Record of Decision

Hudson River Floodwall Infrastructure and Resilience Park

New Jersey Department of Environmental Quality

EMN-2020-BR-056-0018

July 2023

FEMA

U.S. Department of Homeland Security
Federal Emergency Management Agency, Region 2
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ACRONYMS

ACHP	Advisory Council on Historic Preservation
APE	Area of Potential Effect
BRIC	Building Resilient Infrastructure and Communities
CDBG–DR	Community Development Block Grant–Disaster Recovery
CEQ	Council on Environmental Quality
CFR.	Code of Federal Regulations
DHS	Department of Homeland Security
DSD	Delay, Store, Discharge
EIS	Environmental Impact Statement
EPA	U.S. Environmental Protection Agency
FEMA	Federal Emergency Management Agency
HBLR	Hudson Bergen Light Rail
HUD	U.S. Department of Housing and Urban Development
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NHSA	North Hudson Sewerage Authority
NJDCA	New Jersey Department of Community Affairs
NJDEP	New Jersey Department of Environmental Protection
NJHPO	New Jersey Historic Preservation Office
NJ TRANSIT	New Jersey Transit Corporation
NMFS	National Marine Fisheries Service
NOA	Notice of Availability
NOI	Notice of Intent
RBD	Rebuild by Design
RBD–HR	Rebuild by Design–Hudson River
ROD	Record of Decision
U.S.C.	United States Code

1.0 INTRODUCTION

The New Jersey Division of Financial Management and General Services submitted a federal fiscal year 2020 Building Resilient Infrastructure and Communities (BRIC) grant application to the Federal Emergency Management Agency (FEMA) on behalf of the New Jersey Department of Environmental Protection (NJDEP) to pursue additional funding for the Rebuild by Design–Hudson River (RBD–HR): Resist, Delay, Store, Discharge (DSD) project. The BRIC program is authorized under Section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 United States Code (U.S.C.) § 5133, as amended by the Disaster Recovery Reform Act of 2018. Under the BRIC Grant Program, FEMA may provide technical and financial assistance to state, local, and tribal governments to assist in the implementation of hazard mitigation measures that are cost-effective and designed to reduce injuries, loss of life, and damage and destruction of property, which includes damage to critical services and facilities resulting from natural disasters.

The Proposed Action would construct a floodwall and install natural landscaping and storm drainage features to address flooding at two low-lying breach points along the Hudson River within the City of Hoboken, the Township of Weehawken, and Jersey City, New Jersey. The Proposed Action would improve coastal defense and stormwater management to reduce flooding.

The New Jersey Department of Community Affairs (NJDCA) received disaster recovery grant funding from the U.S. Department of Housing and Urban Development (HUD). As the recipient of a HUD grant, NJDEP prepared an environmental impact statement (EIS) that evaluated the environmental effects of the Proposed Action according to HUD regulations at 24 Code of Federal Regulations (CFR) § 58.2(a)(7)(i). Within the EIS, several potential DSD actions were evaluated that are not part of the BRIC grant. The official comment period on the Draft EIS was from February 24 to April 17, 2017, with the publication of a Notice of Availability (NOA) in the *Federal Register* and local media outlets. The Final EIS was published in the *Federal Register* on June 16, 2017, and the public review period closed on July 17, 2017. The Final EIS can be accessed via the U.S. Environmental Protection Agency (EPA) EIS database (https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/details?eisId=233801).

FEMA is adopting the HUD/NJDEP EIS and documenting its decision on the proposed project in this Record of Decision (ROD). FEMA published a NOA on its intention to adopt the HUD EIS that included an Initial Public Notice for actions affecting the floodplain. The notice was published in the Federal Register on December 30, 2022, and in the *Star Ledger*, *Hudson Reporter,* and the NJDEP website on January 12, 2023, and *El Especial* on January 13, 2023. FEMA recirculated the Final EIS according to 40 CFR § 1506.3(b)(1). The official comment period on the recirculated Final EIS was from January 12 to February 13, 2023. No comments were received, and no further notice is required.

