMENTAL JUSTICE**

Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 11, 1994), provides, in pertinent part, that FTA identify and address "disproportionately high and adverse human health or environmental effects" of Federally-funded transportation projects "on minority populations and low-income populations," and that FTA "conduct its programs, policies, and activities in a manner that

ensures that such programs, policies and activities do not have the effect of subjecting persons...to discrimination...because of their race, color, or national origin."

Based on the demographic data presented in the FEIS, FTA has determined that minority populations and low-income populations will not be subjected to discrimination through the construction or operation of the Project, and furthermore, that all persons within the area of study will enjoy improved mobility as a result of the Project.

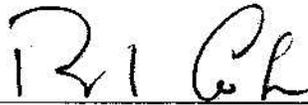
#### FLOODPLAINS AND WETLANDS

Executive Order 11988, "Floodplain Management and Protection," and U.S. DOT Order 5602.2 state that FTA may not approve an alternative involving a significant floodplain encroachment unless FTA can make a finding that the proposed encroachment is the only practicable alternative. While portions of the Project's tracks and platforms are located within the 100-year floodplain, the Preferred Alternative will reconstruct an existing use that is compatible with the surrounding uses and there is no practical alternative to support rail transit operations that do not encroach upon the floodplain. The Preferred Alternative will avoid any impact to the floodplain, as the Project will rehabilitate existing flood protection and control measures that meet or exceed pre-September 11, 2001 conditions. Thus, FTA finds that the Project is consistent with the requirements of Executive Order 11988.

The Project is not located in wetlands and will not directly impact wetlands. Thus, FTA finds that the Project is consistent with Executive Order 11990, "Protection of Wetlands."

#### COASTAL ZONE

The Coastal Zone Management Act (CZMA) of 1972 requires Federal projects with effects on any land or water use or natural resource of the coastal zone must be consistent with the policies of a coastal state's federally approved Coastal Management Program (CMP). Portions of the Project site are located within the New York City Coastal Zone. A coastal zone consistency determination was prepared pursuant to the New York CMP and was presented in the FEIS. The New York State Department of State issued a consistency certification in a letter dated June 28, 2005. Thus, FTA finds that the Project is consistent with the New York CMP pursuant to U.S. Department of Commerce regulations at 15 CFR Section 930.57.



Bernard Cohen  
Director, Lower Manhattan Recovery Office  
Federal Transit Administration

June 29, 2005  
Date of Approval