

PUBLIC NOTICE

NOTICE OF AVAILABILITY OF RECORD OF DECISION AND LEAD AGENCY FINDINGS; NOTICE OF FINAL CLEAN AIR ACT CONFORMITY DETERMINATION; NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

Name of Responsible Entity and Recipient: Lower Manhattan Development Corporation (LMDC), One Liberty Plaza, 20th Floor, New York, NY 10006, Telephone Number: (212) 962-2300, Contact: Christina Hynes. These notices satisfy three procedural requirements for activities to be undertaken by LMDC.

Notice of Availability of Record of Decision and Lead Agency Findings

LMDC, a subsidiary of Empire State Development Corporation (a political subdivision and public benefit corporation of the State of New York), as lead agency under the National Environmental Policy Act, has completed and made available its Record of Decision and Lead Agency Findings (ROD) for the **East River Waterfront Esplanade and Piers Project** (Esplanade Project). LMDC is responsible, pursuant to federal statute 42 U.S.C. § 5304(g) as recipient of U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funds, for conducting environmental review of projects receiving HUD funds in accordance with 24 CFR Part 58, as well as other laws and regulations. The City of New York (the City) is a cooperating agency in this environmental review. The Final Environmental Impact Statement (FEIS) for the Esplanade Project was available for public comment from June 1, 2007 to July 2, 2007. All substantive comment received were considered during preparation of the ROD. Appendices to the ROD include the executed Programmatic Agreement prepared pursuant to Section 106 of the National Historic Preservation Act.

After considering a variety of alternatives, including a no-action alternative, LMDC has selected the Esplanade Project. The Esplanade Project will improve a two mile portion of the East River waterfront in Manhattan and create a City-owned public open space. The area of the Esplanade Project generally encompasses the waterfront, the upland area adjacent to and under the elevated FDR Drive and South Street extending from the Whitehall Ferry Terminal and Peter Minuit Plaza on the South to the East River Park on the North, as well as Pier 15, the New Market Building pier, Pier 35, Pier 36, and Pier 42.

Notice for Final Conformity Determination

In accordance with the federal Clean Air Act General Conformity rule, LMDC has prepared a final general conformity determination (Final Conformity Determination) for the Esplanade Project, which is being made available for public review and is included as Appendix C of the ROD.

The Proposed Action is located in New York County, which the United States Environmental Protection Agency (EPA) has been designated as a moderate non-attainment area for particulate matter less than 10 micrometers in aerodynamic diameter (PM_{10}), a non-attainment area for particulate matter less than 2.5 micrometers in aerodynamic diameter ($PM_{2.5}$) and a moderate non-attainment area for the eight-hour ozone standard. New York County was previously designated by the EPA as a severe non-attainment area for the former one-hour ozone standard. The area is in attainment for all other criteria pollutants: nitrogen dioxide (NO_2), lead, sulfur dioxide (SO_2) and carbon monoxide (CO). LMDC's review has been conducted consistent with the requirements of 40 CFR Part 93, Subpart B: "Determining Conformity of Federal Actions to State or Federal Implementation Plans" issued on November 30, 1993 (as amended on July 17, 2006 to address $PM_{2.5}$ emissions). LMDC has determined that, during the construction year of 2008, potential emissions for all the criteria pollutants would be below the *de minimis* threshold established under current federal regulations at 40 CFR § 93.153(b). Nonetheless, the construction

emissions could exceed the 25 tons per year (tpy) annual nitrogen oxide (NO_x) threshold that previously triggered the need to prepare a conformity determination for the former one-hour ozone standard. Accordingly, LMDC has prepared a Final Conformity Determination (based on the 25 tpy threshold for NO_x) to demonstrate that the Esplanade Project would conform with the one-hour ozone New York State Implementation Plan.

Notice of Intent to Request Release of Funds

On or about December 3, 2007, LMDC will submit a request for the Esplanade Project to HUD for release of CDBG funds under Title I of the Housing and Community Development Act of 1974. If approved by HUD, CDBG funds would be used for the development of the Esplanade Project.

Comments on the Request for Release of Funds: Written comments on the request for release of funds may be submitted to LMDC and must be received by LMDC by 5:00PM on **Monday, November 26, 2007** or they will not be considered. LMDC will consider all comments received by this date prior to authorizing the submission of its request for release of funds to HUD. Comments on the request for release of funds should be directed to Christina Hynes, Lower Manhattan Development Corporation, Attention: East River Waterfront Esplanade and Piers Project; One Liberty Plaza; New York, NY 10006; Telephone: (212) 962-2300; Fax: (212) 962-2431.

Release of Funds: LMDC certifies to HUD that David Emil, in his capacity as President of LMDC, consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities, and allows LMDC to use CDBG program funds.

Objections to Release of Funds: HUD will accept objections to its release of funds and LMDC's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the Responsible Entity; (b) LMDC has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR Part 58; (c) the grant recipient has committed funds or incurred costs not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58) and shall be addressed to HUD at Jacob K. Javits Federal Building, 26 Federal Plaza - Room 3541, New York, NY 10278-0068. Potential objectors should contact HUD to verify the actual last day of the objection period.

Further Information

Requests for information about the Esplanade Project or copies of the ROD can also be directed to the same address listed above. Information about the Esplanade Project and the ROD will be available during regular business hours at the offices of LMDC and will be available on LMDC's website: www.renewnyc.com in "Planning, Design & Development."

DAVID EMIL, PRESIDENT
LOWER MANHATTAN DEVELOPMENT CORPORATION