Recent changes to the President's Council on Environmental Quality (CEQ) regulations implementing the National Environmental Policy Act (NEPA) (40 CFR §§ 1500–1508) became effective on September 14, 2020, 85 Federal Register 43304-76 (July 16, 2020). As stated in 40 CFR § 1506.13, the new regulations apply to any NEPA process begun after September 14, 2020. The EIS substantively commenced before that date; therefore, the EIS conforms to the CEQ NEPA implementing regulations that were in place before September 14, 2020, and procedures adopted pursuant to Department of Homeland Security (DHS) Directive 023-01, Rev. 01, and FEMA Directive 108-1.

In accordance with the CEQ's NEPA implementing regulations in 40 CFR § 1505.2 and FEMA's NEPA procedures in DHS Directive 023-01, Revision 01 and FEMA Directive 108-1, FEMA is selecting the Proposed Action, which is also the agency's preferred alternative. The Proposed Action, with the required mitigation measures, is the environmentally preferable alternative. The No Action alternative would not protect the area from coastal flooding and conditions would not improve. Flood damage is expected to continue or worsen because of increased sea level rise due to climate change.

2.0 PURPOSE AND NEED

The purpose of the Proposed Action is to reduce the flood risk to flood-prone areas within the City of Hoboken and portions of Weehawken and Jersey City, New Jersey. The project is needed because unprotected or poorly protected low-lying areas around Long Slip Canal and Hoboken Terminal and at Weehawken Cove allow coastal flooding to impact much of Hoboken and adjacent areas. Historical flooding and the high likelihood of future flood events has impacted project area residents from health, safety, and economic perspectives. The project area faces a considerable risk of flooding in the future due to Hoboken's topography, as well as climate change. Projections like those in National Oceanic and Atmospheric Administration's *Sea Level Rise Technical Report*, indicate the frequency and intensity of storms are likely to increase, along with rising sea levels, leading to an elevated risk of coastal flooding.

3.0 PROJECT LOCATION AND BACKGROUND

The project area is the entire City of Hoboken and adjacent areas of Weehawken and Jersey City, in Hudson County, New Jersey; all of which are immediately along the Hudson River. The municipalities of Hoboken, Weehawken, and Jersey City were inundated by floodwaters during Superstorm Sandy in October 2012. With half of Hoboken flooded for several days, most emergency services were unavailable, many residents were evacuated, and the National Guard was deployed to rescue those who could not evacuate. The magnitude of Superstorm Sandy's devastation is primarily attributed to a record-breaking storm surge during high tide.

The project area is vulnerable to two interconnected types of flooding: coastal flooding (from both storm surges and high tides) and systemic inland flooding (from rainfall). The worst effects occur during rainfall events that coincide with a high tide. These flooding problems are attributed to several factors, including naturally low topography and proximity to waterways; impervious surface coverage and associated runoff; existing, relatively old, sewer infrastructure with combined storm and sanitary sewer lines; and insufficient discharge capability, particularly during high tide. The RBD–HR project is a comprehensive urban stormwater management strategy to address impacts from coastal storm surge flooding as well as systemic inland rainfall flooding and is composed of the proposed Resist structures (floodwalls) to protect against coastal flooding and additional DSD elements to reduce flooding caused by inland rainfall. These two components each have independent utility and serve to reduce different types of flooding in the project area.

3.1 NEPA Review Process

In 2014, HUD and NJDEP began a NEPA EIS process to evaluate alternatives for a comprehensive urban stormwater management strategy to address impacts from coastal storm surge flooding as well as systemic

inland rainfall. The EIS addressed the potential environmental and historic preservation impacts of the Proposed Action and additional projects. The NEPA public review process was used to complete the required public outreach component of the Section 106 consultation process of the National Historic Preservation Act (NHPA). Accordingly, milestones from the Section 106 consultation are incorporated with NEPA milestones as follows:

- A Notice of Intent (NOI) to prepare a Draft EIS was published in the *Federal Register* on September 4, 2015 (pursuant to 40 CFR § 1501.7) and in the *Star Ledger* and *El Especial* on September 8, 2015. The public scoping period for the NOI ran until October 9, 2015. As part of the public scoping process, a Draft Scoping Document was prepared and made available for public review and comment. A public scoping meeting was held on September 24, 2015, where material was presented to the community and input was solicited.
- A Final Public Scoping Document was produced that incorporated substantive comments from the comment period and was published November 19, 2015.
- Section 106 consultation under the NHPA with the New Jersey State Historic Preservation Office was initiated on May 2, 2016.
- Federally recognized tribes were invited to the consultation process on August 19, 2016, with follow up regarding the development of the Section 106 Programmatic Agreement on January 5, 2017.
- An NOA of the Draft EIS was published in the *Federal Register* on February 24, 2017, and in local newspapers *Star Ledger* and *El Especial* on February 24, 2017, and the *Hudson Reporter* on March 12, 2017.
- The public comment period on the Draft EIS ran from February 24, 2017 to April 10, 2017.
- An NOA of the Final EIS was published in the *Federal Register* on June 16, 2017.
- The Section 106 Programmatic Agreement for the Proposed Action was executed September 7, 2017.
- The New Jersey Department of Community Affairs (NJDCA) signed a ROD on September 7, 2017, and published it in the *Federal Register.*
- A notice of FEMA's intent to adopt the Final EIS was published in the *Federal Register* on December 30, 2022, and in the *Star Ledger* and *Hudson Reporter* on January 12, 2023, and *El Especial* on January 13, 2023, initiating a 30-day public comment period that ended on February 13, 2023. The notice of intent included the notice to the public of proposed work in a floodplain. To date, no comments have been received.

4.0 ALTERNATIVES

The alternatives considered, including the No Action alternative and alternatives considered but eliminated from further study, are described in detail in the Final EIS in Section 3, Alternatives. This section of the ROD provides a summary of the alternatives considered.

4.1 No Action Alternative

Under the No Action alternative, no Resist structures would be built; therefore, the community would not experience any of the construction-related impacts associated with the Build alternatives. However, the

community (including critical facilities) would continue to be impacted during coastal storm surge events by flooding. FEMA generally defines a critical facility as critical to the health and welfare of the population and include, but are not limited to shelters, police and fire stations, and hospitals. Therefore, the No Action alternative would not meet the purpose and need.

4.2 Proposed Action (Alternative 3)

The Proposed Action would provide coastal storm surge flood risk reduction for a substantial portion of the population within the existing preliminary FEMA 100-year floodplain. In addition, the Proposed Action would provide socioeconomic benefits to minority and low-income populations because the overall economic condition of the project area would benefit as a result of reduced coastal storm flood damage. No changes to land use or zoning are proposed for the Resist structure under the Proposed Action.

The Resist structure selected for construction (Alternative 3) will provide flood risk reduction for the City of Hoboken, parts of Jersey City, and Weehawken, New Jersey. This includes protection for critical infrastructure located in those communities, including three fire stations, one hospital, and the North Hudson Sewerage Authority (NHSA) wastewater treatment plant. This alternative provides coastal flood risk reduction to approximately 85 percent of the population residing within the 100-year floodplain in the project area.

The Proposed Action's Resist alignment travels primarily within inland areas, minimizing impacts on waterfront open spaces and providing enhancements to approximately 2.55 acres of open space or parks. The final Resist structure is designed to blend in seamlessly with the urban streetscape and enhance the quality of life in the area. The system will also use natural higher ground to maximize flood risk reduction.

The Proposed Action's Resist structure would be located in areas that minimize impacts on the community. For example, locating the structure in a private alleyway that parallels 14th Street and extends to Washington Street was found to minimize impacts on the community by reducing impacts on the street grid and minimizing parking removal. Washington Street was chosen for the project because the width of the street can accommodate the structure and it provides the potential to blend structural amenities into the commercial nature of the area.

In the northern part of the project area, the Resist structure would be located near the Hudson Bergen Light Rail (HBLR) Lincoln Harbor station at Waterfront Terrace, continue along the HBLR, to Weehawken Cove, and then continue toward Garden Street. Opportunities for urban enhancement in the northern part of the project area include lighting, murals, and seating.

The Resist structure will travel down the east side of Garden Street along the west side of the Hudson Tea parking garage along Garden Street; starting at approximately 8 feet in height, the floodwall will taper down to approximately 5 feet in height as it travels south. The structure along Garden Street may consist of an elevated planter with seating. The structure will then continue down the alleyway midway between 15th and 14th Streets from Garden to Washington Streets and would be approximately 4 feet in height throughout this segment. Urban amenities within the alleyway could include planters. The structure will then travel south along Washington Street, tapering from approximately 3.5 feet in height down to the ground level at 13th Street. Crossings will feature gates to allow for access during non-flood conditions.

In the southern part of the project area, there were two options analyzed in the EIS: Option 1 would include an alignment south of Observer Highway within the rail yard (south of the proposed Hoboken Yard Redevelopment Area) at approximately 5 to 11 feet in height. Option 2 featured an alignment along Observer Highway from Washington Street directly to Marin Boulevard with an approximate height of 11 feet. Option 1 was selected as the preferred alignment and is included in the final design. The alignment would include gates for access at various locations including Marin Boulevard, Grove Street, and Newark Avenue underpasses beneath the rail lines, as well as protection where the HBLR tracks pass below the New Jersey Transit Corporation (NJ TRANSIT) overpass in the southwest corner of the project area. Urban amenities in these areas would include lighting, murals, seating, plantings, and wayfinding/signage. Steel sheeting would also be installed along the NJ TRANSIT railroad embankment to support the Resist structure.

To prevent water intrusion from overtopped bulkheads or through existing inlets and unsealed maintenance holes under the Resist structure, the sanitary/stormwater collection system will be separated by a new "High Level" storm sewer collection system. The "High Level" storm sewer system will be a gravity flow system that would flow into the Hudson River. In addition, the existing NHSA combined sewer inlets and manholes will be sealed and lined. These drainage improvements would prevent additional sewer backflow that could cause major flooding issues within the project area during a storm surge event.

The DSD features described in the HUD/NJDEP EIS are not proposed as part of the FEMA BRIC grant and would be funded through alternative sources.

4.3 Other Alternatives

In addition to the Proposed Action, two additional alternatives were considered for the project which were variations of the Resist alignment. These alternatives also met the project's purpose and need, offering potential solutions to mitigate the issue of flooding. The EIS provided analyses of these alternatives, which are summarized here. The DSD component was refined into a single strategy that is common to all three Build alternatives; however, because it is not a part of the BRIC application, it is not described here.

4.3.1 Alternative 1

Alternative 1 would provide coastal flood risk reduction to approximately 98 percent of the population within the project area's 100-year floodplain. Alternative 1 would provide the greatest level of flood risk reduction by locating the Resist structures primarily along the waterfront, from Lincoln Harbor in Weehawken to the intersection of Sinatra Drive North and Frank Sinatra Drive, just south of Maxwell Place Park. The Resist structure would range between approximately 8.5 and 15.5 feet in height along the waterfront in these locations. The Resist structure under Alternative 1 would incorporate urban design amenities such as a new Cove Park, park space at Shipyard Park and a new Lincoln Harbor ferry stop.

A Resist feature would also be incorporated along Sinatra Drive from 4th Street to 1st Street in South Hoboken, where the design would consist of an elevated walkway and park space (up to approximately 2.5 feet in height along Sinatra Drive), tying into a deployable system running east/west on 1st Street (up to approximately 6 to 9 feet high). In the southern part of the project area, as with the Proposed Action, Alternative 1 included the same two options for the Resist structures along/within the northern side of the Hoboken Terminal Rail Yard. The alignment would include gates for access at various locations including

the Marin Boulevard, Grove Street, and Newark Avenue underpasses beneath the rail lines, as well as protection where the HBLR tracks pass below the NJ TRANSIT overpass in the southwest corner of the project area. Steel sheeting would also be installed along the NJ TRANSIT railroad embankment to support the Resist structure. Alternative 1's Resist component would have the greatest impact on viewshed and waterfront access, would require the greatest number of gates increasing the maintenance costs and the risk of failure due to operational error, and would require the most easements on private property.

4.3.2 Alternative 2

The Alternative 2 Resist structure would provide coastal flood risk reduction to approximately 86 percent of the population residing within the project area's 100-year floodplain. It would begin near the HBLR Lincoln Harbor station at Waterfront Terrace. Starting at a height of approximately 6.5 feet, the alignment would travel along Weehawken Cove, where it would incorporate urban amenities and park spaces similar to that of the Proposed Action. The structure would continue to 15th Street and travel east along 15th Street from the northern end of Garden to Washington Street at a height of approximately 7 to 8 feet. The Resist feature would then continue south along Washington Street, tapering to ground level at 13th Street. Street crossings would feature gates to allow for access during non-flood conditions. Consideration would also have been given to adapting the use of structures in a way that provides urban amenities and landscape enhancements, including elevated walkways and pocket parks, plantings, and/or seating areas along Washington Street. In the southern part of the project area, as with the Proposed Action, Alternative 2 included the same two options for the Resist structures along/within the northern side of the Hoboken Terminal Rail Yard. The alignment would include gates for access at various locations including the Marin Boulevard, Grove Street, and Newark Avenue underpasses beneath the rail lines, as well as protection where the HBLR tracks pass below the New Jersey Transit Corporation (NJ TRANSIT) overpass in the southwest corner of the project area. Steel sheeting would also be installed along the NJ TRANSIT railroad embankment to support the Resist structure. Alternatives 2 and 3 were considered comparatively. The major differences between the two alternatives are impacts on the community as well as maintenance and operating costs. The community impacts included loss of parking spaces and impacts on the street grid because a longer stretch of Resist structure would be routed along Washington and 15th streets.

4.4 Alternatives Considered But Dismissed

During concept development, the project team defined the elements of the project (including the Resist and DSD components), conducted a suitability assessment, and organized the project elements by theme. The project team then applied concept development principles to group these elements into five comprehensive concepts. In December 2015, the five concepts were presented to the public for feedback. They were then qualitatively screened using the concept screening criteria, further evaluated for engineering feasibility, and reviewed by the Executive Steering Committee, the Citizen Advisory Group, and the general public. As a result, the five concepts were modified, resulting in the three refined concepts advanced as the alternatives evaluated in the EIS.

4.5 Environmentally Preferred Alternative

The environmentally preferred alternative is the Proposed Action. Under the Proposed Action, routing the Resist barrier down the alleyway that parallels 14th Street would reduce the impact of the barrier on the

local community in the northern part of Hoboken by placing it behind structures and reducing impacts on the street grid. Construction costs are also slightly lower for the Proposed Action, which is reflected in a higher benefit–cost ratio. The Proposed Action requires the fewest gates and has the shortest overall Resist barrier length; therefore, it has lower estimated annual maintenance and operating costs.

5.0 AGENCY AND PUBLIC INVOLVEMENT

The following sections provide a summary of the agency and public involvement process.

5.1 Cooperating and Participating Agencies

Under HUD regulations at 24 CFR Part 58, the NJDCA, as the Responsible Entity, designated NJDEP to assist with the environmental review and preparation of the EIS. Cooperating agencies included EPA, the Port Authority of New York and New Jersey, and NJ TRANSIT. The cooperating agencies assisted with the preparation of the EIS by providing input on the purpose and need statement, range of alternatives, methodologies for documenting environmental conditions, mitigation measures, and identifying issues that could delay or prevent granting approval of the project. In addition, participating agencies included the Federal Transit Administration, the National Marine Fisheries Service, and national passenger railroad company Amtrak. Participating agencies provided expertise and input on the EIS because they have an interest in the project or project area. However, they do not have jurisdiction by law and do not have to approve a part of the Proposed Action.

5.2 National Historic Preservation Act Section 106 Consultation

The Section 106 consultation resulted in the *Programmatic Agreement Among the New Jersey Department of Community Affairs (NJDCA), the Advisory Council on Historic Preservation (ACHP), and the New Jersey Historic Preservation Office (NJHPO) Regarding the Rebuild by Design–Hudson River Project in Hudson County, New Jersey*, which was executed on September 7, 2017, for the resolution of adverse effects to historic properties. FEMA considers the Programmatic Agreement and the mitigation proposed by NJDCA to be sufficient to avoid and minimize potential impacts on cultural resources to the maximum extent possible. While not a signatory to the Programmatic Agreement, FEMA is adopting the determination and outcomes of the consultation between HUD/NJDEP and the NJHPO resolving adverse effects.

5.3 Endangered Species Act Section 7 Consultation

NJDEP and HUD consulted with the National Marine Fisheries Service (NMFS) on the potential for effects on listed species and designated critical habitat. On April 21, 2017, NMFS concurred with a determination that while the project may have some affect, it would not adversely affect listed species and critical habitat. FEMA reviewed the project description and updated lists of threatened and endangered species and designated critical habitat. There were no changes in the species listed or the baseline conditions that would change the potential for effects on listed species. Therefore, no further consultation was needed and FEMA accepts the consultation conducted by NJDEP and HUD.

5.4 Public Involvement

NJDEP conducted a public involvement process on the project that extended from scoping, and alternative development through the draft and final EISs. Public meetings related to the early coordination, public involvement during the EIS review process, and subsequent public outreach and involvement related to this project included the following meetings:

- Draft Scoping Document Review, September 24, 2015
- Draft Concepts Evaluation, December 10, 2015
- Concept Screening Drop-in Sessions, December 14, 15, and 17, 2015
- Preferred Alternative Recommendation Review, September 8, 2016
- Draft EIS Public Hearing, March 16, 2017

NJDEP engaged a Citizen's Advisory Group in the development of the purpose and need and alternative development and screening. Approximately 21 community meetings were held before the public hearing on the Draft EIS. An agency Technical Coordination Team was also engaged to provide agency input on the project and NEPA process.

Other outreach mechanisms included a project webpage (https://dep.nj.gov/floodresilience/rebuild-by-design-hudson-river/) on the NJDEP website that provided an overview of the project; meetings and updates; contact information; and links to published documents, social media accounts, and related websites. NJDEP also provided regular press releases to the following media outlets, all of which have online presences:

- *Star Ledger*
- *El Especial*
- *Hudson Reporter*

In addition to outreach performed by the project team, the municipalities in the project area conducted their own outreach efforts to inform communities of project status and updates and to gather community input. The City of Hoboken provided regular project updates on their website and continue to provide project status and updates for this and other projects on their Sustainability and Resiliency page at https://www.hobokennj.gov/resources/sustainability.

5.5 Public and Agency Comments

The 45-day public comment period for the Draft EIS began February 24, 2017, and ended April 10, 2017. NJDEP received 94 public comments during the comment period and from the March 16, 2017, public scoping meeting. The comments included concerns and suggestions about the project framework and funding, flood modeling and FEMA requirements, operations and maintenance, project purpose and need, Resist infrastructure, DSD, affected environment and environmental consequences, natural ecosystems, cultural resources, noise and vibration, visual aesthetics and resources, air quality, hazardous materials, transportation infrastructure, and consultation and coordination issues.

The 30-day review period for the Final EIS began on June 16, 2017, and ended on July 17, 2017. Eight commenters from the general public, agencies, the Citizen's Advisory Group, and the mayor of Hoboken provided 15 comments related to concerns about flooding and flood insurance rates, construction emissions,

funding, air quality, implementation prioritization, community outreach, historic resources, water quality, subsurface investigations, flood and hydrologic modeling, operations and maintenance costs, traffic congestion related to the delivery of construction materials, and agency coordination. A summary of these comments and NJDEP's responses is provided in Appendix 4 of the HUD/NJDEP ROD.

FEMA recirculated the Final EIS with a 30-day comment period that began January 12, 2023, and ended February 13, 2023. FEMA received a letter from EPA noting they had no comments. No other comments were received from the public or agencies on the recirculated Final EIS.

FEMA prepared the Floodplain Management 8-Step analysis, and an initial public notice was included in the Notice of Availability of the recirculated Final EIS. No comments were received, and no further notice was given.

6.0 SIGNIFICANT ISSUES

Implementation of the Proposed Action will not result in significant long-term, adverse impacts. Short-term impacts of consequence from the implementation of the Proposed Action are associated with noise, vibration, and transportation impacts on properties near areas of proposed construction. In addition, construction-related impacts on archaeological resources have the potential to be adverse, and further evaluation of these resources will be conducted during construction as part of the implementation of the project's Section 106 Programmatic Agreement. Flood modeling results also indicate the project may result in minor increases in the base flood elevation (from 0.1 inch to 6.2 inches) at five identified properties during a 100-year coastal storm surge event. The project is required to coordinate with the local floodplain administrators and obtain any required permits. Documentation of such coordination must be provided to FEMA. The Proposed Action would have negligible impacts on viewsheds and accessibility to open space along the waterfront. For the Proposed Action to be compliant with applicable state laws, either an easement must be acquired, or written permission must be secured from the affected property owner(s) to authorize the modeled increase in flooding. While no significant adverse impacts would arise from the Proposed Action, implementation of the No Action alternative would result in long-term adverse impacts on the community through continued exposure to flood risks and extensive damage similar to what occurred during Superstorm Sandy.

7.0 MITIGATION

Nearly all the environmental impacts arising from the implementation of the Preferred alternative (both Resist and DSD features) are expected to be negligible to minor, short-term in nature and confined primarily to the duration of construction activities. For example, there would be a short-term disturbance and displacement of urban wildlife species from the immediate project area due to construction-related impacts and species would return once construction is complete. Conversely, long-term beneficial impacts are expected with respect to public health, economic conditions, minority and low-income populations, parks, and contaminated sites. The most substantial impact from the Proposed Action will be construction noise. Other potentially substantial impacts include impacts on archaeological resources and aboveground buildings (vibration). These impact areas are further discussed below. Mitigation requirements for all disciplines can be found in Chapter 4.0 of the Final EIS and are summarized in Table ES.5 in the Final EIS

Executive Summary. NJDEP will be responsible for compliance with all applicable local, state, and federal laws; obtaining any needed permits; and complying with all applicable permit conditions.

7.1 Cultural Resources

In 2013, FEMA in association with the NJHPO, the New Jersey State Office of Emergency Management, the ACHP, the Absentee Shawnee Tribe of Indians of Oklahoma, the Delaware Nation, the Delaware Tribe of Indians, the Shawnee Tribe of Oklahoma and the Stockbridge Munsee Band of the Mohicans executed the FEMA New Jersey Statewide Programmatic Agreement for projects receiving Community Development Block Grant–Disaster Recovery (CDBG–DR) funding for Superstorm Sandy, otherwise referred to the Sandy Programmatic Agreement. The Sandy Programmatic Agreement established procedures for undertakings associated with FEMA-appropriated Superstorm Sandy funds and the potential effect of such undertakings on resources eligible for listing in the National Register (executed April 30, 2013, and amended May 1, 2015). It was determined that a project-specific agreement is needed since NJDEP cannot fully determine how the project's undertaking may affect historic properties given the project's Area of Potential Effect (APE) involves multiple actions that could adversely affect historic properties.

Following Stipulation II.C.7.c of the Sandy Programmatic Agreement NJHPO and the other consulting parties to this project have developed an agreement specific to RBD–HR. This RBD–HR Programmatic Agreement has been developed in accordance with 36 CFR § 800.14(b) to identify programmatic conditions or treatments to govern the resolution of potential or anticipated adverse effects from certain complex project situations for the RBD–HR project undertaking. The RBD-HR Programmatic Agreement contains elements that resolve the project's adverse effects to historic properties through avoidance, minimization, or mitigation.

The RBD-HR Programmatic Agreement includes methods to complete the identification of historic properties (36 CFR 800.4), assessment of project effects (36 CFR 800.5), and resolution of adverse effects (36 CFR 800.6) that occurred during final design and will occur during construction of the Project. The Programmatic Agreement, which will be implemented by NJDEP on behalf of NJDCA and in consultation with NJHPO and the final design consultant, provides methods to complete the Section 106 process. The HUD/NJDEP ROD as Appendix 3 includes the executed RBD–HR Programmatic Agreement. FEMA accepts that with the implementation of the Programmatic Agreement, the Proposed Action will be in compliance with the NHPA.

7.2 Floodplains

There will be minor, long-term, adverse impacts resulting from 2.8 acres of permanent floodplain disturbance and five properties are expected to receive minor increases in flood depths. Flood depth increases are less than 2.5 inches for these properties, except for the western part of NJ TRANSIT's Hoboken Terminal rail yard, which may experience an increase of up to 6.2 inches above the base flood elevation at the peak of a 100-year storm (Section 4.9 of the Final EIS provides further discussion about impacts on NJ TRANSIT). During the design phase of the project, additional flood modeling and outreach with impacted property owners was performed, and in accordance with the HUD ROD and conditions, site-specific mitigation measures were developed for the impacted properties. The project will be required to

obtain floodplain permits pursuant to the New Jersey Flood Hazard Area Control Act rules at N.J.A.C. 7:13. Documentation of coordination with the local floodplain administrators and any necessary permits must be provided to FEMA. Other actions have been incorporated into the project design such as dewatering and related permitting, work window limitations, silt curtains, and other BMPS to minimize wetland and floodplain impacts.

7.3 Wetlands

The Proposed Action will result in minor, long-term loss of 230 square feet of marginal wetlands. Based on the estimated potential wetland impact resulting from each of the Build alternatives (230 square feet, 0.005 acres), mitigation is not anticipated to be required. However, an on-site field search was performed in conjunction with the wetland delineation activities, and an area in the southwest part of the project area was identified as a potential wetland creation location if needed. The project will be conditioned to require NJDEP to coordinate with the U.S. Army Corps of Engineers regarding the need for a Section 404 permit and to provide FEMA with documentation that no permit is needed or a copy of an approved permit prior to the start of construction. Other actions have been incorporated into the project design such as dewatering and related permitting, work windows limitations, silt curtains, and other BMPS to minimize wetland and floodplain impacts.

8.0 ADDRESSES AND APPEAL

The FEMA ROD will be available on the FEMA and NJDEP websites. For further information, contact John McKee, Regional Environmental Officer, Region 2, FEMA, Environmental Planning and Historic Preservation, One World Trade Center 285 Fulton Street, 52nd Floor New York, New York 10007 or via email at FEMAR2COMMENT@fema.dhs.gov.

The FEMA Environmental Officer has the authority to approve this project. The Environmental Officer's decision constitutes the final decision by FEMA and, in accordance with FEMA Directive 108-1, is not subject to appeal. Any challenge of this decision, including the authorization of grant funding as directed by this decision, must be brought in federal district court.

9.0 ISSUED

FEMA APPROVAL AUTHORITY:

PORTIA M ROSS Digitally signed by PORTIA M ROSS
Date: 2023.08.08 09:23:50 -04'00'

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Portia Ross, FEMA, Environmental Officer

REGION 2 ENDORSEMENT:

DAVID S WARRINGTON Digitally signed by DAVID S WARRINGTON
Date: 2023.08.10 18:18:44 -04'00'

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David Warrington, FEMA, Region 2 Regional Administrator